ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER M82

MERCHANT SHIPPING ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition revises and consolidates—
Act 2/2004, in force 1 July 2004
Act 19/2009, in force 26 October 2009
U.K. S.I. 2019 No. 852, in force 14 May 2019

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MERCHANT SHIPPING ACT

TABLE OF CONTENTS

PART 1

PRELIMINARY

SECTION

1. Interpretation

PART 2

REGISTRATION OF SHIPS

Registration

2. Anguilla ship
3. Qualifications for owning an Anguilla ship
4. Entitlement of ship to be registered under this Act
5. Representative person
6. Refusal of registration
7. Termination of registration
8. Penal liability

Procedure for Registration

9. Directions to Registrar
10. Register
11. Entries in register
12. Survey and measurement of ships
13. Marking of ship
14. Application for registration
15. Declaration of eligibility
16. Evidence of title on first registry
17. Entry of particulars in register
18. Documents to be retained by Registrar
19. Port of registry

Certificate of Registry

20. Certificate of registry
21. Custody of certificate
22. Penalty for use of improper certificate
23. Power to grant new certificate
24. Duplicate certificates

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25. Endorsement of change of ownership
26. Provisional certificate for ship becoming entitled to be registered while abroad

Bareboat Charter Registration

27. Registration of ships chartered by bareboat to a qualified person
28. Consequences of registration pursuant to section 27(1)
29. Application of this Act where a ship is registered under section 27
30. Transfer of rights and obligations of charterer under the bareboat charter
31. Rights and obligations relating to interests in ships registered pursuant to section 27(1)
32. Dispensations for ships bareboat chartered and registered outside Anguilla
33. Termination and revocation of dispensations granted under section 32
34. Flag to be used where a dispensation has been granted under section 32

Name of Ship

35. Rules as to name of ship
36. Offences

Registration of Alterations and Registration Anew

37. Registration of alterations
38. Offences
39. Procedure for registration of alterations
40. Registration anew on change of ownership
41. Procedure for registration anew

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

42. Transfer of registration from port of Road Bay, Anguilla
43. Transfer of registration to port of Road Bay, Anguilla

Tonnage Measurement

44. Tonnage of ships of foreign countries adopting Tonnage Regulations
45. Tonnage Regulations

Unregistered Ships

46. Liabilities of unregistered ships

Miscellaneous

47. Termination of overseas registration
48. Trusts, equitable interests and liabilities of beneficial interests
49. Registrar may dispense with declaration or evidence
50. Fees

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51. Returns to be made by Registrar
52. Evidence of certificate of registry and other documents
53. Forms of documents
54. Instructions as to registration
55. Forgery of documents
56. False declarations
57. Registration of Ships Regulations
58. Matters to be prescribed in Registration of Ships Regulations
59. Certified copy of entry in register to be evidence

PART 3

NATIONAL CHARACTER AND FLAG

60. National character of ship to be declared before clearance
61. Offences relating to Anguilla character of ship
62. Penalties
63. National colours and penalty for carrying improper colours or not showing colours
64. Proceedings on forfeiture of a ship

PART 4

PROPRIETARY INTERESTS IN REGISTERED SHIPS

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

PART 5

SAFETY AND ENVIRONMENTAL PROTECTION

66. Safety and health on ships and control of pollution by ships
67. Provisions supplementary to section 66

PART 6

SAFETY OF LIFE AT SEA

68. Interpretation
69. Application of Safety Convention and exceptions thereto
70. Exemptions
71. Regulations relating to safety at sea
72. Regulations for cargo ship safety requirements and surveys
73. Regulations for small ships safety requirements and surveys

Surveys and Certification

74. Surveyor's duties

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75. Surveyor's powers of inspection
76. Surveyor to report to Anguilla Air and Sea Ports Authority
77. Record of inspections and certificates
78. Responsibilities of owner and master and compliance with ISM Code
79. Procedure to be adopted when the ship, including its structure, machinery and equipment is deficient
80. Issue of certificates to Anguilla ships engaged on international or short international voyages
81. Issue of certificates to Anguilla ships not engaged on international voyages and ships of less than 500 tons
82. Form of certificate
83. Duration and validity of certificates
84. Issue and duration of exemption certificates
85. Extension and other provisions
86. Issue and endorsement of certificates by another government
87. Ships not registered in Anguilla and to which the Safety Convention applies
88. Other ships which are not Anguilla ships
89. Cancellation of a certificate
90. Availability of certificates
91. Prohibition on proceeding to sea without the appropriate documentation
92. Prohibition on proceeding on a voyage or excursion without the appropriate certificate
93. Limit on the number of passengers on passenger ships
94. Offences
95. Power to detain
96. Arbitration

Miscellaneous

97. Penalty for non-compliance with conditions of exemption certificates
98. Inspection of ships holding Safety Convention Certificates
99. Ships to carry stability information
100. Regulations for local safety certificates including fishing vessels

PART 7

SUPPLEMENTAL

101. Citation
SCHEDULE 1: Instruments and documents for which forms are to be prescribed or approved
SCHEDULE 2: Private law provisions for registered ships

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MERCHANT SHIPPING ACT

PART 1

PRELIMINARY

Interpretation

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

"Anguilla Air and Sea Ports Authority" means the Anguilla Air and Sea Ports Authority under section 2 of the Anguilla Air and Sea Ports Authority Act and includes any person acting under his express or implied authority;

(Act 19/2009, s. 13 as am in L.R. 15/12/2010)

"Anguilla citizen" means a British Overseas Territories citizen by virtue of a connection with Anguilla, and, for the purposes of this Act, includes an individual who is an Anguillian or a permanent resident of Anguilla;

(U.K. S.I. 2019 No. 852, s. 13(c))

"Anguilla ship" means a ship registered in Anguilla under this Act, and "Anguilla vessel" and "Anguilla fishing vessel" shall be construed accordingly;

"Anguillian" means a person who is regarded as an Anguillian under section 80(2) of the Constitution of Anguilla;

(U.K. S.I. 2019 No. 852, s. 13(c))

"British citizen", "British Overseas Territories citizen", "British Overseas citizen", and "Commonwealth citizen" have the same meanings as in the British Nationality Act 1981 as amended;

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

"commissioned military officer" means a commissioned officer in His Majesty's land forces on full pay;

"commissioned naval officer" means a commissioned officer in His Majesty's Navy on full pay;

"Consular officer", in relation to a foreign country, means the officer recognised by His Majesty as a consular officer of that foreign country;

"Court" means the High Court;

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

"length" has the same meaning prescribed in the Tonnage Regulations;

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

"Minister" means the Minister responsible for maritime affairs in Anguilla;

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

"passenger" means any person carried on a ship, except—

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

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

(c) a child under one year of age;

"passenger ship" means a ship carrying more than 12 passengers;

"pleasure vessel" means—

(a) any vessel including a dive boat which at the time it is being used is—

(i) in the case of a vessel wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner,

or

(ii) in the case of a vessel owned by a body corporate, one on which the persons are employees, officers or shareholders of the body corporate, or their immediate family or friends,

and

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

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

and in the case of any vessel referred to in paragraph (a) or (b), no other payments are made by or on behalf of the users of the vessel, other than by the owner; and in this definition, "immediate family" means, in relation to an individual, the husband or wife of the individual,

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and a relative of the individual or the relative's husband or wife, and "relative" means brother, sister, ancestor or lineal descendant, and "owner" includes charterer;

"port" includes place;

"proper officer" means, in relation to a port in the United Kingdom, a relevant British possession, the Republic of Ireland, or a country mentioned in Schedule 3 of the British Nationality Act 1981, any officer exercising in that port functions similar to those of the Anguilla Air and Sea Ports Authority, and, in relation to any other port, a consular officer appointed by His Majesty's Government in the United Kingdom;

"Registrar" means the person for the time being responsible for the registration of ships in Anguilla;

"Registration of Ships Regulations" means regulations made pursuant to sections 57 and 58;

"relevant British possession" means—

(a) the Isle of Man;

(b) any of the Channel Islands; and

(c) any colony;

"ship" includes every description of vessel used in navigation;

"small ship" means a ship less than 24 metres in length;

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

"Tonnage Regulations" means regulations made under section 45;

"wages" includes emoluments.

(2) In this Act—

(a) "Anguilla waters" means the sea or other waters within the seaward limits of the territorial sea of Anguilla; and

(b) "national waters", in relation to Anguilla, means Anguilla waters landward of the baselines for measuring the breadth of its territorial sea.

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PART 2

REGISTRATION OF SHIPS

Registration

Anguilla ship

2. (1) A ship shall be an Anguilla ship for the purposes of this Part if the ship is registered in Anguilla under this Part.

(2) A ship registered in Anguilla under Part I of the Merchant Shipping Act 1894 of the United Kingdom shall be deemed to be a ship registered in Anguilla under this Act.

Qualifications for owning an Anguilla ship

3. (1) For the purposes of this Act, the following are persons qualified to be owners of Anguilla ships, namely—

(a) Anguilla citizens;

(b) British citizens;

(c) British Overseas Territories citizens;

(d) British Overseas citizens;

(e) British subjects;

(f) persons who under the Hong Kong (British Nationality) Order 1986 are British Nationals (overseas);

(g) bodies corporate incorporated in any Member State of the European Union or European Economic Area, including the United Kingdom, and having a place of business in any such Member State and registered in Anguilla;

(h) bodies corporate incorporated in any relevant British possession, including Anguilla, or in any overseas territory of a Member State of the European Union or the European Economic Area, and having a place of business in any such possession or overseas territory and registered in Anguilla;

(i) bodies corporate incorporated in a Member State of the Caribbean Community or the Organisation of Eastern Caribbean States and registered in Anguilla.

(2) A person who is not qualified under subsection (1) to be an owner of an Anguilla ship may nevertheless be one of the owners of such a ship if—

(a) a majority interest in the ship, within the meaning of section 4, is owned by persons who are qualified to be owners of Anguilla ships; and

(b) the ship is registered in accordance with the provisions of section 4.

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(3) In this section, "place of business" means the place where meetings of the directors of the body corporate are regularly held and, in the case of a meeting held by electronic or other mechanical means, the place where the majority of members of the body corporate taking part in the meeting are present.

Entitlement of ship to be registered under this Act

4. (1) Subject to sections 6 and 7, this section has effect for the purpose of determining whether a ship is entitled to be registered in Anguilla under this Act.

(2) Subject to subsection (3), a ship shall be entitled to be registered if a majority interest in the ship is owned by one or more persons qualified to be owners of Anguilla ships by virtue of section 3(1).

(3) Where—

(a) a ship falling within subsection (2) is 24 metres or more in length; and

(b) the person, or (as the case may be) each of the persons, by whom the majority interest is owned is not resident in Anguilla;

the ship shall only be entitled to be registered if a representative person resident in Anguilla is appointed in relation to the ship.

(4) For the purposes of this section—

(a) one or more persons shall be treated as owning a majority interest in a ship if there is vested in that person, or in those persons taken together, the legal title to 33 or more, or all of the 64 shares into which the property in the ship is divided, for the purpose of registration in accordance with section 11 (there being left out of account for this purpose any share in which any beneficial interest is owned by a person who is not qualified to be an owner of a Anguilla ship); and

(b) a body corporate shall be treated as resident in Anguilla if it is incorporated in Anguilla and has a place of business there.

(5) A ship is not entitled to be registered in Anguilla if such registration is precluded by an Order under section 18 of the Merchant Shipping Act 1995 of the United Kingdom.

Representative person

5. (1) Where the entitlement of a ship to be registered is, by virtue of section 4, conditional on the appointment of a representative person in relation to the ship, the owner of the ship shall—

(a) before applying for the ship to be registered, appoint an individual or body corporate satisfying the prescribed requirements to be the representative person in relation to the ship; and

(b) ensure that, so long as the ship remains registered, an individual or body corporate satisfying those requirements is so appointed.

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(2) For the purposes of subsection (1), the prescribed requirements are—

(a) that the representative person is either—

(i) an individual resident in Anguilla, or

(ii) a body corporate incorporated in Anguilla and having a place of business there; and

(b) such other requirements as the Governor in Council may prescribe by regulation.

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

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

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

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

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

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

(b) sent to any such person by post at the address notified (or, as the case may be, last notified) to the Registrar under subsection (3) in relation to that person; or

(c) left for any such person at that address.

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

Refusal of registration

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

(a) the condition of the ship so far as is relevant to safety or to any risk of pollution;

(b) the safety, health and welfare of persons employed or engaged in any capacity on board the ship; or

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(c) the possibility that the ship may be used for criminal purposes;

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

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

Termination of registration

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

(a) where the Minister is satisfied that—

(i) having regard to the matters mentioned in section 6(1)(a), (b) or (c) it would be detrimental to the interests of Anguilla or of international shipping for a registered ship to continue to be registered,

(ii) any penalty imposed on the owner of a registered ship in respect of a contravention of this Act, or of any instrument in force under this Act, has remained unpaid for a period of more than 3 months and no appeal against the penalty is pending, or

(iii) any summons for any such contravention has been duly served on the owner of a registered ship and the owner has failed to appear at the time and place appointed for the trial of the information or complaint in question and a period of not less than 3 months has elapsed since that time,

and the Minister so informs the Registrar;

(b) if a registered ship is no longer entitled to remain registered;

(c) on application by the registered owner stating that he wishes to terminate the registration of the ship;

(d) upon a registered ship becoming a total loss or being otherwise destroyed by, *inter alia*, shipwreck, demolition, fire or sinking;

(e) if section 5(1)(b) is contravened.

(2) In the event of a registered ship being in any condition referred to in paragraph (1)(d), every registered owner of the ship or any share therein shall, immediately upon obtaining knowledge of the event, inform the Registrar who shall make an entry thereof in the register.

(3) Where the registration of a ship is terminated—

(a) under subsection (1), the Registrar shall notify all registered mortgagees of the closure of the ship's registration; and

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(b) under paragraphs (1)(c) or (d), the Registrar shall forthwith issue a closure transcript to the owner of the ship.

(4) On receipt of the closure transcript referred to in paragraph (3)(b), the owner shall immediately surrender the ship's certificate of registry to the Registrar for cancellation.

(5) Where—

(a) the circumstances referred to in paragraph (1)(a) apply, and it appears to the Registrar that paragraph (1)(b) or (e) applies, he may serve notice on the owner or on any representative person for the time being appointed in relation to that ship to produce, within 21 days, evidence sufficient to satisfy the Minister or the Registrar, as the case may be, that the ship is eligible to remain on the register, and if at the expiry of that period the Minister or the Registrar, as the case may be, is not so satisfied, the Registrar may—

(i) extend the notice and ask for further information or evidence, or

(ii) serve a final notice informing the owner or the representative person of the termination of the ship's registry, and such termination shall take effect 7 days after the service of that notice;

(b) the Registrar serves a notice under this subsection on the owner of a ship in respect of which a mortgage is registered, the Registrar shall send a copy of that notice to the mortgagee at the address recorded for him in the register; and

(c) a ship's registration is terminated under this subsection, the Registrar shall issue a closure transcript and the owner of the ship shall forthwith surrender its certificate of registry.

(6) Any person who—

(a) in connection with the making of any representations in pursuance of subsection (5)(a), knowingly or recklessly furnishes information which is false in a material particular commits an offence and is liable on summary conviction to a fine of $5,000, or on conviction on indictment to a fine of $10,000; or

(b) fails, without reasonable cause, to surrender a certificate of registry when required to do so under subsection (4) or (5), commits an offence and is liable on summary conviction to a fine of $3,000.

Penal liability

8. (1) Where a body corporate commits an offence under this Act or any regulations made under it, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, commits that offence and is liable to be proceeded against and punished accordingly.

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(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Procedure for Registration

Directions to Registrar

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

Register

10. (1) There shall continue to be a register of Anguilla ships for all registrations of ships in Anguilla.

(2) The register shall be maintained by the Registrar.

(3) The register shall be so constituted as to distinguish, in a separate part, registration of small ships, pleasure vessels and submersible craft, and may be otherwise divided into parts so as to distinguish between classes or descriptions of ships.

(4) The register shall be maintained in accordance with the Registration of Ships Regulations and the private law provisions for registered ships and any directions given by the Minister under section 9.

(5) The register shall be available for public inspection during official working hours.

Entries in register

11. Entries in the register in relation to property in a ship shall be made in accordance with the following provisions—

(a) the property in a ship shall be divided into 64 shares;

(b) subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than 64 individuals shall be entitled to be registered at the same time as owners of any one ship, but this rule shall not affect the beneficial title of any number of persons or of any company represented by or claiming under or through any registered owner or joint owner;

(c) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship, but any number of persons not exceeding 5 may be registered as joint owners of a ship or of any share or shares therein;

(d) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship, or in any share therein in respect of which they are registered;

(e) a body corporate shall be registered as owner by its corporate name.

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Survey and measurement of ships

12. (1) Every ship shall, before registration, be surveyed by a surveyor of ships and her tonnage ascertained in accordance with the tonnage regulations made under this Act, and the surveyor shall grant his certificate specifying the ship's tonnage and build, and such other particulars descriptive of the identity of the ship as may for the time being be required by the Minister and such certificate shall be delivered to the Registrar before registration.

(2) 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 regulations provide, in specified circumstances, for the ship to be re-measured and the register amended accordingly.

Marking of ship

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

(a) her name shall be marked on each of her bows, and her name and the name of her port of registry shall be marked on her stern, in letters of a contrasting colour so as to be clearly visible, such letters to be of a height not less than one decimetre, and of proportionate breadth;

(b) her official number and net tonnage shall be permanently marked on a main part of the ship's permanent structure that is readily visible and accessible in such manner as may be specified by a surveyor of ships;

(c) subject to paragraph (e), in the case of every such ship built before the 1st day of May, 1988, a scale of feet denoting her draught of water shall be marked on each side of her stem and of her stern post in Roman capital numerals or in figures, not less than 6 inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby, and those letters and figures shall be marked by being cut in and painted in a contrasting colour so as to be clearly visible, or in such other way as the Minister may approve;

(d) in the case of every such ship built after the 1st day of May, 1988, a scale of decimetres, or of metres and decimetres, denoting a draught of water shall be marked on each side of her stem and her stern post in figures at two-decimetre intervals and at intervening two-decimetre intervals, if the scale is in metres and decimetres, the capital letter "M" being placed after each metre figure; the top figure of the scale showing both the metre and (except where it marks a full metre interval) the decimetre figure; the lower line of the figures, or figures and letters (as the case may be), coinciding with the draught line denoted thereby; the figures and letters being not less than one decimetre in length and being marked by being cut in and painted in a contrasting colour so as to be clearly visible, or in such other way as the Minister may approve;

(e) every ship built before the lst day of May, 1988 may comply with the requirements of paragraph (d).

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(2) Unless in special circumstances the Minister directs otherwise, a pleasure vessel of 24 metres in length or over, shall be deemed to be in compliance with paragraph (1)(a) if her name and the name of her port of registry is marked on her stern in the manner provided in that subsection.

(3) If the scale showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship commits an offence and is liable on summary conviction to a fine of $3,000.

(4) The marks required by this section shall be permanently continued, and no alteration shall be made therein, except in the event of any of the particulars thereby denoted being altered in the manner provided by this Act.

(5) If an owner or master of a registered ship neglects to keep his ship marked as required by this section, or if any person conceals, removes, alters, defaces, or obliterates or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event referred to in subsection (4), that owner, master, or person commits an offence, and for each such offence is liable on summary conviction to a fine of $3,000 and on a certificate from a surveyor of ships that a ship is insufficiently or inaccurately marked the ship may be detained until the insufficiency or inaccuracy has been remedied.

(6) It shall be a defence for an owner, master or person referred to in subsection (5) to prove—

(a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; or

(b) that the commission of the offence was for the purpose of escaping capture by an enemy.

(7) Where a ship proceeds to sea without being marked in accordance with this section, the owner commits an offence and is liable on summary conviction to a fine of $10,000.

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

Application for registration

14. (1) An application for registration of a ship shall be made in the case of individuals by the person requiring to be registered as owner, or by one or more of the persons so requiring if more than one, or by his or their agent, and in the case of bodies corporate by their agent, and the authority of the agent shall be testified by writing, if appointed by individuals, under the hands of the appointers, and, if appointed by a body corporate, under the common seal of that body corporate or by deed or instrument under seal.

(2) Where the requirements of this Act preliminary to registration are not complied with by the applicant and the registration is not completed within 1 year from the date of application, the application shall lapse and cease to have effect. The lapse of the application does not absolve the person from making a fresh application to register the ship.

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Declaration of eligibility

15. (1) A person shall not be entitled to be registered as owner of a ship or of a share therein until he, or in the case of a body corporate the person authorised by this Act to make declarations on behalf of the body corporate, has made and signed a declaration of eligibility, referring to the ship as described in the certificate of the surveyor, and containing the following particulars—

(a) a statement of his qualifications to own an Anguilla ship, or in the case of a body corporate, of such circumstances of the constitution and business thereof as prove it to be qualified to own an Anguilla ship;

(b) in the case of a foreign ship, a statement of its foreign name;

(c) a statement of the number of shares in the ship the legal title to which is vested in him or, as the case may be, the body corporate, whether alone or jointly with any other person or persons;

(d) a declaration that, to the best of his knowledge and belief, a majority interest in the ship is owned by persons qualified to be owners of Anguilla ships, and the ship is otherwise entitled to be registered.

(2) In the application of this section to a ship which is not wholly owned by persons qualified to be owners of Anguilla ships, paragraph (1)(a) shall have effect only in relation to persons who are so qualified.

Evidence of title on first registry

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

Entry of particulars in register

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

Documents to be retained by Registrar

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

Port of registry

19. (1) The port of Road Bay, Anguilla shall be the port of registry of a ship registered under this Act and the port to which she belongs.

(2) The Governor in Council may appoint, by notification published in the *Gazette*, any other port in Anguilla as a port of registry for the purposes of subsection (1).

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Certificate of Registry

Certificate of registry

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

Custody of certificate

21. The certificate of registry 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.

Penalty for use of improper certificate

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

Power to grant new certificate

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

Duplicate certificates

24. (1) If it is shown to the satisfaction of the Registrar that the certificate of registry has been lost, stolen or destroyed or has become defaced or illegible ("the event"), he may issue to the owner a duplicate of that certificate, which shall be marked as such, and shall be of the same effect as the original.

(2) Where a duplicate certificate of registry is issued, the original, if then available or if subsequently found or recovered, shall be forthwith surrendered to the Registrar.

(3) If—

(a) the port where the ship is at the time of the event or, as the case may be, where it first arrives after the event, is not in Anguilla; and

(b) the master of the ship, or some other person having knowledge of the facts of the case, makes a declaration before the proper officer as to the loss, theft, destruction, defacement or illegibility of the certificate;

the proper officer shall notify the Registrar.

(4) On being notified of the event and being satisfied that the ship is entitled to be issued with a duplicate certificate, the Registrar shall—

(a) send by facsimile or any other form of electronic transmission to the proper officer a copy of the duplicate certificate which the proper officer shall endorse with a statement of the circumstances under which it is granted; or

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(b) where there are no facsimile or other electronic transmission facilities, the proper officer shall issue a temporary certificate so endorsed.

(5) The facsimile or other electronically transmitted version of the duplicate certificate, or the temporary certificate, as the case may be, shall be surrendered to the Registrar, as soon as an original duplicate certificate referred to in subsection (1) is received by the owner.

(6) Any person who fails, without reasonable cause to surrender a certificate of registry when required to do so under subsection (2), commits an offence and is liable on summary conviction to a fine of $3,000.

Endorsement of change of ownership

25. (1) Whenever a change occurs in the registered ownership of a ship, the Registrar may endorse the change on the certificate of registry or issue a new certificate of registry.

(2) The master shall, for the purpose of such endorsement by the Registrar, deliver the certificate of registry to the Registrar forthwith after the change.

(3) If the master fails to deliver to the Registrar the certificate of registry as required by this section he commits an offence and is liable on summary conviction to a fine of $3,000.

Provisional certificate for ship becoming entitled to be registered while abroad

26. (1) If a ship becomes entitled to be registered while at port in a country outside Anguilla then, subject to this section, the proper officer may, on the application of the master of the ship, grant to him a provisional certificate stating—

(a) the name of the ship;

(b) the time and place of the purchase of the ship and the names of the purchasers; and

(c) the best particulars respecting the tonnage, build and description of the ship which the person granting the certificate is able to obtain;

and shall forward a copy of the certificate at the first convenient opportunity to the Registrar.

(2) No provisional certificate shall be granted by any person under this section unless he is satisfied that an application under the Registration of Ships Regulations for registration of the ship has been made or is intended.

(3) A provisional certificate shall have the effect of a certificate of registry until—

(a) the expiration of a period not exceeding 3 months from its date; or

(b) the ship's arrival at the port of Road Bay, Anguilla;

whichever happens first, and shall then cease to be of any effect.

(4) Where a provisional certificate has been granted for a ship under this section, no further provisional certificate shall be so granted for the ship within one year from the date of that certificate except with the consent of the Minister.

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Bareboat Charter Registration

Registration of ships chartered by bareboat to a qualified person

27. (1) Subject to subsection (3), a ship shall be entitled to be registered under this Act in Anguilla if—

(a) the ship is operated under a bareboat charter which complies with the requirements set out in subsection (2);

(b) the charterer is a person qualified to be an owner of an Anguilla ship by virtue of section 3; and

(c) the requirements corresponding to those imposed on the owner of a majority interest in the ship by section 4(3) and (4)(b) with respect to entitlement to registration, are satisfied by the charterer.

(2) The requirements referred to in paragraph (1)(a) are—

(a) that the charter is in writing;

(b) that the demise effected by the charter is—

(i) made by the owner of the ship,

(ii) made to a charterer who has a single legal personality, and

(iii) for a fixed period of 2 or more years or such lesser period as may be allowed by the Minister; and

(c) that under the terms of the charter the operation, management and control of the ship (including responsibility for the engagement or employment of the master and crew of the ship) are vested in the charterer.

(3) Without prejudice to subsection (4), the Registrar may refuse to register a ship which is entitled to be registered under subsection (1) if—

(a) he is not satisfied that—

(i) the owner of the ship has consented to the registration of the ship in Anguilla, or

(ii) any mortgagee of the ship has consented to the registration of the ship in Anguilla;

(b) the tonnage of the ship cannot be ascertained in accordance with the Tonnage Regulations;

(c) the ship cannot be marked in accordance with section 13;

(d) he reasonably believes that the ship would be precluded by some other Act to which it is subject from flying Anguilla's national colours in accordance with section 63;

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(e) the charter by demise has an unexpired period of less than 2 years at the date when the application to register the ship is made; or

(f) it is not in the interests of Anguilla that the ship should be registered in Anguilla.

(4) Sections 5, 6 and 7 shall apply in respect of any ship entitled to be registered in Anguilla pursuant to subsection (1) as if the ship was entitled to be registered pursuant to section 4.

Consequences of registration pursuant to section 27(1)

28. Where a ship is registered pursuant to section 27(l), it shall—

(a) be an Anguilla ship for the purposes of this Act; and

(b) not fly any colours other than Anguilla's national colours specified in section 63.

Application of this Act where a ship is registered under section 27

29. (1) Where application is made to register a ship which is entitled to be registered pursuant to section 27(l) or, application having been made to register a ship which is entitled to be registered pursuant to section 27(l), the ship has been registered—

(a) the provisions of this Part shall apply to the ship and its registration subject to the modifications and adaptations to those provisions set out in subsection (2); and

(b) any act or thing as is mentioned in this subsection, required to be done or not done under this Act by an owner of such a ship, shall be required to be done or not done by the charterer, and—

(i) the charterer shall be liable for doing or omitting to do such act or thing as if he were the owner of the ship, and

(ii) a reference to "owner" in this Act shall, in the case of such a ship as is mentioned in this subsection, be deemed to be a reference to "charterer" and the words "registered owner" and "registered ownership" shall be construed accordingly.

(2) The modifications and adaptations to the provisions of this Part referred to in subsection (1) are as follows—

(a) section 11(a) to (e) shall not apply;

(b) the ship shall not be required to be surveyed for the purpose of ascertaining the tonnage of the ship pursuant to section 12 if there is in force in respect of the ship an International Tonnage Certificate (1969) and in such case the tonnage of such ship shall be deemed to have been ascertained and, upon registration, registered in accordance with the Tonnage Regulations;

(c) the declaration required by section 15 shall include in place of the statements referred to in paragraphs (c) and (d) of that section, a statement that the ship is subject to a bareboat charter and that the person on whose behalf the declaration is made is the charterer of the ship pursuant to that charter and there shall be attached to such declaration and produced to the Registrar a certified copy of that bareboat charter;

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(d) section 16 shall not apply;

(e) in place of the particulars required to be entered in the register under section 17 the following particulars shall be entered—

(i) the name of the charterer as if he were the owner of the ship with such annotation as may be necessary to show that the ship is entitled to be registered under section 27(1),

(ii) the name and address of the owner or owners determined in accordance with the provisions of section 11(a) to (e),

(iii) the name and address of any person who has been granted a mortgage on the ship or any share in the ship by any owner whose name is or is to be noted on the register pursuant to subparagraph (ii),

(iv) such details of the terms of any mortgage referred to in subparagraph (iii) as the Registrar shall require to be noted, and

(v) the previous name, if any, of the ship;

(f) the Registrar shall retain in his possession, in addition to the surveyor's certificate issued pursuant to section 12, the certified copy of the charter by demise and any certified copy of a transfer referred to in section 30(1)(c) produced to him;

(g) a certificate of registry granted by the Registrar pursuant to section 20 shall be granted for a fixed period of time expiring on the date upon which the bareboat charter shall come to an end by effluxion of time;

(h) a ship shall cease to be entitled to be registered within the meaning of section 7(1)(c) upon the expiry of the fixed period specified in the certificate of registry or, if sooner, upon either—

(i) the termination of the bareboat charter, or

(ii) the transfer by the charterer of his rights and obligations under the charter in circumstances which cause the registration to cease pursuant to section 30; and

(i) section 48 shall not apply.

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

30. (1) Where a ship is registered pursuant to section 27(1) and the charterer transfers his rights and obligations under obligations of the bareboat charter to another person so that the charterer is no longer under any contractual obligation to the owner of the ship in respect of the operation, management and control of the ship, the registration shall cease upon such transfer unless—

(a) the transferee is qualified to own an Anguilla ship;

(b) prior to the execution of the transfer, the transferee, or in the case of a body corporate, the person authorised by this Act to make declarations on behalf of the body

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corporate, makes and signs a declaration referring to the ship and containing a statement of the qualification of the transferee to own an Anguilla ship, or if the transferee is a body corporate of such circumstances of the constitution and business thereof as prove it to be qualified to own an Anguilla ship; and

(c) a certified copy of the transfer executed by the charterer in favour of the transferee is produced to the Registrar.

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

Rights and obligations relating to interests in ships registered pursuant to section 27(1)

31. Where a ship is registered pursuant to section 27(1), the rights and obligations of the parties to any contract, bill of sale, mortgage, charge or other instrument creating or disposing of any legal or equitable interest in the ship, whether existing at the date of registration of the ship pursuant to section 27(1) or created thereafter, shall not be affected by such registration.

Dispensations for ships bareboat chartered and registered outside Anguilla

32. (1) Where he is satisfied that it is proper for him to do so, the Minister may grant to the owner of a ship registered in Anguilla under this Act a dispensation under this section.

(2) The Minister shall not grant a dispensation under this section unless he is satisfied—

(a) that the ship is subject to a charter pursuant to which the registered owner of the ship is not responsible for the management, operation or control of the ship for the period of the charter;

(b) that any registered mortgagee of the ship has consented to the dispensation being granted;

(c) that in addition to the registration of the ship in Anguilla, the ship is intended to be registered under the law of a country outside Anguilla; and

(d) that upon registration under the law of a country outside Anguilla, the ship will become subject to laws which implement and apply to the ship such provisions of the Collision Convention, the relevant International Labour Conventions, the Load Line Convention, the Marine Pollution Convention, the Safety Convention and the STCW Convention to the same extent as they apply in respect of the ship by virtue of her registration in Anguilla.

(3) Where the Minister has granted to the owner of a ship a dispensation under this section, with effect from the date upon which the conditions set out in subsection (4) have been complied with, sections 61(4) and 63 shall not apply to the ship and section 65(1) shall apply to the ship as though the ship was not an Anguilla ship.

(4) The conditions referred to in subsection (3) are—

(a) that the owner has delivered to the Registrar the following documents—

(i) a certified copy of the bareboat charter referred to in paragraph (2)(a),

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(ii) in exchange for a receipt, the certificate of registry granted under section 20,

(iii) any certificate issued in respect of the ship under this Act;

(b) that the owner, or in the case of a body corporate the person authorised by this Act to make declarations on behalf of the body corporate, has delivered to the Registrar a declaration referring to the ship and containing a statement that the ship is lawfully registered in a named country outside Anguilla and is subject to the jurisdiction of that country in respect of the enforcement of such provisions of the conventions referred to in paragraph (2)(d) as apply in respect of the ship by virtue of her registration in Anguilla; and

(c) that the Registrar has received confirmation from the administration of the country outside Anguilla in which the ship is registered that the ship is so registered and is subject to the jurisdiction of that country.

Termination and revocation of dispensations granted under section 32

33. (1) Any dispensation granted by the Minister under section 32 shall terminate automatically if—

(a) the ship ceases to be registered in the country named in the declaration made pursuant to section 32(4)(b); or

(b) the bareboat charter terminates, whether upon expiry or otherwise.

(2) The Minister may revoke any dispensation granted by him under section 32—

(a) upon the application of any registered owner or registered mortgagee of the ship;

(b) if he is satisfied that any declaration made for the purpose of section 32(4)(b) is false or misleading;

(c) at the request of the country named in the declaration made pursuant to section 32(4)(b); or

(d) if it is not in the interests of Anguilla that the dispensation should continue.

Flag to be used where a dispensation has been granted under section 32

34. (1) Where a dispensation granted under section 32 has taken effect, the ship shall fly only the colours lawfully borne by ships registered in the country named in the declaration made pursuant to section 32(4)(b).

(2) Without prejudice to section 32(3), where a ship flies colours in contravention of subsection (1) the registered owner commits an offence and is liable on summary conviction to a fine of $10,000.

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Name of Ship

Rules as to name of ship

35. (1) A ship shall not be described by any name other than her registered name.

(2) A change shall not be made in the name of a ship without the previous written permission of the Registrar.

(3) Application for that permission shall be in writing and if the Registrar is of the opinion that the application is reasonable he may grant permission, and thereupon require notice thereof to be published in such form and manner as he thinks fit.

(4) On permission being granted to change the name, the ship's name shall forthwith be altered in the register, in the ship's certificate of registry, and on its bows and stern.

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

Offences

36. If any person acts, or suffers any person under his control to act, in contravention of section 35, or omits to do, or suffers any person under his control to omit to do, anything required by that section, he commits an offence, and for each such offence is liable on summary conviction to a fine of $3,000, and, except in the case of an application being made under that section with respect to a foreign ship which not having at any previous time been registered as a Anguilla ship has become an Anguilla ship, the ship may be detained until there is compliance with that section.

Registration of Alterations and Registration Anew

Registration of alterations

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

Offences

38. If default is made in registering anew a ship, or in registering an alteration of a ship so altered as provided in section 37, the owner of the ship commits an offence and is liable on summary conviction to a fine of $3,000 and, in addition, to a fine of $100 for every day during which the offence continues after conviction.

Procedure for registration of alterations

39. (1) For the purpose of the registration of an alteration in a ship, the ship's certificate of registry shall be produced to the Registrar, and the Registrar shall, in his discretion, either retain the

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certificate of registry and grant a new certificate of registry containing a description of the ship as altered, or endorse and sign on the existing certificate a memorandum of the alteration.

(2) The particulars of the alteration so made, and the fact of the new certificate having been granted, or endorsement having been made, shall be entered by the Registrar in the register.

Registration anew on change of ownership

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

Procedure for registration anew

41. (1) Where a ship is to be registered anew, the Registrar shall proceed as in the case of first registry, and on the surrender to him of the existing certificate of registry, and on compliance with the other requirements for registration, or in the case of a change of ownership, compliance with such of them as the Registrar thinks material, shall register the ship anew, and grant a new certificate.

(2) When a ship is registered anew, her former register shall be considered as closed, except so far as relates to any unsatisfied mortgage or existing certificates of sale or mortgage entered thereon, but the names of all persons appearing on the former register to be interested in the ship as owners or mortgagees shall be entered in the new register, and the registration anew shall not in any way affect the rights of any of those persons.

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

Transfer of registration from port of Road Bay, Anguilla

42. (1) Subject to subsection (2), the registration of a ship under this Part may be transferred from the port of Road Bay, Anguilla to a port in the United Kingdom or in another relevant British possession on the application to the Registrar made by declaration in writing of all persons appearing on the register to be interested in the ship as owners or mortgagees, but that transfer shall not in any way affect the rights of those persons or any of them, and those rights shall in all respects continue in the same manner as if no such transfer had been effected.

(2) On any such application, the Registrar shall transmit notice thereof to the Registrar of the intended port of registry with a copy of all particulars relating to the ship, and the names of all persons appearing on the register to be interested in the ship as owners or mortgagees.

(3) The ship's certificate of registry shall be surrendered either to the Registrar or to the Registrar of the ship's intended port of registry, and if surrendered to the former, shall be transmitted to the Registrar of the intended port of registry.

(4) Where an application is made under this section for the transfer of a ship's registration to a port in the United Kingdom or in another relevant British possession, the Registrar shall not proceed to deal with the application unless he is satisfied that registration of the ship under this Part at the intended port of registry is not precluded by any Act in force in the United Kingdom or in the possession in question, as the case may be.

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(5) Any certificate purporting to be signed by the Registrar of the intended port of registry and stating that any such registration of the ship is not precluded by any such provision shall be conclusive evidence for the purposes of subsection (4) and this subsection, of the matters stated in it.

(6) Where the Registrar of the intended port of registry grants a new certificate of registry in pursuance of any such application as is mentioned in subsection (2), the ship in question shall thenceforth be considered as registered at the new port of registry, and the name of the port of Road Bay, Anguilla shall be removed from the ship's stern.

(7) The Registrar shall, on being notified by the Registrar of the new port of registry of the grant of the new certificate of registry, terminate the registration of the ship in the register.

Transfer of registration to port of Road Bay, Anguilla

43. (1) Where a ship is registered in the United Kingdom or in another relevant British possession the registration of that ship may, subject to subsections (5) and (7), be transferred to the port of Road Bay, Anguilla, if—

(a) an application to the Registrar of the existing port of registry has been made for the purpose by a declaration in writing by all the persons appearing on his register to be interested in the ship as owners or mortgagees; and

(b) the documents mentioned in subsection (2) have been transmitted to the Registrar.

(2) The documents referred to in subsection (1) are—

(a) a notice of the application transmitted by the Registrar of the existing port of registry;

(b) a copy transmitted by him of all the registered particulars of the ship and the names of all the persons appearing on his register to be interested in the ship as owners or mortgagees; and

(c) the ship's certificate of registry.

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

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

(b) grant a new certificate of registry;

and thenceforth the ship in question shall be considered as registered at the port of Road Bay, Anguilla, and the name of that port shall be substituted for the name of the former port of registry on the ship's stern.

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

(5) Where the entitlement of a ship to be registered is by virtue of any provision of section 4, subject to any condition specified in that provision being satisfied, the registration of the ship shall not be transferred to the port of Road Bay, Anguilla under this section unless it appears to the Registrar that the condition is satisfied.

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

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

Tonnage Measurement

Tonnage of ships of foreign countries adopting Tonnage Regulations

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

(2) The Minister may order that ships of the foreign country shall, without being re-measured in Anguilla, be treated as being of the tonnage denoted by their certificates of registry or other national papers, to the same extent, and for the same purposes as the tonnage denoted in the certificate of registry of an Anguilla ship is treated as being the tonnage of that ship.

(3) Where the Minister orders a ship to be treated as provided in subsection (2), any space shown in the ship's certificate of registry or other national papers as deducted from the tonnage shall, if a similar deduction in the case of an Anguilla ship depends on compliance with any conditions or on the compliance being evidenced in any manner, be treated as complying with those conditions and as being so evidenced, unless a surveyor of ships certifies to the Minister that the construction and equipment of the ship as respects that space do not come up to the standard which would be required if the ship were an Anguilla ship.

(4) Any such order may—

(a) operate for a limited time; and

(b) be subject to such conditions and qualifications, if any, as the Minister may consider expedient.

(5) If it appears to the Minister that the tonnage of any foreign ship, as measured by the rules of the country to which the ship belongs, materially differs from what it would be under the Tonnage Regulations, he may order further that any of the ships of that country may, for all or any of the purposes of this Act, be re-measured in accordance with the Tonnage Regulations.

Tonnage Regulations

45. (1) The tonnage of any ship to be registered under this Part shall be ascertained in accordance with regulations made by the Governor in Council ("Tonnage Regulations") and whenever the tonnage of any ship has been ascertained and registered in accordance with the Tonnage Regulations, the same shall be repeated in every subsequent registration thereof, unless any alteration is made in the form or capacity of the ship, or unless it is discovered that the tonnage of the ship has been erroneously computed, and in either of those cases the ship shall be re-measured, and its tonnage determined and registered according to the Tonnage Regulations.

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(2) Tonnage Regulations may—

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

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

(c) prohibit or restrict the carriage of goods or stores in spaces not included in the net tonnage and may provide for making the master and the owner each guilty of an offence and liable on summary conviction to a fine of $10,000 where such a prohibition or restriction is contravened.

(3) Tonnage Regulations may make provision—

(a) for assigning to a ship, either instead of or as an alternative to the tonnage ascertained in accordance with the other provisions of the Regulations, a lower tonnage applicable where 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.

(4) Tonnage Regulations may provide for the measurement and survey of ships to be undertaken, in such circumstances as may be specified in the Regulations by persons appointed by such organisations as may be authorised for the purpose by the Minister.

(5) Tonnage Regulations may provide for the issue, by the Minister, or by persons appointed by such organisations as may be authorised for the purpose by the Minister, of certificates of the tonnage of 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 Anguilla, and for the cancellation and surrender of such certificates in such circumstances as may be prescribed by the Regulations.

(6) Regulations requiring the surrender of any certificate may make a failure to comply with the requirement an offence punishable on summary conviction with a fine of $5,000.

(7) In making the Tonnage Regulations the Governor in Council shall pay due regard to the provisions of the Tonnage Convention.

(8) Surveyors shall carry out surveys and measurements of ships in accordance with the Regulations made under this section.

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Unregistered Ships

Liabilities of unregistered ships

46. (1) Where a ship—

(a) is 24 metres or more in length;

(b) has a majority interest in the ship owned by Anguilla citizens or a body corporate established under the laws of Anguilla and having a place of business in Anguilla; and

(c) is not registered in Anguilla or elsewhere;

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

(2) The purposes referred to in subsection (1) are—

(a) payment of dues, fees or other charges;

(b) liability to fines and forfeiture; and

(c) punishment of any offences punishable under this Act.

Miscellaneous

Termination of overseas registration

47. (1) Where a ship is entitled to be registered in Anguilla by virtue of section 4 and the ship is so registered, the ship shall not be registered under the law of a country outside Anguilla except pursuant to a dispensation granted under section 32.

(2) Where a ship is entitled to be registered in Anguilla by virtue of section 27(1) and the ship is so registered, the ship shall not be registered under the law of a country outside Anguilla except where such registration is effected by an owner of the ship whose name is noted in the register under section 29(2)(e)(ii).

(3) Where a ship is registered under the law of a country outside Anguilla in contravention of subsection (1) or (2), the registered owner, subject to subsection (4), commits an offence and is liable on summary conviction to a fine of $10,000.

(4) It shall be a defence for any person charged with an offence under this section to prove that he had taken all reasonable steps to secure the termination of the registry of the ship under the law of the country in which the ship is registered in contravention of subsection (1) or (2).

Trusts, equitable interests and liabilities of beneficial interests

48. (1) Subject to subsection (2), no trust, express, implied, or constructive, shall be registered by the Registrar.

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(2) Where on the bankruptcy of a registered owner or mortgagee his title is transmitted to his trustee in bankruptcy, that person may be registered as the owner or mortgagee of an Anguilla ship or a share therein, provided the ship remains entitled to be registered as an Anguilla ship pursuant to section 4.

(3) The expression "beneficial interest", where used in this Part, includes interests arising under contract and other equitable interests, and without prejudice to—

(a) the provisions of this Act for preventing trusts being entered in the register or received by the Registrar;

(b) the powers of disposition and of giving receipts conferred by this Act on registered owners and mortgagees; and

(c) the provisions of this Act relating to the exclusion of unqualified persons from the ownership of Anguilla ships;

interests arising under contract or other equitable interests may be enforced by or against owners and mortgagees of ships in respect of their interest therein in the same manner as in respect of any other personal property.

(4) Where any person is beneficially interested, otherwise than by way of mortgage, in any ship or share in a ship registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this or any other enactment on the owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such penalties against both or either of the above-mentioned parties, with or without joining the other of them.

Registrar may dispense with declaration or evidence

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

(2) Declarations required by this Part may be made on behalf of a body corporate by the secretary or any other officer of the body corporate authorised by it for the purpose.

Fees

50. (1) Such fees as the Minister determines shall be paid in respect of the measurement of a ship's tonnage.

(2) All fees authorised to be taken under this Part shall, except where otherwise provided in this Act, be paid into the Consolidated Fund.

Returns to be made by Registrar

51. The Registrar shall, if requested by the Registrar General of Shipping and Seamen of the United Kingdom, transmit to him a full return, at such times and in such form as the Registrar

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General may direct, of all registries, transfers, transmissions, mortgages, and other dealings with ships which have been registered by or communicated to him in his capacity as Registrar, and of the names of the persons concerned in the same, and of such other particulars as may be directed by the Registrar General.

Evidence of certificate of registry and other documents

52. (1) A person, on payment of a prescribed fee, may, on application to the Registrar at a reasonable time during the hours of his official attendance, inspect the register.

(2) The following documents shall be admissible in evidence in the manner provided by this Act—

(a) a certificate of registry under this Act purporting to be signed by the Registrar or other proper officer;

(b) an endorsement on a certificate of registry purporting to be signed by the Registrar or other proper officer;

(c) every declaration made in pursuance of this Part.

(3) A person shall be entitled, on payment of the prescribed fee, to obtain a copy, certified as a true copy by the Registrar, of any information contained in an entry in the register.

(4) A person shall be entitled, on payment of the prescribed fee, to obtain such a certified copy of the information entered in the register in respect of the registration of a ship, together with a statement certified by the Registrar showing who is for the time being the owner of the ship.

(5) In subsections (1), (3) and (4), "prescribed fee" means the fee fixed by the Minister for the purposes of those subsections and published in the *Gazette*.

Forms of documents

53. (1) The several instruments and documents referred to in Schedule 1 shall, subject to subsection (3), be in the form prescribed, or approved by, the Minister, or as near thereto as circumstances permit.

(2) The Registrar shall not be required to receive and enter in the register any bill of sale, mortgage or other instrument of the disposal or transfer of any ship or share, or any interest therein, which is made in any form other than that for the time being required under this Part, or which contains any particulars other than those contained in such form.

(3) In this section—

(a) the references to "form" include references to alterations made thereto from time to time as deemed necessary; and

(b) such public notice of the alteration referred to in paragraph (a) shall be given as may be necessary in order to prevent inconvenience.

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Instructions as to registration

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

Forgery of documents

55. If any person forges, or fraudulently alters—

(a) any entry or endorsement in the register; or

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

he commits an offence and is liable—

(c) on summary conviction, to a fine of $5,000 or to imprisonment for a term of 18 months, or to both; or

(d) on conviction on indictment, to a fine of $10,000 or to imprisonment for a term of 3 years, or to both.

False declarations

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

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

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

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

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

Registration of Ships Regulations

57. The Governor in Council may make regulations for and in connection with the registration of ships as Anguilla ships.

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Matters to be prescribed in Registration of Ships Regulations

58. (1) Without prejudice to the generality of section 57, the regulations may, in particular, make provision with respect to any of the following matters—

(a) the issue of certificates (including provisional certificates) of registry, their production and surrender;

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

(c) the marking of ships registered or to be registered, including marks for identifying the port to which a ship is to be treated as belonging;

(d) the period for which registration may remain effective without renewal;

(e) the survey and inspection of ships registered or to be registered and the recording of their tonnage as ascertained (or re-ascertained) under the Tonnage Regulations;

(f) the refusal, suspension and termination of registration specifying circumstances;

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

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

(i) the transfer of the registration of ships to and from the register, from and to registers, or corresponding records in registries other than in Anguilla;

(j) inspection of the registry;

(k) any matter in relation to the registration of small ships and pleasure vessels;

(l) transitional provisions;

(m) any other matter which is authorised or required by this Act to be prescribed in the Registration of Ships Regulations.

(2) The regulations may—

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

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

(c) make such transitional, incidental or supplementary provision as appears to the Governor in Council to be necessary or expedient;

(d) make provision for the registration of any class or description of ships to be such as to exclude the application of any private law provisions for registered ships and, if they

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do, may regulate for the transfer, transmission or mortgaging of ships of the class or description so excluded;

(e) make provision for any matter which is authorised or required by those provisions to be prescribed by regulation; and

(f) provide for—

(i) the approval of forms by the Minister, and

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

(3) The regulations may provide that any reference in any other enactment or in any instrument made under any other enactment 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 this Act and the regulations.

(4) The contravention of any regulations made under this section shall be punishable by a fine of $20,000.

Certified copy of entry in register to be evidence

59. 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.

PART 3

NATIONAL CHARACTER AND FLAG

National character of ship to be declared before clearance

60. (1) A customs officer shall not grant clearance for any ship until the master of the ship has declared to that officer the name of the nation to which he claims that the ship belongs, and that officer shall thereupon inscribe that name on the clearance.

(2) If a ship attempts to proceed to sea without such clearance, it may be detained until the declaration is made.

Offences relating to Anguilla character of ship

61. (1) If the master or owner of a ship which is not an Anguilla ship does anything, or permits anything to be done, for the purpose of causing the ship to appear to be an Anguilla ship then, except as provided by subsections (2) and (3), the ship is liable to forfeiture and each of the master, owner and charterer, if any, commits an offence and is liable as provided in section 62.

(2) No liability arises under subsection (1) where the assumption of Anguilla national character has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.

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(3) Where the registration of any ship has terminated by virtue of any provision of this Act or the Registration of Ships Regulations, any marks prescribed by such 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 (1).

(4) If the master or owner of an Anguilla ship does anything, or permits anything to be done, for the purpose of concealing the nationality of the ship, the ship is liable to forfeiture and each of the master, owner and charterer, if any, commits an offence and is liable as provided in section 62.

(5) Without prejudice to the generality of subsections (1) and (4), those subsections apply in particular to acts or deliberate omissions as respects—

(a) the flying of a national flag;

(b) the carrying or production of certificates of registry or other documents relating to the nationality of the ship; and

(c) the display of marks required by the law of any country.

Penalties

62. (1) A person who commits an offence under section 61 is liable on summary conviction to a fine of $25,000, or imprisonment for a term of 2 years or to both.

(2) This section and section 61 apply to things done outside, as well as to things done within, Anguilla.

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

63. (1) The flag that an Anguilla ship may fly is—

(a) the red ensign without any defacement or modification;

(b) the red ensign defaced or modified, whose adoption for ships registered in Anguilla is authorized or confirmed by His Majesty by Order in Council; or

(c) colours allowed to be worn under a warrant from His Majesty.

(2) If any of the following colours, namely—

(a) any distinctive national colours except—

(i) the red ensign,

(ii) the Union flag (commonly known as the Union Jack) with a white border, or

(iii) any colours authorised or confirmed by His Majesty by Order in Council;

(b) any colours usually worn by His Majesty's ships or resembling those of His Majesty; or

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(c) the pendant usually carried by His Majesty's ships or any pendant resembling that pendant;

are hoisted on board any Anguilla ship without warrant from His Majesty, 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 and liable on summary conviction to a fine of $25,000.

(3) A person guilty of an offence under subsection (1) above is liable—

(a) on summary conviction, to a fine of $5,000;

(b) on conviction on indictment, to a fine of $10,000.

(4) Any commissioned officer on full pay in the military or naval service of His Majesty, or any customs officer in His Majesty's dominions, or any British consular officer may board any Anguilla ship on which any colours or pendants are hoisted contrary to this section, and seize the colours or pendant, and the colours or pendant shall be forfeited to His Majesty.

(5) An Anguilla ship shall hoist the proper national colours—

(a) on a signal being made to her by one of His Majesty's ships (including any vessel under the command of an officer of His Majesty's navy on full pay);

(b) on entering or leaving any foreign port; and

(c) if of 50 gross tonnage or upwards, on entering or leaving a port in Anguilla.

(6) If default is made on board any such ship complying with subsection (5), the master of the ship commits an offence, and for each such offence is liable on summary conviction to a fine of $3,000.

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

Proceedings on forfeiture of a ship

64. (1) Where any ship has either wholly or as to any share in it become liable to forfeiture under this Act—

(a) any commissioned naval or military officer; or

(b) any person appointed by the Minister for the purposes of this section;

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

(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 the Government; and

(b) make such order in the case as seems just.

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(3) No officer or person bringing proceedings under this section is 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.

(4) If the Court is not so satisfied the Court may award costs and damages to the party aggrieved and make such other order as the Court thinks just.

PART 4

PROPRIETARY INTERESTS IN REGISTERED SHIPS

Private law provisions for registered ships and liability as owner

65. (1) Schedule 2 has effect in relation to the title to and the registration of mortgages over ships, except ships that are excluded from its application by any provisions of the Registration of Ships Regulations made under section 58.

(2) If a person is beneficially interested, otherwise than as a mortgagee, in a ship or a share in a ship registered in the name of some other person as owner, the person so interested, as well as the registered owner, is liable to any pecuniary penalties imposed by or under this Act or another Act, or any enactment extending to Anguilla, on the owners of registered ships.

(3) If the registration of a ship terminates by virtue of a provision of the Registration of Ships Regulations, the termination of that registration does not affect an entry in the register so far as relating to an undischarged registered mortgage of that ship or of any share in it.

(4) In subsection (3), "registered mortgage" has the same meaning as in Schedule 2.

PART 5

SAFETY AND ENVIRONMENTAL PROTECTION

Safety and health on ships and control of pollution by ships

66. (1) The Governor in Council may make regulations—

(a) to protect the health of persons on Anguilla ships;

(b) to protect the health of persons on ships other than Anguilla ships while they are in Anguilla waters;

(c) to prevent, reduce or minimize pollution from Anguilla ships and other ships while they are in Anguilla waters.

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(2) Regulations under subsection (1)—

(a) are not to apply in relation to a foreign ship while it is exercising a right of innocent passage, or to persons on it while it is exercising such a right;

but

(b) are to apply in relation to such a ship, and persons on it, even though the ship is exercising such a right, to the extent that the regulations give effect to any provisions of an international agreement, ratified by the United Kingdom on behalf of Anguilla.

(3) In subsection (1), "Anguilla ship" means a ship that—

(a) is registered in Anguilla; or

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

(i) a British citizen resident in Anguilla, or

(ii) a body corporate that is established under Anguilla law and has its principal place of business in Anguilla.

(4) The power conferred by subsection (1) extends to the making of regulations for the prevention of collisions between seaplanes on the surface of the water and between ships and seaplanes; and subsections (5) to (7) have effect accordingly.

(5) (a) Such regulations—

(i) may authorize the making of Orders for the purposes of this section;

(ii) may make provision in terms of approvals given by the Governor in Council, or enable the Governor in Council to specify standards or other provisions in documents that the Governor in Council considers relevant from time to time;

(iii) may provide for the cancellation of an approval given under the regulations and for the alteration of the terms of such an approval.

(b) An approval under the regulations shall be given in writing and shall specify the date on which it takes effect and the conditions, if any, on which it is given.

(6) Such regulations may provide—

(a) for the Minister or another person to grant, on any terms the Minister or other person may specify, an exemption for a class of cases or an individual case from a specified provision of the regulations; and

(b) for the alteration or cancellation of an exemption granted under the regulations.

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(7) Such regulations may provide that—

(a) where prescribed by the regulations, a ship shall be liable to be detained and that any enactment providing for the enforcement of ships shall have effect, with any modifications prescribed by the regulations, in relation to the ship;

(b) a contravention of the regulations shall be an offence punishable with imprisonment for 2 years and a fine, or such lesser penalty as is prescribed by the regulations;

(c) where prescribed by the regulations, prescribed persons shall each be guilty of an offence created by virtue of paragraph (b).

Provisions supplementary to section 66

67. (1) Regulations under section 66 may—

(a) be made so as to apply outside Anguilla;

(b) provide if a signal is used or displayed otherwise than in accordance with the regulations for compensation to be paid for any expense or loss caused in consequence of the signal being taken for a signal of distress;

and any compensation required to be paid by virtue of regulations under paragraph (b) may, without prejudice to another remedy, be recovered in the same manner as salvage.

(2) The Governor in Council may, by regulation—

(a) repeal or modify a provision of another enactment in force in Anguilla, or that applies to Anguilla ships, as he considers appropriate in connection with any repeal or modification made or to be made under paragraph (1)(a);

(b) provide for anything done under a provision repealed or otherwise modified by virtue of paragraph (a) to have effect as if done under regulations under section 66.

(3) Nothing in section 66(4) to (6), or in subsection (1), is to be construed as prejudicing the generality of section 66(1).

PART 6

SAFETY OF LIFE AT SEA

General

Interpretation

68. In this Part—

"cargo ship" means any ship that is not a—

(a) passenger ship;

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(b) ship of war;

(c) fishing vessel; or

(d) pleasure vessel;

"Cargo Ship Safety Certificate", "Cargo Ship Safety Construction Certificate", "Cargo Ship Safety Equipment Certificate", "Cargo Ship Safety Radio Certificate" and "Passenger Ship Safety Certificate" means the certificates of those names issued pursuant to section 80;

"certificate" means a certificate issued in accordance with the Safety Convention as defined therein;

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

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

"Passenger Certificate", "Anguilla Cargo Ship Safety Certificate" and "Caribbean Cargo Ship Safety Certificate", mean the certificates of those names issued pursuant to section 81;

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

"radio-navigational equipment" means the equipment required by the relevant regulations;

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

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

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

"short international voyage" means an international voyage—

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

(b) which does not exceed 600 nautical miles in length between the last port of call and the final destination, no account being taken of any deviation by a ship from its intended voyage due solely to stress of weather or any other circumstances that neither the master nor the owner nor the charterer, if any, of the ship could reasonably have prevented or forestalled;

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"surveyor" includes any person or organisation, duly authorised by the Anguilla Air and Sea Ports Authority to act as a surveyor for the purpose of surveying ships and issuing Safety Convention certificates;

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

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

Application of Safety Convention and exceptions thereto

69. (1) Subject to subsection (2), the Safety Convention, including all its related instructions, shall, unless excepted by this Act, apply to all Anguilla ships and all other ships engaged on international voyages while they are in Anguilla waters.

(2) Unless expressly provided otherwise, the Safety Convention shall not apply to—

(a) ships of war and troop ships;

(b) cargo ships of less than 500 tons;

(c) ships not propelled by mechanical means;

(d) wooden ships of primitive build;

(e) pleasure vessels not engaged in trade; and

(f) fishing vessels.

(3) Except as expressly provided in this Act or in regulations made under this Act nothing in the Safety Convention shall apply to Anguilla ships solely navigating the Great Lakes of North America and the River St. Lawrence as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and on the north side of Anticosti Island, the 63rd meridian.

(4) Notwithstanding that any provision of this Part or any regulations made hereunder is expressed to apply to ships that are not Anguilla ships while they are within any port in Anguilla, such provision shall not apply to a ship that would not be within any such port but for such stress of weather or any other circumstances that neither the master nor the owner nor the charterer, if any, of the ship could have prevented or forestalled.

(5) This Part applies to Anguilla ships wherever they may be and to other ships whilst they are in Anguilla waters, but not to fishing vessels or pleasure vessels.

Exemptions

70. (1) The Anguilla Air and Sea Ports Authority may exempt any ship or class of ship from any safety requirements imposed by or under this Act either absolutely or subject to such conditions as the authority thinks fit.

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(2) Without prejudice to subsection (1), where a ship not normally engaged on international voyages is required to undertake a single international voyage, the Anguilla Air and Sea Ports Authority, if of the opinion that the ship complies with safety requirements imposed by or under this Act, may exempt the ship while engaged on that voyage.

(3) (a) Without prejudice to subsection (1), any ship which embodies features of a novel kind may be exempted from any requirements imposed by or under this Act relating to safety construction, life-saving appliances and radio-communications, the application of which might seriously impede research into the development of such features and their incorporation in ships engaged in international voyages; provided however that such ship shall comply with safety requirements which, in the opinion of the Anguilla Air and Sea Ports Authority are adequate for the service for which it is intended and are such as to ensure the overall safety of the ship.

(b) Where any such exemption as is referred to in paragraph (a) above is granted, the Anguilla Air and Sea Ports Authority shall communicate to the Organization particulars of the exemptions and the reasons therefor.

(4) The Anguilla Air and Sea Ports Authority may, if he considers that the sheltered nature and conditions of the voyage are such as to render the application of any specific requirements relating to safety construction, life-saving appliances and radio communications unreasonable or unnecessary, exempt from those requirements individual Anguilla ships, or classes of ships, which, in the course of their voyage, do not proceed more than 20 miles from the nearest land.

Regulations relating to safety at sea

71. (1) The Governor in Council shall make such regulations as may appear to him to be necessary and expedient to give effect to the Safety Convention and its related instruments; and to provide generally for safety at sea, referred to as "Safety Regulations" which shall prescribe the requirements for the hull, equipment and machinery of Safety Convention ships and their survey and inspection.

(2) For the purpose of giving effect to the provisions of Chapter VIII of the Annex to the Safety Convention, the Governor in Council may make such regulations as he considers appropriate with respect to ships provided with nuclear power plants.

Regulations for cargo ship safety requirements and surveys

72. (1) The Governor in Council may make regulations, in this Act referred to as "Caribbean Cargo Ship Safety Regulations" and "Local Cargo Ship Safety Regulations", prescribing requirements for the hull, equipment and machinery of ships to which this section applies and requiring any Anguilla ship to be surveyed to such an extent, in such a manner and at such intervals as may be prescribed.

(2) The regulations shall include requirements as appear to the Governor in Council to be necessary to implement the provisions of the Safety Convention in relation to the hull, equipment and machinery of such ship.

(3) This section applies to—

(a) Anguilla cargo ships of not less than 500 tons not engaged in international voyages;

(b) Anguilla cargo ships of such lower tonnage and of such description as the Minister may specify; and

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(c) foreign cargo ships of less than 500 tons while they are within Anguilla waters and while they are not exempted under this Act.

Regulations for small ships safety requirements and surveys

73. The Governor in Council may make regulations in this Act referred to as "Small Ship Safety Regulations" prescribing requirements for the hull, equipment and machinery of small ships and requiring such ships to be surveyed to such an extent, in such a manner and at such intervals as may be prescribed as well as specifying the examinations required for boatmasters and engineers and the appointment of surveyors.

Surveys and Certification

Surveyor's duties

74. (1) Surveyors shall, as and when required by or under this Act, carry out surveys of—

(a) the hull and machinery of ships;

(b) the equipment of ships, including its tackle, and appurtenances;

(c) the life-saving, fire-fighting and other safety equipment of ships;

(d) the radiotelegraphy and radiotelephony installations of ships; and

(e) the stowage and manner of loading of ships' cargoes and the stowage of dangerous goods.

(2) The survey and inspection of ships, so far as regards the enforcement of this Part, shall be carried out by surveyors or, subject to such conditions as the Anguilla Air and Sea Ports Authority may impose, by any corporation or society for the survey and classification of ships authorised by the Authority.

Surveyor's powers of inspection

75. (1) A surveyor may at all reasonable times inspect any ship for the purpose of ensuring that it is in compliance with the Safety Convention, the Load Line Convention, Collision Regulations and the relevant regulations made under this Act.

(2) Where the surveyor finds that the said convention or the regulations have not been complied with, he shall give written notice to the owner or master of the ship stating in what respect there is deficiency and what action, in his opinion, is required to rectify such deficiency.

(3) Every notice so given shall be communicated in a manner directed by the Anguilla Air and Sea Ports Authority to the Customs Officer of any port at which the ship may seek a clearance and such clearance shall not be granted and the ship may be detained.

(4) Where the surveyor considers such ship unsafe, or, where a passenger ship, unfit to carry passengers, or the machinery or equipment defective in any way so as to expose persons on board to serious danger, he shall detain that ship, and a surveyor may also detain any ship in respect of which

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any of the provisions of this Act have not been complied with, if in his opinion such detention is warranted in the circumstances.

(5) Where, under this section, a surveyor visits any ship he may ask the owner or his agent, the master or chief engineer, or any other person on board and in charge or appearing to be in charge of the ship, any questions concerning the ship as he thinks fit and every such person shall fully and truthfully answer every such question.

(6) A surveyor may reasonably require of the owner or his agent, the master or chief engineer or any other person on board or in charge, or appearing to be in charge of the ship, that the machinery of the ship be activated or dismantled so that he may satisfy himself as to its condition and every person of whom such a request is made, capable of so doing, shall comply with the requirement.

(7) A person who contravenes subsection (5) or (6) is guilty of an offence and is liable on summary conviction to a fine of $5,000.

Surveyor to report to Anguilla Air and Sea Ports Authority

76. A surveyor, if satisfied on inspection that he can with propriety do so, shall forward a report to the Anguilla Air and Sea Ports Authority which shall contain a statement showing—

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

(b) that the hull and machinery are constructed, arranged and fitted in accordance with any regulations made under this Part;

(c) that the safety equipment and radio installations required under this Part are on board and in good condition;

(d) that the master, mates and engineers are persons duly certificated as required under this Act and that the crew is sufficient and efficient;

(e) the class of voyage on which the ship is fit to ply and the time, if less than one year, for which the hull, equipment and machinery will be sufficient;

(f) if the ship is a passenger ship, the number of passengers which she may carry; and

(g) the steam pressure that may be carried on the boilers.

Record of inspections and certificates

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

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Responsibilities of owner and master and compliance with ISM Code

78. (1) The owner and master of every ship to which this section applies shall ensure that—

(a) the condition of the ship, including its structure, machinery and equipment, is maintained so as to comply with the relevant provisions of this Part applicable to the ship;

(b) after any survey required by this Part has been completed, no material change is made to the structure, machinery and equipment of the ship which was subject to the survey without the approval of a surveyor, except by direct replacement; and

(c) whenever an accident occurs to a ship or a defect is covered either of which affects the safety of the ship or the efficiency or completeness of the ship, including its structure, machinery and equipment—

(i) it is reported at the earliest opportunity to a surveyor, or a proper officer, and

(ii) if an Anguilla ship is in such a case in a port outside Anguilla it is also reported to the appropriate authorities of the country in which the port is situated.

(2) Whenever an accident or defect is reported to a surveyor or to a proper officer under subparagraph (1)(c)(i), the surveyor or proper officer, as the case may be, shall cause investigations to be initiated to determine whether a survey is necessary and shall, in that event, require such a survey to be carried out.

(3) Subsections (1) and (2) apply to—

(a) Anguilla ships; and

(b) except as regards paragraph (1)(a), other ships which have been surveyed pursuant to this Part.

(4) All Anguilla ships, all other ships while in Anguilla waters and all companies in relation to ships referred to in this subsection shall comply with the ISM Code.

(5) For the purposes of subsection (4), "ISM Code" means the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the Organization as may be amended from time to time, and "company" has the same meaning as in the ISM Code.

Procedure to be adopted when the ship, including its structure, machinery and equipment, is deficient

79. (1) In any case where a surveyor determines that the condition of a ship to which this section applies, including its structure, machinery and equipment, does not correspond substantially with the particulars on one or more of the certificates referred to in this Part or is such that the ship is not fit to proceed to sea without danger to the ship or persons on board, the surveyor shall advise the owner or master of the corrective action which in his opinion is required, and shall notify the Anguilla Air and Sea Ports Authority.

(2) Where such corrective action is not taken within a reasonable period as a surveyor may specify, the surveyor shall, at the end of that time, immediately notify the Anguilla Air and Sea Ports

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Authority who may, on receipt of such notification, suspend the validity of the particular certificate issued to the ship and give notice of any such suspension to the owner, and to the surveyor, who in turn shall notify the master.

(3) This section applies only to Anguilla ships and other ships which have been surveyed pursuant to this Part.

Issue of certificates to Anguilla ships engaged on international or short international voyages

80. (1) When a survey or surveys to meet the requirements set out in this Part and regulations made under sections 71 or 73 are satisfactorily completed the Anguilla Air and Sea Ports Authority, or any other person authorised by him, shall issue—

(a) in the case of a passenger ship engaged on international voyages, a Passenger Ship Safety Certificate, unless the ship is only engaged on short international voyages when a short international voyage Passenger Ship Safety Certificate shall be issued;

(b) in the case of a cargo ship of 300 tons or over engaged on international voyages, a Cargo Ship Safety Radio Certificate;

(c) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Equipment Certificate; or

(d) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Construction Certificate.

(2) A Cargo Ship Safety Certificate may be issued as an alternative to the certificates referred to in paragraphs (1)(b), (c) and (d).

(3) Whenever in this Part reference is made to a Cargo Ship Safety Construction Certificate, a Cargo Ship Safety Equipment Certificate, or a Cargo Ship Safety Radio Certificate, it shall apply to a Cargo Ship Safety Certificate where it is used as an alternative to these certificates.

Issue of certificate to Anguilla ships not engaged on international voyages and ships not less than 500 tons

81. When a survey or surveys, to meet the requirements set out in this Part or in regulations made under section 72 are satisfactorily completed the Anguilla Air and Sea Ports Authority shall issue—

(a) in the case of an Anguilla passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its Class;

(b) in the case of an Anguilla cargo ship of 500 tons or over not engaged on international voyages, an Anguilla Cargo Ship Safety Certificate; or

(c) subject to regulations made under section 73, in the case of an Anguilla cargo ship of less than 500 tons, a Caribbean Cargo Ship Safety Certificate.

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Form of certificate

82. (1) A Passenger Ship Safety Certificate, Cargo Ship Safety Certificate, Cargo Ship Safety Radio Certificate, Cargo Ship Safety Equipment Certificate, Cargo Ship Safety Construction Certificate and Exemption Certificates shall be in the form prescribed by the Safety Convention.

(2) A Passenger Certificate, Anguilla Cargo Ship Safety Certificate and Caribbean Cargo Ship Safety Certificate shall be in such form as may be prescribed by the Governor in Council and a Passenger certificate shall indicate compliance with the provisions of this Act and state—

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

(b) the number of passengers which the ship is fit to carry; and

(c) any condition with which the ship has to comply.

Duration and validity of certificates

83. (1) The duration of certificates issued under section 80 shall be as follows—

(a) a Passenger Ship Safety Certificate and a short international voyage Passenger Ship Safety Certificate shall be issued for a period of validity not exceeding 12 months;

(b) a Cargo Ship Safety Radio Certificate, a Cargo Ship Safety Equipment Certificate, a Cargo Ship Safety Construction Certificate or a Cargo Ship Safety Certificate shall be issued for a period of validity not exceeding 5 years.

(2) The duration of certificates issued under section 81 shall be as follows—

(a) a Passenger Certificate shall be issued for a period of validity not exceeding 12 months;

(b) an Anguilla Cargo Ship Safety Certificate and a Caribbean Cargo Ship Safety Certificate shall be issued for a period of validity not exceeding 5 years.

(3) A certificate shall cease to be valid—

(a) if its period of validity has been exceeded and the certificate has not been extended when permitted by section 85;

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

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

Issue and duration of exemption certificates

84. (1) When an exemption is granted to a ship in accordance with the relevant provisions applicable to the ship, a certificate called an Exemption Certificate shall be issued in addition to any certificate issued under section 80.

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

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

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

Extension and other provisions

85. (1) Where an Anguilla ship, at the time when a certificate issued under section 80(1) or (2) expires, is not in a port in Anguilla or the port in which it is to be surveyed, the Anguilla Air and Sea Ports Authority may extend the period of validity of the certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to a port in Anguilla or the port in which it is to be surveyed, and then only in cases where it appears proper and reasonable to do so. No certificate shall be extended for a period longer than 3 months, and a ship to which the extension is granted shall not, on its arrival in a port in Anguilla or the port in which it is to be surveyed, be entitled by virtue of the extension to leave that port or Anguilla without having obtained a new certificate.

(2) The Anguilla Air and Sea Ports Authority may extend a certificate issued under section 80(1) or (2) which has not been extended under subsection (1) for a period of grace of up to one month from the date of expiry stated on it.

(3) In the case of an Anguilla ship in respect of which a Passenger Ship Safety Certificate or a short international voyage Passenger Ship Safety Certificate is in force and the total number of persons on board for a particular voyage is less than the number for which the ship's life-saving appliances provide, the Anguilla Air and Sea Ports Authority may, at the request of the master of the ship, issue a memorandum that states the total number of persons on board for that voyage and the modifications that may be made with persons on board for that voyage and sets out the details of the modifications that may be made with respect to life-saving appliances stated on the certificate.

(4) The memorandum referred to in subsection (3) shall be attached to the certificate during the particular voyage and shall be returned to the Anguilla Air and Sea Ports Authority at the completion of the voyage.

(5) In the case of a ship that has transferred from the registry of the Government of another country to Anguilla registry, the Anguilla Air and Sea Ports Authority, subject to such survey requirements that may be considered to be necessary, may issue one or more of the certificates prescribed by sections 80 and 81 for a period to be determined by the Authority, but for not longer than the period of validity of the certificate or certificates issued by or on behalf of the Government of that other country if satisfied that—

(a) the ship has already been subjected to satisfactory initial, periodical, intermediate, annual and additional surveys, as appropriate;

(b) the certificate issued by or on behalf of the Government of that country would have remained valid had the registry of the ship not been changed;

(c) the condition of the ship, including its structure, machinery and equipment, has been maintained so as to comply with the relevant regulations applicable to the ship; and

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(d) after any of the surveys referred to in paragraph (a) have been completed, no material change has been made to the ship, including its structure, machinery and equipment, subject to such surveys, without the approval of the Administration of that other State or the Anguilla Air and Sea Ports Authority except by direct replacement.

Issue and endorsement of certificates by another Government

86. The Anguilla Air and Sea Ports Authority may request, through a proper officer or otherwise, the Government of a country to which the Safety Convention applies to survey a ship and, if satisfied that the requirements of the Convention are complied with, to issue or authorise the issue to the ship the certificates referred to in section 80, and a certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by the Authority.

Ships not registered in Anguilla and to which the Safety Convention applies

87. (1) The Anguilla Air and Sea Ports Authority may, at the request of a Government of a country to which the Safety Convention applies, survey a ship registered in that country and, if satisfied that the requirements of the Convention are complied with and that a survey has been satisfactorily completed in accordance with this Part, issue to the ship one or more of the certificates referred to in section 80 and, where appropriate, endorse such certificates in accordance with the requirements of the Convention and a certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by that Government and not by the Authority.

(2) Where a memorandum, issued by or under the authority of the Government concerned, is attached to a valid Passenger Ship Safety Certificate or a valid short international voyage Passenger Ship Safety Certificate, in respect of a ship to which the Safety Convention applies, which modifies the certificate in respect of the persons that may be carried for a particular voyage, the certificate shall have effect for the purpose of the voyage as if it was modified in accordance with the memorandum.

(3) A surveyor may go on board a ship to which the Safety Convention applies for the purpose of verifying that there is in force a certificate or certificates required by this Part, that the hull, machinery and equipment correspond substantially with the particulars shown on the certificate or certificates and that the provisions of section 78 are being complied with.

Other ships which are not Anguilla ships

88. (1) When a survey or surveys of ships which are not Anguilla ships, to meet the requirements set out in this Part, are completed in accordance with this Part—

(a) the Anguilla Air and Sea Ports Authority shall issue, in the case of a passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its Class; or

(b) the Anguilla Air and Sea Ports Authority shall issue, in the case of a cargo ship of 500 tons or over not engaged on international voyages, a Cargo Ship Safety Certificate.

(2) Such certificates shall be subject to the requirements of this Part as though they were issued under section 81.

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Cancellation of a certificate

89. (1) The Anguilla Air and Sea Ports Authority may cancel a certificate issued to an Anguilla ship where the Authority has reason to believe that—

(a) the certificate was fraudulently issued;

(b) the certificate was altered without permission;

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

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

(2) The Anguilla Air and Sea Ports Authority may require that a certificate issued to an Anguilla ship which has expired or has been cancelled be surrendered, as directed.

(3) Any person who—

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

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

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

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

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

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

Availability of certificates

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

Prohibition on proceeding to sea without the appropriate documentation

91. (1) No Anguilla ship shall proceed to sea unless it has been surveyed and there is in force the following certificate or certificates—

(a) in the case of a passenger ship engaged on international voyages, a Passenger Ship Safety Certificate, or, if the ship is only engaged on short international voyages, a short international voyage Passenger Ship Safety Certificate;

(b) in the case of a cargo ship of 300 tons or over engaged on international voyages, a Cargo Ship Safety Radio Certificate;

(c) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Equipment Certificate and a Cargo Ship Safety Construction Certificate;

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(d) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Certificate;

(e) in the case of a small ship, a certificate of inspection.

(2) No ship registered in a country to which the Safety Convention applies shall proceed to sea from a port in Anguilla unless there is in force such Convention certificates that would be required if the ship was an Anguilla ship. The extension provisions in section 85 shall apply to such certificates as if the ship was an Anguilla ship and the Government of the country in which the ship is registered is substituted for the Anguilla Air and Sea Ports Authority.

(3) No cargo ship of 500 tons and over not engaged on international voyages shall proceed to sea from a port in Anguilla unless it has been surveyed and there is in force an Anguilla Cargo Ship Safety Certificate, unless there is in force a Cargo Ship Safety Certificate as referred to in this Part.

(4) Subject to regulations made under section 73, no cargo ship of less than 500 tons shall proceed to sea from a port in Anguilla unless it has been surveyed and there is in force a Caribbean Cargo Ship Safety Certificate.

(5) No ship registered in a country to which the Safety Convention does not apply shall proceed to sea from a port in Anguilla unless the ship is in the possession of documentation which shows that either the ship has been surveyed for compliance with the relevant regulations applicable to the ship as though it was an Anguilla ship or it has been surveyed and is in compliance with the relevant regulations applicable to the ship.

(6) Where a certificate is issued subject to conditions, or specifies sea areas in which the ship is certified to operate, the owner and master shall ensure that all conditions are complied with, or, as the case may be, that the ship only operates in the specified sea areas.

(7) The master of every ship shall produce to an officer of customs from whom a clearance for the ship is demanded for an international voyage the certificates or documentation referred to in this section, and a clearance shall not be granted and the ship may be detained until those certificates are produced.

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

92. (1) Subject to regulations made under section 73, a passenger ship engaged on voyages which are not international voyages shall not proceed on a voyage or excursion unless it has been surveyed and there is in force a Passenger Certificate applicable to that voyage or excursion.

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

Limit on the number of passengers on passenger ships

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

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Offences

94. (1) Where a ship to which this Part applies proceeds or attempts to proceed to sea or on a voyage or excursion without complying with the regulations made under sections 71 to 73, the owner and master of the ship are each guilty of an offence and liable on summary conviction to a fine of $5,000.

(2) Any contravention of section 78(1), section 91(1) to (6) or section 92 is an offence by both the owner and master, and each is guilty of an offence and liable on summary conviction to a fine of $5,000.

(3) Where a ship proceeds to sea without section 90 being complied with, the owner and master are each guilty of an offence and liable on summary conviction to a fine of $5,000.

(4) Any contravention of section 93, is an offence by both the owner and master and each is guilty of an offence and liable on summary conviction to a fine of $20,000, or on conviction on indictment to a fine of $20,000, or imprisonment for a term of 2 years, or to both.

(5) Any contravention of section 91(7) is an offence by the master and is punishable on summary conviction by a fine of $3,000.

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

Power to detain

95. In any case where a ship does not comply with the requirements of this Part, the ship shall be liable to be detained.

Arbitration

96. (1) Should an owner or any other person making application for a survey required by this Act, be dissatisfied with the outcome of the survey because the issue of a certificate has been refused or for any other reason, that person may serve notice, within 21 days of the completion of the survey, on the person responsible for issuing the particular certificate under section 80 or 81 that their dispute be referred to a single arbitrator appointed by agreement between the parties to be settled by him or in the event that there is no agreement to an arbitrator appointed by the Minister.

(2) 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 Master without limitation or as a Chief Engineer without limitation, or a person holding a certificate equivalent to any such certificate;

(b) a naval architect;

(c) an attorney-at-law with at least 10 years experience in shipping law; or

(d) a person with special experience of the shipping industry.

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(3) In connection with his functions under this section, an arbitrator shall have the powers of inspection conferred by the relevant provisions of this Act.

Miscellaneous

Penalty for non-compliance with conditions of exemption certificates

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

Inspection of ships holding Safety Convention Certificates

98. (1) Where a valid Safety Convention Certificate is produced in respect of a foreign Safety Convention ship, it shall be accepted and the ship shall be exempted from surveys or inspection under this Part, unless there are clear grounds for believing that the condition of the ship or of its equipment does not correspond substantially with the particulars of the Certificate or that the ship and its equipment are not in compliance with regulations made under this Act respecting the maintenance of conditions of the ships and their equipment after survey.

(2) Where a Certificate is not acceptable due to the circumstances referred to in subsection (1), or if a Certificate has expired or ceased to be valid, the ship shall not be granted clearance and shall be detained until it can proceed to sea or to the appropriate repair yard without causing danger to the ship or persons on board, and the following persons shall be notified in writing of the circumstances, namely—

(a) the local Consular officer of the ship's flag State or, in his absence, the nearest diplomatic representative of the ship's flag State; and

(b) nominated surveyors or recognised organisations responsible for the issue of the Certificate referred to in subsection (1).

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

Ships to carry stability information

99. (1) Every Anguilla passenger ship, regardless of size, and every Anguilla cargo ship having a length of 24 metres and upwards, shall carry on board such information about the ship's stability as may be prescribed.

(2) The information, a copy of which shall be sent to the Anguilla Air and Sea Ports Authority, shall be based on the determination of the ship's stability by means of an inclining test of the ship but the Authority may allow the information to be based on a similar determination of the stability of a sister ship.

(3) Where any ship proceeds or attempts to proceed to sea without having on board the information as required by subsections (1) and (2), the owner and master are guilty of an offence and each is liable on summary conviction to a fine of $3,000.

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Regulations for local safety certificates including fishing vessels

100. (1) The Governor in Council may make regulations prescribing safety requirements and providing for the issue of local certificates in respect of—

(a) fishing vessels;

(b) pleasure vessels; and

(c) such other classes or classes of vessels as may be designated.

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

PART 7

SUPPLEMENTAL

Citation

101. This Act may be cited as the Merchant Shipping Act, Revised Statutes of Anguilla, Chapter M82.

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SCHEDULE 1

(Section 53)

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

1. Certificate of survey.

2. Declaration of ownership by individual owner.

3. Declaration of ownership on behalf of a corporation as owner.

4. Certificate of registry.

5. Declaration of ownership by individual transferee.

6. Provisional certificate.

7. Declaration of owner taking by transmission.

8. Declaration of mortgagee taking by transmission.

9. Bill of sale.

10. Mortgage to secure principal sum and interest.

11. Mortgage to secure account current, etc. (individuals or joint owners).

12. Transfer of mortgage by individual or joint owners.

13. Transfer of mortgage by body corporate.

14. Deletion Certificate.

15. Transcript of Register.

16. Caribbean Ship Record.

17. Notice of name proposed for Anguilla ship.

18. Ships carving and marking note.

19. Application to register a ship.

20. Appointment of authorised officers for a body corporate.

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SCHEDULE 2

(Section 65)

PRIVATE LAW PROVISIONS FOR REGISTERED SHIPS

DEFINITIONS

1. In this Schedule—

"mortgage" means an instrument creating a security for the repayment of a loan or for the discharge of another obligation;

"prescribed" means prescribed in the Registration of Ships Regulations;

"registered mortgage" means a mortgage registered under section 8(3).

GENERAL

2. (1) Subject to any right or power appearing from the register to be vested in another person, the registered owner of a ship or of a share in a ship may absolutely dispose of it in accordance with this Schedule and the Registration of Ships Regulations.

(2) Subsection (1) does not imply that an interest arising under a contract or another interest cannot subsist in relation to a ship or a share in a ship; and such an interest may be enforced by or against the owner or a mortgagee of a ship in respect of his interest in the ship or the share in a ship in the same manner as in respect of any other movable property.

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

TRANSFERS, ETC. OF REGISTERED SHIPS

3. (l) A transfer of a registered ship, or of a share in a registered ship, shall be effected by a bill of sale satisfying the prescribed requirements, unless the transfer will result in the ship ceasing to have an Anguilla connection.

(2) If a ship or a share has been transferred under subsection (1), the transferee shall not be registered as owner of the ship or share unless—

(a) he has made the prescribed application to the Registrar; and

(b) the Registrar is satisfied that the ship retains an Anguilla connection and that he would not refuse to register the ship.

(3) If an application under subsection (2) is granted by the Registrar, the Registrar shall register the bill of sale in the prescribed manner.

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(4) Bills of sale shall be registered in the order in which they are produced to the Registrar for the purposes of registration.

4. (l) If a registered ship, or a share in a registered ship, is transmitted to a person by lawful means other than a transfer under section 3 and the ship continues to have an Anguilla connection, that person is not to be registered as owner of the ship or share unless—

(a) he has made the prescribed application to the Registrar; and

(b) the Registrar is satisfied that the ship retains an Anguilla connection and that he would not refuse to register the ship.

(2) If an application under subsection (1) is granted by the Registrar, the Registrar shall cause the applicant's name to be registered as owner of the ship or share.

5. (l) If the property in a registered ship or a share in a registered ship is transmitted to a person by lawful means other than a transfer under section 3, but as a result the ship no longer has an Anguilla connection, the Court may, on application by or on behalf of that person, order a sale of the property so transmitted and direct that the proceeds of sale, after deducting the expenses of the sale, are to be paid to that person or otherwise as the Court directs.

(2) The Court may require any evidence in support of the application it thinks requisite, and may make the order on any terms and conditions it thinks just, or may refuse to make the order, and generally may act in the case, as the justice of the case requires.

(3) An application shall be made within the period of 28 days beginning with the date of occurrence of the event by which the transmission took place, or within such further time (not exceeding one year) as the Court may allow.

(4) If—

(a) an application is not made within the time allowed by or under subsection (3); or

(b) the Court refuses an order for sale;

the ship or share that was transmitted is liable to forfeiture.

6. (1) If a court, whether under section *5* or otherwise, orders the sale of a registered ship or a share in a registered ship, the order of the Court shall contain a declaration vesting in a named person the right to transfer the ship or share.

(2) The person so named may transfer the ship or share in the same manner and to the same extent as if he were the registered owner of the ship or share.

(3) The Registrar shall deal with an application relating to the transfer of the ship or share made by the person so named as if that person were the registered owner.

7. (1) The Court may, without prejudice to the exercise of another power, on the application of an interested person, make an order prohibiting for a specified time any dealing with a registered ship or a share in a registered ship.

(2) The Court may make the order on any terms or conditions it thinks just, or may refuse to make the order, or may discharge the order when made, with or without costs, and generally may act in the case as the justice of the case requires.

(3) The order, when a copy is served on the Registrar, is binding on him whether or not he was made a party to the proceedings.

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MORTGAGES OF REGISTERED SHIPS

8. (l) A registered ship, or a share in a registered ship, may be made the subject of a mortgage.

(2) The instrument creating a mortgage shall be in the form prescribed or approved under the Registration of Ships Regulations.

(3) If a mortgage executed in accordance with subsection (2) is produced to the Registrar, he shall register the mortgage in the prescribed manner.

(4) Mortgages shall be registered in the order in which they are produced to the Registrar for the purposes of registration.

PRIORITY OF REGISTERED MORTGAGES

9. (1) If 2 or more mortgages are registered in respect of the same ship or share, the priority of the mortgagees between themselves is, subject to subsection (2), to be determined by the order in which the mortgages were registered and not by reference to another matter.

(2) The Registration of Ships Regulations may provide for the giving to the Registrar by intending mortgagees of "priority notices" in a form prescribed by or approved under the Regulations that, when recorded in the register, determine the priority of the interest to which the notice relates.

REGISTERED MORTGAGEE'S POWER OF SALE

10. (l) Subject to subsection (2), a registered mortgagee may, if the mortgage money or part of it is due, sell the ship or share in respect of which he is registered, and give an effectual receipt for the purchase money.

(2) If 2 or more mortgages are registered in respect of the same ship or share, a subsequent mortgagee may not, except under an order of a court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

PROTECTION OF REGISTERED MORTGAGES

11. If a ship or share is subject to a registered mortgage, then—

(a) except in so far as may be necessary to do so to make the ship or share available as a security for the mortgage debt, the mortgagee is not by reason of the mortgage to be treated as owner of the ship or share; and

(b) the mortgagor is to be treated as not having ceased to be the owner of the ship or share.

TRANSFER OF REGISTERED MORTGAGE

12. (1) A registered mortgage may be transferred by an instrument made in the form prescribed or approved under the Registration of Ships Regulations.

(2) If such an instrument is produced to the Registrar, the Registrar shall register the transferee in the prescribed manner.

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TRANSMISSION OF REGISTERED MORTGAGE BY OPERATION OF LAW

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

DISCHARGE OF REGISTERED MORTGAGE

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

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