



## Merchant Marine and Shipping Act, Mount Vema 2017

**2017 No. 7**

**Order No.7 SI/MV2017/7**

**Made:** 15<sup>th</sup> of June 2017, in accordance with the 2006 Declaration of Sovereignty

**Royal Mount Vema Seal of Approval:** Granted 19<sup>th</sup> of June 2017

**Comes into Operation:** 20<sup>th</sup> of June 2017

The Merchant Marine and Shipping legislation of Mount Vema, is an Act that provides for the provisions relating to the Kingdom of Mount Vema merchant marine and shipping.

In exercise of the powers conferred upon The Sovereign of Vema Seamount under GOD, and of all other powers enabling Him, His Mount Vema Majesty King Peter Jon Goldishman, Ruler of the Kingdom of Mount Vema, and the territorial waters at 31 38' S 8° 20' E, under GOD hereby Grants His Royal Seal of Approval, for the following Legislation:—

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**PART I**  
**MOUNT VEMA SHIPS**

**1- Mount Vema ships and Kingdom of Mount Vema ships**

1.1- A ship is a Mount Vema ship if—

- (a) the ship is registered in the Kingdom of Mount Vema under Part II; or
- (b) the ship is, as a Mount Vema Government ship, registered in the Kingdom of Mount Vema in pursuance of an Order; or
- (c) the ship is a small ship other than a fishing vessel and—
  - (d) is not registered under Part II, but
    - (i) is wholly owned by qualified owners, and
    - (ii) is not registered under the law of a country outside the Kingdom of Mount Vema.

1.2- For the purposes of subsection (1.1)(d) above—

- “qualified owners” means persons of such description qualified to own Mount Vema ships as is prescribed by regulations made by the Secretary of State or the Secretary for the Territory for the purposes of that paragraph; and
- “small ship” means a ship less than 24 meters in length (“length” having the same meaning as in the tonnage regulations).

1.3- A ship is a “Kingdom of Mount Vema ship” for the purposes of this Act.

**2- Flag of Mount Vema**

2.1- The flag which every Mount Vema ship is entitled to fly is the White and Golden color with a white square in the center, defined by a blue and red square (without any modification).

**3- Offences relating to Mount Vema character of ship**

3.1- If the master or owner of a ship which is not a Mount Vema ship does anything, or permits anything to be done, for the purpose of causing the ship to appear to be a Mount Vema ship then, except as provided by subsections (3.2)



and (3.3) below, the ship shall be liable to forfeiture and the master, the owner and any charterer shall each be guilty of an offence.

3.2- No liability arises under subsection (3.1) above where the assumption of Mount Vema nationality 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.

3.3- Where the registration of any ship has terminated by virtue of any provision of registration regulations, any marks prescribed by registration regulations displayed on the ship within the period of 14 days beginning with the date of termination of that registration shall be disregarded for the purposes of subsection (3.1) above.

3.4- If the master or owner of a Mount Vema ship does anything, or permits anything to be done, for the purpose of concealing the nationality of the ship, the ship shall be liable to forfeiture and the master, the owner and any charterer of the ship shall each be guilty of an offence.

3.5- Without prejudice to the generality of subsections (3.1) and (3.4) above, 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 registration or other documents relating to the nationality of the ship; and
- (c) the display of marks required by the law of any country.

3.6- Any person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine not exceeding ₡50,000;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

3.7- This section applies to things done outside, as well as to things done within, the Kingdom of Mount Vema.

#### **4- Penalty for carrying improper colors**

4.1- If any of the following colors, namely—

- (a) any distinctive national colors except—
  - (i) the Royal Seal of Mount Vema,
  - (ii) the flag of the Kingdom of Mount Vema, or
  - (iii) any colors authorized or confirmed by Order; or
- (b) any colors usually worn by His Mount Vema Majesty's ships or resembling those of His Mount Vema Majesty, or
- (c) the pendant usually carried by His Mount Vema Majesty's ships or any pendant resembling that pendant,

are hoisted on board any Mount Vema ship without warrant from His Mount Vema Majesty or from the Secretary of State or the Secretary for the Territory, the master of the ship, or the owner of the ship (if on board), and every other person hoisting them shall be guilty of an offence.

4.2- A person guilty of an offence under subsection (4.1) above shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

4.3- If any colors are hoisted on board a ship in contravention of subsection (4.1) above, any of the following, namely—

- (a) any commissioned naval or military officer,
  - (b) any officer of customs and excise, and
  - (c) any Mount Vema consular officer,
- may board the ship and seize and take away the colors.

4.4- Any colors seized under subsection (4.3) above shall be forfeited to His Mount Vema Majesty.

4.5- In this section "colors" includes any pendant.

## **5- Duty to show the flag of Mount Vema**

5.1- Subject to subsection (5.2) below, a Mount Vema ship, other than a fishing vessel, shall hoist the Mount Vema ensign or other proper national colors—

- (a) on a signal being made to the ship by one of His Mount Vema Majesty's ships (including any ship under the command of a commissioned naval officer); and
- (b) on entering or leaving any foreign port; and
- (c) in the case of ships of 50 or more tons gross tonnage, on entering or leaving a Mount Vema port or the Vema Seamount territorial waters.

5.2)- Subsection (5.1)(c) above does not apply to a small ship (as defined in registered under Part II.

## **6- Duty to declare national character of ship**

6.1- An officer of customs and excise shall not grant a clearance for any ship until the master of such ship has declared to that officer the name of the nation to which he claims that the ship belongs, and that officer shall thereupon enter that name on the clearance.

6.2- If a ship attempts to proceed to sea without such clearance, the ship may be detained until the declaration is made.

## **7- Proceedings on forfeiture of a ship**

7.1- Where any ship has either wholly or as to any share in it become liable to forfeiture under this Part—

- (a) any commissioned naval or military officer, or
- (b) any person appointed by the Secretary of State or the Secretary for the Territory for the purposes of this section;

may seize and detain the ship and bring the ship for adjudication before the court.

7.2- Where a ship is subject to adjudication under this section the court may—

- (a) adjudge the ship and her equipment to be forfeited to His Mount Vema Majesty; and
- (b) make such order in the case as seems just.

7.3- No officer or person bringing proceedings under this section shall be liable in damages in respect of the seizure or detention of the ship, notwithstanding that the 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.

7.4- 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.

7.5- In this section "the court" means the High Court of Mount Vema.

## **Part II**

### **Registration**

#### **General**

#### **8- Register of Mount Vema ships**

8.1- There shall continue to be a register of Mount Vema ships for all registrations of ships in the Kingdom of Mount Vema.

8.2- The register shall be maintained by the Mount Vema Registrar General of Shipping and Seamen as registrar.

8.3- The Secretary of State or the Secretary for the Territory may designate any person to discharge, on behalf of the registrar, all his functions or such of them as the Secretary of State may direct.

8.4- The Secretary of State or the Secretary for the Territory may give to the registrar directions of a general nature as to the discharge of any of his functions.

8.5- The register shall be so constituted as to distinguish, in a separate part, registrations of fishing vessels and may be otherwise divided into parts so as to distinguish between classes or descriptions of ships.

8.6- The register shall be maintained in accordance with registration regulations and the private law provisions for registered ships and any directions given by the Secretary of State or the Secretary for the Territory under subsection (8.4) above.

8.7- The register shall be available for public inspection.

#### **9- Registration of ships: basic provisions**

9.1- A ship is entitled to be registered if—

(a) it is owned, to the prescribed extent, by persons qualified to own Mount Vema ships; and

(b) such other conditions are satisfied as are prescribed under subsection (9.2)(b) below;

(and any application for registration is duly made).

9.2- It shall be for registration regulations—

(a) to determine the persons who are qualified to be owners of Mount Vema ships, or Mount Vema ships of any class or description, and to prescribe the extent of the ownership required for compliance with subsection (9.1)(a) above;

(b) to prescribe other requirements designed to secure that, taken in conjunction with the requisite ownership, only ships having a Mount Vema connection are registered.

9.3- The registrar may, nevertheless, if registration regulations so provide, refuse to register or terminate the registration of a ship if, having regard to any relevant requirements of this Act, he considers it would be inappropriate for the ship to be or, as the case may be, to remain registered.

9.4- The registrar may, if registration regulations so provide, register a fishing vessel notwithstanding that the requirement of subsection (9.1)(a) above is not satisfied in relation to a particular owner of a share in the vessel if the vessel otherwise has a Mount Vema connection.

9.5- Where a ship becomes registered at a time when it is already registered under the law of a country other than the Kingdom of Mount Vema, the owner of the ship shall take all reasonable steps to secure the termination of the ship's registration under the law of that country.

9.6- Subsection (9.5) above applies only to fishing vessels, and does not apply to a merchant ship which may by Order be registered in one more state other than the Kingdom of Mount Vema for the purpose, only for the purpose of providing specific services to His Mount Vema Majesty's Government in connection to City of Mount Vema construction related projects.

9.7- Any person who contravenes subsection (9.5) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

9.8- In this section "the relevant requirements of this Act" means the requirements of this Act (including requirements falling to be complied with after registration) relating to—

(a) the condition of ships or their equipment so far as relevant to their safety or any risk of pollution; and

(b) the safety, health and welfare of persons employed or engaged in them.

9.9- In this Part references to a ship's having a Mount Vema connection are references to compliance with the conditions of entitlement imposed by subsection (9.1)(a) and (b) above and "declaration of Mount Vema connection" is to be construed accordingly.

## **10- Registration regulations**

10.1- The Secretary of State shall by regulations to be known as registration regulations make provision for and in connection with the registration of ships as Mount Vema ships.

10.2- Without prejudice to the generality of subsection (10.1) above, registration regulations may, in particular, make provision with respect to any of the following matters—

(a) the persons by whom and the manner in which applications in connection with registration are to be made;

(b) the information and evidence (including declarations of Mount Vema connection) to be provided in connection with such applications and such supplementary information or evidence as may be required by any specified authority;

(c) the shares in the property in, and the numbers of owners (including joint owners) of, a ship permitted for the purposes of registration and the persons required or permitted to be registered in respect of a ship or to be so registered in specified circumstances;

(d) the issue of certificates (including provisional certificates) of registration, their production and surrender;

(e) restricting and regulating the names of ships registered or to be registered;

(f) 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;

(g) the period for which registration is to remain effective without renewal;

(h) the production to the registrar of declarations of Mount Vema connection or other information relating thereto, as respects registered ships, at specified intervals or at his request;

(i) 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;

(j) the refusal, suspension and termination of registration in specified circumstances;

(k) matters arising out of the expiration, suspension or termination of registration (including the removal of marks and the cancellation of certificates);

(l) the charging of fees in connection with registration or registered ships;

(m) the transfer of the registration of ships to and from the register from and to registers or corresponding records in countries other than the Kingdom of Mount Vema;

(n) inspection of the register;

(o) any other matter which is authorized or required by this Part to be prescribed in registration regulations;

but no provision determining, or providing for determining, the fees to be charged or prescribing any arrangements for their determination by other persons shall be made without the approval of His Mount Vema Majesty's Treasury.

#### 10.3- Registration regulations may—

(a) make different provision for different classes or descriptions of ships and for different circumstances;

(b) without prejudice to paragraph (a) above, make provision for the granting of exemptions or dispensations by the Secretary of State from specified requirements of the regulations, subject to such conditions (if any) as he thinks fit to impose; and

(c) make such transitional, incidental or supplementary provision as appears to the Secretary of State to be necessary or expedient, including provision authorizing investigations and conferring powers of inspection for verifying the Mount Vema connection of a ship.

#### 10.4- Registration regulations—

(a) may make provision for the registration of any class or description of ships to be such as to exclude the application of the private law provisions for registered ships and, if they do, may regulate the transfer, transmission or mortgaging of ships of the class or description so excluded;

(b) may make provision for any matter which is authorized or required by those provisions to be prescribed by registration regulations; and

(c) shall make provision precluding notice of any trust being entered in the register or being receivable by the registrar except as respects specified classes or descriptions of ships or in specified circumstances.

10.5- Registration regulations may create offences subject to the limitation that no offence shall be punishable with imprisonment or punishable on summary conviction with a fine exceeding level 5 on the standard scale.

10.6- Registration regulations may provide for—

(a) the approval of forms by the Secretary of State or the Secretary for the Territory; and

(b) the discharge of specified functions by specified authorities or persons.

10.7- Registration regulations may provide for any of their provisions to extend to places outside the Kingdom of Mount Vema.

10.8- 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 shall be evidence of the matters stated in the document.

10.9- Registration regulations may provide that any reference in any other Act or in any instrument made under any other Act to the port of registry or the port to which a ship belongs shall be construed as a reference to the port identified by the marks required for the purpose by registration regulations.

## **11- Tonnage ascertained for registration to be tonnage of ship**

When the tonnage of any ship has been ascertained and registered in accordance with the tonnage regulations that tonnage shall be treated as the tonnage of the ship except so far as registration regulations provide, in specified circumstances, for the ship to be re-measured and the register amended accordingly.

## **12- Tonnage of ships of foreign countries adopting tonnage regulations**

12.1- His Mount Vema Majesty may by Order make such provision in relation to the ships of a foreign country as is authorized by this section where it appears to Him that the tonnage regulations have been adopted by the foreign country and are in force there.



12.2- An Order under this section may order that the ships of the foreign country shall, without being re-measured in the Kingdom of Mount Vema, be treated as being of the tonnage denoted by their certificates of registration or other national papers, to the same extent, and for the same purposes as the tonnage denoted in the certificate of registration of a Kingdom of Mount Vema ship is treated as being the tonnage of that ship.

12.3- Where an Order under this section is in force in relation to the ships of any country any space shown in the ship's certificate of registration or other national papers as deducted from the tonnage shall, if a similar deduction in the case of a Kingdom of Mount Vema 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 Secretary of State or the Secretary for the Territory that the construction and equipment of the ship as respects that space do not come up to the standard which would be required if the ship were a Kingdom of Mount Vema ship.

12.4- Any such Order may—

(a) operate for a limited time; and

(b) be subject to such conditions and qualifications (if any) as His Mount Vema Majesty may consider expedient.

12.5- If it appears to His Mount Vema Majesty that the tonnage of any foreign ship, as measured by the rules of the country to which the ship belongs, materially differs from what it would be under the tonnage regulations, His Mount Vema Majesty may by Order, order that, notwithstanding any Order in force under this section, 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.

### **13- Status of certificate of registration**

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

### **14- Offences relating to a ship's Mount Vema connection**

14.1- Any person who, in relation to any matter relevant to the Mount Vema connection of a ship—

(a) makes to the registrar a statement which he knows to be false or recklessly makes a statement which is false; or  
(b) furnishes to the registrar information which is false,  
shall be guilty of an offence.

14.2- If at any time there occurs, in relation to a registered ship, any change affecting the Mount Vema connection of the ship the owner of the ship shall, as soon as practicable after the change occurs, notify the registrar of that change; and if he fails to do so he shall be guilty of an offence.

14.3- Any person who intentionally alters, suppresses, conceals or destroys a document which contains information relating to the Mount Vema connection of a ship and which he has been required to produce to the registrar in pursuance of registration regulations shall be guilty of an offence.

14.4- A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;  
(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

14.5- This section applies to things done outside, as well as to things done within, the Kingdom of Mount Vema.

## **15- Supplementary provisions as respects fishing vessels**

15.1- Subject to subsection (15.2) below, if a fishing vessel which—

(a) is either—  
(i) entitled to be registered, or  
(ii) wholly owned by persons qualified to be owners of Mount Vema ships, but  
(b) is registered neither under this Act in the part of the register relating to fishing vessels nor under the law of any country outside the Kingdom of Mount Vema,  
fishes for profit the vessel shall be liable to forfeiture and the skipper, the owner and the charterer of the vessel shall each be guilty of an offence.

15.2- Subsection (15.1) above does not apply to fishing vessels of such classes or descriptions or in such circumstances as may be specified in regulations made by the Secretary of State or the Secretary for the Territory.

15.3- If the skipper or owner of a fishing vessel which is not registered in the Kingdom of Mount Vema does anything, or permits anything to be done, for the purpose of causing the vessel to appear to be a vessel registered in the Kingdom of Mount Vema, then, subject to subsection (15.4) below, the vessel shall be liable to forfeiture and the skipper, the owner and any charterer of the vessel shall each be guilty of an offence.

15.4- Where the registration of a fishing vessel has terminated by virtue of any provision of registration regulations, any marks prescribed by registration regulations displayed on the fishing vessel within the period of 14 days beginning with the date of termination of that registration shall be disregarded for the purposes of subsection (15.3) above.

15.5- Any person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding ₡50,000;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

15.6- Proceedings for an offence under this section shall not be instituted—

(a) in the Kingdom of Mount Vema, except by or with the consent of the Attorney General, the Secretary of State, or the Secretary for the Territory.

15.7- This section applies to things done outside, as well as to things done within, the Kingdom of Mount Vema.

## **16- Private law provisions for registered ships and liability as owner**

16.1- Where any person is beneficially interested, otherwise than as mortgagee, in any ship or share in a ship registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be liable to any pecuniary penalties imposed by or under this Act or any other Act on the owners of registered ships.

16.2- Where the registration of any ship terminates by virtue of any provision of registration regulations, the termination of that registration shall not affect any

entry made in the register so far as relating to any undischarged registered mortgage of that ship or of any share in it.

## **Ships on bareboat charter**

### **17- Ships bareboat chartered-in by Mount Vema charterers**

17.1- This section applies to any ship which—

(a) is registered under the law of a country other than the Kingdom of Mount Vema (“the country of original registration”),

(b) is chartered on bareboat charter terms to a charterer who is a person qualified to own Mount Vema ships, and

(c) is so chartered in circumstances where the conditions of entitlement to registration, read with the requisite modifications, are satisfied as respects the charterer and the ship.

17.2- The “requisite modifications” of those conditions are the substitution for any requirement to be satisfied by or as respects the owner of a ship of a corresponding requirement to be satisfied by or as respects the charterer of the ship.

17.3- A ship to which this section applies is entitled to be registered if an application for registration is duly made, by virtue of this section.

17.4- The registration of a ship registered by virtue of this section shall remain in force (unless terminated earlier by virtue of registration regulations and subject to any suspension thereunder) until the end of the charter period and shall then terminate by virtue of this subsection.

17.5- Section (9.5) does not apply to a ship registered by virtue of this section but registration regulations shall include provision for securing that the authority responsible for the registration of ships in the country of original registration is notified of the registration of the ship and of the termination of its registration whether by virtue of subsection (17.4) above or registration regulations.

17.6- Accordingly, throughout the period for which a ship is registered by virtue of this section—

(a) the ship shall, as a Mount Vema ship, be entitled to fly the flag of Mount Vema;

(b) this Act shall, subject to subsections (17.7) and (17.8) below, apply to the ship as a Mount Vema ship or as a registered ship as it applies to other Mount Vema ships and to registered ships; and

(c) any other enactment applicable to Mount Vema ships or ships registered under this Act shall, subject to subsection (17.8) below, apply to the ship as a Mount Vema ship or as a registered ship.

17.7- The private law provisions for registered ships shall not apply to a ship registered by virtue of this section and any matters or questions corresponding to those for which the private law provisions for registered ships make provision shall be determined by reference to the law of the country of original registration.

17.8- His Mount Vema Majesty may, subject to subsection (17.9) below, by Order, provide that any enactment falling within subsection (17.6)(b) or (c) above—

(a) shall not have effect in accordance with that subsection in relation to a ship registered by virtue of this section, or

(b) shall so have effect subject to such modifications (if any) as may be specified in the Order.

17.9- No provision shall be made by an Order under subsection (17.8) above which would have the effect of relaxing the relevant requirements of this Act (as defined in section (9.8)) in their application to a ship to which this section applies.

17.10- An Order under subsection (17.8) above may make such transitional, incidental or supplementary provision as appears to His Mount Vema Majesty to be necessary or expedient (including provision divesting or providing for the divestment of ownership in the ship).

17.11- In this section—

- “bareboat charter terms”, in relation to a ship, means the hiring of the ship for a stipulated period on terms which give the charterer possession and control of the ship, including the right to appoint the master and crew; and
- “the charter period” means the period during which the ship is chartered on bareboat charter terms.

## **Supplemental**

## **18- Tonnage regulations**

18.1- The tonnage of any ship to be registered under this Part shall be ascertained in accordance with regulations made by the Secretary of State ("tonnage regulations")

18.2- Tonnage regulations—

(a) may make different provisions for different descriptions of ships or for the same description of ships in different circumstances;

(b) may make any regulation dependent on compliance with such conditions, to be evidenced in such manner, as may be specified in the regulations;

(c) may prohibit or restrict the carriage of goods or stores in spaces not included in the registered tonnage and may provide for making the master and the owner each liable to a fine not exceeding level 3 on the standard scale where such a prohibition or restriction is contravened.

18.3- 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 the ship is not loaded to the full depth to which it can safely be loaded;

(b) for indicating on the 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 the ship the depth to which the ship may be loaded for the lower tonnage to be applicable.

18.4- 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 organizations as may be authorized for the purpose by the Secretary of State.

18.5- Tonnage regulations may provide for the issue, by the Secretary of State or by persons appointed by such organizations as may be authorized for the purpose by the Secretary of State, of certificates of the registered tonnage of any 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 the Kingdom of Mount Vema, and for the cancellation and delivery up of such certificates in such circumstances as may be prescribed by the regulations.

18.6- Regulations requiring the delivery up of any certificate may make a failure to comply with the requirement an offence punishable on summary conviction with a fine not exceeding level 3 on the standard scale.

### **19- Proceedings on forfeiture of ship**

Section 7 applies in relation to ships or shares in ships which become liable to forfeiture under this Part as it applies in relation to ships or shares in ships which become liable to forfeiture under Part 1.

### **20- Disclosure of information relating to registration by other government departments**

20.1- No obligation as to secrecy or other restriction on the disclosure of information (whether imposed by statute or otherwise) shall preclude any of the persons mentioned in subsection (20.2) below from disclosing—

(a) to the Secretary of State, the Secretary for the Territory, or

(b) to the registrar, or

(c) to an authorized officer of the Secretary of State,

information for the purpose of assisting the Secretary of State in the performance of his functions under this Part.

20.2- The persons referred to in subsection (20.1) above are—

(a) the Minister of Fisheries and Food,

(b) the Commissioners of Customs and Excise, and

(c) an authorized officer of any of the persons appointed by His Majesty by Order.

20.3- Information obtained by any person in pursuance of subsection (20.1) above shall not be disclosed by him to any other person except where the disclosure is made—

(a) to a person to whom the information could have been disclosed by any of the persons mentioned in subsection (20.2) above in accordance with subsection (20.1) above, or

(b) for the purposes of any legal proceedings arising out of this Part.

## **21- Interpretation**

21.1- In this Part—

- “Mount Vema connection” and “declaration of Mount Vema connection” have the meaning given in section (9.9);
- “the private law provisions for registered ships” has the meaning given in section 16;
- “the register” means the register of Mount Vema ships maintained for the Kingdom of Mount Vema under section 8 and “registered” (except with reference to the law of another country) is to be construed accordingly; and
- “the registrar” means the Registrar General of Shipping and Seamen in his capacity as registrar or, as respects functions of his being discharged by another authority or person, that authority or person.

21.2- Where, for the purposes of any enactment the question arises whether a ship is owned by persons qualified to own Mount Vema ships, the question shall be determined by reference to registration regulations made under section (9.2)(a).

## **Part III**

### **Masters and Seamen**

#### **Application of Part**

#### **22- Application of this Part**

22.1- With the exceptions specified in subsection (22.2) below, this Part applies only to ships which are sea-going ships and masters and seamen employed in sea-going ships.

22.2- Those exceptions are sections 41, 44, 50, 52, 53, 56, 59 and 66.

#### **Engagement and discharge of crews**

#### **23- Crew agreements**

23.1- Except as provided under subsection (23.5) below, an agreement in writing shall be made between each person employed as a seaman in a Kingdom of Mount Vema ship and the persons employing him and shall be signed both by him and by or on behalf of them.



23.2- The agreements made under this section with the several persons employed in a ship shall be contained in one document (in this Part referred to as a crew agreement) except that in such cases as the Secretary of State may approve—

(a) the agreements to be made under this section with the persons employed in a ship may be contained in more than one crew agreement; and

(b) one crew agreement may relate to more than one ship.

23.3- The provisions and form of a crew agreement must be of a kind approved by the Secretary of State; and different provisions and forms may be so approved for different circumstances.

23.4- Subject to the following provisions of this section, a crew agreement shall be carried in the ship to which it relates whenever the ship goes to sea.

23.5- The Secretary of State may make regulations providing for exemptions from the requirements of this section—

(a) with respect to such descriptions of ship as may be specified in the regulations or with respect to voyages in such areas or such description of voyages as may be so specified; or

(b) with respect to such descriptions of seamen as may be specified in the regulations;

and the Secretary of State may grant other exemptions from those requirements (whether with respect to particular seamen or with respect to seamen employed by a specified person or in a specified ship or in the ships of a specified person) in cases where the Secretary of State is satisfied that the seamen to be employed otherwise than under a crew agreement will be adequately protected.

23.6- Where, but for an exemption granted by the Secretary of State, a crew agreement would be required to be carried in a ship or a crew agreement carried in the ship would be required to contain an agreement with a person employed in a ship, the ship shall carry such document evidencing the exemption as the Secretary of State may direct.

23.7- Regulations under this section may enable ships required under this section to carry a crew agreement to comply with the requirement by carrying a copy thereof, certified in such manner as may be provided by the regulations.

23.8- If a ship goes to sea or attempts to go to sea in contravention of the requirements of this section the master or the person employing the crew shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and the ship, if in the Kingdom of Mount Vema, may be detained.

## **24- Regulations relating to crew agreements**

24.1- The Secretary of State may make regulations—

(a) requiring such notice as may be specified in the regulations to be given to a superintendent or proper officer, except in such circumstances as may be so specified, before a crew agreement is made or an agreement with any person is added to those contained in a crew agreement;

(b) providing for the delivery to a superintendent or proper officer or the Registrar General of Shipping and Seamen of crew agreements and agreements added to those contained in a crew agreement and of copies of crew agreements and of agreements so added;

(c) requiring the posting in ships of copies of or extracts from crew agreements;

(d) requiring copies of or extracts from crew agreements to be supplied to members of the crew demanding them and requiring copies of or extracts from documents referred to in crew agreements to be made available, in such circumstances as may be specified in the regulations, for inspection by members of the crew; and

(e) requiring any documents carried in a ship to be produced on demand to an officer of customs and excise.

24.2- Regulations under this section may make a contravention of any provision thereof an offence punishable, on summary conviction, with a fine not exceeding level 3 on the standard scale or such less amount as may be specified in the regulations.

## **25- Discharge of seamen**

25- 1- The Secretary of State may make regulations prescribing the procedure to be followed in connection with the discharge of seamen from Kingdom of Mount Vema ships.

25.2- Without prejudice to the generality of subsection (25.1) above, regulations under this section may make provision—

(a) requiring notice of such a discharge to be given at such time as may be specified in the regulations to the superintendent or proper officer at a place specified in or determined under the regulations;

(b) requiring such a discharge to be recorded, whether by entries in the crew agreement and discharge book or otherwise, and requiring copies of any such entry to be given to a superintendent or proper officer or the Registrar General of Shipping and Seamen.

25.3- Regulations under this section may provide that in such cases as may be specified in the regulations, or except in such cases as may be specified in or determined under the regulations, a seaman shall not be discharged outside the Kingdom of Mount Vema from a Kingdom of Mount Vema ship without the consent of the proper officer.

25.4- Regulations under this section may make a contravention of any provision thereof an offence punishable, on summary conviction, with a fine not exceeding level 3 on the standard scale or such less amount as may be specified in the regulations.

## **26- Seamen left behind abroad otherwise than on discharge**

Regulations made under section 25 may apply any provision thereof, with such modifications as appear to the Secretary of State to be appropriate, to cases where a seaman employed in a Kingdom of Mount Vema ship is left behind outside the Kingdom of Mount Vema otherwise than on being discharged from the ship.

## **27- Discharge of seamen when ship ceases to be registered in Kingdom of Mount Vema**

Where a Kingdom of Mount Vema ship ceases to be registered, any seaman employed in the ship shall be discharged from the ship unless he consents in writing to continue his employment in the ship; and the sections in relation to his wages shall apply as if the ship had remained a Kingdom of Mount Vema ship.

## **Wages etc.**

### **28- Payment of seamen's wages**

28.1- Where a seaman employed under a crew agreement relating to a Kingdom of Mount Vema ship leaves the ship on being discharged from it, then, except as provided by or under this Part or any other enactment, the wages due to the seaman under the agreement shall either—

(a) be paid to him in full at the time when he so leaves the ship (referred to as the time of discharge), or

(b) be paid to him in accordance with subsections (28.4) and (28.5) below.

28.2- If the amount shown in the account delivered to a seaman, as being the amount payable to him under subsection (28.1)(a) above is replaced by an increased amount shown in a further account delivered to him under this section, the balance shall be paid to him within fifteen days of the time of discharge; and if the amount so shown in the account delivered to him, exceeds ₦50 and it is not practicable to pay the whole of it at the time of discharge, not less than ₦50 nor less than one-quarter of the amount so shown shall be paid to him at that time and the balance within fifteen days of that time.

28.3- If any amount which, under subsection (28.1)(a) or (28.2) above, is payable to a seaman is not paid at the time at which it is so payable the seaman shall be entitled to wages at the rate last payable under the crew agreement for every day on which it remains unpaid during the period of 56 days following the time of discharge; and if any such amount or any amount payable by virtue of this subsection remains unpaid after the end of that period it shall carry interest at the rate of 20 per cent. per annum.

28.4- Where the crew agreement referred to in subsection (28.1) above provides for the seaman's basic wages to be payable up-to-date at specified intervals not exceeding one month, and for any additional amounts of wages to be payable within the pay cycle following that to which they relate, any amount of wages due to the seaman under the agreement shall (subject to subsection (28.5) below) be paid to him not later than the date on which the next payment of his basic wages following the time of discharge would have fallen due if his employment under the agreement had continued.

28.5- If it is not practicable, in the case of any amount due to the seaman by way of wages additional to his basic wages, to pay that amount by the date mentioned in subsection (28.4) above, that amount shall be paid to him not later than what would have been the last day of the pay cycle immediately following that date if his employment under the crew agreement had continued.

28.6- If any amount which, under subsection (28.4) or (28.5) above, is payable to a seaman is not paid at the time at which it is so payable, it shall carry interest at the rate of 20 per cent. per annum.

28.7- The provisions of subsection (28.3) or (28.6) above shall not apply if the failure to pay was due to—

- (a) a mistake,
- (b) a reasonable dispute as to liability,
- (c) the act or default of the seaman, or

(d) any other cause, not being the wrongful act or default of the persons liable to pay his wages or of their servants or agents;

and so much of those provisions as relates to interest on the amount due shall not apply if a court in proceedings for its recovery so directs.

28.8- Where a seaman is employed under a crew agreement relating to more than one ship the preceding provisions of this section shall have effect, in relation to wages due to him under the agreement, as if for any reference to the time of discharge there were substituted a reference to the termination of his employment under the crew agreement.

28.9- Where a seaman, is discharged from a ship outside the Kingdom of Mount Vema but returns to the Kingdom of Mount under arrangements made by the persons who employed him, the preceding provisions of this section shall have effect, in relation to the wages due to him under a crew agreement relating to the ship, as if for the references in subsections (28.1) to (28.4) above to the time of discharge there were substituted references to the time of his return to the Kingdom of Mount Vema, and subsection (28.8) above were omitted.

28.10- For the purposes of this section any amount of wages shall, if not paid to him in cash, be taken to have been paid to a seaman—

(a) on the date when a cheque, or a money or postal order issued by the Post Office company within the meaning of the Postal Services legislation, for that amount was despatched by the recorded delivery service to the seaman's last known address, or

(b) on the date when any account kept by the seaman with a bank or other institution was credited with that amount

## **29- Account of seaman's wages**

29.1- Subject to subsections (29.4) and (29.5) below and to regulations made under this Act, the master of every Kingdom of Mount Vema ship shall deliver to every seaman employed in the ship under a crew agreement an account of the wages due to him under that crew agreement and of the deductions subject to which the wages are payable.

29.2- The account shall indicate that the amounts stated therein are subject to any later adjustment that may be found necessary and shall be delivered not later than 24 hours before the time of discharge or, if the seaman is discharged without notice or at less than 24 hours' notice, at the time of discharge.

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

29.4- Where section (28.4) or (28.5) applies to the payment of any amount of wages due to a seaman under a crew agreement—

(a) the persons who employed the seaman shall deliver to him an account of the wages payable to him under that subsection and of the deductions subject to which the wages are payable; and

(b) any such account shall be so delivered at the time when the wages are paid to him; and

(c) subsections (29.1) to (29.3) above shall not apply;

and section (28.10) shall apply for the purposes of this subsection as it applies for the purposes of that section.

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

29.6- If a person fails without reasonable excuse to comply with the preceding provisions of this section he shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.

### **30- Regulations relating to wages and accounts**

The Secretary of State may make regulations—

(a) authorizing deductions to be made from the wages due to a seaman under a crew agreement (in addition to any authorized by any provision of this Part or of any other enactment for the time being in force) in cases where a breach of his obligations under the agreement is alleged against him and such conditions, if any, as may be specified in the regulations are complied with, or in such other cases as may be specified in the regulations;

(b) regulating the manner in which any amounts deducted under the regulations are to be dealt with;

(c) prescribing the manner in which wages due to a seaman under a crew agreement are to be or may be paid;

(d) regulating the manner in which such wages are to be dealt with and accounted for in circumstances where a seaman leaves his ship in the Kingdom of Mount Vema otherwise than on being discharged therefrom;

(e) prescribing the form and manner in which any account required to be delivered, is to be prepared and the particulars to be contained therein (which may include estimated amounts).

### **31- Power of superintendent or proper officer to decide disputes about wages**

31.1- Any dispute relating to the amount payable to a seaman employed under a crew agreement may be submitted by the parties to a superintendent or proper officer for decision; but the superintendent or proper officer shall not be bound to accept the submission or, if he has accepted it, to decide the dispute, if he is of the opinion that the dispute, whether by reason of the amount involved or for any other reason, ought not to be decided by him.

31.2- The decision of a superintendent or proper officer on a dispute submitted to him under this section shall be final.

### **32- Restriction on assignment of and charge upon wages**

32.1- As respects the wages due or accruing to a seaman employed in a Kingdom of Mount Vema ship—

(a) the wages shall not be subject to attachment;

(b) an assignment thereof before they have accrued shall not bind the seaman and the payment of the wages to the seaman shall be valid notwithstanding any previous assignment or charge; and

(c) a power of attorney or authority for the receipt of the wages shall not be irrevocable.

32. 2- Nothing in this section shall affect the provisions of this Part with respect to allotment notes.

32.3- Nothing in this section applies to any disposition relating to the application of wages—

(a) in the payment of contributions to a fund declared by regulations made by the Secretary of State to be a fund to which this section applies; or

(b) in the payment of contributions in respect of the membership of a body declared by regulations made by the Secretary of State to be a body to which this section applies;

or to anything done or to be done for giving effect to such a disposition.

### **33- Power of court to award interest on wages due otherwise than under crew agreement**

In any proceedings by the master of a ship or a person employed in a ship otherwise than under a crew agreement for the recovery of any sum due to him as wages the court, unless it appears to it that the delay in paying the sum was due to—

(a) a mistake,

(b) a reasonable dispute as to liability,

(c) the act or default of the person claiming the amount, or

(d) any other cause, not being the wrongful act or default of the persons liable to make the payment or their servants or agents,

may order them to pay, in addition to the sum due, interest on it at the rate of 20 per cent. per annum or such lower rate as the court may specify, for the period beginning seven days after the sum became due and ending when the sum is paid.

### **34- Allotment notes**

34.1- Subject to the following provisions of this section, a seaman may, by means of an allotment note issued in accordance with regulations made by the Secretary of State, allot to any person or persons part of the wages to which he will become entitled in the course of his employment in a Kingdom of Mount Vema ship or ships.

34.2- A seaman's right to make an allotment under this section shall be subject to such limitations as may, by virtue of the following provisions of this section, be imposed by regulations made by the Secretary of State.

34.3- Regulations made by the Secretary of State for the purposes of this section may prescribe the form of allotment notes and—

(a) may limit the circumstances in which allotments may be made;

(b) may limit (whether by reference to an amount or by reference to a proportion) the part of the wages that may be allotted and the number of persons to whom it may be allotted and may prescribe the method by which that part is to be calculated;



(c) may limit the persons to whom allotments may be made by a seaman to persons of such descriptions or persons standing to him in such relationships as may be prescribed by the regulations;

(d) may prescribe the times and the intervals at which payments under allotment notes are to be made.

34.4- Regulations under this section may make different provision in relation to different descriptions of seamen and different circumstances.

### **35- Right of person named in allotment to sue in own name**

35.1- A person to whom any part of a seaman's wages has been allotted by an allotment note issued in accordance with regulations made under section 34 shall have the right to recover that part in his own name and for that purpose shall have the same remedies as the seaman has for the recovery of his wages.

35.2- In any proceedings brought by a person named in such an allotment note as the person to whom any part of a seaman's wages has been allotted it shall be presumed, unless the contrary is shown, that the seaman is entitled to the wages specified in the note and that the allotment has not been varied or cancelled.

### **36- Right, or loss of right, to wages in certain circumstances**

36.1- Where a Kingdom of Mount Vema ship is wrecked or lost a seaman whose employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed shall, subject to the following provisions of this section, be entitled to wages at the rate payable under the agreement at the date of the wreck or loss for every day on which he is unemployed in the two months following that date.

36.2- Where a Kingdom of Mount Vema ship is sold while outside the Kingdom of Mount Vema or ceases to be a Kingdom of Mount Vema ship and a seaman's employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed, then, unless it is otherwise provided in the agreement, he shall, subject to the following provisions of this section, be entitled to wages at the rate payable under the agreement at the date on which his employment is terminated for every day on which he is unemployed in the two months following that date.

36.3- A seaman shall not be entitled to wages by virtue of subsection (36.1) or (36.2) above for a day on which he was unemployed, if it is shown—

(a) that the unemployment was not due to the wreck or loss of the ship or, as the case may be, the termination of his employment on the sale of the ship or its ceasing to be a Kingdom of Mount Vema ship; or

(b) that the seaman was able to obtain suitable employment for that day but unreasonably refused or failed to take it.

36.4- This section shall apply to a master as it does to a seaman.

### **37- Protection of certain rights and remedies**

37.1- A seaman's lien, his remedies for the recovery of his wages, his right to wages in case of the wreck or loss of his ship, and any right he may have or obtain in the nature of salvage shall not be capable of being renounced by any agreement.

37.2- Subsection (37.1) above does not affect such of the terms of any agreement made with the seamen belonging to a ship which, in accordance with the agreement, is to be employed on salvage service, as provide for the remuneration to be paid to them for salvage services rendered by that ship.

### **38- Claims against seaman's wages for maintenance, etc. of dependants**

38.1- Where, during a seaman's employment in a ship, expenses are incurred by a responsible authority for the benefit of any dependant of his and the expenses are of a kind specified in regulations under this section and such further conditions, if any, as may be so specified are satisfied, the authority may by notice in writing complying with the regulations require the persons employing the seaman—

(a) to retain for a period specified in the notice such proportion of his net wages as may be so specified; and

(b) to give to the responsible authority as soon as may be notice in writing of the seaman's discharge from the ship;

and the persons employing the seaman shall comply with the notice (subject to subsection (38.3) below) and give notice in writing of its contents to the seaman.

38.2- For the purposes of this section—

(a) the following persons, and no others, shall be taken to be a seaman's dependants, that is to say, his spouse and any person under the age of 19 whom he is liable, for the purposes of any enactment in any part of the Kingdom of Mount Vema, to maintain or in respect of whom he is liable under any such enactment to make contributions to a district authority; and

(b) expenses incurred for the benefit of any person include (in addition to any payments made to him or on his behalf) expenses incurred for providing him with accommodation or care or for exercising supervision over him;

but no expenses shall be specified in regulations under this section unless they are such that a magistrates' court has power under any enactment in force to order the making of payments in respect thereof.

38.3- Not more than the following proportion of a seaman's net wages shall be retained under subsection (38.1) above (whether in pursuance of one or more notices)—

(a) one-half if the notice or notices relate to one dependant only;

(b) two-thirds if the notice or notices relate to two or more dependants.

38.4- Where a responsible authority have served a notice under this section on the persons employing a seaman a magistrates' court may, on the application of the authority, make an order for the payment to the authority of such sum, not exceeding the proportion of the seaman's wages which those persons were required by virtue of this section to retain, as the court, having regard to the expenses incurred by the authority and the seaman's means, thinks fit.

38.5- Any sums paid out of a seaman's wages in pursuance of an order under this section shall be deemed to be paid to him in respect of his wages; and the service, on the persons who employed the seaman, of such an order or of an order dismissing an application for such an order shall terminate the period for which they were required to retain the wages.

38.6- An application for an order under this section for the payment of any sum by the persons who employed a seaman shall be deemed, for the purposes of any proceedings, to be an application for an order against the seaman; but the order, when served on those persons, shall have effect as an order against them and may be enforced accordingly.

38.7- Any notice or order under this section may be served by registered post or recorded delivery service.

38.8- The Secretary of State may make regulations specifying—

(a) the expenses in respect of which a notice may be served by a responsible authority under subsection (38.1) above;

- (b) any conditions that must be satisfied if such a notice is to be served;
  - (c) the period that may be specified in such a notice (being a period beginning with the service of the notice and ending a specified number of days after the seaman's discharge from his ship);
  - (d) the form of such a notice and the information to be contained therein; and
  - (e) the amounts to be deducted from a seaman's wages in computing his net wages for the purposes of this section;
- and the amounts specified under paragraph (e) above may include amounts allotted by allotment notes.

38.9- In this section "responsible authority" means the Secretary of State.

### **39- Remedies of master for remuneration, disbursements and liabilities**

The master of a ship shall have the same lien for his remuneration, and all disbursements or liabilities properly made or incurred by him on account of the ship, as a seaman has for his wages.

### **Safety, health and welfare**

#### **40- Obligation of ship-owners as to seaworthiness**

40.1- In every contract of employment between the owner of a Kingdom of Mount Vema ship and the master of or any seaman employed in the ship there shall be implied an obligation on the owner of the ship that—

- (a) the owner of the ship,
- (b) the master of the ship, and
- (c) every agent charged with—
  - (i) the loading of the ship,
  - (ii) the preparing of the ship for sea, or
  - (iii) the sending of the ship to sea,

shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences and to keep the ship in a seaworthy condition for the voyage during the voyage.

40.2- The obligation imposed by subsection (40.1) above applies notwithstanding any agreement to the contrary.

40.3- No liability on the owner of a ship arises under subsection (40.1) above in respect of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable.

#### **41- Crew accommodation**

41.1- The Secretary of State may make regulations with respect to the crew accommodation to be provided in Kingdom of Mount Vema ships.

41.2- Without prejudice to the generality of subsection (41.1) above, regulations made under this section may, in particular—

(a) prescribe the minimum space per man which must be provided by way of sleeping accommodation for seamen and the maximum number of persons by whom a specified part of such sleeping accommodation may be used;

(b) regulate the position in the ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;

(c) require the submission to a surveyor of ships of plans and specifications of any works proposed to be carried out for the purpose of the provision or alteration of any such accommodation and authorize the surveyor to inspect any such works; and

(d) provide for the maintenance and repair of any such accommodation and prohibit or restrict the use of any such accommodation for purposes other than those for which it is designed.

41.3- Regulations under this section may make different provision with respect to different descriptions of ship or with respect to ships which were registered in the Kingdom of Mount Vema at different dates or the construction of which was begun at different dates and with respect to crew accommodation provided for seamen of different descriptions.

41.4- Regulations under this section may exempt ships of any description from any requirements of the regulations and the Secretary of State may grant other exemptions from any such requirement with respect to any ship.

41.5- Regulations under this section may require the master of a ship or any officer authorized by him for the purpose to carry out such inspections of the crew accommodation as may be prescribed by the regulations.

41.6- If the provisions of any regulations under this section are contravened in the case of a ship the owner or master shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale and the ship, if in the Kingdom of Mount Vema, may be detained.

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

#### **42- Complaints about provisions or water**

42.1- If three or more seamen employed in a Kingdom of Mount Vema ship consider that the provisions or water provided for the seamen employed in that ship are not in accordance with safety regulations containing requirements as to the provisions and water to be provided on ships (whether because of bad quality, unfitness for use or deficiency in quantity) they may complain to the master, who shall investigate the complaint.

42.2- If the seamen are dissatisfied with the action taken by the master as a result of his investigation or by his failure to take any action they may state their dissatisfaction to him and may claim to complain to a superintendent or proper officer; and thereupon the master shall make adequate arrangements to enable the seamen to do so as soon as the service of the ship permits.

42.3- The superintendent or proper officer to whom a complaint has been made under this section shall investigate the complaint and may examine the provisions or water or cause them to be examined.

42.4- If the master fails without reasonable excuse to comply with the provisions of subsection (42.2) above he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and if he has been notified in writing by the person making an examination under subsection (42.3) above that any provisions or water are found to be unfit for use or not of the quality required by the regulations, then—

(a) if they are not replaced within a reasonable time the master or owner shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale unless he proves that the failure to replace them was not due to his neglect or default; or

(b) if the master, without reasonable excuse, permits them to be used he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **43- Expenses of medical and other treatment during voyage**

43.1- If a person, while employed in a Kingdom of Mount Vema ship, receives outside the Kingdom of Mount Vema any surgical or medical treatment or such dental or optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency, the reasonable expenses thereof shall be borne by the persons employing him.

43.2- If a person dies while employed in a Kingdom of Mount Vema ship and is buried or cremated outside the Kingdom of Mount Vema, the expenses of his burial or cremation shall also be borne by those persons.

43.3- The reference in subsection (43.2) above to dying in a ship includes a reference to dying in a ship's boat.

### **Manning, qualifications, training and uniform**

#### **44- Application of sections 45 to 50**

Sections 45 to 49 apply to every Kingdom of Mount Vema ship and also to any ship registered under the law of a country outside the Kingdom of Mount Vema which carries passengers—

(a) between places in the Kingdom of Mount Vema; or

(b) on a voyage which begins and ends at the same place in the Kingdom of Mount Vema and on which the ship calls at no place outside the Kingdom of Mount Vema.

#### **45- Manning**

45.1- Subject to subsection (45.2) below, the Secretary of State may make regulations—

(a) requiring ships to which this section applies to carry such number of qualified officers of any description, qualified doctors and qualified cooks and such number of other seamen or qualified seamen of any description as may be specified in the regulations; and

(b) prescribing or enabling the Secretary of State to specify standards of competence to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the regulations) by officers and other seamen of any description in order to be qualified for the purposes of this section.

45.2- The Secretary of State shall not exercise his power to make regulations requiring ships to carry seamen other than doctors and cooks except to the extent that it appears to him necessary or expedient in the interests of safety.

45.3- Regulations under this section may make different provision for different descriptions of ship or for ships of the same description in different circumstances.

45.4- Without prejudice to the generality of subsection (45.1)(b) above, the conditions prescribed or specified under that paragraph may include conditions as to nationality, and regulations made for the purposes of that paragraph may make provision, or enable the Secretary of State to make provision, for—

(a) the manner in which the attainment of any standard or the satisfaction of any other condition is to be evidenced;

(b) the conduct of any examinations, the conditions for admission to them and the appointment and remuneration of examiners; and

(c) the issue, form and recording of certificates and other documents;

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

45.5- If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a certificate or other document which may be issued under this section he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **46- Power to exempt from manning requirements**

46.1- The Secretary of State may exempt any ship or description of ship from any requirements of regulations made under section 45.

46.2- An exemption given under this section may be confined to a particular period or to one or more particular voyages.

#### **47- Prohibition of going to sea undermanned**

47.1- Subject to section 46, if a ship to which this section applies goes to sea or attempts to go to sea without carrying such officers and other seamen as it is required to carry under section 45, the owner or master shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;



(b) on conviction on indictment, to a fine;

and the ship, if in the Kingdom of Mount Vema, may be detained.

47.2 This section shall, in its application to ships which are not sea-going ships, have effect as if for the words "goes to sea or attempts to go to sea" there were substituted the words "goes on a voyage or excursion or attempts to do so " and the words "if in the Kingdom of Mount Vema" were omitted.

#### **48- Production of certificates and other documents of qualification**

48.1- Any person serving or engaged to serve in any ship to which this section applies and holding any certificate or other document which is evidence that he is qualified for the purposes of section 45 shall on demand produce it to any superintendent, surveyor of ships or proper officer and (if he is not himself the master) to the master of the ship.

48.2- If, without reasonable excuse, a person fails to comply with subsection (48.1) above he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **49- Crew's knowledge of English**

49.1- Where in the opinion of a superintendent or proper officer the crew of a ship to which this section applies consists of or includes persons who may not understand orders given to them in the course of their duty because of their insufficient knowledge of English and the absence of adequate arrangements for transmitting the orders in a language of which they have sufficient knowledge, then—

(a) if the superintendent or proper officer has informed the master of that opinion, the ship shall not go to sea; and

(b) if the ship is in the Kingdom of Mount Vema, it may be detained.

49.2- If a ship goes to sea or attempts to go to sea in contravention of this section the owner or master shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **50- Unqualified persons going to sea as qualified officers or seamen**

50.1- If a person goes to sea as a qualified officer or seaman of any description without being such a qualified officer or seaman he shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum,
- (b) on conviction on indictment, to a fine.

50.2- In this section "qualified" means qualified for the purposes of section 45.

### **51- Medical treatment on board ship**

Where a Kingdom of Mount Vema ship does not carry a doctor among the seamen employed in it the master shall make arrangements for securing that any medical attention on board the ship is given either by him or under his supervision by a person appointed by him for the purpose.

### **52- Special certificates of competence**

52.1- The Secretary of State may issue and record documents certifying the attainment of any standard of competence relating to ships or their operation, notwithstanding that the standard is not among those prescribed or specified under section (45.1)(b); and may, in relation thereto, make regulations for purposes corresponding to those mentioned in section (45.4).

52.2- If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a document which may be issued under this section he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **53- Young persons**

53.1- Subject to subsection (53.1A), a person under school-leaving age shall not be employed in any Kingdom of Mount Vema ship except as permitted by regulations under this section.

53.1A- A person under 16 years of age shall not be employed in any sea-going Kingdom of Mount Vema ship.

53.2- The Secretary of State may make regulations—

- (a) prescribing circumstances in which and conditions subject to which persons under school-leaving age who have attained such age as may be specified in the regulations may be employed in a ship which is not a sea-going Kingdom of Mount Vema ship in such capacities as may be so specified;

(b) prescribing circumstances and capacities in which persons over school leaving-age but under the age of 18 or under such lower age as may be specified in the regulations must not be employed in a Kingdom of Mount Vema ship which is not a sea-going ship or may be so employed only subject to such conditions as may be specified in the regulations.

(c) prescribing circumstances and capacities in which persons of at least the age of 16 but under the age of 18 or under such lower age as may be specified in the regulations must not be employed in a sea-going Kingdom of Mount Vema ship or may be so employed only subject to such conditions as may be specified in the regulations.

53.3- Regulations made for the purposes of this section may make different provision for different employments and different descriptions of ship and any other different circumstances.

53.4- If any person is employed in a ship in contravention of this section or if any condition subject to which a person may be employed under regulations made for the purposes of this section is not complied with, the owner or master shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

53.5- For the purposes of this section a person employed in a ship shall be deemed to be over school-leaving age if he has, and under school-leaving age if he has not, attained the age which is the upper limit of compulsory school age under the enactments relating to education in the Kingdom of Mount Vema in which he entered into the agreement under which he is so employed or, if he entered into that agreement outside the Kingdom of Mount Vema or is employed otherwise than under an agreement, under the enactments relating to education; and if he is treated for the purposes of those enactments as not having attained that age he shall be so treated also for the purposes of this section.

#### **54- Financial assistance for training**

54.1- The Secretary of State may, with the consent of His Mount Vema Majesty's Treasury, give any person or body of persons of any description determined by him for the purposes of this section financial assistance in respect of expenses incurred or to be incurred by any such person or body in connection with the training (whether in the Kingdom of Mount Vema or elsewhere) of officers and ratings for service in merchant ships, including expenses incurred or to be incurred by any such person in connection with his undergoing any such training.

54.2- Assistance under this section may be given by way of a grant or a loan or otherwise; and in giving any such assistance the Secretary of State may impose such conditions as he thinks fit, including conditions requiring a grant to be repaid in specified circumstances.

54.3- This section is without prejudice to any other power of the Secretary of State to give financial assistance in connection with any such training as is mentioned in subsection (54.1) above.

54.4- In providing assistance in accordance with this section the Secretary of State shall have regard to the maintenance and development of the merchant fleet and marine related business of the Kingdom of Mount Vema and for that purpose shall—

(a) keep under review all aspects of that fleet and business; and

(b) seek the advice of those who appear to him to have experience of that fleet or business.

54.5- In this section, “marine related business” means any trade, business or other activity concerned with the manufacture of, or the provision of goods and services for, or the operation or use of, ships and includes maritime educational establishments, marine classification societies, marine equipment suppliers, marine surveyors, marine and naval architects, marine insurance companies, protection and indemnity clubs, providers of maritime financial or legal services, the operators of ports and harbors and shipbrokers.

## **55- Uniform**

55.1- Subject to subsection (55.3) below, if any person, not being entitled to wear the merchant navy uniform, wears that uniform or any part thereof, or any dress having the appearance or bearing any of the distinctive marks of that uniform, he shall be guilty of an offence.

55.2- A person guilty of an offence under subsection (55.1) above shall be liable, on summary conviction,—

(a) except in a case falling within paragraph (b) below, to a fine not exceeding level 1 on the standard scale;

(b) if he wears it in such a manner or under such circumstances as to be likely to bring contempt on the uniform, to a fine not exceeding level 1 on the standard scale or to imprisonment for a term not exceeding six months.

55.3- Subsection (55.1) above shall not prevent any person from wearing any uniform or dress in the course or for the purposes of a stage play or representation, or a music-hall or circus performance if the uniform is not worn in such a manner or under such circumstances as to bring it into contempt.

55.4- If any person entitled to wear the merchant navy uniform when aboard a ship in port or on shore appears dressed partly in uniform and partly not in uniform under such circumstances as to be likely to bring contempt on the uniform, or, being entitled to wear the uniform appropriate to a particular rank or position, wears the uniform appropriate to some higher rank or position, he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

## **Offences by seamen, etc**

### **56- Conduct endangering ships, structures or individuals**

56.1- This section applies—

- (a) to the master of, or any seaman employed in, a Kingdom of Mount Vema ship; and
- (b) to the master of, or any seaman employed in, a ship which—
  - (i) is registered under the law of any country outside the Kingdom of Mount Vema; and
  - (ii) is in a port in the Kingdom of Mount Vema or within the Kingdom of Mount Vema waters while proceeding to or from any such port.

56.2- If a person to whom this section applies, while on board his ship or in its immediate vicinity—

- (a) does any act which causes or is likely to cause—
    - (i) the loss or destruction of or serious damage to his ship or its machinery, navigational equipment or safety equipment, or
    - (ii) the loss or destruction of or serious damage to any other ship or any structure, or
    - (iii) the death of or serious injury to any person, or
  - (b) omits to do anything required—
    - (i) to preserve his ship or its machinery, navigational equipment or safety equipment from being lost, destroyed or seriously damaged, or
    - (ii) to preserve any person on board his ship from death or serious injury, or
    - (iii) to prevent his ship from causing the loss or destruction of or serious damage to any other ship or any structure, or the death of or serious injury to any person not on board his ship,
- and either of the conditions specified in subsection (56.3) below is satisfied with respect to that act or omission, he shall (subject to subsections (56.6) and (56.7) below) be guilty of an offence.

56.3- Those conditions are—

- (a) that the act or omission was deliberate or amounted to a breach or neglect of duty;
- (b) that the master or seaman in question was under the influence of drink or a drug at the time of the act or omission.

56.4- If a person to whom this section applies—

- (a) discharges any of his duties, or performs any other function in relation to the operation of his ship or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as is mentioned in subsection (56.2)(a) above, or
  - (b) fails to discharge any of his duties, or to perform any such function, properly to such an extent as to cause, or to be likely to cause, any of those things,
- he shall (subject to subsections (56.6) and (56.7) below) be guilty of an offence.

56.5- A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

56.6- In proceedings for an offence under this section it shall be a defence to prove—

- (a) in the case of an offence under subsection (56.2) above where the act or omission alleged against the accused constituted a breach or neglect of duty, that the accused took all reasonable steps to discharge that duty;
- (b) in the case of an offence under subsection (56.2) above, that at the time of the act or omission alleged against the accused he was under the influence of a drug taken by him for medical purposes and either that he took it on medical advice and complied with any directions given as part of that advice or that he had no reason to believe that the drug might have the influence it had;
- (c) in the case of an offence under subsection (56.4) above, that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence; or
- (d) in the case of an offence under either of those subsections—

(i) that he could have avoided committing the offence only by disobeying a lawful command, or

(ii) that in all the circumstances the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of its being caused, either could not reasonably have been foreseen by the accused or could not reasonably have been avoided by him.

56.7- In the application of this section to any person falling within subsection (56.1)(b) above, subsections (56.2) and (56.4) above shall have effect as if subsection (56.2)(a)(i) and (b)(i) above were omitted; and no proceedings for any offence under this section shall be instituted against any such person—

(a) in the Kingdom of Mount Vema, except by or with the consent of the Secretary of State or the Director of Prosecutions;

56.8- In this section—

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

“duty”—

(a) in relation to a master or seaman, means any duty falling to be discharged by him in his capacity as such; and

(b) in relation to a master, includes his duty with respect to the good management of his ship and his duty with respect to the safety of operation of his ship, its machinery and equipment; and

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

## **57- Concerted disobedience and neglect of duty**

57.1- If a seaman employed in a Kingdom of Mount Vema ship combines with other seamen employed in that ship—

(a) to disobey lawful commands which are required to be obeyed at a time while the ship is at sea;

(b) to neglect any duty which is required to be discharged at such a time; or

(c) to impede, at such a time, the progress of a voyage or the navigation of the ship,

he shall be liable—

(i) on summary conviction, to a fine not exceeding the statutory maximum;

(ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

57.2- For the purposes of this section a ship shall be treated as being at sea at any time when it is not securely moored in a safe berth.

## **Disciplinary offences**

### **58- Breaches by seamen of codes of conduct**

58.1- The Secretary of State may make regulations under the following provisions of this section for the purpose of maintaining discipline on board of the Kingdom Mount Vema ships; and in this section "disciplinary body" means a body established or approved by the Secretary of State under subsection (58.6) below.

58.2- Regulations may provide for the hearing on shore in the Kingdom of Mount Vema, by a disciplinary body, of a complaint by the master or owner of a Kingdom of Mount Vema ship, other than a fishing vessel, against a seaman alleging that during his employment on board the ship the seaman contravened a provision of a code of conduct approved by the Secretary of State for the purposes of this section.

The alleged contravention may be one on or off the ship and in the Kingdom of Mount Vema or elsewhere.

58.3- Regulations may enable a disciplinary body—

(a) to dismiss the complaint if it finds the allegation not proved;

(b) if it finds the allegation proved—

(i) to warn the seaman;

(ii) to reprimand the seaman; or



(iii) to recommend to the Secretary of State that the seaman shall, either for a period specified in the recommendation or permanently, cease to be entitled to a discharge book and shall be required to surrender any such book which has been issued to him.

58.4- Regulations may—

(a) enable the seaman to appeal against such a recommendation to another disciplinary body (an “appellate body”);

(b) enable an appellate body—

(i) to confirm the recommendation;

(ii) to cancel the recommendation; or

(iii) in the case of a recommendation that the seaman shall cease to be entitled to a discharge book permanently or for a particular period, to substitute for it a recommendation that he shall cease to be so entitled, instead of permanently, for a period specified in the substituted recommendation or, instead of for the particular period, for a shorter period so specified.

58.5- Regulations may make provision for securing that a recommendation that the seaman shall permanently cease to be entitled to a discharge book is not submitted to the Secretary of State unless it has been confirmed, either on appeal or otherwise, by an appellate body.

58.6- Regulations may make provision for the establishment or approval for the purposes of this section of such number of bodies as the Secretary of State thinks fit and with respect to the composition, jurisdiction and procedure of any such body.

58.7- Regulations may make provision for the payment, out of money provided by the Congress of Mount Vema, of such remuneration and allowances as the Secretary of State may, with the consent of His Mount Vema Majesty’s Treasury, determine to any member of such a body.

58.8- Regulations may make different provision for different circumstances and may contain such incidental and supplemental provisions as the Secretary of State considers appropriate.

58.9- Without prejudice to the generality of the preceding provisions, regulations may include provision for any proceedings to take place notwithstanding the absence of the seaman to whom they relate.

58.10- Nothing in the regulations or done in pursuance of the regulations shall be construed as affecting any power to institute, prosecute, entertain or determine proceedings (including criminal proceedings) under any other enactment or at common law.

## **Disqualification of seamen and inquiries**

### **59- Inquiry into fitness or conduct of officer**

59.1- If it appears to the Secretary of State that an officer—

(a) is unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason; or

(b) has failed to comply with relevant provisions of this act or has been seriously negligent in the discharge of his duties.

the Secretary of State may cause an inquiry to be held by one or more persons appointed by him and, if he does so, may, if he thinks fit, suspend, pending the outcome of the inquiry, any certificate issued to the officer in pursuance of section 45 and require the officer to deliver it to him.

59.2- Where a certificate issued to an officer has been suspended under subsection (59.1) above the suspension may, on the application of the officer, be terminated by the High Court, and the decision of the court on such an application shall be final.

59.3- An inquiry under this section shall be conducted in accordance with rules made under section (63.1) and those rules shall require the persons holding the inquiry to hold it with the assistance of one or more assessors.

59.4- The persons holding an inquiry under this section into the fitness or conduct of an officer—

(a) may, if satisfied of any of the matters mentioned in paragraphs (a) to (c) of subsection (59.1) above, cancel or suspend any certificate issued to him under section 45 or censure him;

(b) may make such order with regard to the costs of the inquiry as they think just; and

(c) shall make a report on the case to the Secretary of State;

and if the certificate is cancelled or suspended the officer (unless he has delivered it to the Secretary of State in pursuance of subsection (59.1) above) shall deliver it forthwith to the persons holding the inquiry or to the Secretary of State.

59.5- Any costs which a person is ordered to pay under subsection (59.4)(b) above may be recovered from him by the Secretary of State.

## **60- Disqualification of holder of certificate other than officer's**

60.1- Where it appears to the Secretary of State that a person who is the holder of a certificate to which this section applies is unfit to be the holder of such a certificate, whether by reason of incompetence or misconduct or for any other reason, the Secretary of State may give him notice in writing that he is considering the suspension or cancellation of the certificate.

60.2- The notice must state the reasons why it appears to the Secretary of State that that person is unfit to be the holder of such a certificate and must state that within a period specified in the notice, or such longer period as the Secretary of State may allow, he may make written representations to the Secretary of State or claim to make oral representations to the Secretary of State.

60.3- After considering any representations made in pursuance of subsection (60.2) above the Secretary of State shall decide whether or not to suspend or cancel the certificate and shall give the holder of it written notice of his decision.

60.4- Where the decision is to suspend or cancel the certificate the notice shall state the date from which the cancellation is to take effect, or the date from which and the period for which the suspension is to take effect, and shall require the holder to deliver the certificate to the Secretary of State not later than the date so specified unless before that date the holder has required the case to be dealt with by an inquiry under section 61.

60.5- Where, before the date specified in the notice, he requires the case to be dealt with by such an inquiry, then, unless he withdraws the requirement, the suspension or cancellation shall not take effect except as ordered in pursuance of the inquiry.

60.6- The Secretary of State may make regulations prescribing the procedure to be followed with respect to the making and consideration of representations in pursuance of this section, the form of any notice to be given under this section and the period to be specified in any such notice as the period within which any steps are to be taken.

60.7- This section applies to every certificate issued under section 52 and to any certificate issued under section 45 other than one certifying that a person is qualified as an officer.

### **61- Inquiry into fitness or conduct of seaman other than officer**

61.1- Where a person has, before the date mentioned in section (60.4), required his case to be dealt with by an inquiry under this section the Secretary of State shall cause an inquiry to be held by one or more persons appointed by him.

61.2- An inquiry under this section shall be conducted in accordance with rules made under section (63.1) and those rules shall require the persons holding the inquiry to hold it with the assistance of one or more assessors.

61.3- The persons holding an inquiry under this section—

(a) may confirm the decision of the Secretary of State and cancel or suspend the certificate accordingly;

(b) may, where the decision was to cancel the certificate, suspend it instead;

(c) may, where the decision was to suspend the certificate, suspend it for a different period;

(d) may, instead of confirming the decision of the Secretary of State, censure the holder of the certificate or take no further action;

(e) may make such order with regard to the costs of the inquiry as they think just; and

(f) shall make a report on the case to the Secretary of State;

and if the certificate is cancelled or suspended it shall be delivered forthwith to the persons holding the inquiry or to the Secretary of State.

61.4- Any costs which a person is ordered to pay under subsection (61.3)(e) above may be recovered from him by the Secretary of State.

### **62- Re-hearing of and appeal from inquiries**

62.1- Where an inquiry has been held under section 59 or 61 the Secretary of State may order the whole or part of the case to be reheard, and shall do so—

(a) if new and important evidence which could not be produced at the inquiry has been discovered; or

(b) if there appear to the Secretary of State to be other grounds for suspecting that a miscarriage of justice may have occurred.

62.2- An order under subsection (62.1) above may provide for the re-hearing by the persons who held it, by a wreck commissioner or by the High Court.

62.3- Any re-hearing under this section which is not held by the High Court shall be conducted in accordance with rules made under section (63.1).

62.4- Where the persons holding the inquiry have decided to cancel or suspend the certificate of any person or have found any person at fault, then, if no application for an order under subsection (62.1) above has been made or such an application has been refused, that person or any other person who, having an interest in the inquiry, has appeared at the hearing and is affected by the decision or finding, may appeal—

(a) to the High Court if the inquiry was held in the Kingdom of Mount Vema.

### **63- Rules as to inquiries and appeals**

63.1- The Secretary of State may make rules for the conduct of inquiries under sections 59 and 61 and for the conduct of any re-hearing under section 62 which is not held by the High Court.

63.2- Without prejudice to the generality of subsection (63.1) above, rules under this section may provide for the appointment and summoning of assessors, the manner in which any facts may be proved, the persons allowed to appear, and the notices to be given to persons affected.

63.3- Rules of court made for the purpose of re-hearings under section 62 which are held by the High Court, or of appeals to the High Court, may require the court, subject to such exceptions, if any, as may be allowed by the rules, to hold such a re-hearing or hear such an appeal with the assistance of one or more assessors.

### **64- Failure to deliver cancelled or suspended certificate**

If a person fails to deliver a certificate as required under section 59, 60 or 61 he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **65- Power to restore certificate**

Where a certificate has been cancelled or suspended under section 59, 60, 61 or 62, the Secretary of State, if of the opinion that the justice of the case requires it, may re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or may grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

## **66- Power to summon witness to inquiry into fitness or conduct of officer or other seaman**

66.1- The persons holding an inquiry under section 59 or 61 may—

(a) by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry; and

(b) take evidence on oath (and for that purpose administer oaths) or, instead of administering an oath, require the person examined to make a solemn affirmation.

66.2- If on the failure of a person to attend such an inquiry in answer to a summons under this section—

(a) the persons holding the inquiry are satisfied by evidence on oath—

(i) that the person in question is likely to be able to give material evidence or produce any document which relates to any matter in question at the inquiry,

(ii) that he has been duly served with the summons, and

(iii) that a reasonable sum has been paid or tendered to him for costs and expenses, and

(b) it appears to them that there is no just excuse for the failure,

they may issue a warrant to arrest him and bring him before the inquiry at a time and place specified in the warrant.

66.3- If any person attending or brought before such an inquiry refuses without just excuse to be sworn or give evidence, or to produce any document, the persons holding the inquiry may—

(a) commit him to custody until the end of such period not exceeding one month as may be specified in the warrant or until he gives evidence or produces the document (whichever occurs first), or

(b) impose on him a fine not exceeding ₡1,000,

or both.

66.4- A fine imposed under subsection (66.3)(b) above shall be treated for the purposes of its collection, enforcement and remission as having been imposed by the magistrates' court for the area in which the inquiry in question was held, and the persons holding the inquiry shall, as soon as practicable after imposing the fine, give particulars of it to the proper officer of that court.

In subsection (66.1) above "proper officer" means—

(a) in relation to a magistrates' court in Mount Vema, the justices' chief executive for the court.

### **Civil liability of seamen for offences**

#### **67- Civil liability for absence without leave**

67.1- The following provisions of this section shall apply with respect to the liability of a seaman employed in a Kingdom of Mount Vema ship to damages for being absent from his ship at a time when he is required under his contract of employment to be on board.

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

67.3- Where subsection (67.2) above does not apply, then—

(a) if no special damages are claimed his liability shall be ₦100;

(b) if special damages are claimed his liability shall not be more than ₦500.

#### **68- Civil liability for smuggling**

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

#### **69- Civil liability for fines imposed under immigration laws**

69.1- The following provisions of this section shall apply where, at a time when a Kingdom of Mount Vema ship is in the national or territorial waters of any country outside the Kingdom of Mount Vema, a seaman employed in the ship is absent without leave and present in that country in contravention of that country's laws.

69.2- If, by reason of the contravention, a penalty is incurred under those laws by the persons employing the seaman the penalty shall be treated as being attributable to his absence without leave and may, subject to the provisions of section 67, be recovered from him as special damages for breach of contract.

69.3- If, by reason of the contravention, a penalty is incurred under those laws by any other person the amount thereof, or, if that amount exceeds ₦100, ₦100, may be recovered by him from the seaman.

### **Relief and repatriation and relief costs**

#### **70- Relief and return of seamen etc. left behind and shipwrecked**

70.1- Where—

(a) a person employed as a seaman in a Kingdom of Mount Vema ship is left behind in any country outside the Kingdom of Mount Vema or is taken to such a country on being shipwrecked; or

(b) a person who became so employed under an agreement entered into outside the Kingdom of Mount Vema is left behind in the Kingdom of Mount Vema or is taken to the Kingdom of Mount Vema on being shipwrecked;

the persons who last employed him as a seaman shall make such provision for his return and for his relief and maintenance until his return and such other provisions as may be required by regulations made by the Secretary of State.

70.2- The provisions to be so made may include the repayment of expenses incurred in bringing a shipwrecked seaman ashore and maintaining him until he is brought ashore and the payment of the expenses of the burial or cremation of a seaman who dies before he can be returned.

70.3- The Secretary of State may also make regulations providing for the manner in which any wages due to any person left behind or taken to any country as mentioned in subsection (70.1) above, and any property of his left on board ship, are to be dealt with.



70.4- The Secretary of State may make regulations requiring a superintendent or proper officer—

(a) to make such provision as may be prescribed by the regulations with respect to any matter for which provision may be required to be made by regulations under the preceding provisions of this section; and

(b) to make the like provision with respect to persons who are Mount Vema citizens, and are found in distress in any country outside the Kingdom of Mount Vema after being employed in ships registered in, or belonging to the government of, such a country.

70.5- Without prejudice to the generality of the preceding provisions, regulations made under this section may make provision—

(a) for determining the place to which a person is to be returned;

(b) for requiring the master of any Kingdom of Mount Vema ship to convey a person to a place determined in accordance with the regulations and for enabling a superintendent or proper officer to give the master directions for that purpose;

(c) for the making of payments in respect of the conveyance of a person in accordance with the regulations; and

(d) for the keeping of records and the rendering of accounts.

70.6- Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 3 on the standard scale or such less amount as may be specified in the regulations.

70.7- This section applies to a person left behind on being discharged, whether or not at the time he is left behind the ship is still a Kingdom of Mount Vema ship.

70.8- This section applies to the master of a ship as it applies to a seaman and sections 71 and 72 shall have effect accordingly.

### **71- Limit of employer's liability under section 70**

Where a person left behind in or taken to any country as mentioned in section (70.1) remains there after the end of a period of three months the persons who last employed him as a seaman shall not be liable under that section to make provision for his return or for any matter arising after the end of that period, unless they have before the end of that period been under an obligation imposed on them by regulations under that section to make provision with respect to him.

## **72- Recovery of expenses incurred for relief and return, etc**

72.1- Where any expenses are incurred in respect of any matter for which the employers of a seaman are required to make provision under section 70, then—

(a) if the expenses are incurred by the Secretary of State, or are incurred by the government of any country outside the Kingdom of Mount Vema and repaid to them on behalf of the Crown of Mount Vema, the Secretary of State may recover them from the employers;

(b) if the expenses are incurred by the seaman he may recover them from the employers unless they prove either that under the terms of his employment they were to be borne by him or that he would not have been left behind but for his own wrongful act or neglect.

72.2- Where, in the case of any seaman, expenses are incurred by the Secretary of State or are incurred by the government of any country outside the Kingdom of Mount Vema and repaid to them on behalf of the Crown of Mount Vema—

(a) in respect of any matter for which, but for section 71, the seaman's last employers would have been required to make provision under section 70; or

(b) in respect of any matter for which provision is required to be made under section (70.4)(b);

the Secretary of State may recover them from the seaman (or, if he has died, from his personal representatives).

## **73- Financial assistance in respect of crew relief costs**

73.1- The Secretary of State may, with the consent of His Mount Vema Majesty' Treasury, give financial assistance to—

(a) the owner of a ship registered in Mount Vema, or

(b) any manager of a ship so registered, being either an individual ordinarily resident in Mount Vema or a body corporate which is incorporated in Mount Vema and has its principal place of business in Mount Vema.

73.2- If the Secretary of State so determines, eligibility for assistance under this section shall be conditional on the fulfilment of such conditions with respect to all or any of the following matters as are specified in his determination—

- (a) the nationality of any person in relation to whom any such costs as are mentioned in subsection (73.1) above are incurred;
- (b) the ordinary residence of any such person;
- (c) the place where any such person joins or leaves his ship.

73.3- Assistance under this section may be given by way of a grant or loan or otherwise; and in giving any such assistance the Secretary of State may impose such conditions as he thinks fit.

73.4- For the purposes of this section—

- (a) the crew of a ship shall be taken to include the master and other officers of the ship.

## **Documentation**

### **74- Official log books**

74.1- Except as provided by regulations under this section an official log book in a form approved by the Secretary of State shall be kept in every Kingdom of Mount Vema ship.

74.2- The Secretary of State may make regulations prescribing the particulars to be entered in official log books, the persons by whom such entries are to be made, signed or witnessed, and the procedure to be followed in the making of such entries and in their amendment or cancellation.

74.3- The regulations may require the production or delivery of official log books to such persons, in such circumstances and within such times as may be specified therein.

74.4- Regulations under this section may exempt ships of any description from any requirements thereof, either generally or in such circumstances as may be specified by Order or in the regulations.

74.5- Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.

74.6- If a person intentionally destroys or mutilates or renders illegible any entry in an official log book he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **75- Lists of crew**

75.1-Except as provided by regulations made under this section, the master of every United Kingdom ship shall make and maintain a list of the crew containing such particulars as may be required by the regulations.

75.2- The Secretary of State may make regulations—

- (a) specifying the particulars to be entered in a list of the crew;
- (b) limiting the time for which a list of the crew may remain in force;
- (c) providing for the maintenance by such persons and either in such place as may be specified in the regulations or, if it is so specified, in the ship, of a copy or copies of each list of a crew, and for the notification to such persons of any changes therein;
- (d) for the production of a list of the crew to such persons, in such circumstances and within such time as may be specified in the regulations; and
- (e) for the delivery to a superintendent or proper officer or the Registrar General of Shipping and Seamen, in such circumstances as may be specified in the regulations, of a list of the crew or a copy thereof maintained under the regulations and for the notification to him of any changes in such a list.

75.3- Regulations under this section may enable a list of the crew to be contained in the same document as a crew agreement and may treat any particulars entered in the crew agreement as forming part of the particulars entered in the list.

75.4- Regulations under this section may exempt from the requirements thereof such descriptions of ship as may be specified in the regulations and may make different provisions for different circumstances.

75.5- Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.

## **76- Mount Vema seamen's cards**

76.1- The Secretary of State may make regulations providing—

(a) for the issue to Mount Vema seamen of cards (in this section referred to as "Mount Vema seamen's cards") in such form and containing such particulars with respect to the holders thereof and such other particulars (if any) as may be prescribed by the regulations, and for requiring Mount Vema seamen to apply for such cards;

(b) for requiring the holders of Mount Vema seamen's cards to produce them to such persons and in such circumstances as may be prescribed by the regulations;

(c) for the surrender of Mount Vema seamen's cards in such circumstances as may be prescribed by the regulations;

(d) for any incidental or supplementary matters for which the Secretary of State thinks it expedient for the purposes of the regulations to provide;

and any provision of the regulations having effect by virtue of paragraph (a) above may be so framed as to apply to all Mount Vema seamen or any description of them and as to have effect subject to any exemptions for which provision may be made by the regulations.

76.2- Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.

76.3- In this section "Mount Vema seamen" means persons who are not aliens within the meaning of the Mount Vema Nationality legislation and are employed, or ordinarily employed, as masters or seamen.

76.4- If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a Mount Vema seaman's card he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **77- Discharge books**

77.1- The Secretary of State may make regulations providing—

(a) for the issue of discharge books—

(i) to persons who are or have been employed in Kingdom of Mount Vema ships;  
or

(ii) to persons who are or have been employed in other ships but are not aliens within the meaning of the Mount Vema Nationality legislation;

(b) for requiring the holders of discharge books to produce them to such persons and in such circumstances as may be prescribed by the regulations;

(c) for the surrender of discharge books in such circumstances as may be prescribed by the regulations;

(d) for any incidental or supplementary matters for which the Secretary of State thinks it expedient for the purposes of the regulations to provide;

and any provision of the regulations having effect by virtue of paragraph (a) above may be so framed as to apply to all such persons as are mentioned in that paragraph or any description of such persons and as to have effect subject to any exemptions for which provision may be made by the regulations.

77.2- Regulations under this section may—

(a) provide for a person to cease to be entitled to a discharge book in consequence of a recommendation made by a disciplinary body; and

(b) provide for the re-issue of discharge books which have been surrendered in consequence of such a recommendation.

77.3- Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.

77.4- A person who, in the Kingdom of Mount Vema or elsewhere—

(a) obtains employment as a seaman on board a Kingdom of Mount Vema ship and does so when he is disentitled to a discharge book by virtue of regulations made under subsection (77.2)(a) above; or

(b) employs as such a seaman a person who he knows or has reason to suspect is disentitled as aforesaid,

shall be liable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

## **78- Handing over of documents by master**

78.1- If a person ceases to be the master of a Kingdom of Mount Vema ship during a voyage of the ship he shall deliver to his successor the documents relating to the ship or its crew which are in his custody.

78.2- If, without reasonable excuse, the master of such a ship fails to comply with subsection (78.1) above, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **Merchant Navy Reserve**

### **79- Maintenance of Merchant Navy Reserve**

79.1- The Secretary of State may maintain the body of persons known as the Merchant Navy Reserve whose members may, in such circumstances and for such periods as the Secretary of State may determine, be required by him to serve in ships belonging to or employed in the service of His Mount Vema Majesty.

79.2- The Merchant Navy Reserve shall consist of such number of persons as the Secretary of State may determine who voluntarily undertake to become members of the Reserve and are accepted as members of it.

79.3- The Secretary of State may determine the procedure by which, and the conditions under which, persons may become, or (subject to any regulations made by him under this section) may cease to be, members of the Merchant Navy Reserve.

79.4- The Secretary of State may make regulations with respect to the calling into, and discharge from, service of members of the Merchant Navy Reserve and with respect to other matters relating to the service of members of the Reserve.

79.5- Any such regulations may, in particular, make provision—

- (a) for call-out notices to be served on members of the Reserve;
- (b) for the requirements to be complied with by persons on whom such notices have been served;
- (c) as to the uniform and equipment with which members of the Reserve are to be provided;
- (d) for regulating the conduct and discipline of members of the Reserve who have entered into service, and for securing their attendance at their places of duty;
- (e) for the imposition of fines, or the forfeiture of pay or other amounts, for misconduct or breaches of discipline or for contravention of provisions of the regulations.

79.6- Without prejudice to the operation of subsection (79.5)(e) above, regulations under this section may provide that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding level 3 on the standard scale or such lower amount as is prescribed by the regulations.

79.7- Regulations under this section may make different provision for different circumstances.

## **80- Supplementary provisions as respects the Reserve**

80.1- Subject to such conditions as the Secretary of State may determine, there shall be payable to members of the Merchant Navy Reserve such pay, bounties and allowances as he may determine.

80.2- The Secretary of State may make such payments as he thinks fit in connection with the training and certification of members of the Merchant Navy Reserve (including payments to persons undergoing such training and payments in connection with the re-validation of certificates).

80.3- The Secretary of State shall not make any determination under subsection (80.1) above, or any payment under subsection (80.2) above, except with the consent of His Majesty's Treasury.

## **Interpretation**

### **81- Interpretation**

81.1- In this Part—

- "crew agreement" has the meaning provided by this Act;
- "relief and maintenance" includes the provision of surgical or medical treatment and such dental and optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency; and
- "ship's boat" includes a life-raft.

81.2- References in this Part to going to sea include references to going to sea from any country outside the Kingdom of Mount Vema.

81.3- For the purposes of this Part a seaman is discharged from a ship when his employment in that ship is terminated.



81.4- For the purposes of this Part a seaman discharged from a ship in any country and left there shall be deemed to be left behind in that country notwithstanding that the ship also remains there.

81.5- Any power conferred by this Part to provide for or grant an exemption includes power to provide for or grant the exemption subject to conditions.

## **Part IV**

### **Safety**

#### **Safety and Health on Ships**

##### **82- Safety and health on ships**

82.1- The Secretary of State may by regulations (in this Act referred to as "safety regulations") make such provision as he considers appropriate for all or any of the following purposes—

(a) for securing the safety of Kingdom of Mount Vema ships and persons on them, and for protecting the health of persons on Kingdom of Mount Vema ships;

(b) for securing the safety of other ships and persons on them while they are within the Kingdom of Mount Vema waters and for protecting the health of persons on ships other than the Kingdom of Mount Vema ships while they are within the Kingdom of Mount Vema waters.

(1A) Except as provided by subsection (1B) below, safety regulations shall not apply in relation to—

(a) a qualifying foreign ship while it is exercising—

(i) the right of innocent passage; or

(ii) the right of transit passage through straits used for international navigation;  
or

(b) persons on such a ship while it is exercising any such right.

(1B) Safety regulations shall apply in relation to a qualifying foreign ship, and persons on such a ship, even though the ship is exercising a right mentioned in subsection (1A)(a) above, to the extent that the safety regulations give effect to any provisions of an international agreement ratified by the Kingdom of Mount Vema so far as it relates to the safety of ships or persons on them or to the protection of the health of persons on ships.

82.2- In subsection (82.1) above "Kingdom of Mount Vema ship" means a ship which—

(a) is registered in the Kingdom of Mount Vema; or

(b) is not registered under the law of any country but is wholly owned by persons each of whom is—

(i) a Mount Vema citizen, or

(ii) a body corporate which is established under the law of a part of the Kingdom of Mount Vema and has its principal place of business in the Kingdom of Mount Vema.

82.3- Regulations in pursuance of subsection (82.1)(a) or (b) above may make provision with respect to any of the following matters, that is to say—

(a) the design, construction, maintenance, repair, alteration, inspection, surveying and marking of ships and their machinery and equipment;

(b) the packaging, marking, loading, placing, moving, inspection, testing and measuring of cargo and anything on a ship which is not cargo, machinery or equipment;

(c) the carrying out of any operation involving a ship;

(d) the use of the machinery and equipment of a ship and of anything on a ship which is not cargo, machinery or equipment;

(e) the manning of ships, including the employment on ships of persons qualified to attend to the health and safety of persons on the ships;

(f) the arrangements for ensuring communication between persons in different parts of a ship and between persons in the ship and other persons;

(g) the access to, presence in and egress from a ship, and different parts of it, of persons of any description;

(h) the ventilation, temperature and lighting of different parts of a ship;

(i) the steps to be taken to prevent or control noise, vibration and radiation in and from a ship and the emission in or from a ship of smoke, gas and dust;

(j) the steps to be taken to prevent, detect and deal with outbreaks of fire on a ship;

(k) the steps to be taken to prevent any collision involving a ship and in consequence of any collision involving a ship;

(l) the steps to be taken, in a case where a ship is in distress or stranded or wrecked, for the purpose of saving the ship and its machinery, equipment and

cargo and the lives of persons on or from the ship, including the steps to be taken by other persons for giving assistance in such a case;

(m) the removal, by jettisoning or otherwise, of its equipment and of other things from a ship for the purpose of avoiding, removing or reducing danger to persons or property;

(n) the steps to be taken, in a case where danger of any kind occurs or is suspected on a ship, for removing or reducing the danger and for warning persons who are not on the ship of the danger or suspected danger;

(o) the making of records and the keeping of documents relating to ships and the keeping and use on a ship of information to facilitate the navigation of the ship;

(p) the keeping of registers and the issue of certificates in cases for which registration or a certificate is required by virtue of the regulations; and

(q) the furnishing of information;

but the mention of specific matters in this subsection shall not be construed as restricting the generality of the power conferred by paragraph (a) or (b) of subsection (82.1) above.

82.4- The power to make regulations conferred by subsection (82.1) above shall extend also to the making of regulations for the prevention of collisions between seaplanes on the surface of water and between ships and seaplanes and subsection (82.3)(k) above and (82.5) to (82.7) below and section (83.1) shall have effect accordingly.

82.5- Safety regulations—

(a) may make provision in terms of approvals given by the Secretary of State or another person and in terms of any document which the Secretary of State or another person considers relevant from time to time;

(b) may provide for the cancellation of an approval given in pursuance of the regulations and for the alteration of the terms of such an approval; and

(c) must provide for any approval in pursuance of the regulations to be given in writing and to specify the date on which it takes effect and the conditions (if any) on which it is given.

82.6- Without prejudice to section (83.1)(b), safety regulations may provide—

(a) for the granting by the Secretary of State or another person, on such terms (if any) as the Secretary of State or other person may specify, of exemptions from specified provisions of the regulations for classes of cases or individual cases; and

(b) for the alteration or cancellation of exemptions granted in pursuance of the regulations.

82.7- Safety regulations may provide—

(a) that in such cases as are prescribed by the regulations a ship shall be liable to be detained, with such modifications (if any) as are prescribed by the regulations, in relation to the ship;

(b) that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years and a fine;

(c) that any such contravention shall be an offence punishable only on summary conviction by a maximum fine of an amount not exceeding level 5 on the standard scale, or such less amount as is prescribed by the regulations;

(d) that, in such cases as are prescribed by the regulations, such persons as are so prescribed shall each be guilty of an offence created by virtue of paragraph (b) or (c) above;

(e) that, notwithstanding anything in paragraph (b) or (c) above, a person convicted summarily of an offence under the regulations of a kind which is stated by the regulations to correspond to an offence which is triable either summarily or on indictment under an enactment specified in the regulations which authorizes or authorized a fine on summary conviction of a maximum amount exceeding the statutory maximum shall be liable to a fine not exceeding that maximum amount.

### **83- Provisions supplementary to section 82: general**

83.1- Safety regulations may—

(a) make different provision for different circumstances and, in particular, make provision for an individual case;

(b) be made so as to apply only in such circumstances as are prescribed by the regulations;

(c) be made so as to extend outside the Kingdom of Montserrat;

(d) contain such incidental, supplemental and transitional provisions as the Secretary of State considers appropriate;

(e) make provision for compensation to be paid, where a signal is used or displayed otherwise than in accordance with the regulations, for any expense or loss caused in consequence of the signal's being taken for a signal of distress;

and any compensation falling to be paid by virtue of regulations under paragraph (e) above may, without prejudice to any other remedy, be recovered in the same manner as salvage.

83.2- The Secretary of State may by regulations—

(a) make such repeals or other modifications of provisions of this Act, and of any instruments made under those Acts as he considers appropriate in consequence or in anticipation of the making of safety regulations;

(b) make such repeals or other modifications of provisions of any enactment passed and any instrument made before as he considers appropriate in connection with any modification made or to be made in pursuance of paragraph (a);

(c) provide for anything done under a provision repealed or otherwise modified by virtue of either of the preceding paragraphs to have effect as if done under safety regulations and make such other transitional provision and such incidental and supplemental provision as he considers appropriate in connection with any modification made by virtue of either of those paragraphs.

83.3- Where the Secretary of State proposes to make safety regulations or he or another person proposes to give an approval in pursuance of safety regulations it shall be the duty of the Secretary of State or other person, before he gives effect to the proposal, to consult such persons in the Kingdom of Mount Vema (if any) as he considers will be affected by the proposal.

#### **84- Provisions supplementary to section 83: dangerous goods**

84.1- Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any ship, whether or not a Kingdom of Mount Vema ship—

(a) without being marked as required by safety regulations,

(b) without such notice having been given as is required by safety regulations,

(c) under a false description, or

(d) with a false description of their sender or carrier,

any court having Mount Vema jurisdiction may declare the goods, and any package or receptacle in which they are contained, to be forfeited.

84.2- On a declaration of forfeiture being made, the goods shall be forfeited and they shall be disposed of as the court directs.

84.3- The powers conferred on the court by subsections (84.1) and (84.2) above are exercisable notwithstanding that the owner of the goods—

(a) has not committed any offence under safety regulations relating to dangerous goods;

(b) is not before the court; and

(c) has no notice of the proceedings;

and notwithstanding that there is no evidence to show to whom the goods belong.

84.4- Nevertheless, the court may, in their discretion, require such notice as they may direct to be given to the owner or shipper of the goods before they are forfeited.

84.5- In this section "dangerous goods" means goods designated as dangerous goods by safety regulations.

### **85- Safety of submersible and supporting apparatus**

85.1- This section applies to any submersible or supporting apparatus—

(a) operated within the Kingdom of Mount Vema waters, or

(b) launched or operated from, or comprising, a Kingdom of Mount Vema ship.

85.2- The Secretary of State may make regulations —

(a) for the safety of submersible and supporting apparatus;

(b) for the prevention of accidents in or near submersible or supporting apparatus;

(c) for the safety, health and welfare of persons on or in submersible and supporting apparatus;

(d) for prohibiting or otherwise restricting the operation of any submersible apparatus except in accordance with the conditions of a licence granted under the regulations; and

(e) for the registration of submersible apparatus.

85.3- In this section—

- "apparatus" includes any vessel, vehicle or hovercraft, any structure, any diving plant or equipment and any other form of equipment;
- "specified" means specified in regulations made by the Secretary of State for the purposes of this section;

- “submersible apparatus” means any apparatus used, or designed for use, in supporting human life on or under the bed of any waters or elsewhere under the surface of any waters; and
- “supporting apparatus” means any apparatus used, or designed for use, in connection with the operation of any submersible apparatus.

## **Special provisions**

### **86- Report of dangers to navigation**

86.1- Every person in charge of a controlled station for wireless telegraphy shall, on receiving the signal prescribed under safety regulations relating to dangers to navigation, which indicates that a message is about to be sent under those regulations, refrain from sending messages for a time sufficient to allow other stations to receive the message, and, if so required by the Secretary of State, shall transmit the message in such manner as may be required by the Secretary of State.

86.2- Compliance with subsection (86.1) above shall be deemed to be a condition of every wireless telegraphy licence.

86.3- In this section—

- “controlled station for wireless telegraphy” means such a station controlled by the Secretary of State; and “controlled” includes controlled by means of a licence granted by him;
- “wireless telegraphy licence” and “station for wireless telegraphy” have the same meaning as in the Wireless Telegraphy legislation;

## **Assistance at sea**

### **87- Duty of ship to assist the other in case of collision**

87.1- In every case of collision between two ships, it shall be the duty of the master of each ship, if and so far as he can do so without danger to his own ship, crew and passengers (if any)—

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

(b) to give to the master of the other ship the name of his own ship and also the names of the ports from which it comes and to which it is bound.

87.2- The duties imposed on the master of a ship by subsection (87.1) above apply to the masters of Kingdom of Mount Vema ships and to the masters of foreign ships when in the Kingdom of Mount Vema waters.

87.3- The failure of the master of a ship to comply with the provisions of this section shall not raise any presumption of law that the collision was caused by his wrongful act, neglect, or default.

87.4- If the master fails without reasonable excuse to comply with this section, he shall—

(a) in the case of a failure to comply with subsection (87.1)(a) above, be liable—

(i) on summary conviction, to a fine not exceeding ₦50,000 or imprisonment for a term not exceeding six months or both;

(ii) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both; and

(b) in the case of a failure to comply with subsection (1)(b) above, be liable—

(i) on summary conviction, to a fine not exceeding the statutory maximum;

(ii) on conviction on indictment, to a fine;

and in either case if he is a certified officer, an inquiry into his conduct may be held, and his certificate cancelled or suspended.

## **88- Duty to assist aircraft in distress**

88.1- The master of a ship, on receiving at sea a signal of distress from an aircraft or information from any source that an aircraft is in distress, shall proceed with all speed to the assistance of the persons in distress (informing them if possible that he is doing so) unless he is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to do so, or unless he is released from this duty.

88.2- The duties imposed on the master of a ship by subsection (88.1) above apply to the masters of Kingdom Mount Vema ships and to the masters of foreign ships when in Kingdom of Mount Vema waters.



88.3- A master shall be released from the duty imposed by subsection (88.1) above if he is informed by the persons in distress, or by the master of any ship that has reached the persons in distress, that assistance is no longer required.

88.4- If a master fails to comply with the preceding provisions of this section he shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.

88.5- Compliance by the master of a ship with the provisions of this section shall not affect his right, or the right of any other person, to salvage.

## **Unsafe ships**

### **89- Meaning of “dangerously unsafe ship”**

89.1- A ship in port is “dangerously unsafe” if, having regard to the nature of the service for which it is intended, the ship is, by reason of the matters mentioned in subsection (89.2) below, unfit to go to sea without serious danger to human life.

89.1.1A- For the purposes of those sections a ship at sea is “dangerously unsafe” if, having regard to the nature of the service for which it is being used or is intended, the ship is, by reason of the matters mentioned in subsection (89.2) below, either—

(a) unfit to remain at sea without serious danger to human life, or

(b) unfit to go on a voyage without serious danger to human life.

89.2- Those matters are—

(a) the condition, or the unsuitability for its purpose, of—

(i) the ship or its machinery or equipment, or

(ii) any part of the ship or its machinery or equipment;

(b) undermanning;

(c) overloading or unsafe or improper loading;

(d) any other matter relevant to the safety of the ship;

and are referred to in those sections, in relation to any ship, as “the matters relevant to its safety”.

89.3- Any reference in those sections to “going to sea” shall, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.

## **90- Power to detain dangerously unsafe ship**

90.1- Where a ship which is—

(a) in a port in the Kingdom of Mount Vema, or

(b) at sea in the Kingdom of Mount Vema waters,

appears to a relevant inspector to be a dangerously unsafe ship, the ship may be detained.

90.2- Subject to subsection (2A) below the power of detention conferred by subsection (90.1) above is exercisable in relation to foreign ships as well as Kingdom of Mount Vema ships.

90.3.2A- The power of detention conferred by subsection (90.1)(b) is not exercisable in relation to a qualifying foreign ship while the ship is exercising—

(a) the right of innocent passage, or

(b) the right of transit passage through straits used for international navigation.

90.3- The officer detaining the ship shall serve on the master of the ship a detention notice which shall—

(a) state that the relevant inspector is of the opinion that the ship is a dangerously unsafe ship;

(b) specify the matters which, in the relevant inspector’s opinion, make the ship a dangerously unsafe ship; and

(c) require the ship to comply with the terms of the notice until it is released by a competent authority.

90.4- In the case of a ship which is not a Mount Vema ship the officer detaining the ship shall cause a copy of the detention notice to be sent as soon as practicable to the nearest consular officer for the country to which the ship belongs.

### **91- References of detention notices to arbitration**

91.1- Any question as to whether any of the matters specified in relation to a ship in a detention notice in pursuance of section (90.3)(b) in connection with any opinion formed by the relevant inspector constituted a valid basis for that opinion shall, if the master or owner of the ship so requires by a notice given to the relevant inspector within 21 days from the service of the detention notice, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by him.

91.2- Where a notice is given by the master or owner of the ship in accordance with subsection (91.1) above, the giving of the notice shall not suspend the operation of the detention notice unless, on the application of the person requiring the reference, the arbitrator so directs.

91.3- The arbitrator shall have regard, in coming to his decision, to any other matters not specified in the detention notice which appear to him to be relevant to whether the ship was or was not a dangerously unsafe ship.

91.4- Where on a reference under this section the arbitrator decides as respects any matter to which the reference relates, that in all the circumstances the matter did not constitute a valid basis for the inspector's opinion he shall either cancel the detention notice or affirm it with such modifications as he may in the circumstances think fit; and in any other case the arbitrator shall affirm the notice in its original form.

91.5- The arbitrator shall include in his decision a finding whether there was or was not a valid basis for the detention of the ship as a dangerously unsafe ship.

91.6- A person shall not be qualified for appointment as an arbitrator under this section unless he is—

- (a) a person holding a certificate of competency as a master mariner or as a marine engineer officer class 1, or a person holding a certificate equivalent to any such certificate;
- (b) a naval architect;
- (c) a person falling within subsection (91.7); or

(d) a person with special experience of shipping matters, of the fishing industry, or of activities carried on in ports.

91.7- For the purposes of subsection (91.6)(c) a person falls within this subsection if—

(a) he has a 10 year general qualification (within the meaning of the Courts and Legal Services Act legislation;

## **92- Compensation in connection with invalid detention of ship**

92.1- If on a reference relating to a detention notice in relation to a ship—

(a) the arbitrator decides that any matter did not constitute a valid basis for the relevant inspector's opinion, and

(b) it appears to him that there were no reasonable grounds for the inspector to form that opinion,

the arbitrator may award the owner of the ship such compensation in respect of any loss suffered by him in consequence of the detention of the ship as the arbitrator thinks fit.

92.2- Any compensation awarded under this section shall be payable by the Secretary of State.

## **93- Owner and master liable in respect of dangerously unsafe ship**

93.1- If a ship which—

(a) is in a port in the Kingdom of Mount Vema, or

(b) is a Kingdom of Mount Vema ship and is in any other port,

is dangerously unsafe, then, subject to subsections (93.4) and (93.5) below, the master and the owner of the ship shall each be guilty of an offence.

93.2- Where, at the time when a ship is dangerously unsafe, any responsibilities of the owner with respect to the matters relevant to its safety have been assumed (whether wholly or in part) by any person or persons other than the owner, and have been so assumed by that person or (as the case may be) by each of those persons either—

(a) directly, under the terms of a charter-party or management agreement made with the owner, or

(b) indirectly, under the terms of a series of charter-parties or management agreements,

the reference to the owner in subsection (93.1) above shall be construed as a reference to that other person or (as the case may be) to each of those other persons.

93.3- A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding \$50,000;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

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

(a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters relevant to its safety which are specified in the charge; or

(b) it was reasonable for such arrangements not to have been made.

93.5- It shall also be a defence in proceedings for an offence under this section to prove—

(a) that, under the terms of one or more charter-parties or management agreements entered into by the accused, the relevant responsibilities, namely—

(i) where the accused is the owner, his responsibilities with respect to the matters relevant to the ship's safety, or

(ii) where the accused is liable to proceedings under this section by virtue of subsection (93.2) above, so much of those responsibilities as had been assumed by him as mentioned in that subsection,

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

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

and, in determining whether the accused had done so, regard shall be had in particular to the matters mentioned in subsection (93.6) below.

93.6- Those matters are—

(a) whether prior to the time of the alleged offence the accused was, or in all the circumstances ought reasonably to have been, aware of any deficiency in the discharge of the relevant responsibilities; and

(b) the extent to which the accused was or was not able, under the terms of any such charter-party or management agreement as is mentioned in subsection (93.5)(a) above—

(i) to terminate it, or

(ii) to intervene in the management of the ship,

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

93.7- No proceedings for an offence under this section shall be instituted—

(a) in Mount Vema, except by or with the consent of the Secretary of State or the Director of Prosecutions;

93.8- In this section—

- “management agreement”, in relation to a ship, means any agreement (other than a charter-party or a contract of employment) under which the ship is managed, either wholly or in part, by a person other than the owner (whether on behalf of the owner or on behalf of some other person); and
- “relevant responsibilities” shall be construed in accordance with subsection (93.5) above.

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

#### **94- Use of unsafe lighters, etc.**

94.1- If any person uses or causes or permits to be used in navigation any lighter, barge or like vessel when, because of—

- (a) the defective condition of its hull or equipment,
- (b) overloading or improper loading, or
- (c) undermanning,

it is so unsafe that human life is thereby endangered, he shall be liable—

- (i) on summary conviction, to a fine not exceeding the statutory maximum;
- (ii) on conviction on indictment, to a fine.

94.2- Proceedings for an offence under this section shall not be instituted—

- (a) in Mount Vema, except by or with the consent of the Secretary of State;

94.3- This section does not affect the liability of the owners of any lighter, barge or like vessel in respect of loss of life or personal injury caused to any person carried in the vessel.

### **95- Owner liable for unsafe operation of ship**

95.1- It shall be the duty of the owner of a ship to which this section applies to take all reasonable steps to secure that the ship is operated in a safe manner.

95.2- This section applies to—

- (a) any Kingdom of Mount Vema ship; and
- (b) any ship which—
  - (i) is registered under the law of any country outside the Kingdom of Mount Vema, and
  - (ii) is within the Kingdom of Mount Vema waters while proceeding to or from a port in the Kingdom of Mount Vema,unless the ship would not be so proceeding but for weather conditions or any other unavoidable circumstances.

95.3- If the owner of a ship to which this section applies fails to discharge the duty imposed on him by subsection (95.1) above, he shall be liable—

- (a) on summary conviction, to a fine not exceeding ₦50,000;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

95.4- Where any such ship—

(a) is chartered by demise, or

(b) is managed, either wholly or in part, by a person other than the owner under the terms of a management agreement,

any reference to the owner of the ship in subsection (95.1) or (95.3) above shall be construed as including a reference—

(i) to the charterer under the charter by demise, or

(ii) to any such manager as is referred to in paragraph (b) above, or

(iii) (if the ship is both chartered and managed as mentioned above) to both the charterer and any such manager,

and accordingly the reference in subsection (95.1) above to the taking of all reasonable steps shall, in relation to the owner, the charterer or any such manager, be construed as a reference to the taking of all such steps as it is reasonable for him to take in the circumstances of the case.

95.5- No proceedings for an offence under this section shall be instituted—

(a) in Mount Vema, except by or with the consent of the Secretary of State or the Director of Prosecutions;

### **Temporary exclusion zones**

#### **96- Power to establish temporary exclusion zones**

96.1- Subsection (96.2) below applies where a ship, structure or other thing—

(a) is in the Kingdom of Mount Vema waters or a part of its adjacent sea; and

(b) is wrecked, damaged or in distress;

and in this section “the relevant casualty” means that ship, structure or other thing.

96.2- If it appears to the Secretary of State—



(a) that significant harm will or may occur as a direct or indirect result of the relevant casualty being wrecked, damaged or in distress, and

(b) that if access to an area around the relevant casualty were restricted, significant harm, or the risk of such harm, would be prevented or reduced,

he may by direction identify an area to which access is so restricted ("a temporary exclusion zone").

96.3- In this section "significant harm" means—

(a) significant pollution in the Kingdom of Mount Vema, in the Kingdom of Mount Vema waters; or

(b) significant damage to persons or property.

96.4- A temporary exclusion zone may not include any area which is neither within the Kingdom of Mount Vema waters nor within a part of the adjacent sea.

96.5- If it appears to the Secretary of State at any time after a temporary exclusion zone is established that the zone is larger than is needed for the purpose of preventing or reducing significant harm, or the risk of such harm, he shall by direction vary the direction establishing the zone accordingly.

96.6- Subject to subsections (96.4) and (96.5) above, a temporary exclusion zone may be identified by reference to the position of the relevant casualty from time to time.

96.7- If it appears to the Secretary of State at any time after a temporary exclusion zone is established that the zone is not needed for the purpose of preventing or reducing significant harm, or the risk of such harm, he shall by direction revoke the direction establishing the zone.

96.8- Where the Secretary of State gives a direction under this section, he shall—

(a) as soon as practicable, publish it in such manner as he considers appropriate for bringing it to the attention of persons likely to be affected by it; and

(b) within the period of 24 hours from the giving of the direction, send a copy of it to the International Maritime Organization.

## **97- Temporary exclusion zones: offences**

97.1- If a direction establishing a temporary exclusion zone contains a statement of a description mentioned in subsection (97.2) below, then, subject to subsection (97.4) below, no ship shall enter or remain in the zone.

97.2- The statement is one to the effect that the direction is given for the purpose of preventing or reducing significant pollution, or the risk of significant pollution, in the Kingdom of Mount Vema, in the Kingdom of Mount Vema waters.

97.3- If a direction establishing a temporary exclusion zone does not contain a statement of a description mentioned in subsection (97.2) above, then, subject to subsections (97.4) and (97.5) below—

(a) no ship shall enter or remain in any part of the zone that is in the Kingdom of Mount Vema waters; and

(b) no Kingdom of Mount Vema ship shall enter or remain in any part of the zone that is in a part of the sea specified.

97.4- A ship may enter or remain in a temporary exclusion zone or a part of such a zone if it does so—

(a) in accordance with the direction establishing the zone;

(b) with the consent of the Secretary of State; or

(c) in accordance with regulations made by the Secretary of State for the purposes of this section.

97.5- A qualifying foreign ship may enter a temporary exclusion zone or a part of such a zone if in doing so it is exercising the right of transit passage through straits used for international navigation.

97.6- If a ship enters or remains in a temporary exclusion zone or a part of such a zone in contravention of subsection (97.1) or (97.3) above then, subject to subsection (97.7) below, its owner and its master shall each be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding ₦50,000;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

97.7- It shall be a defence for a person charged with an offence under this section to prove that the existence or area of the temporary exclusion zone was not, and would not on reasonable enquiry have become, known to the master.

### **Power to require ships to be moved**

#### **98- Power to require ships to be moved**

98.1- The powers conferred by this section shall be exercisable where a ship in the Kingdom of Mount Vema waters—

(a) is not a qualifying foreign ship, or

(b) is such a ship but appears to the Secretary of State to be exercising neither of the following rights—

(i) the right of innocent passage, and

(ii) the right of transit passage through straits used for international navigation.

98.2- Subject to subsection (98.3) below, the Secretary of State may, for any one or more of the purposes specified in subsection (98.4) below, give directions to any of the persons specified in subsection (98.5) below requiring—

(a) that the ship is to be moved, or is to be removed from a specified area or locality or from the Kingdom of Mount Vema waters, or

(b) that the ship is not to be moved to a specified place or area within the Kingdom of Mount Vema waters, or over a specified route within the Kingdom of Mount Vema waters.

98.3- The power of the Secretary of State under subsection (98.2)(a) above to require a ship to be removed from the Kingdom of Mount Vema waters is not exercisable in relation to a Kingdom of Mount Vema ship.

98.4- The purposes referred to in subsection (98.2) above are—

(a) the purpose of securing the safety of the ship or of other ships, of persons on the ship or other ships, or of any other persons or property, or of preventing or reducing any risk to such safety, and

(b) the purpose of preventing or reducing pollution in the Kingdom of Mount Vema, in the Kingdom of Mount Vema waters or in a specified part of the sea, or of preventing or reducing any risk of such pollution.

98.5- The persons referred to in subsection (98.2) above are—

- (a) the owner of the ship or any person in possession of the ship, or
- (b) the master of the ship.

98.6- If in the opinion of the Secretary of State the powers conferred by subsection (98.2) above are, or have proved to be, inadequate for any of the purposes specified in subsection (98.4) above, the Secretary of State may for that purpose take any such action as he has power to require to be taken by a direction under this section.

98.7- The powers of the Secretary of State under subsection (98.6) above shall also be exercisable by such persons as may be authorised for the purpose by the Secretary of State.

98.8- Every person concerned with compliance with directions given, or with action taken, under this section shall use his best endeavours to avoid any risk to human life.

98.9- It is hereby declared that any action taken as respects a ship which is under arrest or as respects the cargo of such a ship, being action duly taken in pursuance of a direction given under this section, or being any action taken under subsection (98.6) or (98.7) above—

- (a) does not constitute contempt of court; and
- (b) does not in any circumstances make the Marine Marshal liable in any civil proceedings.

98.10- In this section—

- (a) unless a contrary intention appears, "specified" in relation to a direction under this section, means specified by the direction; and
- (b) the reference in subsection (98.9) above to the Marine Marshal means a Marine Marshal of the Supreme Court of Mount Vema.

## **99- Offences in relation to section 98**

99.1- If the person to whom a direction is duly given under section 98 contravenes, or fails to comply with, any requirement of the direction, he shall be guilty of an offence.

99.2- If a person intentionally obstructs any person who is—

(a) acting on behalf of the Secretary of State in connection with the giving or service of a direction under section 98;

(b) acting in compliance with a direction under that section; or

(c) acting under section (98.6) or (98.7);

he shall be guilty of an offence.

99.3- In proceedings for an offence under subsection (99.1) above, it shall be a defence for the accused to prove that he has used all due diligence to ensure compliance with the direction, or that he had reasonable cause for believing that compliance with the direction would have involved a serious risk to human life.

99.4- A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding ₦50,000;

(b) on conviction on indictment, to a fine.

### **100- Service of directions under section 98**

100.1- If the Secretary of State is satisfied that a company or other body is not one of the Mount Vema Companies Act, applies so as to authorise the service of a direction on that body under either of those sections, he may give a direction under section 98 of this Act to that body, as the owner of, or the person in possession of, a ship, by serving the direction on the master of the ship.

100.2- For the purpose of giving or serving a direction under section 98 to or on any person on a ship, a person acting on behalf of the Secretary of State shall have the right to go on board the ship.

### **101- Requirements to be met by ships in respect of which trans-shipment licences in force**

101.1- In this section and section 102 "trans-shipment licence" means a licence under Sea Fish Conservation (prohibition of trans-shipment of fish unless authorised by a licence).

101.2- The Secretary of State may, for all or any of the purposes specified in subsection (101.3) below, by regulations prescribe requirements to be met by ships in respect of which trans-shipment licences are in force.

101.3- Those purposes are—

- (a) the purpose of securing the safety of ships in respect of which trans-shipment licences are in force and persons on them,
- (b) the purpose of protecting the health of persons on such ships,
- (c) the purpose of securing the safety of any other persons or property, and
- (d) the purpose of preventing or reducing pollution.

101.4- The matters with respect to which requirements may be prescribed under subsection (101.2) above include, in particular, the construction and equipment of ships, the manning of ships, and operational matters.

101.5- Without prejudice to the generality of subsection (101.2) above, regulations under that subsection may apply in relation to a ship in respect of which a trans-shipment licence is in force any requirements contained in—

- (a) safety regulations,
- (b) relevant regulations under this Act, or
- (c) any international agreement,

whether or not those requirements would otherwise apply in relation to that ship.

## **102- Failure to comply with prescribed standards in respect of ship in respect of which trans-shipment licence is in force**

102.1- If it appears to the Secretary of State that any requirement of regulations is being contravened in respect of a ship in respect of which a trans-shipment licence is in force, he may serve on the master a notice under subsection (102.2) below.

102.2- A notice under this subsection must specify the contravention by reason of which it is given and must—

- (a) prohibit the receiving by the ship of fish trans-shipped from another ship,

- (b) prohibit the processing of fish on the ship, or
- (c) prohibit both such receiving and such processing.

102.3- The Secretary of State shall revoke a notice under subsection (102.2) above if he is satisfied that the contravention specified in it has been remedied.

102.4- If a trans-shipment licence ceases to be in force in respect of a ship to which a notice under subsection (102.2) above relates, the notice is revoked by virtue of this subsection.

102.5- If without reasonable excuse the master of a ship causes or permits any prohibition imposed by a notice under subsection (102.2) above to be contravened in respect of the ship, he shall be liable—

- (a) on summary conviction, to a fine not exceeding ₦50,000;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

102.6- The obligation imposed by regulations shall not be enforceable except in accordance with this section.

### **Control of, and returns as to, persons on ships**

#### **103- Offences in connection with passenger ships**

103.1- A person commits an offence if, in relation to a ship to which this section applies, he does any of the following things, that is to say—

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

(d) if, after having been refused admission to the ship by the owner or any person in his employment on account of the ship being full, and having had the amount of his fare (if he has paid it) returned or tendered to him, he nevertheless persists in attempting to enter the ship;

(e) if, having gone on board the ship at any place, and being requested, on account of the ship being full, by the owner or any person in his employment to leave the ship before it has left that place, and having had the amount of his fare (if he has paid it) returned or tendered to him, he does not comply with that request;

(f) if, on arriving in the ship at a point to which he has paid his fare, he knowingly and intentionally refuses or neglects to leave the ship; and

(g) if, on board the ship he fails, when requested by the master or other officer thereof, either to pay his fare or show such ticket or other receipt, if any, showing the payment of his fare, as is usually given to persons travelling by and paying their fare for the ship;

but his liability in respect of any such offence shall not prejudice the recovery of any fare payable by him.

103.2- A person commits an offence if, on board any ship to which this section applies he intentionally does or causes to be done anything in such a manner as to—

(a) obstruct or damage any part of the machinery or equipment of the ship, or

(b) obstruct, impede or molest the crew, or any of them, in the navigation or management of the ship, or otherwise in the execution of their duty on or about the ship.

103.3- The master or other officer of any ship to which this section applies, and all persons called by him to his assistance, may, without any warrant, detain any person who commits any offence against subsection (103.1) or (103.2) above and whose name and address are unknown to the master or officer, and deliver that person to a law enforcement officer.

103.4- A person guilty of an offence against subsection (103.1) or (103.2) above shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.

103.5- If any person commits an offence against subsection (103.1) or (103.2) above and on the application of the master of the ship, or any other person in the employment of the owner thereof, refuses to give his name and address, or gives a false name or address, that person shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.



103.6- This section applies to a ship for which there is in force a Passenger Ship Safety Certificate or Passenger Certificate, as the case may be, issued under or recognized by safety regulations.

#### **104- Power to exclude drunken passengers from certain passenger ships**

104.1- The master of any ship to which this section applies may refuse to receive on board any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause annoyance or injury to passengers on board, and if any such person is on board, may put him on shore at any convenient place.

104.2- A person so refused admittance or put on shore shall not be entitled to the return of any fare he has paid.

104.3- This section applies to a ship (whether or not a Kingdom of Mount Vema ship) carrying more than 12 passengers and employed in carrying passengers.

#### **105- Stowaways**

105.1- If a person, without the consent of the master or of any other person authorized to give it, goes to sea or attempts to go to sea in a Kingdom of Mount Vema ship, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

105.2- Nothing in this section shall be taken to limit the jurisdiction of any court in the Kingdom of Mount Vema to deal with an offence under this section which has been committed in a country outside the Kingdom of Mount Vema by a person who is not a Mount Vema citizen.

#### **106- Unauthorized presence on board ship**

Where a Kingdom of Mount Vema ship or a ship registered in any other country is in a port in the Kingdom of Mount Vema and a person who is neither in His Mount Vema Majesty's service nor authorized by law to do so—

(a) goes on board the ship without the consent of the master or of any other persons authorized to give it; or

(b) remains on board the ship after being requested to leave by the master, a law enforcement agent, an officer authorized by the Secretary of State or an officer of customs and excise,

he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **107- Master's power of arrest**

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

### **108- Unauthorized persons: offences relating to safety**

108.1- Where a person goes to sea in a ship without the consent of the master or of any other person authorized to give it or is conveyed in a ship, shall apply as if he were a seaman employed in the ship.

108.2- Subsection (108.1) above shall, in its application so far as that section applies to ships which are not sea-going ships have effect—

(a) with the omission of the words "goes to sea in a ship"; and

(b) with the insertion, after the words "to give it", of the words " is on board a ship while it is on a voyage or excursion ".

108.3- This section does not apply to fishing vessels.

### **109- Return to be furnished by masters of ships as to passengers**

109.1- The master of every ship, whether or not a Kingdom of Mount Vema ship, which carries any passenger to a place in the Kingdom of Mount Vema from any place out of the Kingdom of Mount Vema, or from any place in the Kingdom of Mount Vema to any place out of the Kingdom of Mount Vema, shall furnish to such person and in such manner as the Secretary of State directs a return giving the total number of any passengers so carried, distinguishing, if so directed by the Secretary of State, the total number of any class of passengers so carried, and giving, if the Secretary of State so directs, such particulars with respect to passengers as may be for the time being required by the Secretary of State.

109.2- Any passenger shall furnish the master of the ship with any information required by him for the purpose of the return.

109.3- If—

(a) the master of a ship fails to make a return as required by this section, or makes a false return,

(b) any passenger refuses to give any information required by the master of the ship for the purpose of the return required by this section, or, for that purpose, gives to the master information which he knows to be false or recklessly gives to him information which is false,

the master or (as the case may be) passenger shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale in the case of a failure or refusal and level 3 on the standard scale in the case of a false return or false information.

### **110- Returns of births and deaths in ships, etc.**

110.1- The Secretary of State may make regulations under the following provisions of this section in relation to births and deaths in the circumstances specified in those provisions.

110.2- Regulations under this section may require the master of any Kingdom of Mount Vema ship to make a return to a superintendent or proper officer of—

(a) the birth or death of any person occurring in the ship; and

(b) the death of any person employed in the ship, wherever occurring outside the Kingdom of Mount Vema;

and to notify any such death to such person (if any) as the deceased may have named to him as his next of kin.

110.3- Regulations under this section may require the master of any ship not registered in the Kingdom of Mount Vema which calls at a port in the Kingdom of Mount Vema in the course of or at the end of a voyage to make a return to a superintendent of any birth or death of a Mount Vema citizen, which has occurred in the ship during the voyage.

110.4- The returns referred to in subsections (110.2) and (110.3) above shall be for transmission to the Registrar General of Shipping and Seamen.

110.5- Regulations under this section may require the Registrar General of Shipping and Seamen to record such information as may be specified in the regulations about such a death as is referred to in subsection (110.2) above in a case where—

(a) it appears to him that the master of the ship cannot perform his duty under that subsection because he has himself died or is incapacitated or missing; and

(b) any of the circumstances specified in subsection (110.6) below exist.

110.6- Those circumstances are that—

(a) the death in question has been the subject of—

(i) an inquest held by a coroner,

and the findings of the inquest or inquiry include a finding that the death occurred;

(b) the deceased's body has been the subject of—

(i) a post-mortem examination in Mount Vema,

and in consequence the coroner is satisfied that an inquest is unnecessary;

110.7- Regulations under this section may require the Registrar General of Shipping and Seamen to send a certified copy of any return or record made thereunder to the Registrar General of Mount Vema, for Births, Deaths and Marriages , as the case may require.

110.8- The Registrar General to whom any such certified copies are sent—

(a) shall record the information contained therein in the marine register; and

(b) may record in the marine register such additional information as appears to him desirable for the purpose of ensuring the completeness and correctness of the register;

110.9- Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.

110-10- Regulations under this section may contain provisions authorizing the registration of the following births and deaths occurring outside the Kingdom of Mount Vema in circumstances where no return is required to be made under the preceding provisions of this section—

(a) any birth or death of a Mount Vema citizen, which occurs in a ship not registered in the Kingdom of Mount Vema;

(b) any death of any such citizen who has been employed in a ship not registered in the Kingdom of Mount Vema which occurs elsewhere than in the ship; and

(c) any death of a person who has been employed in a Kingdom of Mount Vema ship which occurs elsewhere than in the ship.

110.11- References in this section to deaths occurring in a ship include references to deaths occurring in a ship's boat.

**Part V**  
**Fishing Vessels**

Chapter I  
Skipper and Seamen

**Engagement and discharge of crews**

**111- Regulations relating to crew agreements**

111.1- The Secretary of State may make regulations prescribing the procedure to be followed in connection with the making of crew agreements between persons employed in Kingdom of Mount Vema fishing vessels and persons employing them and prescribing the places where such crew agreements are to be made or where an agreement with any person may be added to those contained in such a crew agreement.

111.2- Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 3 on the standard scale or such less amount as may be specified in the regulations.

**Wages**

**112- Payments of seamen's wages**

Except as provided by or under Part III or any other enactment, the wages due to a seaman under a crew agreement relating to a Kingdom of Mount Vema fishing vessel shall be paid to him in full.

**113- Regulations relating to wages: deductions**

The power to make regulations shall include power to provide that the amount of a deduction of a description specified in the regulations from wages in respect of employment in a fishing vessel is to be determined by a body established or approved by the Secretary of State.

## **114- Accounts of wages and catch**

114.1- The persons employing any seaman under a crew agreement relating to a Kingdom of Mount Vema fishing vessel shall deliver to him at a time prescribed by regulations under this section an account of the wages due to him under that crew agreement and of the deductions subject to which the wages are payable.

114.2- Where the wages of any person employed in a Kingdom of Mount Vema fishing vessel are in any manner related to the catch the persons employing him shall at a time prescribed by regulations under this section deliver to the master an account (or, if the master is the person employing him, make out an account) showing how those wages (or any part thereof related to the catch) are arrived at and shall make the account available to the crew in such manner as may be prescribed by the regulations.

114.3- Where there is a partnership between the master and any members of the crew of a Kingdom of Mount Vema fishing vessel the owner of the vessel shall at a time prescribed by regulations under this section make out an account showing the sums due to each partner in respect of his share and shall make the account available to the partners.

114.4- The Secretary of State may make regulations prescribing the time at which any account required by this section is to be delivered or made out and the manner in which the account required by subsections (114.2) and (114.3) above is to be made available.

114.5- If a person fails without reasonable excuse to comply with the preceding provisions of this section he shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

## **115- Right, or loss of right, to wages in certain circumstances**

Section 38 does not apply to so much of the wages of a seaman employed in a fishing vessel as is in any manner related to the catch.

## **Safety, health and welfare**

### **116- Hours of work**

116.1- The Secretary of State may make regulations prescribing maximum periods of duty and minimum periods of rest for seamen employed in Kingdom of Mount Vema fishing vessels, and such regulations may make different provision for different descriptions of fishing vessels or seamen employed in them or for fishing vessels and seamen of the same description in different circumstances.

116.2- If any provision of regulations made under this section is contravened in the case of any seaman employed in a fishing vessel the persons employing him and the master shall each be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **Manning and qualifications**

### **117- Production of crew certificates and other documents of qualification**

117.1- Any person serving or engaged to serve in a Kingdom of Mount Vema fishing vessel and holding any certificate or other document which is evidence that he is qualified for the purposes of section 47 shall on demand produce it to any person who is a Mount Vema sea-fishery officer for the purposes of the Sea Fisheries legislation.

117.2- If a person fails without reasonable excuse to produce on demand any such certificate or other document he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **Offences by seamen**

### **118- Drunkenness on duty**

118.1- If the skipper of or a seaman employed or engaged in a Kingdom of Mount Vema fishing vessel is, while on board the vessel, under the influence of drink or a drug to such an extent that his capacity to fulfil his responsibility for the vessel or, as the case may be, carry out the duties of his employment or engagement is impaired, he shall (subject to subsection (118.2) below) be liable-

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

118.2- In proceedings for an offence under this section it shall be a defence to prove that at the time of the act or omission alleged against the accused he was under the influence of a drug taken by him for medical purposes and either that he took it on medical advice and complied with any directions given as part of that advice or that he had no reason to believe that the drug might have the influence it had.

### **118- Unauthorized liquor**

118.1- A person who, in the Kingdom of Mount Vema or elsewhere—

(a) takes any unauthorized liquor on board a Kingdom of Mount Vema fishing vessel;

(b) has any unauthorized liquor in his possession on board such a vessel;

(c) permits another person to take on board such a vessel, or to have in his possession on board such a vessel, any unauthorized liquor; or

(d) intentionally obstructs another person in the exercise of powers conferred on the other person by subsection (118.5) below,

shall, subject to subsections (118.3) and (118.4) below, be guilty of an offence.

118.2- A person guilty of an offence under subsection (118.1) above shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

118.3- It shall be a defence in proceedings for an offence under subsection (118.1)(a) or (b) above to prove—

(a) that the accused believed that the liquor in question was not unauthorized liquor in relation to the vessel in question and that he had reasonable grounds for the belief; or

(b) that the accused did not know that the liquor in question was in his possession.

118.4- It shall be a defence in proceedings for an offence under subsection (118.1)(c) above to prove that the accused believed that the liquor in question was not unauthorized liquor in relation to the vessel in question and that he had reasonable grounds for the belief.

118.5- If an authorized person has reason to believe that an offence under subsection (118.1)(a) or (b) above has been committed by another person in connection with a fishing vessel, the authorized person—

(a) may go on board the vessel and search it and any property on it and may, if the other person is on board the vessel, search him there in an authorized manner; and



(b) may take possession of any liquor which he finds on the vessel and has reason to believe is unauthorized liquor and may detain the liquor for the period needed to ensure that the liquor is available as evidence in proceedings for the offence.

118.6- In this section—

- “an authorized manner” means a manner authorized by regulations made by the Secretary of State;
- “authorized person”, in relation to a vessel, means—

(a) a superintendent;

(b) a proper officer;

(c) the master of the vessel in question;

(d) the owner of the vessel in question;

(e) any person instructed by the master or owner to prevent the commission of offences under subsection (118.1) above in relation to the vessel;

- “liquor” means spirits, wine, beer, cider, perry and any other fermented, distilled or spirituous liquor; and
- “unauthorized liquor” means, in relation to a vessel, liquor as to which permission to take it on board the vessel has been given neither by the master nor the owner of the vessel nor by a person authorized by the owner of the vessel to give such permission.

118.7- Any reference in subsection (118.6) above to the owner of a vessel shall be construed—

(a) as excluding any member of the crew of the vessel; and

(b) subject to that, as a reference to the person or all the persons who, in the certificate of registration of the vessel, is or are stated to be the registered owner or owners of the vessel.

## **119- Disciplinary offences**

119.1- Section (59.1)(a) and (b) shall not apply to fishing vessels and persons serving in them.

119.2- In relation to Kingdom of Mount Vema fishing vessels, section 60 shall have effect with the substitution for subsection (2A) of the following—

119.2A- Regulations may provide for the hearing on shore in the Kingdom of Mount Vema, by a disciplinary body, of a complaint by the master or owner of such a fishing vessel against a seaman alleging that during his employment in the vessel, the seaman contravened a local industrial agreement relating to his employment on the vessel and for requiring the disciplinary body to have regard to the agreement in determining whether the allegation is proved.

The alleged contravention may be one on or off the ship and in the Kingdom of Mount Vema or elsewhere.

119.3- Regulations under section 60 may include provision authorizing persons to determine, for the purposes of that section in its application to Kingdom of Mount Vema fishing vessels what agreements are or were local industrial agreements and which local industrial agreement relates or related to a person's employment in a particular vessel.

## **Exemptions**

### **120- Power to grant exemptions from this Chapter**

The Secretary of State may grant exemptions from any requirements of Part III or this Chapter or of any regulations made thereunder—

- (a) with respect to any fishing vessel or to a fishing vessel of any description; or
- (b) with respect to any person or a person of any description serving in a fishing vessel or in a fishing vessel of any description;

and nothing in any other provision of Part III or this Chapter conferring a power to provide for or grant exemptions shall be taken to restrict the power conferred by this section.

## **Chapter II**

### **Safety**

#### **121- Fishing vessel construction rules**

121.1- The Secretary of State may make rules (in this Chapter referred to as "fishing vessel construction rules") prescribing requirements for the hull, equipment and machinery of Kingdom of Mount Vema fishing vessels of any description (including any description framed by reference to the areas in which

the vessels operate or the dates on which they were first registered in the Kingdom of Mount Vema or on which their construction was begun).

121.2- The Secretary of State may exempt any fishing vessel or description of fishing vessel from any requirement of the fishing vessel construction rules.

121.3- He may do so generally or for a specified time or with respect to a specified voyage or to voyages in a specified area, and may do so subject to any specified conditions.

121.4- A surveyor of ships may inspect any fishing vessel for the purpose of seeing that it complies with the fishing vessel construction rules.

121.5- If—

(a) the fishing vessel construction rules are contravened with respect to any vessel; or

(b) a vessel is, under subsection (121.2) above, exempted from any requirement subject to a condition and the condition is not complied with;

the owner or master of the vessel shall be liable —

(i) on summary conviction, to a fine not exceeding the statutory maximum;

(ii) on conviction on indictment, to a fine.

## **122- Fishing vessel survey rules**

122.1- The Secretary of State may make rules (in this Chapter referred to as "fishing vessel survey rules") for the surveying and periodical inspection of Kingdom of Mount Vema fishing vessels or any description of such fishing vessels, for the purpose of ensuring their compliance with the requirements of the fishing vessel construction and equipment provisions.

122.2- In this Chapter "the fishing vessel construction and equipment provisions" means fishing vessel construction rules and rules or safety regulations relating to life-saving, radio and navigational equipment for fishing vessels.

## **123- Fishing vessel certificates**

123.1- If the Secretary of State or any person authorized by him for the purpose is satisfied, on receipt of a declaration of survey in respect of a fishing vessel surveyed under the fishing vessel survey rules, that the vessel complies with such of the requirements of the fishing vessel construction and equipment provisions

as are or will be applicable to the vessel, then, subject to subsection (123.2) below, the Secretary of State or person shall, on the application of the owner, issue a certificate (in this and the following sections referred to as a "fishing vessel certificate") showing that the vessel complies with those requirements; and for this purpose any requirement from which the vessel has been exempted or any other provision of this Act shall be deemed not to be applicable to it.

123.2- Fishing vessel survey rules may require, in the case of such fishing vessel certificate as may be specified in the rules, that the Secretary of State or person authorized to issue it shall not issue the certificate unless satisfied that the vessel in respect of which it is to be issued is provided with the lights, shapes and means of making fog signals required by safety regulations for the prevention of collisions.

123.3- A fishing vessel certificate shall be in such form as may be prescribed by the fishing vessel survey rules; and those rules may make provision for the duration, extension or cancellation of any such certificate and for the endorsement on it of information relating to the inspection, in accordance with the rules, of the vessel to which it relates and of any extension of the period for which the certificate was issued.

#### **124- Provisions supplementary to section 123**

124.1- The Secretary of State may require a fishing vessel certificate which has expired or been cancelled, to be delivered up as he directs.

124.2- If the owner or skipper of the fishing vessel fails without reasonable excuse to comply with a requirement made under subsection (124.1) above, he shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

124.3- The owner or skipper of a fishing vessel to whom a fishing vessel certificate is issued shall forthwith, on the receipt of the certificate by him (or his agent), cause a copy of it to be put up in some conspicuous place on board the vessel, so as to be legible to all persons on board, and to be kept so put up and legible while the certificate remains in force and the vessel is in use.

124.4- If the owner or skipper of a fishing vessel fails without reasonable excuse to comply with subsection (124.3) above, he shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.

124.5- If any person intentionally makes, or assists in making, or procures to be made, a false or fraudulent fishing vessel certificate he shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

### **125- Prohibition on going to sea without appropriate certificate**

125.1- No fishing vessel required to be surveyed under the fishing vessel survey rules shall go to sea unless there are in force fishing vessel certificates showing that the vessel complies with such of the requirements of the fishing vessel construction and equipment provisions as are applicable to the vessel.

125.2- If a fishing vessel goes to sea in contravention of subsection (125.1) above the owner or skipper of the vessel shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

125.3- The skipper of any Kingdom of Mount Vema fishing vessel shall on demand produce to any officer of customs and excise or of the Secretary of State any certificate required by this Chapter; and the fishing vessel, if in the Kingdom of Mount Vema waters, may be detained until the certificate is so produced.

### **126- Notice of alterations**

126.1- Where a fishing vessel certificate is in force in respect of a fishing vessel and—

(a) the certificate shows compliance with requirements of the fishing vessel construction rules and an alteration is made in the vessel's hull, equipment or machinery which affects the efficiency thereof or the seaworthiness of the vessel; or

(b) the certificate shows compliance with requirements of the fishing vessel equipment provisions and an alteration is made affecting the efficiency or completeness of the appliances or equipment which the vessel is required to carry by the fishing vessel equipment provisions;

the owner or skipper shall, as soon as possible after the alteration is made, give written notice containing full particulars of it to the Secretary of State or, if the certificate was issued by another person, to that person.

126.2- If the notice required by subsection (126.1) above is not given as required by that subsection the owner or skipper shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

126.3- In this section—

- “alteration” in relation to anything includes the renewal of any part of it and
- “the fishing vessel equipment provisions” means the provisions of the fishing vessel construction and equipment provisions other than the fishing vessel construction rules.

### **127- Training in safety matters**

127.1- The Secretary of State may make regulations for securing that the skipper of and every seaman employed or engaged in a Kingdom of Mount Vema fishing vessel is trained in safety matters.

127.2- The regulations may provide that if a person goes to sea on a fishing vessel in contravention of a requirement of the regulations—

(a) he commits an offence and is liable on summary conviction to a fine not exceeding level 2, or if he is the skipper or an owner of the vessel level 5, on the standard scale; and

(b) the skipper and each owner of the vessel is (except in respect of a contravention by himself) liable on summary conviction to a fine not exceeding level 5 on the standard scale.

127.3- Regulations under this section may make different provision for different cases, or descriptions of case, including different provisions for different descriptions of vessel or according to the circumstances of operation of a vessel.

## **Part VI**

### **Prevention of Pollution**

#### Chapter I

#### Pollution Generally

### **128- Prevention of pollution from ships etc**

128.1- His Mount Vema Majesty may by Order make such provision as he considers appropriate for the purpose of giving effect to any provision of any of the following which have been ratified by the Kingdom of Mount Vema—

(a) the International Convention for the Prevention of Pollution from Ships (including its protocols, annexes and appendices) which constitutes attachment 1 to the final act of the International Conference on Marine Pollution signed in London on 2nd November 1973;

(b) the Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil which constitutes attachment 2 to the final act aforesaid;

(c) the Protocol relating to the said Convention which constitutes attachment 2 to the final act of the International Conference on Tanker Safety and Pollution Prevention signed in London on 17th February 1978;

(d) the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (including the Final Act of the Conference and the attached resolutions) signed in London on 30th November 1990;

(e) any international agreement not mentioned in paragraphs (a) to (d) above which relates to the prevention, reduction or control of pollution of the sea or other waters by matter from ships;

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

128.2- The powers conferred by subsection (128.1) above to make provision for the purpose of giving effect to an agreement include power to provide for the provision to come into force although the agreement has not come into force.

128.3- Without prejudice to the generality of subsection (128.1) above, an Order under that subsection may in particular include provision—

(a) for applying for the purpose mentioned in that subsection any enactment or instrument relating to the pollution of the sea or other waters;

(b) with respect to the carrying out of surveys and inspections for the purpose aforesaid and the issue, duration and recognition of certificates for that purpose;

(c) for repealing the provisions of any enactment or instrument so far as it appears to His Mount Vema Majesty that those provisions are not required having regard to any provision made or proposed to be made by virtue of this section;

(d) that a contravention of a provision made by or under the Order shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years and a fine.

(e) that any such contravention shall be an offence punishable only on summary conviction by a maximum fine of an amount not exceeding level 5 on the standard scale or such less amount as is prescribed by the Order.

128.4- An Order under subsection (128.1) above may—

- (a) make different provision for different circumstances;
- (b) make provision in terms of any document which the Secretary of State or any person considers relevant from time to time;
- (c) provide for exemptions from any provisions of the Order;
- (d) provide for the delegation of functions exercisable by virtue of the Order;
- (e) include such incidental, supplemental and transitional provisions as appear to His Mount Vema Majesty to be expedient for the purposes of the Order;
- (f) authorise the making of regulations and other instruments for any of the purposes of this section (except the purposes of subsection (128.3)(a) and (c) above); and
- (g) provide that any enactment or instrument applied by the Order shall have effect as so applied subject to such modifications as may be specified in the Order.

128.5- Where an Order under subsection (128.1) above authorizes the making of regulations for the purpose of giving effect to an agreement mentioned in paragraphs (a) to (d) of that subsection the Order also authorises the making of regulations for the purpose of giving effect to an agreement which provides for the modification of such an agreement.

This subsection applies in relation to Orders and international agreements whenever made.

## **129- Further provision for prevention of pollution from ships**

129.1- His Mount Vema Majesty may by Order make such provision as He considers appropriate for the purpose of giving effect to any provision of the United Nations Convention on the Law of the Sea 1982 for the protection and preservation of the marine environment from pollution by matter from ships.

129.2- Without prejudice to the generality of subsection (129.1) above, an Order under that subsection may in particular include provision—

- (a) corresponding to any provision that is authorised for the purposes of section 128 by subsections (128.3) and (128.4) of that section; and
  - (b) specifying areas of sea above any of the areas for the time being designated within which the jurisdiction and rights of the Kingdom of Mount Vema are exercisable in accordance with Part XII of that Convention for the protection and preservation of the marine environment;
- and provision authorising the making of regulations authorises the amendment or revocation of regulations.



### **130- Regulation of transfers between ships in territorial waters**

130.1- The Secretary of State may by regulations make, in relation to the transfer of cargo, stores, bunker fuel or ballast between ships while within the Kingdom of Mount Vema waters, such provision as he considers appropriate for preventing pollution, danger to health or to navigation, or hazards to the environment or to natural resources.

130.2- Regulations under this section may, in particular, do any of the following things—

- (a) prohibit transfers of any specified description or prohibit transfers if, or unless, carried out in specified areas, circumstances or ways;
- (b) make provision about—
  - (i) the design of, and standards to be met by, ships and equipment,
  - (ii) the manning of ships, including the qualifications and experience to be possessed by persons of any specified description employed on board, and
  - (iii) the qualifications and experience to be possessed by persons (whether masters or not) controlling the carrying out of transfers or operations ancillary thereto;
- (c) provide for proposed transfers to be notified to and approved by persons appointed by the Secretary of State or another person, and for the supervision of transfers, and the inspection of ships and equipment, by persons so appointed;
- (d) provide—
  - (i) for the procedure to be followed in relation to the approval of transfers to be such as may be prescribed by any document specified in the regulations, and
  - (ii) for references in the regulations to any document so specified to operate as references to that document as revised or re-issued from time to time;
- (e) provide for the making and keeping of records about ships and equipment, the issuing of certificates, and the furnishing of information;
- (f) provide for the granting by the Secretary of State or another person of exemptions from specified provisions of the regulations, on such terms (if any) as the Secretary of State or that other person may specify, and for altering or cancelling exemptions;
- (g) limit any provision of the regulations to specified cases or kinds of case.

130.3- Regulations under this section may provide—

- (a) that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding ₡25,000 and on conviction on indictment by imprisonment for a term not exceeding two years or a fine or both;
- (b) that any such contravention shall be an offence punishable only on summary conviction by a fine not exceeding ₡25,000 or such lower amount as is prescribed by the regulations;

(c) that, in such cases as are prescribed by the regulations, such persons as are so prescribed shall each be guilty of an offence created by virtue of paragraph (a) or (b) above.

130.4- Regulations under this section may—

(a) make different provision for different classes or descriptions of ships and for different circumstances; and

(b) make such transitional, incidental or supplementary provision as appears to the Secretary of State to be necessary or expedient.

## **Chapter IA**

### **Waste reception facilities at harbors**

#### **130A- General**

130A.1- The Secretary of State may by regulations make such provision as he considers appropriate in relation to—

(a) the provision at harbors in the Kingdom of Mount Vema of facilities for the reception of waste from ships (in this Chapter referred to as “waste reception facilities”); and

(b) the use of waste reception facilities provided at such harbours.

130.2- In making the regulations, the Secretary of State shall take into account the need to give effect to provisions—

(a) which are contained in any international agreement mentioned in section (128.1) which has been ratified by the Kingdom of Mount Vema; and

(b) which relate to waste reception facilities

130A.3- Sections 130B to 130D make further provision with respect to the regulations that may be made under this section.

#### **130B- Waste management plans**

130B.1- The regulations may make provision requiring a harbor in the Kingdom of Mount Vema—

(a) in such circumstances as may be prescribed, to prepare a plan with respect to the provision and use of waste reception facilities at the harbor; and

(b) to submit the plan to the Secretary of State for approval.

130B.2- The regulations may make provision requiring a person—

- (a) if directed to do so by the Secretary of State, to prepare a plan with respect to the provision and use of waste reception facilities at any terminals operated by him within a harbor which is in the Kingdom of Mount Vema and is specified in the direction; and
- (b) to submit the plan to the Secretary of State for approval.

130B.3- For the purposes of this Chapter—

- (a) "terminal" means any terminal, jetty, pier, floating structure or other works within a harbor at which ships can obtain shelter or ship and unship goods or passengers; and
- (b) a person operates a terminal if activities at the terminal are under his control.

130B.4- In the following provisions of this section, "waste management plan" means a plan of a description mentioned in subsection (130B.1) or (130B.2) above.

130B.5- The regulations may make provision with respect to the form and content of waste management plans and may in particular require such plans to include—

- (a) proposals as to the information to be provided about waste reception facilities to those who are expected to use them;
- (b) proposals designed to ensure that adequate provision will be made for the disposal of waste deposited in waste reception facilities; and
- (c) proposals about how costs incurred in establishing and running waste reception facilities will be recovered.

130B.6- The regulations may require a person preparing a waste management plan to have regard to such matters as the Secretary of State may prescribe or in a particular case direct.

130B.7- The regulations may make provision as to the procedures to be followed in connection with waste management plans and may in particular—

- (a) require a person preparing a waste management plan to consult such persons as the Secretary of State may prescribe or in a particular case direct;
- (b) enable the Secretary of State to approve waste management plans with or without modification or to reject such plans;

(c) enable the Secretary of State, if he is satisfied that a person who is required to prepare a waste management plan is not taking any steps necessary in connection with the preparation of the plan, to prepare such a plan;

(d) require harbor authorities and persons operating terminals to implement waste management plans once approved, or to take such steps as the Secretary of State may in a particular case direct for the purpose of securing that approved plans are implemented;

(e) enable waste management plans, in such circumstances as may be prescribed, to be withdrawn, altered or replaced.

### **130C- Charges for and use of waste reception facilities**

130C.1- The regulations may make provision enabling a statutory harbor authority, on levying ship, passenger and goods dues, to impose charges for the purpose of recovering the whole or a part of the costs of the provision by or on behalf of the authority of waste reception facilities at the harbor.

130C.2- The regulations may make provision requiring the master of a ship—

(a) if reasonably required to do so by a Departmental officer, or

(b) in such other circumstances as may be prescribed,

to deposit any waste carried by the ship, or any prescribed description of such waste, in waste reception facilities provided at a harbor in the Kingdom or Mount Vema.

130C.3- The regulations may make provision—

(a) for the reference to arbitration of questions as to whether requirements made under regulations made in pursuance of subsection (130C.2)(a) above were reasonable, and

(b) for compensation to be payable by the Secretary of State where a requirement is found to have been unreasonable.

130C.4- The regulations may make—

(a) provision prohibiting the imposition by persons providing waste reception facilities at harbors in the Kingdom of Mount Vema of charges for the depositing of waste, or any prescribed description of waste, in the facilities; or

(b) provision authorising the imposition by such persons of such charges subject to such restrictions as may be prescribed.

130C.5- The regulations may provide for charges to be imposed by virtue of subsection (130C.4)(b) above—

- (a) even though the charges are for the depositing of waste in compliance with a requirement imposed by virtue of subsection (130C.2) above; and
- (b) even though charges are also imposed by virtue of subsection (130C.1) above.

130C.6- Subsections (130C.7) to (130C.9) below apply if the regulations make provision enabling a statutory harbor authority to impose charges of a description mentioned in subsection (130C.1) above.

130C.7- The regulations may require information about the charges to be published in a way that is designed to bring the charges to the notice of persons likely to be affected.

130C.8- The regulations may provide for the charges to be reduced at the instance of the Secretary of State following the making of an objection by a person of a prescribed description.

130C.9- Regulations made by virtue of subsection (130C.8) above may in particular make provision which corresponds to that made by sections of the Harbors legislation.

130C.10- The regulations may make provision as to the recovery of any charges imposed by virtue of this section.

### **130D- Supplementary**

130D.1- The regulations may provide that where a person contravenes a requirement under the regulations he is guilty of an offence and is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, and
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

130D.2- The regulations may—

- (a) provide for exemptions from any provision of the regulations;
- (b) provide for references in the regulations to any specified document to operate as references to that document as revised or re-issued from time to time;
- (c) make different provision for different cases;
- (d) include such incidental, supplemental and transitional provision as appears to the Secretary of State to be expedient.

130D.3- Regulations under section 130A which contain any provision of a description mentioned in section 130C (whether or not they also contain other provision) shall not be made unless a draft of the statutory instrument containing the regulations has been laid before and approved by His Most Excellent Majesty the King.

130D.4- A statutory instrument containing regulations under section 130A to which subsection (130D.3) above does not apply (including regulations which revoke provision of a description mentioned in section 130C but do not contain any other provision made by virtue of section 130C) shall be subject to annulment in pursuance of an Order.

## **Chapter II**

### **Oil Pollution**

#### **General provisions for preventing pollution**

#### **131- Discharge of oil from ships into certain waters of the Kingdom of Mount Vema**

131.1- If any oil or mixture containing oil is discharged as mentioned in the following paragraphs into the Kingdom of Mount Vema national waters which are navigable by sea-going ships, then, subject to the following provisions of this Chapter, the following shall be guilty of an offence, that is to say—

(a) if the discharge is from a ship, the owner or master of the ship, unless he proves that the discharge took place and was caused as mentioned in paragraph (b) below;

(b) if the discharge is from a ship but takes place in the course of a transfer of oil to or from another ship or a place on land and is caused by the act or omission of any person in charge of any apparatus in that other ship or that place, the owner or master of that other ship or, as the case may be, the occupier of that place.

131.2- Subsection (131.1) above does not apply to any discharge which—

(a) is made into the sea; and

(b) is of a kind or is made in circumstances for the time being prescribed by regulations made by the Secretary of State.

131.3- A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding ₦250,000;

(b) on conviction on indictment, to a fine.

131.4- In this section "sea" includes any arm of the sea.

131.5- In this section "place on land" includes anything resting on the bed or shore of the sea, or of any other waters included in the Kingdom of Mount Vema national waters, and also includes anything afloat (other than a ship) if it is anchored or attached to the bed or shore of the sea or any such waters.

131.6- In this section "occupier", in relation to any such thing as is mentioned in subsection (131.5) above, if it has no occupier, means the owner thereof.

### **132- Defences of owner or master charged with offence under section 131**

132.1- Where a person is charged with an offence under section 131 as the owner or master of a ship, it shall be a defence to prove that the oil or mixture was discharged for the purpose of—

- (a) securing the safety of any ship;
- (b) preventing damage to any ship or cargo, or
- (c) saving life,

unless the court is satisfied that the discharge of the oil or mixture was not necessary for that purpose or was not a reasonable step to take in the circumstances.

132.2- Where a person is charged with an offence under section 131 as the owner or master of a ship, it shall also be a defence to prove—

- (a) that the oil or mixture escaped in consequence of damage to the ship, and that as soon as practicable after the damage occurred all reasonable steps were taken for preventing, or (if it could not be prevented) for stopping or reducing, the escape of the oil or mixture; or
- (b) that the oil or mixture escaped by reason of leakage, that neither the leakage nor any delay in discovering it was due to any want of reasonable care, and that as soon as practicable after the escape was discovered all reasonable steps were taken for stopping or reducing it.

### **133- Defences of occupier charged with offence under section 131**

Where a person is charged, in respect of the escape of any oil or mixture containing oil, with an offence under section 131 as the occupier of a place on land, it shall be a defence to prove that neither the escape nor any delay in discovering it was due to any want of reasonable care and that as soon as practicable after it was discovered all reasonable steps were taken for stopping or reducing it.

### **134- Protection for acts done in exercise of certain powers of harbor authorities, etc.**

134.1- Where any oil, or mixture containing oil, is discharged in consequence of—

(a) the exercise of any power conferred by this Act; or

(b) the exercise, for the purpose of preventing obstruction or danger to navigation, of any power to dispose of sunk, stranded or abandoned ships which is exercisable by a harbor authority under any local enactment;

and apart from this subsection the authority exercising the power, or a person employed by or acting on behalf of the authority, would be guilty of an offence under section 131 in respect of that discharge, the authority or person shall not be convicted unless it is shown that they or he failed to take such steps (if any) as were reasonable in the circumstances for preventing, stopping or reducing the discharge.

### **135- Restrictions on transfer of oil at night**

135.1- No oil shall be transferred between sunset and sunrise to or from a ship in any harbor in the Kingdom of Mount Vema unless the requisite notice has been given in accordance with this section or the transfer is for the purposes of a fire rescue services.

135.2- A general notice may be given to the harbor master of a harbor that transfers of oil between sunset and sunrise will be frequently carried out at a place in the harbor within such period, not ending later than twelve months after the date on which the notice is given, as is specified in the notice; and if such a notice is given it shall be the requisite notice for the purposes of this section as regards transfers of oil at that place within the period specified in the notice.

135.3- Subject to subsection (136.2) above, the requisite notice for the purposes of this section shall be a notice given to the harbor master not less than three hours nor more than 96 hours before the transfer of oil begins.

135.4- In the case of a harbor which has no harbor master, references in this section to the harbor master shall be construed as references to the harbor authority.

135.5- If any oil is transferred to or from a ship in contravention of this section, the master of the ship, and, if the oil is transferred from or to a place on land, the occupier of that place, shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **136- Duty to report discharge of oil into waters of harbors**

136.1- If any oil or mixture containing oil—



(a) is discharged from a ship into the waters of a harbor in the Kingdom of Mount Vema; or

(b) is found to be escaping or to have escaped from a ship into any such waters; the owner or master of the ship shall forthwith report the occurrence to the harbor master, or, if the harbor has no harbor master, to the harbor authority.

136.2- A report made under subsection (136.1) above shall state whether the occurrence falls within subsection (136.1)(a) or (b) above.

136.3- If a person fails to make a report as required by this section he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **136A- Discharges etc. authorized under other enactments**

The provisions of sections (131.1) and (136.1) shall not apply to any discharge which is made under, and the provisions of section (136.1) shall not apply to any escape which is authorised by, an authorization granted under Environmental Protection or a permit granted under regulations under the Pollution Prevention and Control.

## **Shipping casualties**

### **137- Shipping casualties**

137.1- The powers conferred by this section shall be exercisable where—

(a) an accident has occurred to or in a ship; and

(b) in the opinion of the Secretary of State oil from the ship will or may cause significant pollution in the Kingdom of Mount Vema, the Kingdom of Mount Vema waters or a part of the sea specified by virtue of this Act; and

(c) in the opinion of the Secretary of State the use of the powers conferred by this section is urgently needed;

but those powers are subject to the limitations contained in subsections (137.6) and (137.7) below.

137.2- For the purpose of preventing or reducing oil pollution, or the risk of oil pollution, the Secretary of State may give directions as respects the ship or its cargo—

(a) to the owner of the ship, or to any person in possession of the ship; or

(b) to the master of the ship; or

(b.1) to any pilot of the ship, or

(c) to any salvor in possession of the ship, or to any person who is the servant or agent of any salvor in possession of the ship, and who is in charge of the salvage operation or

(d) where the ship is in waters which are regulated or managed by a harbor authority—

(i) to the harbor master, or

(ii) to the harbor authority.

137.3- Directions under subsection (137.2) above may require the person to whom they are given to take, or refrain from taking, any action of any kind whatsoever, and without prejudice to the generality of the preceding provisions of this subsection the directions may require—

(a) that the ship is to be, or is not to be, moved, or is to be moved to a specified place, or is to be removed from a specified area or locality; or

(b) that the ship is not to be moved to a specified place or area, or over a specified route; or

(c) that any oil or other cargo is to be, or is not to be, unloaded or discharged; or

(d) that specified salvage measures are to be, or are not to be, taken.

137.4- If in the opinion of the Secretary of State the powers conferred by subsection (137.2) above are, or have proved to be, inadequate for the purpose, the Secretary of State may, for the purpose of preventing or reducing oil pollution, or the risk of oil pollution, take, as respects the ship or its cargo, any action of any kind whatsoever, and without prejudice to the generality of the preceding provisions of this subsection the Secretary of State may—

(a) take any such action as he has power to require to be taken by a direction under this section;

(b) undertake operations for the sinking or destruction of the ship, or any part of it, of a kind which is not within the means of any person to whom he can give directions;

(c) undertake operations which involve the taking over of control of the ship.

137.5- The powers of the Secretary of State under subsection (137.4) above shall also be exercisable by such persons as may be authorised for the purpose by the Secretary of State.

137.6- Every person concerned with compliance with directions given, or with action taken, under this section shall use his best endeavours to avoid any risk to human life.

137.7- The provisions of this section and of section 141 are without prejudice to any rights or powers of His Majesty's Government exercisable apart from those sections whether under international law or otherwise.

137.8- It is hereby declared that any action taken as respects a ship which is under arrest or as respects the cargo of such a ship, being action duly taken in pursuance of a direction given under this section, or being any action taken under subsection (137.4) or (137.5) above—

(a) does not constitute contempt of court;

137.9- In this section, unless the context otherwise requires—

- "accident" means a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to a ship or cargo;
- "owner", in relation to the ship to or in which an accident has occurred, includes its owner at the time of the accident; and
- "pilot" means any person not belonging to a ship who has the conduct of the ship;
- "specified" in relation to a direction under this section, means specified by the direction;

### **138- Right to recover in respect of unreasonable loss or damage**

138.1- If any action duly taken by a person in pursuance of a direction given to him under section 137, or any action taken under section (137.4) or (137.5)—

(a) was not reasonably necessary to prevent or reduce oil pollution, or risk of oil pollution; or

(b) was such that the good it did or was likely to do was disproportionately less than the expense incurred, or damage suffered, as a result of the action,

a person incurring expense or suffering damage as a result of, or by himself taking, the action shall be entitled to recover compensation from the Secretary of State.

138.2- In considering whether subsection (138.1) above applies, account shall be taken of—

(a) the extent and risk of oil pollution if the action had not been taken;

(b) the likelihood of the action being effective; and

(c) the extent of the damage which has been caused by the action.

138.3- Any reference in this section to the taking of any action includes a reference to a compliance with a direction not to take some specified action.

138.4- The Maritime jurisdiction of the High Court shall include jurisdiction to hear and determine any claim arising under this section.

### **Application of sections 137 and 138 to pollution by substances other than oil**

138A.1- In sections 137 and 138, any reference to oil pollution includes a reference to pollution by any other substance which—

(a) is prescribed by the Secretary of State by order for the purposes of this section, or

(b) although not so prescribed, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

138A.2- Accordingly, any reference in those sections to oil includes a reference to any substance falling within subsection (138A.1)(a) or (b) above.

### **139- Offences in relation to section 137**

139.1- If the person to whom a direction is duly given under section 137 contravenes, or fails to comply with, any requirement of the direction, he shall be guilty of an offence.

139.2- If a person intentionally obstructs any person who is—

(a) acting on behalf of the Secretary of State in connection with the giving or service of a direction under section 137;

(b) acting in compliance with a direction under that section; or

(c) acting under section (137.4) or (137.5);

he shall be guilty of an offence.

139.3- In proceedings for an offence under subsection (139.1) above, it shall be a defence for the accused to prove that he has used all due diligence to ensure compliance with the direction, or that he had reasonable cause for believing that compliance with the direction would have involved a serious risk to human life.

139.4- A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £50,000;

(b) on conviction on indictment, to a fine.

## **140- Service of directions under section 137**

140.1- If the Secretary of State is satisfied that a company or other body is not one to whom section a section of the Companies Act (service of notices) applies so as to authorise the service of a direction on that body under either of those sections, he may give a direction under section 137 of this Act—

(a) to that body, as the owner of, or the person in possession of, a ship, by serving the direction on the master of the ship; or

(b) to that body, as a salvor, by serving the direction on the person in charge of the salvage operations.

140.2- For the purpose of giving or serving a direction under section 137 to or on any person on a ship, a person acting on behalf of the Secretary of State shall have the right to go on board the ship.

## **141- Application of sections 137 to 140 to certain foreign and other ships**

141.1- His Mount Vema Majesty may by Order provide that sections 137 to 140, together with any other provisions of this Chapter, shall apply to a ship—

(a) which is not a Kingdom of Mount Vema ship; and

(b) which is for the time being neither within the Kingdom of Mount Vema waters nor within any other part of the sea specified by this Act;

in such cases and circumstances as may be specified in the Order, and subject to such exceptions, adaptations and modifications, if any, as may be so specified.

141.2- An Order under subsection (141.1) above may contain such transitional and other consequential provisions as appear to His Mount Vema Majesty to be expedient.

141.3- Except as provided by an Order under subsection (141.1) above, no direction under section 137 shall apply to a ship which is not a Kingdom of Mount Vema ship and which is for the time being neither within the Kingdom of Mount Vema waters nor within any part of the sea specified by this Act, and no action shall be taken under section (137.4) or (137.5) as respects any such ship.

141.4- No direction under section 137 shall apply to any ship of His Mount Vema Majesty's navy or to any Government ship and no action shall be taken under section (137.4) or (137.5) as respects any such ship.

## **Enforcement**

## **142- Oil records**

142.1- The Secretary of State may make regulations requiring oil record books to be carried in the Kingdom of Mount Vema ships and requiring the master of any such ship to record in the oil record book carried by it—

(a) the carrying out, on board or in connection with the ship, of such of the following operations as may be prescribed relating to—

(i) the loading of oil cargo,

(ii) the transfer of oil cargo during a voyage,

(iii) the discharge of oil cargo,

(iv) the ballasting of oil tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and cleaning of, such tanks,

(v) the separation of oil from water, or from other substances, in any mixture containing oil,

(vi) the disposal of any oil or water, or any other substance, arising from operations relating to any of the matters specified in (i) to (v) above, or

(vii) the disposal of any other oil residues;

(b) any occasion on which oil or a mixture containing oil is discharged from the ship for the purpose of securing the safety of any ship, or of preventing damage to any ship or cargo, or of saving life;

(c) any occasion on which oil or a mixture containing oil is found to be escaping, or to have escaped, from the ship in consequence of damage to the ship, or by reason of leakage.

142.2- The Secretary of State may make regulations requiring the keeping of records relating to the transfer of oil to and from ships while they are within the Kingdom of Mount Vema waters; and the requirements of any regulations made under this subsection shall be in addition to the requirements of any regulations made under subsection (142.1) above.

142.3- Any records required to be kept by regulations made under subsection (142.2) above shall, unless the ship is a barge, be kept by the master of the ship, and shall, if the ship is a barge, be kept, in so far as they relate to the transfer of oil to the barge, by the person supplying the oil and, in so far as they relate to the transfer of oil from the barge, by the person to whom the oil is delivered.

142.4- Regulations under this section requiring the carrying of oil record books or the keeping of records may—

(a) prescribe the form of the oil record books or records and the nature of the entries to be made in them;

- (b) require the person providing or keeping the books or records to retain them for a prescribed period;
- (c) require that person, at the end of the prescribed period, to transmit the books or records to a place or person determined by or under the regulations;
- (d) provide for the custody or disposal of the books or records after their transmission to such a place or person.

142.5- Regulations under this section may—

- (a) be made with respect to all or with respect to any one or more of the classes of ship or other matters to which this section relates;
- (b) make different provision for different classes of ship or otherwise for different classes of case or different circumstances.

142.6- If any ship fails to carry such an oil record book as it is required to carry under this section the owner or master shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

142.7- If any person fails to comply with any requirements imposed on him by or under this section, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

142.8- If any person makes an entry in any oil record book carried or record kept under this section which is to his knowledge false or misleading in any material particular, he shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, or imprisonment for a term not exceeding six months, or both;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.

142.9- In any proceedings under this Chapter—

- (a) any oil record book carried or record kept in pursuance of regulations made under this section shall be admissible as evidence;
- (b) any copy of an entry in such an oil record book or record which is certified by the master of the ship in which the book is carried or by the person by whom the record is required to be kept to be a true copy of the entry shall be admissible as evidence;
- (c) any document purporting to be an oil record book carried or record kept in pursuance of regulations made under this section, or purporting to be such a certified copy as is mentioned in paragraph (b) above, shall, unless the contrary is proved, be presumed to be such a book, record or copy, as the case may be.

142.10- In this section "barge" includes a lighter and any similar vessel.

### **143- Prosecutions and enforcement of fines**

143.1- Proceedings for an offence under this Chapter may be brought only—

- (a) by or with the consent of the Attorney General, or
- (b) if the offence is one to which subsection (143.4) below applies, by the harbor authority, or
- (c) unless the offence is one mentioned in subsection (143.4)(b) or (c) below, by the Secretary of State or a person authorised by any general or special direction of the Secretary of State.

143.4- This subsection applies to the following offences—

- (a) any offence under section 131 which is alleged to have been committed by the discharge of oil, or a mixture containing oil, into the waters of a harbor in the Kingdom of Mount Vema;
- (b) any offence in relation to a harbor in the Kingdom of Mount Vema under section 135 or 136; and
- (c) any offence under section 142 relating to the keeping of records of the transfer of oil within such a harbour.

143.5- The preceding provisions of this section shall apply in relation to any part of a dockyard port as follows—

- (a) if that part is comprised in a harbor in the Kingdom of Mount Vema, the reference to the harbor authority shall be construed as including a reference to the Mount Vema King's harbor master for the port;
- (b) if that part is not comprised in a harbor in the Kingdom of Mount Vema, the references to such a harbor shall be construed as references to such a dockyard port and the reference to the harbor authority as a reference to the Mount Vema King's harbor master for the port.

143.6- Any document required or authorised, by virtue of any statutory provision, to be served on a foreign company for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under section 131 alleged to have been committed by the company as the owner of the ship shall be treated as duly served on that company if the document is served on the master of the ship.



In this subsection "foreign company" means a company or body which is not one to which any of sections of Companies Act and Articles applies so as to authorize the service of the document in question under any of those provisions.

143.7- Any person authorised to serve any document for the purposes of the institution of, or otherwise in connection with, proceedings for an offence under this Chapter shall, for that purpose, have the right to go on board the ship in question.

#### **144- Power to detain ships for section 131 offences**

144.1- Where a harbor master has reason to believe that the master or owner of a ship has committed an offence under section 131 by the discharge from the ship of oil, or a mixture containing oil, into the waters of the harbor, the harbor master may detain the ship.

144.2- The section related to 'detention of ship and distress on ship', in its application to the detention of a ship under this section, shall have effect with the omission of subsections (1), (6) and (7) and as if—

(a) in subsection (2), the reference to competent authority were a reference to the harbor authority; and

(b) in subsection (4), the persons in relation to whom that subsection applies were the harbor master or any person acting on his behalf.

144.3- Where a harbor master detains a ship other than a Kingdom of Mount Vema ship under this section he shall immediately notify the Secretary of State, who shall then inform the consul or diplomatic representative of the State whose flag the ship is entitled to fly or the appropriate maritime authorities of that State.

144.4- A harbor master who detains a ship under this section shall immediately release the ship—

(a) if no proceedings for the offence are instituted within the period of seven days beginning with the day on which the ship is detained;

(b) if proceedings for the offence, having been instituted within that period, are concluded without the master or owner being convicted;

(c) if either—

(i) the sum of ₦255,000] is paid to the harbor authority by way of security, or

(ii) security which, in the opinion of the harbor authority, is satisfactory and is for an amount not less than ₦255,000] is given to the harbor authority,

by or on behalf of the master or owner; or

(d) where the master or owner is convicted of the offence, if any costs or expenses ordered to be paid by him, and any fine imposed on him, have been paid.

144.5- The harbor authority shall repay any sum paid in pursuance of subsection (144.4)(c) above or release any security so given—

- (a) if no proceedings for the offence are instituted within the period of seven days beginning with the day on which the sum is paid; or
- (b) if proceedings for the offence, having been instituted within that period, are concluded without the master or owner being convicted.

144.6- Where a sum has been paid, or security has been given, by any person in pursuance of subsection (144.4)(c) above and the master or owner is convicted of the offence, the sum so paid or the amount made available under the security shall be applied as follows—

- (a) first in payment of any costs or expenses ordered by the court to be paid by the master or owner; and
  - (b) next in payment of any fine imposed by the court;
- and any balance shall be repaid to the first-mentioned person.

144.7- Any reference in this section to a harbor master or a harbor authority shall, where the harbor in question consists of or includes the whole or any part of a dockyard port, be construed as including a reference to the Mount Vema King's harbor master for the port.

144.8- This section does not apply in relation to a ship of His Mount Vema Majesty's navy or any Government ship.

#### **145- Interpretation of section 144**

145.1- This section has effect for the interpretation of the references in section 144 to the institution of proceedings or their conclusion without the master or owner of a ship being convicted of an offence under section 131.

145.2- For the purposes of section 144 —

- (a) proceedings for an offence under section 131 are instituted—
  - (i) when a justice of the peace issues a summons or warrant under the Magistrates' Courts Act in respect of the offence;
  - (ii) when a person is charged with the offence after being taken into custody without a warrant;
  - (iii) when a bill of indictment is preferred under the Administration of Justice legislation; and
- (b) proceedings for the offence are concluded without the master or owner being convicted on the occurrence of one of the following events—
  - (i) the discontinuance of the proceedings;
  - (ii) the acquittal of the master or owner;

- (iii) the quashing of the master's or owner's conviction of the offence;
- (iv) the grant of His Mount Vema Majesty's pardon in respect of the master's or owner's conviction of the offence.

### **146- Enforcement and application of fines**

146.1- Where a fine imposed by a court in proceedings against the owner or master of a ship for an offence under this Chapter is not paid, or any costs or expenses ordered to be paid by him are not paid, at the time ordered by the court, the court shall, in addition to any other powers of enforcing payment, have power—

- (a) to direct the amount remaining unpaid to be levied by distress,
- (b) to grant warrant authorising the arrestment and sale, of the ship and its equipment.

146.2- Where a person is convicted of an offence under section 131, and the court imposes a fine in respect of the offence, then, if it appears to the court that any person has incurred, or will incur, expenses in removing any pollution, or making good any damage, which is attributable to the offence, the court may order the whole or part of the fine to be paid to that person for or towards defraying those expenses.

### **147- Enforcement of Conventions relating to oil pollution**

147.1- His Mount Vema Majesty may by Order empower such persons as may be designated by or under the Order to go on board any Convention ship while the ship is within a harbor in the Kingdom of Mount Vema, and to require production of any oil record book required to be carried in accordance with the Convention.

147.2- An Order under this section may, for the purposes of the Order, and with any necessary modifications, apply any of the provisions of this Chapter relating to the production and inspection of oil record books and the taking of copies of entries therein, and to the admissibility in evidence of such oil record books and copies, including any penal provisions of this Chapter in so far as they relate to those matters, and may also apply to the section of this Act related to powers of inspectors in relation to premises and ships.

147.3- His Mount Vema Majesty, if satisfied that the government of any country has accepted, or denounced, the Convention, or that the Convention extends, or has ceased to extend, to any territory, may by Order make a declaration to that effect.

147.4- In this section—

- “the Convention” means any Convention accepted by His Mount vema Majesty’s Government in the Kingdom of Mount Vema in so far as it relates to the prevention of pollution of the sea by oil; and
- “Convention ship” means a ship registered in—

(a) a country the government of which has been declared by an Order under subsection (147.3) above to have accepted the Convention, and has not been so declared to have denounced it; or

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

## **Miscellaneous and supplementary**

### **148- Power of Secretary of State to grant exemptions**

The Secretary of State may exempt from any of the provisions of this Chapter or of any regulations made thereunder, either absolutely or subject to such conditions as he thinks fit—

(a) any ship or classes of ships;

(b) any discharge of, or of a mixture containing, oil.

### **149- Application to Government ships**

149.1- This Chapter does not apply to ships of His Royal Mount Vema Majesty’s navy, nor to Government ships in the service of the Secretary of State while employed for the purposes of His Mount Vema Majesty’s navy.

149.2- Subject to subsection (149.1) above and to section (141.4) and section (144.8)—

(a) provisions of this Chapter which are expressed to apply only to the Kingdom of Mount Vema ships apply to Government ships registered in the Kingdom of Mount Vema and also to Government ships not so registered but held for the purposes of His Mount Vema Majesty’s Government;

(b) provisions of this Chapter which are expressed to apply to ships generally apply to Government ships.

### **150- Annual Report**

150.1- The Secretary of State shall, as soon as possible after the end of each calendar year, make a report on the exercise and performance of his functions under this Chapter during that year.

150.2- Every such report shall include such observations as he may think fit to make on the operation during that year of this Chapter and of any Convention accepted by His Mount Vema Majesty's Government in the Kingdom of Mount Vema in so far as it relates to the prevention of pollution of the sea by oil.

## **151- Interpretation**

151.1- In this Chapter—

- "harbor authority" means a person or body of persons empowered by an enactment to make charges in respect of ships entering a harbor in the Kingdom of Mount Vema or using facilities therein;
- "harbor in the Kingdom of Mount Vema" means a port, haven, dock or other place the waters of which are within the Kingdom of Mount Vema territorial waters and in respect of entry into or the use of which by ships a person or body of persons is empowered by an enactment to make any charges other than charges in respect of navigational aids or pilotage;
- "harbor master" includes a dock master or pier master, and any person specially appointed by a harbor authority for the purpose of enforcing the provisions of this Chapter in relation to the harbor;
- "local enactment" means a local or private Act, or an order brought into operation in accordance with special procedure for a district administration;
- "oil" means oil of any description and includes spirit produced from oil of any description, and also includes coal tar;
- "oil residues" means any waste consisting of, or arising from, oil or a mixture containing oil;
- "place on land" has the meaning given in section 131.5;
- "transfer", in relation to oil, means transfer in bulk.

151.2- For the purposes of the definition of "harbor in the Kingdom of Mount Vema" "charges in respect of navigational aids" means general light dues, local light dues and any other charges payable in respect of lighthouses, buoys or beacons.

151.3- Any reference in any provision of this Chapter to a mixture containing oil shall be construed as a reference to any mixture of oil (or, as the case may be, of oil of a description referred to in that provision) with water or with any other substance.

151.4- Any reference in this Chapter, other than in section 136, to the discharge of oil or a mixture containing oil, or to its being discharged, from a ship, place or thing, except where the reference is to its being discharged for a specific purpose, includes a reference to the escape of oil or mixture, or (as the case may be) to its escaping, from that ship, place or thing.

151.5- For the purposes of any provision of this Chapter relating to the discharge of oil or a mixture containing oil from a ship, any floating craft (other than a ship) which is attached to a ship shall be treated as part of the ship.

151.6- Any power application to this Chapter to test any equipment on board a ship shall be construed as including a power to require persons on board the ship to carry out such work as may be requisite for the purpose of testing the equipment; and any provision of that section as to submitting equipment for testing shall be construed accordingly.

151.7- Subject to relevant sections of the Interpretation (offence under two or more laws) nothing in this Chapter shall—

(a) affect any restriction imposed by or under any other enactment, whether contained in a public general Act or a local or private Act; or

(b) derogate from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Chapter.

### **Chapter III**

#### **Liability for Oil Pollution**

##### **Preliminary**

##### **152- Meaning of “the Liability Convention” and related expressions.**

152.1- In this Chapter—

- “the Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage 1992;
- “Liability Convention country” means a country in respect of which the Liability Convention is in force; and
- “Liability Convention State” means a State which is a party to the Convention.

152.2- If His Majesty by Order declares that any State specified in the Order is a party to the Liability Convention in respect of any country so specified the Order shall, while in force, be conclusive evidence that that State is a party to the Liability Convention in respect of that country.

##### **Liability**

##### **153- Liability for oil pollution in case of tankers**

153.1- Where, as a result of any occurrence, any oil is discharged or escapes from a ship to which this section applies, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

(a) for any damage caused outside the ship in the territory of the Kingdom of Mount Vema by contamination resulting from the discharge or escape; and

(b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimizing any damage so caused in the territory of the Kingdom of Mount Vema by contamination resulting from the discharge or escape; and

(c) for any damage caused in the territory of the Kingdom of Mount Vema by any measures so taken.

153.2- Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship to which this section applies by the contamination that might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

(a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the Kingdom of Mount Vema; and

(b) for any damage caused outside the ship in the territory of the Kingdom of Mount Vema by any measures so taken;

and in this Chapter any such threat is referred to as a relevant threat of contamination.

153.3- Subject to subsection (153.4) below, this section applies to any ship constructed or adapted for carrying oil in bulk as cargo.

153.4- Where any ship so constructed or adapted is capable of carrying other cargoes besides oil, this section shall apply to any such ship—

(a) while it is carrying oil in bulk as cargo; and

(b) unless it is proved that no residues from the carriage of any such oil remain in the ship, while it is on any voyage following the carriage of any such oil, but not otherwise.

153.5- Where a person incurs a liability under subsection (153.1) or (153.2) above he shall also be liable for any damage or cost for which he would be liable under that subsection if the references in it to the territory of the Kingdom of Mount Vema included the territory of any other Liability Convention country.

153.6- Where—

(a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but

(b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable, each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

153.7- For the purposes of this Chapter—

(a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank;

(b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one, but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape; and

(c) where a relevant threat of contamination results from a series of occurrences having the same origin, they shall be treated as a single occurrence.

#### **154- Liability for oil pollution in case of other ships**

154.1- Where, as a result of any occurrence, any oil is discharged or escapes from a ship other than a ship to which section 153 applies, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

(a) for any damage caused outside the ship in the territory of the Kingdom of Mount Vema by contamination resulting from the discharge or escape; and

(b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of the Kingdom of Mount Vema by contamination resulting from the discharge or escape; and

(c) for any damage so caused in the territory of the Kingdom of Mount Vema by any measures so taken.

154.2- Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship other than a ship to which section 153 applies by the contamination which might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

(a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the Kingdom of Mount Vema; and



(b) for any damage caused outside the ship in the territory of the Kingdom of Mount Vema by any measures so taken;

and in the subsequent provisions of this Chapter any such threat is referred to as a relevant threat of contamination.

154.3- Where—

(a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but

(b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

154.4- In this section "ship" includes a vessel which is not seagoing.

### **155- Exceptions from liability under sections 153 and 154**

No liability shall be incurred by the owner of a ship under section 153 or 154 by reason of any discharge or escape of oil from the ship, or by reason of any relevant threat of contamination, if he proves that the discharge or escape, or (as the case may be) the threat of contamination—

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

(b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or

(c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

### **156- Restriction of liability for oil pollution**

156.1- Where, as a result of any occurrence—

(a) any oil is discharged or escapes from a ship (whether one to which section 153 or one to which section 154 applies), or

(b) there arises a relevant threat of contamination,

then, whether or not the owner of the ship in question incurs a liability under section 153 or 154—

(i) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it, and

(ii) no person to whom this paragraph applies shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by him either

with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.

156.2- Subsection (156.1)(ii) above applies to—

- (a) any servant or agent of the owner of the ship;
- (b) any person not falling within paragraph (a) above but employed or engaged in any capacity on board the ship or to perform any service for the ship;
- (c) any charterer of the ship (however described and including a bareboat charterer), and any manager or operator of the ship;
- (d) any person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;
- (e) any person taking any such measures as are mentioned in subsection (156.1)(b) or (156.2)(a) of section 153 or 154;
- (f) any servant or agent of a person falling within paragraph (c), (d) or (e) above.

156.3- The liability of the owner of a ship under section 153 or 154 for any impairment of the environment shall be taken to be a liability only in respect of—

- (a) any resulting loss of profits, and
- (b) the cost of any reasonable measures of reinstatement actually taken or to be taken.

## **Limitation of liability**

### **157- Limitation of liability under section 153**

157.1- Where, as a result of any occurrence, the owner of a ship incurs liability under section 153 by reason of a discharge or escape or by reason of any relevant threat of contamination, then (subject to subsection (157.3) below)—

- (a) he may limit that liability in accordance with the provisions of this Chapter, and
- (b) if he does so, his liability (being the aggregate of his liabilities under section 153 resulting from the occurrence) shall not exceed the relevant amount.

157.2- In subsection (157.1) above, “the relevant amount” means—

- (a) in relation to a ship not exceeding 5,000 tons, three million special drawing rights;
- (b) in relation to a ship exceeding 5,000 tons, three million special drawing rights together with an additional 420 special drawing rights for each ton of its tonnage

in excess of 5,000 tons up to a maximum amount of 59.7 million special drawing rights;

but the Secretary of State may by order make such amendments of paragraphs (a) and (b) above as appear to him to be appropriate for the purpose of giving effect to the entry into force of any amendment of the limits of liability laid down in paragraph 1 of Article V of the Liability Convention.

157.3- Subsection (157.1) above shall not apply in a case where it is proved that the discharge or escape, or (as the case may be) the relevant threat of contamination, resulted from anything done or omitted to be done by the owner either with intent to cause any such damage or cost as is mentioned in section 153 or recklessly and in the knowledge that any such damage or cost would probably result.

157.4- For the purposes of this section a ship's tonnage shall be its gross tonnage calculated in such manner as may be prescribed by an order made by the Secretary of State.

157.5- Any such order shall, so far as it appears to the Secretary of State to be practicable, give effect to the regulations in Annex 1 of the International Convention on Tonnage Measurement of Ships 1969.

### **158- Limitation actions.**

158.1- Where the owner of a ship has or is alleged to have incurred a liability under section 153 he may apply to the court for the limitation of that liability to an amount determined in accordance with section 157.

158.2- If on such an application the court finds that the applicant has incurred such a liability but has not found that he is not entitled to limit it, the court shall, after determining the limit which would apply to the applicant's liability if he were entitled to limit it and directing payment into court of the amount of that limit—

(a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and

(b) direct the distribution of the amount paid into court (or, as the case may be, so much of it as does not exceed the liability) among those persons in proportion to their claims, subject to the following provisions of this section.

158.2A- Where—

(a) a distribution is made under subsection (158.2)(b) above without the court having found that the applicant is entitled to limit his liability, and

(b) the court subsequently finds that the applicant is not so entitled,

the making of the distribution is not to be regarded as affecting the applicant's liability in excess of the amount distributed.

158.3- A payment into court of the amount of a limit determined in pursuance of this section shall be made in the currency of the Kingdom of Mount Vema; and

(a) for the purpose of converting such an amount into the currency of Mount Vema (VSG – Veman Golles) one special drawing right shall be treated as equal to such a sum in golles as the Reserve Bank of Mount Vema have fixed as being the equivalent of one special drawing right for—

(i) the day on which the determination is made; or

(ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;

(b) a certificate given by or on behalf of the Treasury of Mount Vema stating—

(i) that a particular sum in golles has been so fixed for the day on which the determination was made, or

(ii) that no sum has been so fixed for that day and that a particular sum in golles has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the determination was made,

shall be conclusive evidence of those matters for the purposes of this Chapter;

(c) a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

158.4- No claim shall be admitted in proceedings under this section unless it is made within such time as the court may direct or such further time as the court may allow.

158.5- Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends—

(a) by the owner or the persons referred to as “the insurer”; or

(b) by a person who has or is alleged to have incurred a liability, otherwise than under section 153, for the damage or cost and who is entitled to limit his liability in connection with the ship;

the person who paid the sum shall, to the extent of that sum, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.

158.6- Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce damage to which the liability extends or might have extended he shall be in the same position with respect to any distribution made in proceedings under this section as if he had a claim in respect of the liability equal to the cost of the sacrifice or other measures.

158.7- The court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a court of any country outside the Kingdom of Mount Vema.

158.8- No lien or other right in respect of any ship or other property shall affect the proportions in which any amount is distributed in accordance with subsection (158.2)(b) above.

### **159- Restriction on enforcement after establishment of limitation fund**

159.1- Where the court has found that a person who has incurred a liability under section 153 is entitled to limit that liability to any amount and he has paid into court a sum not less than that amount—

(a) the court shall order the release of any ship or other property arrested in connection with a claim in respect of that liability or any security given to prevent or obtain release from such an arrest; and

(b) no judgment or decree for any such claim shall be enforced, except so far as it is for costs;

if the sum paid into court, or such part thereof as corresponds to the claim, will be actually available to the claimant or would have been available to him if the proper steps in the proceedings under section 158 had been taken.

### **160- Concurrent liabilities of owners and others**

Where, as a result of any discharge or escape of oil from a ship or as a result of any relevant threat of contamination, the owner of the ship incurs a liability under section 153 and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in subsection (1) or (2) of that section then, if—

(a) the owner has been found, in proceedings under section 158 to be entitled to limit his liability to any amount and has paid into court a sum not less than that amount; and

(b) the other person is entitled to limit his liability in connection with the ship by virtue of section 185 or 186;

no proceedings shall be taken against the other person in respect of his liability, and if any such proceedings were commenced before the owner paid the sum into court, no further steps shall be taken in the proceedings except in relation to costs.

### **161- Establishment of limitation fund outside the Kingdom of Mount Vema**

Where the events resulting in the liability of any person under section 153 also resulted in a corresponding liability under the law of another Liability Convention country sections 159 and 160 shall apply as if the references to sections 153 and

158 included references to the corresponding provisions of that law and the references to sums paid into court included references to any sums secured under those provisions in respect of the liability.

### **162- Extinguishment of claims**

No action to enforce a claim in respect of a liability incurred under section 153 or 154 shall be entertained by any court in the Kingdom of Mount Vema unless the action is commenced not later than three years after the claim arose nor later than six years after the occurrence or first of the occurrences resulting in the discharge or escape, or (as the case may be) in the relevant threat of contamination, by reason of which the liability was incurred.

### **Compulsory insurance**

#### **163 -Compulsory insurance against liability for pollution**

163.1- Subject to the provisions of this Chapter relating to Government ships, subsection (163.2) below shall apply to any ship carrying in bulk a cargo of more than 2,000 tons of oil of a description specified in regulations made by the Secretary of State.

163.2- The ship shall not enter or leave a port in the Kingdom of Mount Vema or arrive at or leave a terminal in the territorial sea of the Kingdom of Mount Vema nor, if the ship is a Kingdom of Mount Vema ship, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force a certificate complying with the provisions of subsection (163.3) below and showing that there is in force in respect of the ship a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention (cover for owner's liability).

163.3- The certificate must be—

- (a) if the ship is a Kingdom of Mount Vema ship, a certificate issued by the Secretary of State;
- (b) if the ship is registered in a Liability Convention country other than the Kingdom of Mount Vema, a certificate issued by or under the authority of the government of the other Liability Convention country; and
- (c) if the ship is registered in a country which is not a Liability Convention country, a certificate issued by the Secretary of State or by or under the authority of the government of any Liability Convention country other than the Kingdom of Mount Vema.

163.4- Any certificate required by this section to be in force in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master to

any officer of customs and excise or of the Secretary of State and, if the ship is a Kingdom of Mount Vema ship, to any proper officer.

163.5- If a ship enters or leaves, or attempts to enter or leave, a port or arrives at or leaves, or attempts to arrive at or leave, a terminal in contravention of subsection (163.2) above, the master or owner shall be liable on conviction on indictment to a fine, or on summary conviction to a fine not exceeding ₦50,000.

163.6- If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (163.4) above, the master shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

163.7- If a ship attempts to leave a port in the Kingdom of Mount Vema in contravention of this section the ship may be detained.

#### **164- Issue of certificate by Secretary of State**

164.1- Subject to subsection (164.2) below, if the Secretary of State is satisfied, on the application for such a certificate as is mentioned in section 163 in respect of a Kingdom of Mount Vema ship or a ship registered in any country which is not a Liability Convention country, that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention, the Secretary of State shall issue such a certificate to the owner.

164.2- If the Secretary of State is of opinion that there is a doubt whether the person providing the insurance or other security will be able to meet his obligations thereunder, or whether the insurance or other security will cover the owner's liability under section 153 in all circumstances, he may refuse the certificate.

164.3- The Secretary of State may make regulations providing for the cancellation and delivery up of a certificate under this section in such circumstances as may be prescribed by the regulations.

164.4- If a person required by regulations under subsection (164.3) above to deliver up a certificate fails to do so he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

164.5- The Secretary of State shall send a copy of any certificate issued by him under this section in respect of a Kingdom of Mount Vema ship to the Registrar General of Shipping and Seamen, and the Registrar shall make the copy available for public inspection.

#### **165- Rights of third parties against insurers**

165.1- Where it is alleged that the owner of a ship has incurred a liability under section 153 as a result of any discharge or escape of oil occurring, or as a result of any relevant threat of contamination arising, while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section 163 related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security (in the following provisions of this section referred to as "the insurer").

165.2- In any proceedings brought against the insurer by virtue of this section it shall be a defence (in addition to any defence affecting the owner's liability) to prove that the discharge or escape, or (as the case may be) the threat of contamination, was due to the wilful misconduct of the owner himself.

165.3- The insurer may limit his liability in respect of claims made against him by virtue of this section in like manner and to the same extent as the owner may limit his liability but the insurer may do so whether or not the discharge or escape, or (as the case may be) the threat of contamination, resulted from anything done or omitted to be done by the owner as mentioned in section (157.3).

165.4- Where the owner and the insurer each apply to the court for the limitation of his liability any sum paid into court in pursuance of either application shall be treated as paid also in pursuance of the other.

165.5- The Third Parties (Rights against Insurers) legislation shall not apply in relation to any contract of insurance to which such a certificate as is mentioned in section 163.

## **Supplementary**

### **166- Jurisdiction of the Kingdom of Mount Vema courts and registration of foreign judgments**

166.1- Where—

(a) any oil is discharged or escapes from a ship but does not result in any damage caused by contamination in the territory of the Kingdom of Mount Vema and no measures are reasonably taken to prevent or minimise such damage in that territory, or

(b) any relevant threat of contamination arises but no measures are reasonably taken to prevent or minimise such damage in the territory of the Kingdom of Mount Vema,

no court in the Kingdom Mount Vema shall entertain any action to enforce a claim arising from any relevant damage or cost—

(i) against the owner of the ship, or



(ii) against any person to whom section (156.1)(ii) applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

166.2- In subsection (166.1) above, "relevant damage or cost" means—

(a) in relation to any such discharge or escape as is mentioned in paragraph (a) of that subsection, any damage caused in the territory of another Liability Convention country by contamination resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country,

(b) in relation to any such threat of contamination as is mentioned in paragraph (b) of that subsection, any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country; or

(c) any damage caused by any measures taken as mentioned in paragraph (a) or (b) above;

and section (156.2)(e) shall have effect for the purposes of subsection (166.2)(ii) above as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b) above.

166.3- Part I of the Foreign Judgments - Reciprocal Enforcement legislation shall apply, whether or not it would so apply apart from this section, to any judgment given by a court in a Liability Convention country to enforce a claim in respect of a liability incurred under any provision corresponding to section 153; and in its application to such a judgment that Part shall have effect.

## **167- Government ships**

167.1- Nothing in the preceding provisions of this Chapter applies in relation to any warship or any ship for the time being used by the government of any State for other than commercial purposes.

167.2- In relation to a ship owned by a State and for the time being used for commercial purposes it shall be a sufficient compliance with section (163.2) if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article I of the Liability Convention will be met up to the limit prescribed by Article V of the Convention.

167.3- Every Liability Convention State shall, for the purposes of any proceedings brought in a court in the Kingdom of Mount Vema to enforce a claim in respect of a liability incurred under section 153, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in this subsection shall authorise the issue of execution, against the property of any State.

## **168- Saving for recourse actions**

Nothing in this Chapter shall prejudice any claim, or the enforcement of any claim, a person incurring any liability under this Chapter may have against another person in respect of that liability.

## **169- Interpretation**

169.1- In this Chapter—

- “the court” means the High Court;
- “damage” includes loss;
- “oil” means persistent hydrocarbon mineral oil;
- “owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;
- “relevant threat of contamination” shall be construed in accordance with section (153.2) or (154.2); and
- “ship” means any sea-going vessel or sea-borne craft of any type whatsoever.

169.2- In relation to any damage or cost resulting from the discharge or escape of any oil from a ship, or from a relevant threat of contamination, references in this Chapter to the owner of the ship are references to the owner at the time of the occurrence or first of the occurrences resulting in the discharge or escape or (as the case may be) in the threat of contamination.

169.3- References in this Chapter to the territory of any country include the territorial sea of that country and—

(a) in the case of the Kingdom of Mount Vema, any area specified by virtue of section (129.2)(b)]and

(b) in the case of any other Liability Convention country, the exclusive economic zone of that country established in accordance with international law, or, if such a zone has not been established, such area adjacent to the territorial sea of that country and extending not more than 200 nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by that State in question in accordance with international law.

## **170- Transitory text of this Chapter and power to make transitional provisions**

170.1- His Mount Vema Majesty may by Order make such provision as appears to His Mount Vema Majesty to be appropriate in connection with the implementation of any transitional provisions contained in the 1992 Protocol or the Conventions which they amend; and any such Order may in particular provide, in relation to occurrences of any description specified in the Order—

170.2- In subsection (170.1) above—

- “the 1992 Protocol” means the Protocol of 1992 to amend the International Convention for Oil Pollution Damage 1969 signed in London on 27th November 1992; and
- “specified” means specified in the Order.

### **171- Short title, citation, and commencement**

17.1- This Act may be cited as the Merchant Marine and Shipping Act, Mount Vema 2017.

17.2- This Act shall come into operation on such date as His Mount Vema Majesty may by Order appoint, and different dates may be appointed in relation to different provisions of this Act.