BANGLADESH MERCHANT
SHIPPING ACT
2020

MARINECARE Consultants Bangladesh Ltd.
# Table Contents

## PART I

### ADMINISTRATION

#### CHAPTER 1

**PRELIMINARY**

1. Short title, commencement  ................................................................. 19
2. Application  ............................................................................................... 19
3. Overriding effect of Act ........................................................................... 19
4. Interpretation ............................................................................................. 19

#### CHAPTER 2

**GENERAL ADMINISTRATION**

5. Power of the Government to administer Act ........................................... 26
6. Department of Shipping and associated offices ...................................... 26
7. Director General’s responsibilities .......................................................... 27
8. Registrar of Bangladesh Ships and Seafarers ........................................ 28
9. Surveys, inspections and monitoring ...................................................... 28
10. Director General’s power to dispense .................................................... 28
11. Delegation by Government .................................................................... 29
12. Power of Government to give directions .............................................. 29
13. Availability of copy of legislation, Conventions etc. .............................. 29
14. Communication, co-operation and Memoranda of Understanding ....... 29
15. Establishment of National Maritime Council ......................................... 30
16. Functions of National Maritime Council .............................................. 30
17. Delegation of Authority to recognized organizations ............................. 31
18. Powers of the Director General to make regulations, orders, Merchant Shipping Notices, etc. .............................................................. 31

## PART II

### SHIP BUILDING REGISTRATION AND RECYCLING

#### CHAPTER 3

**GENERAL**

19. Application of this Part ........................................................................... 33
20. Interpretation ............................................................................................. 33

#### CHAPTER 4

**SHIP BUILDING**

21. Builder’s license, plan approval etc. for ships built in Bangladesh .......... 34
22. Record books for builders and ships under construction ...................... 35
23. Construction rules .................................................................................... 35
CHAPTER 5
BANGLADESH SHIP AND BANGLADESH REGISTER

24. Bangladesh ship .......................................................... 36
25. Obligations to register Bangladesh ship ................................ 36
26. National colours for ships ................................................... 36
27. Unlawful assumption or concealment of Bangladesh character, etc. .................................................. 37
28. Bangladesh ships to hoist proper national colours in certain cases .................................................. 37
29. National character of ships to be declared before clearance .................................................. 37
30. Liabilities of ships not registered as Bangladesh ships .......................................................... 37
31. Proceedings on forfeiture of ship ............................................. 37
32. Register Book ...................................................................... 38
33. Registration of ships .......................................................... 38
34. Registration regulations ......................................................... 39
35. Power to register Government ships ........................................ 40
36. Registration of small ships ...................................................... 40
37. Forgery of documents .......................................................... 41
38. Tonnage measurement .......................................................... 41
39. Tonnage of ships of foreign countries adopting Tonnage Convention .................................................. 41
40. Registration of foreign flag vessel under bareboat charter .......................................................... 41
41. Bangladesh Flag Ship on Bareboat Charter .................................................. 42

CHAPTER 6
LICENSING FOR COASTING TRADE AND OTHER REQUIREMENTS

42. Application ........................................................................ 44
43. Licences for coasting trade or operation ............................................. 44
44. Revocation, etc. of licences ......................................................... 44
45. Requirements and restrictions on activities within territorial waters .................................................. 44
46. Power to give directions .......................................................... 45
47. Power to make regulations .......................................................... 45

CHAPTER 7
MISCELLANEOUS

48. Provisions relating to infancy or other incapacity .......................................................... 47
49. Definition of “beneficial interest” .................................................................................. 47
50. Liability of beneficial owner .................................................................................. 47

CHAPTER 8
TRANSFERS AND TRANSMISSIONS

51. Mode of transfer and registration of transfer of ships, etc .......................................................... 48
52. Transmission of property in Bangladesh ship on death, insolvency, etc .......................................................... 48
53. Order for sale where ship has ceased to be a Bangladesh ship .................................................. 49
54. Transfer of ship on sale by order of Court .................................................................................. 49
CHAPTER 9
MORTGAGE

55. Rights of owners and mortgagees

56. Mortgage of ship or share

57. Entry of discharge of mortgage

58. Mortgagee not deemed to be owner

59. Rights of mortgagee

60. Mortgage not affected by insolvency

61. Transfer of mortgage

62. Transmission of interest in mortgage in certain circumstances

63. Authority to sell or mortgage out of Bangladesh

64. General rules for Certificate of Sale

65. Sale and registration of ship under Certificate of Sale

66. Revocation of certificate of sale or mortgage

CHAPTER 10
MARITIME LIENS

67. Maritime liens

68. Priority of liens

69. Order of priority of liens

70. Rights of ship builders and repairers

71. Overriding nature of maritime liens

72. Claims arising from radioactive products, etc.

73. Limitation period

74. Notification of forced sale and certificate of sale by court

75. Effect of sale on mortgages

76. Disposition of proceeds of sale

CHAPTER 11
RECYCLING OF SHIPS

77. Application

78. Interpretation

79. Authorization of Ship Recycling Facilities

80. Compliance with recycling law

81. Initial notification and reporting requirements before recycling

82. Safety security and pollution prevention with respect recycling vessels

83. Change of crew

84. Beaching Report

85. Penal provision
PART III
SEAFARERS
CHAPTER 12
GENERAL

86. Application of this Part

CHAPTER 13
INTERNATIONAL CONVENTIONS ON SEAFARERS’ TRAINING EMPLOYMENT ETC.

87. Application of international maritime Conventions

88. Compliance with the Convention obligations and penalty

89. Power to make regulations

CHAPTER 14
TRAINING

90. Government Maritime Training Institutes

91. Private Maritime Training Institutes

92. Fee for establishing or aiding training institutions

CHAPTER 15
CERTIFICATION

93. Application

94. Manning of ships

95. Penalty for going to sea undermanned

96. Certificate of Competency

97. Recognition of Certificate of Competency not granted by the Director General

98. Production of documents on qualifications

99. Penalty for unqualified seafarers going to sea

100. Master to be custodian of Certificates

101. Board of inquiry

102. Powers of the board

103. Power to cancel or suspend Certificate

104. Appeals against cancellation or suspension of certificate or approval

105. Power of Government to revoke cancellation, etc

106. Power of Government to censure seafarer

107. Record of orders affecting Certificate, etc

108. Penalty

109. Power to make regulations

MARINECARE Consultants Bangladesh Ltd.
CHAPTER 16
MINIMUM REQUIREMENTS FOR SEAFARERS TO WORK ON SHIPS

110. Application of this Chapter ........................................................................................................ 72
111. Minimum age ................................................................................................................................ 72
112. Seafarer to have valid medical fitness certificate ........................................................................... 72
113. Seafarer’s identity document ............................................................................................................ 72
114. Seafarer to be in possession of Continuous Discharge Certificate/Seamen’s Book ................... 73
115. Seafarers to be qualified .................................................................................................................... 73
116. Recruitment and placement services ............................................................................................... 73
117. Power to make regulations ............................................................................................................... 74

CHAPTER 17
ENGAGEMENT AND DISCHARGE OF SEAFARERS

118. Regulation relating to engagement of seafarer ................................................................................ 75
119. Employment of seafarers ................................................................................................................... 75
120. Seafarer’s employment agreement ................................................................................................... 75
121. Obligations of shipowners as to seaworthiness .............................................................................. 76
122. Special provisions with regard to agreements with seafarers of Bangladesh foreign-going ships ...... 77
123. Changes in seafarer to be reported .................................................................................................... 78
124. Certificate as to agreement with seafarer of foreign going ship ....................................................... 78
125. Alteration in agreement with the seafarer .......................................................................................... 78
126. List of seafarer to be furnished to Shipping Masters ........................................................................ 79
127. Engagement of seafarers for ships other than Bangladesh ships .................................................... 79
128. Agreement to meet legal requirements of the country of Registration of the ship ........................... 79
129. Penalties for violating Sec. 128 ......................................................................................................... 80
130. Power to board ships and muster seafarers ...................................................................................... 80
131. Discharge of seafarers to be before Shipping Master ...................................................................... 80
132. Entries to be made in Continuous Discharge Certificate and return of Certificates of Competency to officers on discharge ........................................................................... 80
133. Discharge of seafarers abroad .......................................................................................................... 81
134. Discharge of seafarers on change of ownership .............................................................................. 81

CHAPTER 18
WAGES, LEAVE, REST AND COMPENSATION OF SEAFARERS

135. Seafarers’ wages leave, rest and compensation .............................................................................. 82
136. Payment of wages before Shipping Master ..................................................................................... 82
137. Settlement of wages ......................................................................................................................... 82
138. Decision on disputes by Shipping Masters ........................................................................................ 83

MARINECARE Consultants Bangladesh Ltd.
CHAPTER 19
PROVISIONS AND ACCOMMODATION FOR SEAFARERS AND THEIR HEALTH
139. Seafarers’ accommodation ................................................................. 84
140. Provisions water and catering ............................................................... 84

CHAPTER 20
MEDICAL CARE ON BOARD AND ASHORE AND SHIP OWNERS LIABILITY
141. Medical care on board and ashore ....................................................... 86
142. Ship Owners’ liability ......................................................................... 86

CHAPTER 21
HEALTH AND SAFETY PROTECTION AND ACCIDENT PREVENTION
143. Duties of shipowner to ensure safety and health of seafarers .................. 87
144. Duty of master to implement measures ............................................... 87
145. Duties of seafarers at work on board a ship ......................................... 87
146. Safety committee .............................................................................. 88
147. Codes of safe practice ....................................................................... 88

CHAPTER 22
WELFARE AND SOCIAL SECURITY OF SEAFARERS
148. Seafarers’ welfare officer ................................................................... 89
149. Constitution of Seafarers’ Welfare Board ............................................ 89
150. Funds for seafarers’ welfare ................................................................. 89
151. Rule-making powers ........................................................................ 90
152. Constitution of Maritime Advisory Committee for Seafarers ............. 90

CHAPTER 23
INSPECTION AND CERTIFICATION
153. Inspection and certification of ships .................................................... 91
154. Complaints by seafarers ..................................................................... 91
155. Investigation into occupational accidents, injuries and diseases on board ships ................................................................. 91
156. Inspection of vessels in port ................................................................. 92
157. Power to detain ships ....................................................................... 92

CHAPTER 24
DISCIPLINE OF SEAFARERS
158. Master in overall command, etc. ............................................................ 93
159. Misconduct endangering ships, persons, etc. ...................................... 93
160. Concerted disobedience and neglect of duty ..................................... 95
161. Desertion and absence without leave from ships .............................. 96
162. Measures to prevent desertion from Bangladesh and foreign ships .... 96
163. Report of desertions and absence without leave ............................... 96
164. Entries and certificates of desertion ................................................ 97
165. Payment of fines imposed under agreement to Shipping Master ......... 97

MARINECARE Consultants Bangladesh Ltd.
CHAPTER 25
LITIGATION AGAINST SEAFARERS

166. Definitions ................................................................. 98
167. Place of trial of the offender ............................................... 98
168. Particulars to be furnished in plaints, etc. .............................. 98
169. Power of Court in case of unrepresented seafarer ....................... 98
170. Notice to be given in case of unrepresented seafarer ..................... 99
171. Power to make rules .......................................................... 99
172. Reference in matters of doubt to Shipping Masters ......................... 99

CHAPTER 26
MISCELLANEOUS

173. Uniform to be prescribed ................................................... 100
174. Certificated officers may wear uniforms while unemployed .............. 100
175. Uniforms when not to be worn ............................................ 100
176. Penalties ............................................................................ 100
177. Official log books. ............................................................... 100
178. Lists of crew ........................................................................ 101
179. General power to make regulations ........................................ 101

PART IV
SAFETY
Chapter 27
GENERAL

180. Interpretations ................................................................... 104

CHAPTER 28
INTERNATIONAL MARITIME CONVENTIONS ON SAFETY

181. International maritime Conventions ....................................... 105
182. Ships to comply with Convention obligations and requirements ........ 105

CHAPTER 29
SAFETY OF SHIPS

183. Survey and Certification of ships engaged in international voyages ....... 107
184. Issue of Certificates to ships by other states ............................... 107
185. General regulation making power ........................................... 108
186. Radio regulations .................................................................. 108

CHAPTER 30
LOAD LINES

187. Interpretation ........................................................................ 110
188. Application of Chapter .......................................................... 110
189. Regulations .......................................................................... 110
190. Compliance with Load Lines regulations .................................... 111

MARINECARE Consultants Bangladesh Ltd.
CHAPTER 31
UNSEAWORTHY AND UNSAFE SHIPS
191. Unseaworthy and unsafe ship not to be sent to sea and to be detained ........................................ 112
192. Obligation of owner to crew with respect to seaworthiness .............................................................. 112

CHAPTER 32
SPECIAL PROVISIONS RELATING TO PASSENGERS SHIPS
193. Ships to which this Chapter applies ........................................................................................................ 113
194. No ship to carry passengers without a Passenger Ship Safety Certificate ........................................ 113
195. No port clearance until Passenger Ship Safety Certificate produced ..................................................... 113
196. Power to detain ship not having Passenger Ship Safety Certificate ..................................................... 113
197. Offences in connection with passenger ships .......................................................................................... 113
198. Offences - Obstructing ship or machinery ............................................................................................. 114
199. Offence – certain persons may be refused entry to or asked to leave a vessel ........................................ 115
200. Offence - Power of master etc. to detain .................................................................................................... 115
201. Penalty for carrying passengers in excess ................................................................................................. 115
202. Power to exclude drunken passengers from passenger ships ............................................................... 115
203. Return to be furnished .................................................................................................................................. 115
204. Regulation making power in respect of carriage of passengers .............................................................. 116

CHAPTER 33
PROVISIONS RELATING TO SPECIAL TRADE PASSENGER SHIPS
205. Ships to which this Chapter applies .......................................................................................................... 118
206. Ships not to proceed on voyage from any place not designated by the Government .......................... 118
207. Notice to be given about day of departure ................................................................................................. 118
208. Power to board and inspect ship .............................................................................................................. 118
209. Certification and survey ............................................................................................................................ 118
210. Special power to make rules ...................................................................................................................... 119
211. Cooking food prohibited ........................................................................................................................... 120
212. List of departing special trade passenger ................................................................................................. 120
213. List of arriving special trade passenger ................................................................................................. 120
214. Deaths on Board ......................................................................................................................................... 121
215. Medical Officers and attendants .................................................................................................................. 121
216. Penalty for failing to supply special trade passengers with prescribed provisions .............................. 121
217. Penalty for ship unlawfully departing or receiving passengers on board .............................................. 121
218. Penalty for landing special trade passenger at a port or place other than that contracted for ............ 122
219. Forwarding of passengers by Bangladesh Consular Officers .............................................................. 122
220. Recovery of expenses incurred in forwarding passengers ...................................................................... 122
221. Information to be sent to ports of embarkation and disembarkation ...................................................... 122
222. Information sent under section 221, etc. to be admissible in evidence .................................................... 123
223. Hospital accommodation.............................. 123
224. Bond where special trade passenger ship is to carry pilgrims on outward voyage ..........123
225. Medical inspection and permission required before embarkation of pilgrims...............123
226. Medical inspection after embarkation in certain cases ............................................124
227. Return passage to be secured ..................................................................................124
228. Issue or production of tickets ..................................................................................124
229. Refund of deposits and passage money ..................................................................125
230. Unclaimed deposits and passage money to vest in Government.............................125
231. Cost of return journey of pilgrims on ships other than those for which return ticket is available ..................................................................................................................126
232. Notice of proceeding of special trade passenger ship carrying pilgrims on voyage ........126
233. Compensation for delay in departing or proceeding on voyage..............................126
234. Substitution of ships ...............................................................................................128
235. Sanitary taxes payable by the Master .......................................................................128
236. Power to make regulations .....................................................................................128
237. Compliance with International Health regulations .................................................129
238. Penalty and procedure for breach of regulations ...................................................129

CHAPTER 34
FISHING VESSELS, PLEASURE VESSELS AND OTHER SMALL CRAFTS

239. Application of this Chapter ....................................................................................130
240. Ascertainment of tonnage ......................................................................................130
241. Registration of fishing vessels ..............................................................................130
242. Effect of registration of fishing vessels ..................................................................131
243. Safety Certificate ....................................................................................................131
244. Statement relating to the fishing vessel personnel to be maintained ......................131
245. Skippers, officers and engineers to be duly certificated .........................................132
246. Power to exempt ....................................................................................................132
247. Power to make regulations .....................................................................................132

CHAPTER 35
SAILING VESSELS

248. Application of Chapter ..........................................................................................134
249. Certificate of Registry ............................................................................................134
250. Prevention of overloading or overcrowding ............................................................134
251. Certificate of Inspection ........................................................................................135
252. Detention, etc. of foreign sailing vessels ................................................................136
253. Application to sailing vessels of certain provisions relating to ships and fishing vessels ......136
254. Power to make regulations respecting sailing vessels ...........................................137
CHAPTER 36
TONNAGE

255. Application of this Chapter ................................................................. 138
256. Certain ships taken to be registered....................................................... 138
257. Tonnage regulations............................................................................. 138

CHAPTER 37
SAFETY OF NAVIGATION

258. Observance of Collision regulations ..................................................... 140
259. Obligation to render assistance to other ship in case of collision ............ 140
260. Division of loss in case of collision ....................................................... 140
261. Power to make regulations relating to collisions, lights, signals and reporting requirements ................................................................. 140
262. Regulations relating to lighthouse and aids to navigation ..................... 141

CHAPTER 38
CARRIAGE OF PASSENGERS AND CARGOES

263. Power to make regulations relating to passenger and cargo operations ................................................................. 142
264. Power to make regulations relating to cargo and livestock operations .................................................................................. 142
265. Carriage of dangerous goods ................................................................ 142
266. Power to make regulations in relation to deck cargo ............................ 143
267. Carriage of grain .................................................................................. 143
268. Carriage of bulk cargoes other than grain, etc. ................................... 144

Offences relating to passenger and cargo operations

269. Proper precautions in loading a vessel .................................................. 144
270. Carrying improperly labeled dangerous goods on a vessel .................... 145
271. Requirement to give a description to master or owner of dangerous goods on a vessel .................................................. 145
272. Carrying etc. dangerous goods under a false description ...................... 146
273. Falsely describing the sender of dangerous goods ................................ 146
274. Notice of intention to ship .................................................................... 146

CHAPTER 39
SEARCH AND RESCUE

275. Obligation to assist vessels in distress, etc. .......................................... 147
276. Responsible entity for Search and Rescue ............................................. 147
277. Search and rescue regulations .............................................................. 148

PART V
PREVENTION OF POLLUTION

CHAPTER 40
GENERAL

278. Application of this Part ................................................................. 149
279. Interpretation .................................................................................... 149
CHAPTER 41
INTERNATIONAL MARITIME CONVENTIONS ON POLLUTION PREVENTION
280. International maritime Conventions on pollution prevention ........................................150
281. Ships to comply with Convention obligations and requirements ....................................150

CHAPTER 42
REGULATIONS FOR PREVENTION OF POLLUTION
282. Powers to make regulations ..............................................................................................152
283. Regulations in relation to transfers between ships in territorial waters. ..........................153
284. Offences and civil penalties relating to vessels operating without pollution certificates .....154

CHAPTER 43
WASTE RECEPTION FACILITIES AT BANGLADESH PORTS
285. Regulations for waste reception facilities ........................................................................155

CHAPTER 44
OIL POLLUTION
General provisions for preventing pollution
286. Discharge of oil from ships into Bangladesh waters ..........................................................155
287. Defences of owner or master charged with offence under section 286. ...........................156
288. Defences of occupier charged with offence under section 286 ..........................................156
289. Duty to report discharge of oil into waters of harbours ....................................................156
290. Shipping casualties .............................................................................................................156
291. Operating a vessel so as to pollute or damage the Bangladesh marine environment ........158
292. Operating a vessel so as to pollute or damage the marine environment outside Bangladesh .................................................................................................................................158

CHAPTER 45
PREVENTION OF POLLUTION BY NOXIOUS SUBSTANCES
293. Interpretation .....................................................................................................................159
294. Application of Act to mixture of oil and liquid substance ..................................................159
295. Provisional assessment of substances ..............................................................................159
296. Notification of proposal to carry certain substances ..........................................................159
297. Prohibition of discharge of substances into the sea .........................................................159

CHAPTER 46
PREVENTION OF POLLUTION BY PACKAGED HARMFUL SUBSTANCES
298. Interpretation .....................................................................................................................161
299. Prohibition of discharge by jettisoning of harmful substances into the sea .....................161

CHAPTER 47
PREVENTION OF POLLUTION BY SEWAGE
300. Interpretation .....................................................................................................................162
301. Prohibition of discharge of sewage into the sea ...............................................................162
CHAPTER 48
PREVENTION OF POLLUTION BY GARBAGE
302. Interpretation ........................................................................................................163
303. Prohibition of discharge of garbage into the sea......................................................163

CHAPTER 49
PREVENTION OF AIR POLLUTION
304. Interpretation ........................................................................................................164
305. Using fuel oil with a Sulphur content of more than prescribed limit .......................164

CHAPTER 50
HARMFUL ANTI-FOULING SYSTEM
306. Application ............................................................................................................165
307. Interpretation ............................................................................................................165
308. Powers to make regulations ....................................................................................165

CHAPTER 51
BALLAST WATERCONVENTION
309. Control and management of ballast .......................................................................166

PART VI
CHAPTER 52
MARITIME SECURITY
310. Application ........................................................................................................167
311. Interpretation ............................................................................................................167
312. Offences against safety of ships .............................................................................168
313. Offences of piracy and armed robbery ....................................................................169
314. Offences endangering safe navigation, etc. .............................................................169
315. Trial of offences .......................................................................................................169
316. Designated authority for Ship and Port Facility Security .........................................170
317. Regulations ............................................................................................................171
318. Exemptions ..............................................................................................................171
319. Extension of application ..........................................................................................172
320. Seafarers’ identification document .........................................................................172
321. Automatic identification system .............................................................................172
322. Long-range vessel tracking system ........................................................................173

PART VII
MARINE CASUALTY INVESTIGATION
CHAPTER 53
323. Marine casualty and report thereof ........................................................................174
324. Safety investigation into marine casualties ..............................................................174
325. Formal investigation into marine casualty ...............................................................176
326. Power of Court to inquire into charges against seafarers and pilot .........................177
327. Power of Government to direct investigation into charges of incompetency or misconduct ........................................... 177
328. Person accused to be heard ............................................................................................................................................... 177
329. Power of Court as to evidence and regulation of proceedings .................................................................................... 177
330. Assessors ........................................................................................................................................................................ 178
331. Power to arrest witnesses and enter ships, etc. .................................................................................................................. 178
332. Power to commit for trial and bind over witnesses ......................................................................................................... 178
333. Report by Court to Government ....................................................................................................................................... 178
334. Re-hearing and appeal ...................................................................................................................................................... 179
335. This Chapter to apply to certain other vessels .................................................................................................................. 179

PART VIII
LIABILITY OF SHIPOWNERS AND OTHERS
CHAPTER 54
PRELIMINARY
336. Application and enforcement of this part .......................................................................................................................... 180

CHAPTER 55
LIABILITY FOR OIL POLLUTION
337. Interpretation ....................................................................................................................................................................... 180
338. Liability for oil pollution by tanker .................................................................................................................................. 180
339. Liability for pollution by bunker oil .................................................................................................................................. 181
340. Liability for oil pollution in other cases ............................................................................................................................. 182
341. Exceptions from liability under sections 338, 339 and 340 ............................................................................................. 183
342. Restriction of liability for pollution from oil or bunker oil ............................................................................................... 183
343. Liability under section 338, 339 or 340: supplementary provisions .................................................................................. 185

Limitation of liability
344. Limitation of liability under section 338 ............................................................................................................................. 186
345. Limitation actions ................................................................................................................................................................... 186
346. Restriction on enforcement after establishment of limitation fund .................................................................................... 188
347. Concurrent liabilities of owners and others ....................................................................................................................... 188
348. Establishment of limitation fund outside Bangladesh ...................................................................................................... 188

Limitation period for claims under this Chapter
349. Extinguishment of claims ..................................................................................................................................................... 189

Compulsory insurance
350. Compulsory insurance against liability for pollution ....................................................................................................... 189
351. Compulsory insurance against liability for pollution from bunker oil ............................................................................... 189
352. Issue of certificate by Government ..................................................................................................................................... 190
353. Rights of third parties against insurers .............................................................................................................................. 191
354. Jurisdiction of Bangladesh courts and registration of foreign judgments ....................................................................... 192
355. Government ships ............................................................................................................................................................... 194
356. Limitation of liability under section 339 or 340 .................................................................................................................. 194
357. Saving for recourse actions ................................................................. 195
358. Interpretation .................................................................................. 195

CHAPTER 56
INTERNATIONAL OIL POLLUTION COMPENSATION FUND

359. Meaning of the “Liability Convention”, “the Fund Convention” and related expressions .... 197
360. Contributions by importers of oil and others ........................................ 197
361. Power to obtain information .............................................................. 198
362. Liability of the Fund ........................................................................ 199
363. Limitation of Fund’s liability under section 362 .................................. 200
364. Jurisdiction and effect of judgments .................................................. 201
365. Extinguishment of claims ................................................................. 202
366. Subrogation ...................................................................................... 202
367. Supplementary provisions as to proceedings involving the Fund .......... 202
368. Interpretation .................................................................................. 203

CHAPTER 57
CARRIAGE OF HAZARDOUS AND NOXIOUS SUBSTANCES

369. Meaning of the Convention .............................................................. 205
370. Power to give effect to Convention .................................................. 205

CHAPTER 58
LIABILITY OF SHIPOWNERS AND OTHERS
CARRIAGE OF PASSENGERS AND LUGGAGE BY SEA

371. Convention related to Carriage of Passenger to have force of law ........ 207

Limitation of liability of shipowners, etc. and salvors for maritime claims

372. Limitation of liability for maritime claims .......................................... 207
373. Exclusion of liability ......................................................................... 207
374. Apportionment of liability for damage or loss .................................... 208
375. Loss of life or personal injuries: joint and several liability .................. 208
376. Loss of life or personal injuries: right of contribution ....................... 209
377. Time limit for proceedings against owners or ship ........................... 209

Limitation of liability of harbour and dock authorities

378. Limitation of liability ........................................................................ 210

PART IX
CHAPTER 59
COASTAL AND NEAR-COASTAL SHIPS

379. Application of this Chapter ............................................................... 211
380. Interpretation – in this chapter - ....................................................... 211
381. Regulation-making power ................................................................. 211
PART X
WRECK AND SALVAGE
CHAPTER 60
WRECK

382. Appointment and functions of Receivers of Wreck ......................................................... 213
383. Duty of Receiver where vessel in distress ................................................................. 213
384. Powers of Receiver in case of vessel in distress ......................................................... 213
385. Power to pass over adjoining land ............................................................. 214
386. Power of Receiver to suppress, plunder and disorder by force ........................................ 214
387. Rules to be observed by persons finding wreck ......................................................... 215
388. Provisions as respects cargo, etc ................................................................. 215
389. Notice to be given by Receiver ........................................................................... 215
390. Claims of owners to wreck ............................................................. 215
391. Immediate sale of wreck in certain cases ................................................................. 216
392. Removal of wreck by harbour or conservancy authority ......................................... 216
393. Right of Government to unclaimed wreck ................................................................. 216
394. Notice of unclaimed wreck to be given to persons entitled ........................................ 217
395. Disposal of unclaimed wreck ........................................................................... 217
396. Disputed title to unclaimed wreck ................................................................. 217
397. Taking wreck to foreign port ........................................................................... 217
398. Interfering with wrecked vessel or wreck ................................................................. 218
399. Search warrants where wreck is concealed ................................................................. 218
400. Functions of Director General as to wreck ................................................................. 218
401. Expenses and fees of receivers ........................................................................... 218

Coastguard services

402. Remuneration for services of coastguard ................................................................. 219

Release from customs and excise control

403. Release of goods from customs and excise control ................................................. 219
404. Referral of questions as to powers between authorities ............................................. 219
405. Interpretation ..................................................................................................... 219

CHAPTER 61
WRECK REMOVAL CONVENTION

406. Meaning of Wreck Removal Convention ................................................................. 221
407. Reporting of Wrecks ............................................................................................. 221
408. Locating and marking wrecks .............................................................................. 221
409. Removal by registered owner .............................................................................. 221
410. Imposition of conditions about removal ................................................................. 222
411. Removal in default ................................................................................................. 222
412. Liability for costs ................................................................................................. 222

MARINECARE Consultants Bangladesh Ltd.
413. Limitation period .............................................................. 223
414. Expenses of authorities .................................................. 223
415. Compulsory insurance against liability for wreck removal ........ 223
416. Detention of ships .......................................................... 224
417. Production of certificates .................................................. 224
418. Issue of certificates .......................................................... 224
419. Cancellation of certificates ............................................... 224
420. Third parties’ rights against insurers .................................... 224
421. Government ships .......................................................... 225

CHAPTER 62
SALVAGE

423. Salvage Convention 1989 to have force of law........................ 226
424. Salvage of ships and cargoes ............................................ 226
425. Salvage Contract ............................................................. 226
426. Duty to render assistance .................................................. 226
427. Annullment and modification of Contract ............................... 227
428. Duties and responsibilities of the salvor and of the owner and master......................................................... 227
429. Criteria for fixing rewards .................................................. 227
430. Special compensation ....................................................... 228
431. Apportionment of award .................................................... 228
432. Claims and actions .......................................................... 228
433. Duty to provide security .................................................... 228
434. Salvage of Humanitarian Cargoes ...................................... 229

PART XI
CHAPTER 63
INTERNATIONAL CONVENTIONS, PROTOCOLS AND AGREEMENTS

435. Conventions, protocols and agreements to be enforced by Bangladesh ......................................................... 230
436. Incorporation by reference .................................................. 230

PART XII
CHAPTER 64
ENFORCEMENT OFFICERS AND POWERS

437. Appointment of Enforcement Officers ................................ 232
438. Powers of Enforcement Officers ........................................ 232
439. Enforcing detention of ship .............................................. 233
440. Regulations relating to functions and power of enforcement officers ......................................................... 233
PART XIII
CHAPTER 65
COURTS OF SURVEY AND SCIENTIFIC REFEREES

441. Court of Survey .......................................................... 235
442. Constitution of Court of Survey ...................................... 235
443. Powers and procedure of Court of Survey .......................... 235
444. Power of Government to make rules with respect to Court of Survey ........................................... 236
445. Reference in difficult cases to scientific persons .................. 236

PART XIV
LEGAL PROCEEDINGS AND MISCELLANEOUS
CHAPTER 66
LEGAL PROCEEDINGS

446. Jurisdiction of Magistrates .............................................. 237
447. Jurisdiction in relation to offences ................................... 237
448. Jurisdiction over ships lying off the coasts .......................... 237
449. Jurisdiction in case of offences on board ships ...................... 237
450. Place of trial of the offender ............................................ 237
451. Enforcement of penalties in certain cases ........................... 238
452. Special provision regarding punishment .............................. 238
453. Offences by companies, etc. ............................................. 238
454. Depositions to be received in evidence when witness cannot be produced ......................................... 238
455. Procedure in certain allegations in desertion cases ................. 239
456. Power to detain foreign ship that has occasioned damage or has liability .................................................. 240
457. Levy of wages, etc. by distress of movable property ............... 240
458. Levy of wages, fines, etc. by distress of ship .......................... 240
459. Notice to be given to consular representative of proceedings in respect of foreign ships .................. 241
460. Service of documents ..................................................... 241
461. Proof of attestation not required ....................................... 241
462. Application of fines ....................................................... 241

CHAPTER 67
MISCELLANEOUS

463. Certain persons to be deemed public servants ...................... 242
464. Inquiry into cause of death on board of Bangladesh ship ........ 242
465. Qualifications and certification of Independent Ship Surveyor .................. 242
466. Penalty for hindering or obstructing execution of duties, etc. 243
467. General power to make regulations .................................... 243
468. Communication of Information .......................................... 243
469. International Audit ....................................................... 243
470. Penalty and procedure for breach of rules and regulations ....... 243
471. Power to appoint officers to try certain offences, etc. ................................................. 244
472. Power to appoint Committees on rules and scales ...................................................... 244
473. Power to exempt ships, persons and entities from the provisions of the Act .................. 244
474. Publication of text translated in English: ................................................................. 244
475. Indemnity .................................................................................................................. 244
476. Authority to Amend Annexure .................................................................................. 245

CHAPTER 68
REPEALS SAVINGS TRANSITION

477. Repeals .................................................................................................................... 245
478. Savings .................................................................................................................... 245
479. Transition ................................................................................................................ 245

Schedule 1

The Bangladesh Law:- .................................................................................................. 246
The Bangladesh Merchant Shipping Ordinance, 1983 (XXVI of 1983) ................................. 246

Schedule 2
List of UN, IMO and ILO Conventions to which Bangladesh is a party: ......................... 246

Schedule 3
List of IMO Convention to which Bangladesh is not a party: ........................................ 247
BANGLADESH MERCHANT SHIPPING ACT 2020

An Act of Parliament to make provision for all matters pertaining to merchant shipping and generally to consolidate the law relating to merchant shipping and for connected purposes.

PART I
ADMINISTRATION

CHAPTER 1
PRELIMINARY

47. Short title, commencement

(47) This Act may be cited as the Bangladesh Merchant Shipping Act, 2020.

(2) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint; and different dates may be appointed for different provisions of this Act.

2. Application

(47) Unless otherwise expressly provided, this Act applies to –

(a) Bangladesh ships wherever they may be except inland ships; and
(b) all other ships while in a port or place in, or within the territorial sea and other waters under the jurisdiction of Bangladesh.

(2) Except as otherwise provided in this Act nothing in this Act applies to –

(a) ships of the Bangladesh Police;
(b) ships of the Bangladesh Navy or a foreign navy;
I ships of the defence forces, any other ships belonging to or under the control of the Government while employed otherwise than for profit or reward in the service of the Government.

3. Overriding effect of Act

Notwithstanding anything contained in any other law for the time being in force, this Act shall have overriding effect.

4. Interpretation

In this Act, unless the context otherwise requires –

(1) “Admiralty Court” means a court of the High Court Division having Admiralty jurisdiction under Section 3 of the Admiralty Court Act, 2000 (Act No. 43 of 2000);
(2) “apprentice” means a person appointed for training to the sea service, whether called an apprentice or a cadet, or by any other name;
(3) “Bangladesh Consular Officer” means a consular officer appointed by the Government as such and includes-

MARINECARE Consultants Bangladesh Ltd.
(a) any person 20arbor20zed by the Government to perform the functions of any of them; and
(b) a maritime counselor performing the functions of a Bangladesh Consular Officer in London;

(4) "Bangladesh ship" means a ship registered in Bangladesh under this Act, and "Bangladesh vessel" and "Bangladesh fishing vessel" shall be construed accordingly;

(5) "Bangladesh waters" mean the territorial sea as defined in Part IV Bangladesh Maritime Zones Act 2018;

(6) "bareboat charter terms" in relation to a ship, means the hiring of the ship for a stipulated period on terms which give the charterer possession and control of the ship, including the right to appoint the master and the seafarers;

(7) "charter period" means the period during which the ship is chartered on bareboat charter terms;

(8) "Chief Engineer and Ship surveyor" means chief engineer and ship surveyor appointed under section 6(3) of this Act;

(9) "Chief Nautical Surveyor" means chief nautical surveyor appointed under section 6(3) of this Act;

(10) "classification society" means a member of the International Association of Classification Societies (IACS) or any other classification society 20arbor20zed by Bangladesh;

(11) "coastal shipping agreement" means any agreement on coastal shipping signed by the Government with other coastal states;

(12) "coastal ship" means a ship not exceeding one thousand five hundred gross tonnage which is exclusively employed in trading coastwise within ports or places in Bangladesh waters;

(13) "coasting trade" means the carriage by sea of passengers or goods between ports or places in Bangladesh or from any such port or place to a port or place in countries along the Bay of Bengal coast as may be agreed and declared by the Government;

(14) "coasts" includes the coasts of creeks and tidal waters;

(15) "Commissioner of Customs" means a Commissioner of Customs appointed under the Customs Act, 1969 (IV of 1969), and includes any officer of customs 20arbor20zed by him to perform any of his functions under this Act;

(16) "Controller of Maritime Education" means controller of maritime education appointed under section 6(3) of this Act;

(17) "child" means a person under eighteen years of age and may be called a "young Person";

(18) "company" has the same meaning as in section 2 of the Companies Act, 1913 (VII of 1913), and includes-
(a) a body corporate constituted or established by or under any law for the time being in force; and
(b) any partnership or association of persons, whether incorporated or not;

I the owner of the ship or any other organization or person such as the manager or the bareboat charterer who has assumed the responsibility for operation of the ship from the ship owner;

(19) "consular officer" means a person discharging the duties of a consular officer on behalf of the Government of Bangladesh, and when used in relation to a State other than Bangladesh means the officer 20arbor20zed by the Government of Bangladesh as a consular officer of that other State;

(20) "damage to the environment" means a substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent...
thereof up to the outer limit of EEZ, caused by pollution, contamination, fire, explosion or similar major incidents;

(21) “dangerous goods” or “goods of a dangerous nature” shall carry the same meaning as contained in SOLAS;

(22) “department” means the Department of shipping established under section 6 of this Act;

(23) “desertion” means intentional or willful forsaking and abandonment of ship by a seafarer and particularly includes-

(a) failure to report to a ship by a seafarer at the time of sailing from a port other than a port in his own country within the time he is required to do so by the master of the ship to which he is engaged;

(b) failure to join a ship by a seafarer at the time of sailing from a port in a foreign country before departure of the ship from that country where the seafarer arrived by air or other means of transport for the purpose of joining that ship;

I failure to depart a foreign country by a seafarer within the time he is required to do so by the appropriate authority of that country, after signing off from the ship to which he had been engaged, for the purpose of returning home or proceeding elsewhere as directed by his employer:

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

(24) “Director-General” means the Director-General of the Department of Shipping appointed under section 6(1) of this Act;

(25) “distressed seafarer” means a seafarer engaged under this Act who, by reason of having been discharged or left behind from, or ship wrecked from any ship at any port or place outside Bangladesh, is in distress there;

(26) “employer” in relation to a seafarer, means the person who has entered into an agreement with the seafarer for the employment of the seafarer on a ship;

(27) “equipment” in relation to a ship, includes boats, tackle, pumps, apparel, furniture, life saving appliances of every description, spares, masts, spars, rigging and sails, fog signals, lights, shapes and signals of distress, medicines and medical and surgical stores and appliances, charts, radio installations, appliances for preventing, detecting or extinguishing fires, buckets, compasses, axes, lanterns, loading and discharging gears, and appliances of all kinds, and all other stores or articles belonging to or to be used in connection with or necessary for the navigation and safety of the ship;

(28) “examiner” means the examiner appointed under section 6(3) of this Act;

(29) “exclusive economic zone” means the zone defined as such in Part VI of the Bangladesh maritime zone Act 2018;

(30) “fishing vessel” means a vessel, of whatever size and by whatever means propelled, which is exclusively engaged in sea fishing for profit;

(31) “foreign country” means any country other than Bangladesh;

(32) “foreign ship” means a ship not registered in Bangladesh;

(33) “foreign going ship” means a ship employed in trading through the sea between any port or place in Bangladesh and any other port or place outside Bangladesh;

MARINECARE Consultants Bangladesh Ltd.
(34)“Government” means the Government of the People’s Republic of Bangladesh, and only in relation to rule making and regulation making under this Act, means the Shipping Minister of the Government;
(35)“gross” in relation to tonnage of a vessel, means the gross tonnage of the vessel as registered under this Act;
(36)“Government ship” means any ship owned or operated by the Government or held by any person on behalf of or for the benefit of the Government;
(37)“grain” includes millet, wheat, maize (corn), oats, rye, barley, rice, pulses, sesame and seeds;
(38)“22arbor” includes estuaries, piers, jetties and other works in or at which ships can obtain shelter or ship and unship goods or passengers;
(39)“ILO” means the International Labour Organization;
(40)“international voyage” means a voyage through the sea from a port or place in Bangladesh to a port or place outside the territorial limits of Bangladesh, or conversely;
(41)“internal waters”, in relation to Bangladesh, means Bangladesh waters landward of the baselines for measuring the breadth of its territorial sea as defined in the Bangladesh Maritime Zone Act 2018;
(42) “Inland ship” means a ship registered under the Inland Shipping Act 2019;
(43)“managing owner” means a person other than the registered owner who undertakes the day to day management of the ship on behalf of the owner;
(44)“Marine Court” means a Court constituted under the Inland Shipping Ordinance 1976;
(45)“maritime Convention” means maritime related Conventions adopted by UN,IMO or ILO which are accepted by Bangladesh;
(46)“maritime counselor” means the maritime counselor appointed under section 6(3) of this Act;
(47)“Maritime Labour Convention (MLC)” means International Labour Organization Convention, number 186, established in 2006 which entered into force on 20 August 2013;
(48)“master” includes every person, except a pilot, having command or charge of a ship and, in relation to a fishing vessel, means the skipper;
(49)“mile” means an international nautical mile of 1,852 metres;
(50)“national flag” means the national flag of Bangladesh;
(51)“new ship” means a ship—the keel of which was laid; or that has been substantially altered; or reconstructed, after the commencement of this Act;
(52)“official log book” means the official log book required to be kept under section177;
(53)“Organization” or “IMO” means the International Maritime Organization;
(54)“owner” in relation to a ship, or “shipowner” means, in respect of a registered ship, the registered owner and includes a bareboat or demise charterer and a managing owner or a managing agent;
(55)“passenger” means any person carried on board a ship except-
   (a) a person employed or engaged in any capacity on board the ship on the business of the ship; or
   (b) a person on board the ship either in pursuance of the obligation laid upon the master to carry ship wrecked, distressed or other persons, or by reason of any circumstances which neither the master nor the charterer, if any, could have prevented or forestalled; or
   (c) a child under one year of age;
(56)“passenger ship” means a ship carrying more than twelve passengers;
(57) “penalty unit” a penalty unit means one Taka or any other amount as may be specified by the Government from time to time in the Gazette notification;
(58) “pilot” in relation to the ship, means a person not belonging to the ship who has the conduct of the ship in or outside the port limit;
(59) “pilgrim” means a person, not being a member of the seafarer or a child under one year of age, going to or returning from the Hedjaz for or after performing Hajj, and includes any such person who is returning without having actually landed at the Hedjaz;
(60) “pilgrim ship” means a ship conveying or about to convey pilgrims from or to any port or place in Bangladesh to or from any port or place in the Red Sea or the Persian Gulf;
(61) “pollution” means the introduction, directly or indirectly, by human activity, of wastes into the sea which results or is likely to result in deleterious effects including harm to living resources and marine ecosystems, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;
(62) “port” means any port which the Government may by notification in the official Gazette declare, or may under any law for the time being in force have declared, to be a port;
(63) “port authority” includes all persons entrusted with the function of managing, regulating and maintaining a harbour;
(64) “port of registry” in relation to a ship, means the port at which she is registered or is provisionally registered;
(65) “power driven” used in relation to a ship, means a ship propelled by machinery;
(66) “prescribed” means prescribed by rules or regulations made under this Act;
(67) “Principal Officer” means the principal officer appointed under section 6(3) of this Act;
(68) “receiver of wreck” means a person appointed as such under subsection 6(7);
(69) “registrar of ships” means a person appointed as such under section 8;
(70) “regulations” means the regulations made under this Act;
(71) “RO Code” means Code for Recognized Organizations (RO Code) adopted by Resolutions MSC.349(92) and MEPC.237(65);
(72) “sailing vessel” means any description of vessel-
   (a) which is fitted exclusively with sails, or
   (b) which is provided with sufficient sail area for navigation under sails alone and, if fitted with mechanical means of propulsion, such means are meant for auxiliary purposes only, and includes a rowing boat or canoe, but does not include a pleasure craft;
(73) “salvage” includes, subject to the Salvage Convention, all expenses properly incurred by the salvor in the performance of the salvage services;
(74) “Salvage Convention” means the International Convention on Salvage,1989;
(75) “salvage operation” means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters;
(76) “salvage services” means services rendered in direct connection with salvage operations;
(77) “salvor” means any person rendering salvage services;
(78) “seafarer” means a person employed or engaged for service in any capacity on board any ship, including master and apprentice;
(79) “seagoing” in relation to a vessel, means a vessel proceeding to or operating at sea beyond the territorial waters of Bangladesh;
(80)“ship” includes every description of vessel used or capable of being used in navigation;
(81)“Shipping Authority” or “Authority” means the Director General of the Department of Shipping or any other officer authorised by the Government, by notification in the official Gazette, to perform the functions of the Shipping Authority under this Act;
(82)“Shipping Master” means a person appointed as such under sub-section 6(3) and includes a Deputy Shipping Master and an Assistant Shipping Master;
(83)“skipper” means the person in command or charge of a fishing vessel or a sailing vessel;
(84)“SOLAS” or “Safety Convention” means the International Convention on Safety of Life at Sea, 1974, as amended from time to time;
(85)“Special Drawing Right (SDR)" means a form of international money, created by the International Monetary Fund, and defined as a weighted average of various convertible currencies;
(86)“special trade” means the conveyance of special trade passengers by sea on international voyages within the area specified below:
   (a) on the south bounded by the parallel of latitude 20°S from the east coast of Africa to the west coast of Madagascar, thence the west and north coasts of Madagascar to longitude 50°E, thence the meridian of longitude 50°E to latitude 10°S, thence the rhumb line to the point latitude 3°S, longitude 75°E, thence the rhumb line to the point latitude 11°S to longitude 141°03’E;
   (b) on the east bounded by the meridian of longitude 141°03’E, from latitude 11°S to the south coast of New Guinea, thence the south, west and north coasts of New Guinea to the point longitude 141°03’E, thence the rhumb line from the north coast of New Guinea at the point 141°03’E to the point latitude 10°N, at the north east coast of Mindanao, thence the west coasts of the Islands of Leyte, Samar and Luzon to the Port of Sual (Luzon Island), thence the rhumb line from the Port of Sual to Hong Kong;
   (c) on the north bounded by the south coast of Asia from Hong Kong to Suez;
   (d) on the west bounded by the east coast of Africa from Suez to the point latitude 20°S.
(87)“special trade passenger” means a passenger carried in special trades in spaces on the weather deck, upper deck or between decks which accommodate more than 8 passengers;
(88)“special trade passenger ship” means a mechanically propelled passenger ship which carries more than 30 special trade passengers;
(89)“small ship” means a ship of less than 24 metres in length;
(90)“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended by any amendment made under Article XII of that Convention;
(91)“surveyor” means a person appointed as such under sub-section 6(3);
(92)“tanker” means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of a flammable nature;
(93)“tonnage certificate” means a certificate granted pursuant to the tonnage regulations;
(94)“Tonnage Convention” means the International Convention on Tonnage Measurement of Ships, 1969;
(95)“tonnage regulations” means regulations made under section 257 of this Act;
(96)“vessel” includes a ship, boat, sailing vessel, fishing vessel and every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;

MARINECARE Consultants Bangladesh Ltd.
(97) “voyage”, in relation to a ship, means the whole distance between the ship's port or place of departure and her final port or place of arrival;

(98) “wages” includes emoluments;

(99) “wreck” includes flotsam, jetsam, lagan and derelict found in or on the shores of the sea or of any tidal water, the whole or any portion of a ship lost, abandoned, stranded or in distress, any portion of the cargo, stores or equipment of such a ship, and any portion of the personal property on board such a ship when it was lost, stranded, abandoned or in distress, and includes the following when found in the seas or in tidal water or on the shores thereof—

(a) goods which have been cast into the sea and then sink and remain under water;
(b) goods which have been cast or fall into the sea and remain floating on the surface;
(c) goods which are sunk into the sea, but are attached to a floating object in order that they may be found again;
(d) goods which are thrown away or abandoned; and
(e) a vessel abandoned without hope or intention of recovery.
CHAPTER 2
GENERAL ADMINISTRATION

5. Power of the Government to administer Act

The Government shall, in addition to any other power conferred by any other provisions of this Act, be responsible for the administration and implementation of this Act.

6. Department of Shipping and associated offices

(1) The Government shall maintain a Department of Shipping headed by a Director General, and a Mercantile Marine Office headed by a Principal Officer, a Shipping Office headed by a Shipping master, a Directorate of Seafarers and emigration welfare headed by a Director, as its subordinate office as they were immediately before the commencement of this Act and shall establish such other subordinate offices at any other port or place as may be required for efficient administration of this Act including the establishment for the Global Maritime Distress and Safety System (GMDSS), general radio-communication facilities, aids to navigation to comply with international Maritime Organization (IMO) and other maritime related international organizations’ requirements.

(2) Without prejudice to the generality of the sub-section (1)-

(a) the Department of Shipping shall undertake:
   (i) its functions in a manner consistent with the obligations of Bangladesh under any bilateral or multilateral maritime related instruments;
   (ii) to coordinate measures to prevent, respond, control and mitigate pollution in the marine environment;
   (iii) to provide, on request, services to the maritime industry on a commercial basis;
   (iv) to perform such other functions as are conferred on it by or under any other Act;
   (v) to provide its services both within and outside Bangladesh.

(b) the Mercantile Marine Office shall undertake, among others, activities related to the administration and enforcement of this Act and the rules and regulations made thereunder applicable to ships and entities and in the discharge of their duties, the principal officer and other officers shall be subject to the control of the Director-General.

(c) the Shipping Office shall undertake, among others, activities related to the administration and enforcement of this Act and the rules and regulations made thereunder regarding recruitment and employment of seafarers and in the discharge of their duties, the Shipping master and other officers shall be subject to the control of the Director-General.

(d) the Directorate of Seafarers and emigration welfare shall undertake, among others, activities related to the administration and enforcement of this Act and the rules and regulations made thereunder regarding seafarers' welfare on board and ashore and in the discharge of their duties, the Director and other officers shall be subject to the control of the Director-General.

MARINECARE Consultants Bangladesh Ltd.
(3) Save as otherwise expressly provided in this Act, the officers appointed in the Department of Shipping and its subordinate offices under sub-section (1), namely, the Chief Nautical Surveyor, the Chief Engineer and Ship surveyor, the Controller of Maritime Education, the Director, Surveyors, Examiners, Maritime Counselor and other Officers to perform any functions under this Act, not being functions of judicial nature, shall, in the performance of their functions, be subject to the general supervision, direction and control of the Director General.

(4) The Government may, by notification in the official Gazette, appoint for the Department of Shipping and its associated offices as many Officers, Directors and Surveyors as it may consider necessary for the purposes of this Act; and the Surveyors appointed may be nautical Surveyors, ship Surveyors or engineer and ship Surveyors.

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

(6) An officer shall exercise his powers and duties under the direction of the Director General.

(7) A Principal Officer appointed under sub section (1) or an officer performing the functions of a deputy Principal Officer may, without prejudice to his functions as such, perform all or any of the functions of a Surveyor under this Act and the Principal Officer shall also be the Lighthouse Authority and the Receiver of Wreck, except where provided otherwise.

(8) The Government may by notification in the official Gazette specify the detailed functions of each office established and maintained under section 6 to administer and enforce this Act and the rules and regulations made thereunder and may also specify the roles and responsibilities of each officer appointed therein and may revise such notification from time to time to include new functions and responsibilities as deemed appropriate.

7. Director General’s responsibilities

(1) The Director General shall continue to have the general superintendence of all matters relating to merchant shipping and seafarers and is authorised to carry into execution the provisions of this Act and of all Acts relating to merchant shipping and seafarers for the time being in force, except where provided otherwise.

(2) The Director General may take any legal proceedings under this Act in the name of any of his officers.

(3) The Director General shall continue to have the functions of taking, or coordinating, measures to prevent, reduce and minimise the effects of marine pollution, which shall include-

(a) the preparation, review and implementation of a national plan, in cooperation with other relevant entities, setting out arrangements for responding to incidents which
cause or may cause marine pollution with a view to preventing such pollution or reducing or minimizing its effects;

(b) provision of service, including research, training and advice.

(4) The Director-General may specify the roles and responsibilities of all associated offices and all officers appointed under section 6.

8. Registrar of Bangladesh Ships and Seafarers

(1) The Director-General shall be the Registrar General of Shipping and Seafarers.

(2) In exercise of his powers under sub-section (1) the Director-General may designate the Principal Officer or any other officer to perform the duties of a registrar of ships and the Shipping Master or any other officer to perform the duties of a registrar of seafarers.

9. Surveys, inspections and monitoring

(1) The Director-General, surveyor or a person authorised by the Director-General for the purpose, may board, inspect and survey any ship to which this Act applies, enter premises of maritime training institutes, recognized organizations, other relevant entities and port facilities in Bangladesh subjected to this Act, demand the production of certificates, documents, records and other evidence; and take testimony of witnesses under oath, for the purposes of inspection, monitoring and survey and for undertaking other activities authorised or required under this Act.

(2) In carrying out the duties under sub-section (1), the Director-General, surveyor or a person authorised by the Director-General shall follow a laid down code of conduct.

10. Director General’s power to dispense

(1) The Director General may, if he thinks fit, and upon such conditions (if any) as he thinks fit to impose, but not inconsistent with this Act or with any provisions of any applicable maritime Convention, exempt any ship from any specified requirement of, or prescribed under, this Act or dispense with the observance of any such requirement in the case of any ship, if he is satisfied, as respects that requirement, of the matters specified in sub-section (2) below.

(2) Those matters are -

(a) that the requirement has been substantially complied with in the case of that ship or that compliance with it is unnecessary in the circumstances; and

(b) that the action taken or provision made as respects the subject-matter of the requirement in the case of the ship is as effective as, or more effective than, actual compliance with the requirement.

(3) The Director General shall report to the Government a special report stating—

(a) the cases in which he has exercised his powers under this section during the preceding year; and

(b) the grounds upon which he has acted in each case.
11. Delegation by Government

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

(2) A delegation in the terms of sub-section (1) shall not affect the exercise of such powers of the performance of such duties by the Government.

(3) Every officer purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of such delegation.

12. Power of Government to give directions

The Government may from time to time give the Director-General such general directions, not inconsistent with the provisions of this Act or any regulations made thereunder, on the policy to be pursued in the administration of this Act, as may be considered necessary, and the Director-General shall forthwith take such steps as are necessary or expedient to give effect thereto.

13. Availability of copy of legislation, Conventions etc.

(1) Every office established and maintained under section 6 of this Act shall ensure the availability of the following in that office:
   (a) an updated copy of this Act;
   (b) all Conventions and international instruments referred to in this Act that have application in Bangladesh;
   (c) all rules, regulations, orders and notices made pursuant to this Act.

(2) The Shipping Authority shall ensure that the soft copies of the updated documents under sub-section (1) are also made available in its website.

14. Communication, Co-operation and Memoranda of Understanding

The Director-General may for carrying out the purposes and provisions of this Act communicate, co-operate, consult and conclude memoranda of understanding as may be necessary and appropriate, with -

(a) Agencies of the Government associated with functions under this Act and applicable maritime Conventions;

(b) Governments of other States who are parties to the maritime Conventions to which Bangladesh is a party;

(c) Governments of other states in the Indian Ocean region;

(d) International, inter-governmental and non-governmental organizations related to shipping;

(e) shipowners, seafarers’ associations, ship agents and other entities involved or interested in shipping or in protection of the marine environment, for purposes of furthering the objects of this Act.
15. Establishment of National Maritime Council

(1) The Government may, by notification in the official Gazette, constitute a council, to be called the National Maritime Council with effect from such date as the Government may, specify in this behalf.

(2) The Council shall consist of the following members, namely:
   (a) the Minister for Shipping, ex-officio, who shall ex-officio also be its chairman;
   (b) Secretary, Ministry of Shipping, ex-officio;
   (c) Secretary, Maritime Affairs Unit, Ministry of Foreign Affairs, ex-officio;
   (d) Secretary, Ministry of Industries, ex-officio;
   (e) Secretary Ministry of Environment, ex-officio;
   (f) Secretary, Ministry of Labour and Manpower, ex-officio;
   (g) Secretary, Ministry of Home Affairs, ex-officio;
   (h) Secretary, Ministry of Fisheries and Livestock, ex-officio;
   (i) Director General, Bangladesh Coastguard, ex-officio;
   (j) three members representing industries to be nominated by the Government in consultation with such stakeholder organizations as it may deem fit;
   (k) three members representing professional bodies, to be nominated by the Government in consultation with such professional bodies as it may deem fit;
   (l) three members from Maritime Universities and Maritime training institutes to be nominated by the Government in consultation with such professional bodies as it may deem fit;
   (m) subject to sub-section (3) below, three members from seaports to be nominated by the Government in consultation with port authorities as it may deem fit;
   (n) three members from seafarers’ organizations to be nominated by the Government in consultation with seafarers’ organizations as it may deem fit; and
   (o) the Director General, ex-officio, who shall also be its secretary.

(3) In respect of paragraph (n) in sub-section (2) above, at least one female representative shall be included in the members representing seafarers.

(4) The nominated members shall hold office for a term of three years, so however, the Government may reconstitute the National Maritime Council before the expiry of its term, if deemed necessary.


(1) The Council shall advise the Government—
   (a) on matters relating to shipping, including the development thereof; and
   (b) on such other matters arising out of this Act as the Government may refer to it for advice.

(2) The Council shall-
   (a) prepare national policy for ensuring measures for safety security and pollution prevention in the maritime industry and improve performance of relevant organizations responsible for compliance with international obligations;
   (b) frame guidelines for implementation of its policy;
   (c) intervene on any other relevant issue(s) considered appropriate;
   (d) meet at least twice a year.

(3) Every relevant establishment shall take steps necessary for implementation of the policy prepared by the Council following the guidelines framed by it.

MARINECARE Consultants Bangladesh Ltd.
17. Delegation of Authority to recognized organizations

(1) The Director General may, with the approval of the Government make regulations in compliance with the code for Recognized Organizations adopted by IMO, hereafter referred to as the "RO Code", for the purposes of authorizing any organization for the survey, inspection or audit of Bangladesh ships and the issue of any certificate under this Act.

(2) Without prejudice to the generality of sub-section (1), regulations may –

(a) Specify the surveys or inspections or audit and the issue of certificates or endorsements;

(b) Specify that ships included in a particular class are required to have certificates of specified kinds, either generally or in specified circumstances, including certificates prescribed in applicable mandatory international instruments to which Bangladesh is a Party.

(3) Any certificate issued or endorsement made by any authorized organization in accordance with any regulations made under this Act shall be deemed to be issued or made by the Government, for the purposes of this Act.

(4) The Director General may, sign any agreement to delegate authority, for survey, inspection or audit of Bangladesh ships and the issue of any certificate under this Act, to any organization complying with the requirements of the regulations made under this section and the RO Code.

(5) The Director General shall establish an oversight programme for monitoring of, and communication with authorized recognized organization(s) in order to ensure that its international obligations are fully met, by:

(a) exercising authority to conduct supplementary surveys to ensure that ships effectively comply with the requirements of the applicable international instruments; and

(b) conducting supplementary surveys as deemed necessary to ensure that ships comply with national requirements, which supplement the international mandatory requirements.

18. Powers of the Director General to make regulations, orders, Merchant Shipping Notices, etc.

(1) The Director General may, with the approval of the Government, make regulations generally for carrying out the purposes and provisions of this Act.

(2) Without prejudice to the generality of the foregoing, the Director General may make regulations for any matter outlined in this Act, the purposes of which shall be to complement the law by providing further elaboration, interpretation and explanation for effective compliance within the purview of the Act, and such regulations shall be published in the official gazette and also placed in the website of the Department.

(3) The Director-General may, by written instrument, make an Order for any matter specified in regulation.

(4) If an Order is inconsistent with this Act or regulation, other than another Order, the Order is of no effect to the extent of the inconsistency.
(5) An Order may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other applicable document of IMO and ILO:
   
   (a) as in force or existing at a particular time; or
   
   (b) as in force or existing from time to time.

(6) The Director-General may issue Merchant Shipping Notices, Guidance Notes, and Circulars.

(7) All Orders, Merchant Shipping Notices, Guidance Notes, and Circulars issued under this section shall be identifiable.

(8) The contents of any regulation or other notice or guidance notes now in operation shall continue to remain in operation, as if made under corresponding provisions of the present law, until and unless specifically replaced by any new regulation or guidance note made under this Act.
PART II
SHIP BUILDING REGISTRATION AND RECYCLING

CHAPTER 3
GENERAL

19. Application of this Part

This Part applies to:

a) all ship builders in Bangladesh;
b) all ships exceeding 100 GT or 24 meters in length constructed in Bangladesh; and
c) all ships declared for recycling in Bangladesh.

20. Interpretation

In this Part-

(1) “Authority” means the Director-General or a person designated by him for the purpose.

(2) "builder’s licence " means a licence to build ships issued under this Act.

(3) “ship recycling” means the activity of complete or partial dismantling of a ship at a Ship Recycling Facility in order to recover components and materials for reprocessing and re-use, whilst taking care of hazardous and other materials, and includes associated operations such as storage and treatment of components and materials on site, but not their further processing or disposal in separate facilities.


(5) “ship recycling facility” means a defined area that is a site, yard or facility used for the recycling of ships.
CHAPTER 4
SHIP BUILDING

21. Builder’s license, plan approval etc. for ships built in Bangladesh

(1) No builder shall build a ship without a licence issued by the Director-General and for obtaining a licence, an application shall have to be made to the Director General in such manner as may be prescribed.

(2) No builder shall undertake the building of a ship unless a builder’s license to do so has been granted in that respect by the Director General.

(3) Whoever intends to build a ship in Bangladesh shall submit the plans and specifications of the ship to the Department or to a classification society recognized by the Department and shall not commence the building until the Department or the classification society has approved the plans and specifications of the ship.

(4) The construction of every ship by a licensed builder shall be supervised by a surveyor or surveyors appointed by the Director-General or by the classification society whoever approved the design of the ship and the appointed surveyor or surveyors shall submit periodic progress reports of the work on the ship to the approving authority.

(5) Notwithstanding the requirements of sub-section (4) every new ship after keel laying shall be assigned a unique hull number by the licensed builder and shall be reported to the Authority within thirty days of such keel laying and again within thirty days of completion of construction, and the reporting shall include such information as may be specified by the Director General.

(6) A new ship built in Bangladesh shall not leave the yard unless there has been issued in respect of that ship a Certificate of Seaworthiness by the Shipping Authority or by a classification society in the prescribed form.

(7) The Authority may, with the approval of the Government, make regulations prescribing-

(a) the standards and specifications for the design and construction of different types of ships;

(b) the forms of application, license, reporting, fees and Certificate of Seaworthiness provided for in sub-section (6) above; and

(c) Any other matter appropriate to ship building.

(8) Whoever contravenes or attempts to contravene this section commits an offence and on conviction is liable to a fine not exceeding fifty thousand penalty units, and in addition, the Court may order the ship in respect of which the offence was committed to be detained.
22. Record books for builders and ships under construction

(1) The Registrar of Ships shall keep and maintain a register of builders and under each builder, maintain the details of every ship under construction of 24m or more in length, reported by the builder after keel laying in accordance with sub-section 21(5).

(2) Records on the builders’ register shall be updated, with respect to each ship, on receipt of the completion report under sub-section 21(5).

(3) If the ship is registered under the law of any country other than Bangladesh, the builder and or owner shall inform the registrar the name of the country of registration for entry into the builders’ register book.


(1) The Government may make rules prescribing requirements as to the hull, equipment and machinery of any class of Bangladesh ships.

(2) Every class of Bangladesh ships shall, unless any of those classes of ships are otherwise exempted under this Act shall, comply with the requirements as are applicable. Rules includes the power to make such further rules in relation to the construction rules as appear to the Government necessary to implement the provisions of the Safety Convention.

(4) The Government shall ensure that every ship constructed in Bangladesh, to which the Safety Convention is applicable, shall comply in every particular with the provisions of the Convention.
CHAPTER 5
BANGLADESH SHIP AND BANGLADESH REGISTER

24. Bangladesh ship

(1) A ship shall be regarded as a Bangladesh ship for the purposes of this Act if the ship is registered in Bangladesh under this Chapter.

(2) A ship shall be registered as a Bangladesh ship if it is—
(a) of 24 metres or more in length;
(b) owned by qualified owners; and
(c) not exempted from registration.

(3) For the purposes of sub-section (2)(b) above - “qualified owners” means persons or entity of such description qualified to own Bangladesh ships as may be prescribed by registration regulations.

25. Obligations to register Bangladesh ship

(1) Whenever a ship is owned wholly by persons or entities qualified to own a Bangladesh ship, that ship shall, be registered in Bangladesh in the manner provided in this Chapter.

(2) Every Bangladesh ship shall be registered in one of the register books kept pursuant to section 32.

(3) Where the master of any ship which is owned wholly by someone qualified to own a registered Bangladesh ship fails, on demand, to produce the Certificate of Registry of the ship or such other evidence to satisfy the Director General that the ship complies with the requirements of sub-section (1), that ship may be detained until that evidence is produced.

(4) Before the commencement of this Act, any ship registered in Bangladesh in accordance with the Merchant Shipping Ordinance 1983 shall be deemed to have been registered under this Act.

(5) A ship required to be registered under this Act shall not be recognised as a Bangladesh ship and shall not be entitled to the rights and privileges accorded to Bangladesh ships under this Act unless it is so registered.

26. National colours for ships

(1) The Bangladesh national flag, as described in Bangladesh flag rules 1972, shall be the proper national colours for Bangladesh ships.

(2) If any distinctive colours other than those declared under sub-section (1) are hoisted on board any Bangladesh ship, the owner of the ship, unless he proves that they were hoisted without his knowledge or consent, the master of the ship and every person hoisting such colours shall be punishable with a fine not exceeding ten thousand penalty units.

MARINECARE Consultants Bangladesh Ltd.
27. Unlawful assumption or concealment of Bangladesh character, etc

(1) No person on board a ship which is not a Bangladesh ship shall use any of the national colours, unless such use is made, for the purpose of escaping capture by the enemy or by a foreign ship of war in the exercise of some belligerent right.

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

(3) Whoever contravenes any of the provisions of this section shall be punishable by imprisonment for a term not exceeding two years, or with a fine not exceeding hundred thousand penalty units, or both.

28. Bangladesh ships to hoist proper national colours in certain cases

(1) A Bangladesh ship shall hoist the proper national colours-
   (a) on a signal being made to her by any vessel of the Bangladesh Navy;
   (b) on entering or leaving any foreign port; and
   (c) if of length 24m or more, on entering or leaving any Bangladesh port.

(2) The master of a ship in respect of which sub-section (1) not complied with shall be punishable with a fine not exceeding ten thousand penalty units.

29. National character of ships to be declared before clearance

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

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

30. Liabilities of ships not registered as Bangladesh ships

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

31. Proceedings on forfeiture of ship

Where any ship has either wholly or as to any share therein becomes subject to forfeiture under this Act, any officer authorised by the Government, by notification in the official Gazette, may seize and detain the ship, and bring it in for adjudication before the Admiralty court of the High Court Division, and the Admiralty court may thereupon adjudge the ship with its equipment to be forfeited to the Government and make such

MARINECARE Consultants Bangladesh Ltd.
order in the case as to the Admiralty court deems just.

32. Register Book.

(1) There shall continue to be register books for all registrations of ships in Bangladesh.

(2) The register shall be maintained by the Registrar General of Shipping and Seafarers or by a person authorized by him.

(3) The Government may give to the Registrar General directions of a general nature as to the discharge of any of his functions.

(4) The register shall be so constituted as to distinguish, in separate parts, registrations of seagoing vessels, coastal vessels, pleasure craft, fishing vessels, sailing vessels and other vessels, and may be otherwise divided into parts so as to distinguish between classes or descriptions of ships.

(5) The register shall be maintained in accordance with the registration regulations and relevant private law provisions for registered ships and any directions given by the Government under sub-section (3) above.

(6) The register shall be available for public inspection.

33. Registration of ships

(1) A ship is entitled to be registered in Bangladesh if-

(a) it is owned, by person(s) or an entity or entities qualified to own Bangladesh ships, as may be prescribed; and

(b) such other conditions are satisfied as are prescribed under sub-section (2) (b) below;

(c) an application for registration is duly made.

(2) the registration regulations shall prescribe-

(a) who are qualified to be owners of Bangladesh ships, or Bangladesh ships of any class or description, and prescribe the extent of the ownership required for compliance with sub-section (1)(a) above; and

(b) other requirements to ensure that, only ships having a Bangladesh interest are registered.

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

(4) Where a ship becomes registered at a time when it is already registered under the law of a foreign country, the owner of the ship shall take all reasonable steps to secure the termination of the ship’s registration under the law of that country.

MARINECARE Consultants Bangladesh Ltd.
(5) Any person who contravenes sub-section (4) above shall be liable on summary conviction to a fine not exceeding five hundred thousand penalty units.

(6) In this section “the relevant requirements of this Act” means the requirements of this Act (including requirements falling to be complied with after registration) relating to-

   (a) the condition of ships or their equipment so far as relevant to their safety or any risk of pollution; and
   (b) the safety, health and welfare of persons employed or engaged in them.

(7) In this Part references to a ship’s having a Bangladesh interest are references to compliance with the conditions of entitlement imposed by sub-section (1)(a) and (b) above and “declaration of ownership” is to be construed accordingly.

34. Registration regulations.

(1) The Authority may, with the approval of the Government, make regulations to be known as registration regulations to make provision for the registration of ships.

(2) Without prejudice to the generality of sub-section (1), registration regulations may, in particular, make provision with respect to all or any of the following matters:

   (a) application procedure for registration of ships;
   (b) declaration of ownership;
   (c) the documents to be provided in connection with each type of registration application;
   (d) the numbers of owners including joint owners of, a ship permitted for the purposes of registration and the shares in the property in, and the persons permitted to be registered in respect of a ship;
   (e) Registration in Bangladesh of foreign-registered ships;
   (f) the issue of certificate of registration, the period of registration, provisional certificates of registration, custody, use, production and surrender of certificate;
   (g) the issue of a new certificate in case of a defaced, damaged or lost, etc. certificate, etc.;
   (h) documents to be retained by the Registrar;
   (i) registry of alteration, registration anew, registration of abandoned ships;
   (j) temporary pass in lieu of registration;
   (k) endorsements on certificate of registry;
   (l) the ship name and change of name to be registered;
   (m) the marking of ships and port of registry;
   (n) the survey and inspection of ships to be registered and the recording of their tonnage as ascertained under the tonnage regulations;
   (o) the refusal, suspension and termination of registration;
   (p) matters arising out of the expiration, suspension or termination of registration and the cancellation of certificates;
   (q) restriction of deregistration, certificate of deregistration;
   (r) the fees in connection with registration or registered ships;
   (s) the transfer of the registration of ships to and from the register;

MARINECARE Consultants Bangladesh Ltd.
(t) returns by Registrar;
(u) inspection of the register;
(v) any other matter which is authorised or required by this Chapter to be prescribed in registration regulations.

(3) Registration regulations may make -

(a) different provisions for different classes or descriptions of ships and may include provision for the granting of exemptions or dispensations by the Authority from specified requirements of the regulations, subject to such conditions (if any) as the Authority thinks fit to impose;

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

(c) provision for any matter which is authorised or required by those provisions to be prescribed by registration regulations;

(d) provision precluding notice of any trust being entered in the register or being receivable by the Registrar except as respects specified classes or descriptions of ships or in specified circumstances;

(e) the penalty for an offence with respect to the violation of any regulation on conviction shall not exceed one hundred thousand penalty units.

(4) 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.

35. Power to register Government ships

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

36. Registration of small ships

(1) Subject to sub-section (2) and other provisions of this Act, a small ship that trades outside the limits of Bangladesh territorial waters is required to be registered under this Act.

(2) This section applies to ships which ply beyond waters under the jurisdiction of Bangladesh.

(3) The Director General may in writing exempt, either generally or specifically, small ships from compliance with sub-section (1), subject to such conditions as he may stipulate.
37. Forgery of documents

Any person who forges, fraudulently alters or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any register book, builder’s certificate, certificate of survey, certificate of registry, declaration, bill of sale or instrument of mortgage, under this Part, or any entry or endorsement required by this Part to be made in or on any of those documents, commits an offence and shall be liable, on summary conviction, to imprisonment for a term not exceeding three years or a fine not exceeding five hundred thousand penalty units, or both.

38. Tonnage measurement

For the purpose of this Chapter, the tonnage of a vessel shall be such as may be ascertained, in accordance with the regulations made for the ascertainment of tonnage under section 257.

39. Tonnage of ships of foreign countries adopting Tonnage Convention

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

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

(3) An order by the Director General under sub-section (2) may -

(a) operate for a limited time; and

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

(4) Where it appears to the Director General 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.

40. Registration of foreign flag vessel under bareboat charter

(1) This section applies to any ship which -

(a) is registered under the law of a country other than Bangladesh; and

(b) is chartered on bareboat charter terms by a charterer who qualifies to own Bangladesh ships.

(2) A ship to which this section applies is entitled to be registered if an application for registration is duly made, but the registrar may, nevertheless, if registration regulations so provide, refuse to register or terminate the registration of a ship if, having regard to any relevant requirements of this Act, he considers it would be inappropriate for the ship to be or, as the case may be, to remain registered.
(3) The registration of a ship registered pursuant to this section shall remain in force until the end of the charter period and shall then terminate by virtue of this subsection.

(4) A ship registered pursuant to this section shall be deleted when –

(a) the chartering agreement expires,
(b) the conditions for registration under this section no longer exist,
(c) the charterer so requests in writing, or
(d) in accordance with the legislation of the ship's country of registration, the ship no longer has the right to temporarily fly a different flag of nationality than that of the country of registration.

(5) A ship shall also be deleted from the register of shipping when it is scrapped, wrecked, lost or declared irreparable by appointed surveyors or approved classification society or in some other way similar to these; and when such grounds for deletion exist, the charterer shall have a duty to notify such grounds to the Registrar of Shipping in writing no more than 30 days after the grounds for deletion have come to the knowledge of the charterer.

(6) To register under this section, the existing registration under the law of a foreign country need not be terminated but the owner shall ensure that the authority responsible for the registration of ships in the country of original registration is notified of the Bangladesh registration of the ship and of the termination of its registration whether by virtue of sub-section (3) above or registration regulations.

(7) During the period for which a ship is registered pursuant to this section -

(a) the ship shall, as a Bangladesh ship, be entitled to fly the Bangladesh flag;
(b) unless specifically expressed otherwise, this Act shall, apply to the ship as a Bangladesh ship as it applies to other Bangladesh ships.

(8) Liens, mortgages and other such private law rights shall not be registered on a ship registered under this section but rather shall be determined by reference to the law of the country of original registration.

41. Bangladesh Flag Ship on Bareboat Charter

(1) A Bangladesh ship bareboat chartered by a person, persons or entity not qualified to own a Bangladesh ship may register the ship in a foreign country; in which case, its Bangladesh registration shall not be deleted from the register of ships, even if the ship has been registered in a foreign register of ship on the basis of a chartering agreement, and during the period of the charter, the ship shall be entitled to temporarily fly a different flag of nationality, and thereupon, liens, mortgages and other rights may continue to be registered on the ship in the register of ships.

(2) The ship shall be entitled to fly a different flag of nationality for up to two years from the date of notification, and in such case, the Registrar of Ship may, on written request from the owner, extend this period by up to one year at a time.

MARINECARE Consultants Bangladesh Ltd.
(3) A condition that the ship may temporarily fly a different flag of nationality, under sub-section (1), shall be that all holders of notified rights have given written permission for the ship to change flag and that a certificate from the foreign registration authority that the ship may be registered in the foreign register has been issued.

(4) A further condition for the ship to be entitled to temporarily fly a different flag of nationality, under sub-section (1), shall be that the bareboat charter is not entered into with a foreign company or similar entity in which the owner of the ship has a direct or indirect participating interest and thus has an influence on the operation of the company, so however, such condition shall not apply if documentation is presented to the Registrar of Shipping that the change of flag is necessary to meet requirements from a foreign authority to fly a specific flag as a condition for access to a market.
42. Application

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

43. Licences for coasting trade or operation

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

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

(3) A licence granted under sub-section (1) shall remain valid until it is revoked or cancelled.

(5) A person who contravenes sub-section (1) shall, for each offence, be punishable by imprisonment for a term not exceeding one year, or with a fine not exceeding five hundred thousand penalty units, or both.

44. Revocation, etc. of licences

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

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

(3) A person who contravenes sub-section (2) shall be punishable with a fine not exceeding two hundred thousand penalty units.

45. Requirements and restrictions on activities within territorial waters.

(1) A ship shall not trade in or from the waters of Bangladesh unless the ship—
   (a) is a Bangladesh ship; or
   (b) has a certificate of foreign registry.

(2) Subject to any regulation or any treaty or agreement with any foreign Government, only Bangladesh ships may be engaged in any local trade or operation in Bangladesh waters.
(3) Every Bangladesh ship shall carry insurance against risks of loss or damage to third parties, and in particular-

(a) in respect of the shipowner’s liabilities to a seafarer under any provision of Part III of this Act; and

(b) claims in respect of loss or damage caused to others.

(4) Every foreign ship anchoring in or trading in or from Bangladesh waters or entering a port in Bangladesh shall carry insurance against risks of loss or damage to third parties.

(5) Where a ship is in contravention of this section, the owner shall be deemed to have committed an offence and shall be liable, upon conviction, to a fine not exceeding five hundred thousand penalty units, or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment.

(6) No ship, other than a Bangladesh ship, shall, except with the previous permission in writing of the Director General, be engaged in storing, gasification, regasification, loading unloading of liquefied natural gas, loading unloading of liquefied petroleum gas or used in lighterage of food grains and other cargo or transshipment of any cargo other than food grains at any point within the territorial waters of Bangladesh for carriage to any destination within Bangladesh.

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

(8) A person who contravenes sub-section (1) shall be punishable by imprisonment for a term not exceeding one year, or with a fine not exceeding one hundred thousand penalty units, or both.

46. Power to give directions

(1) The Director General may, if satisfied that it is necessary or expedient in the public interest or in the interest of coastal shipping in general so to do, shall, where so directed by the Government, by order in writing, give in the case of a ship which has been granted a license for coasting trade, directions with such conditions, not inconsistent with the coastal shipping agreement, as the Director General of Shipping may think fit to impose for the smooth conduct of coastal shipping activities.

(2) A person who fails to comply with any direction given under sub-section (1), shall, for each offence, be punishable by imprisonment for a term not exceeding one year, or with a fine not exceeding five hundred thousand penalty units, or both.

47. Power to make regulations

(1) The Director General may, with the approval of the Government, make regulations for carrying out the purposes of this Chapter.
(2) Without affecting the generality of subsection (1), the Director General may, with the approval of the Government, make regulations for or with respect to all or any of the following matters:

(a) the forms of licences;
(b) rates of fees payable for different categories of licences; and
(c) any other matter which may be necessary to prescribe.
CHAPTER 7
MISCELLANEOUS

48. Provisions relating to infancy or other incapacity

(1) Where by reason of the infancy, unsoundness of mind or any other cause, any person interested in any ship or any share therein is incapable of making any declaration or doing anything required or permitted by this Act to be made or done in connection with the registration of the ship or share, the guardian or trustee, if any, of that person, or, if there is none, any person appointed on application made on behalf of any such person, or of any other person interested, to a court of competent jurisdiction, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such act or thing in the name, and on behalf, of the incapacitated person.

(2) All acts done by any such person in the name, and on behalf, of the incapacitated person shall be as effectual as if done by the infant, person of unsound mind or incapacitated person.

49. Definition of “beneficial interest”

The expression “beneficial interest”, where used in this Part, includes interests arising under contract and other equitable interests, and accordingly without prejudice to-

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

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

(c) the provisions of this Act relating to the exclusion of unqualified persons from the ownership of Bangladesh ships, interests arising under contract or other equitable interests may be enforced by or against owners and mortgagees of ships in respect of their interests therein in the same manner as in respect of any other personal property.

50. Liability of beneficial owner

Where any person has a beneficial interest, 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 however that proceedings may be taken for the enforcement of any such penalties against both or either of the aforesaid parties, with or without joining the other of them.
51. Mode of transfer and registration of transfer of ships, etc.

(1) A Bangladesh ship or a share therein shall not be transferred except by bill of sale executed by the transferor, the execution being in the presence of, and attested by, at least two witnesses. A registered ship or a share therein, may be transferred to a person qualified to own a Bangladesh ship or to any foreign buyer only after the Registrar issues the non-encumbrance certificate upon his satisfaction that the ship has no outstanding mortgage or lien or any outstanding fees etc.

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

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

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

(5) Upon the transfer being registered in the manner provided in sub-section (3), the Registrar of Ships shall, in his discretion, either issue a new certificate of registry or endorse the existing certificate.

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

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

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

(a) if the transmission is in consequence of death, by a succession certificate, probate or letters of administration under the Succession Act, 1925 (XXXIX of 1925), or a certified copy thereof; and

(b) if the transmission is in consequence of insolvency, by proper proof of such transmission.

(3) Subject to sub-section (4), on receipt of the Declaration of Transmission submitted under sub-section (2), the Registrar shall enter in the Register Book the name of
the person entitled under the transmission as owner of the ship or share in the property which has been transmitted, and, where there are more persons than one, shall enter the names of all those persons, but all such persons shall, for the purposes of the provisions of this Act with respect to the number of persons claiming to be registered as owners, be considered as one person.

(4) Nothing in sub-section (3) shall require the Registrar to make an entry in the Register Book under this section if he is of the opinion that by reason of the transmission the ship has ceased to be a Bangladesh ship.

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

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

(2) On receipt of a report under sub section (1), the Government may make an application to the Admiralty court of the High Court Division for a direction for the sale of the property so transmitted to any person, or to any company which fulfils the conditions for owning Bangladesh ship as may be prescribed.

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

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

(6) The Admiralty court of the High Court Division may admit an application after the prescribed time if it is satisfied that the Government had sufficient cause for not making the application within such time.

54. Transfer of ship on sale by order of Court

Where any Court, whether under this Act or otherwise, orders the sale of any ship or share therein, the order of the Court shall contain a declaration vesting in some person named by the Court the right to transfer that ship or share, and thereupon the person so named shall be entitled to transfer the ship or share in the same manner and to the same extent as if he were the owner thereof, and shall, subject to the other provisions of this Act, be deemed, in respect of the transfer of the ship or share, the owner thereof.
CHAPTER 9
MORTGAGE

55. Rights of owners and mortgagees

(1) Subject to any rights and powers appearing from the register to be vested in any other person, the registered owner of a ship or of a share in a ship shall have power absolutely to dispose of it provided the disposal is made in accordance with this Act.

(2) Sub-section (1) does not imply that interests arising under contract or other equitable interests cannot subsist in relation to a ship or a share in a ship, and such interests may be enforced by or against owners and mortgagees of ships in respect of their interest in the ship or share in the same manner as in respect of any other personal property.

(3) The registered owner of a ship or of a share in a ship shall have power to give effectual receipts for any money paid or advanced by way of consideration on any disposal of the ship or share.

56. Mortgage of ship or share

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

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

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

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

(5) Where it is stated in the mortgage instrument that it is prohibited to create further mortgages over a ship without the prior written consent of the mortgagee, the Registrar of Ships shall make a note in the register to such effect, and the Registrar of Ships shall not register any further mortgage unless the consent in writing of the holder of a prior mortgage is produced to him, and any mortgage registered in violation of this provision shall be null and void.

(6) Where it is stated in the mortgage instrument that it is prohibited to transfer the ownership of a ship or terminate the registration of the ship, without the prior written
consent of the mortgagee, the Registrar of Ships shall make a note in the register to such effect, and the Registrar of Ships shall not record a transfer of ownership of the ship or terminate the ship’s registration, as the case may be, unless the appropriate consent in writing of the holder of the mortgage is produced to him, and any recording in the register of a transfer of ownership or a termination of the ship’s registration in the circumstances referred to in this sub-section shall be null and void.

(7) A mortgage may be registered in the register in respect of a provisionally registered ship, and where a mortgage is so registered, it shall be subject to all relevant provisions relating to mortgages under this Act and the registration regulations.

(8) A mortgage registered pursuant to sub-section (7) shall continue to be a registered mortgage until it is discharged, even if the provisional registration of the ship in respect of which the mortgage was registered, ceases to be effective.

(9) For the purposes of sub-section (1), “ship” includes a ship under construction.

(10) A mortgage in respect of a ship under construction shall be entered in the record book referred to in section 23; so however, upon the registration of such ship under construction being transferred to another appropriate part of the register as provided in section 33, the entries relating to the mortgage, unless the mortgage is discharged, shall in like manner be transferred to the same appropriate part of the register, and such a ship shall not be registered under the law of a foreign country, until the mortgage is discharged.

(11) Where two or more mortgages are registered in respect of the same ship or share, the priority of the mortgagees between themselves shall be determined by the order in which the mortgages were registered and not by reference to any other matter.

57. Entry of discharge of mortgage

Where a registered mortgage of a ship or share is discharged, the Registrar shall, on the production of the instrument creating the mortgage with a receipt for the mortgage money endorsed thereon, duly signed and attested, make an entry in the Register Book to the effect that the mortgage has been discharged, and on that entry being made, the interest in the ship or share, if any, which passed to the mortgagee shall vest in the person in whom, having regard to intervening acts and circumstances, if any, it would have vested if the mortgage had not been created.

58. Mortgagee not deemed to be owner

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

59. Rights of mortgagee

(1) A mortgagee under a registered mortgage shall be entitled to recover the amount due under the mortgage by appropriate proceeding in the Admiralty court of the

MARINECARE Consultants Bangladesh Ltd.
High Court Division, and when passing a decree, or thereafter, the Admiralty court of the High Court Division may direct that the mortgaged ship or share be sold in execution of the decree.

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

60. Mortgage not affected by insolvency

A registered mortgage of a ship or share shall not be affected by any act of insolvency committed by the mortgagor after the date the mortgage has been recorded by the Registrar, notwithstanding that the mortgagor, at the commencement of his insolvency, had the ship or share in his possession, order or disposition, or was the reputed owner thereof, and the mortgage shall be preferred to any right, claim or interest therein of the other creditors of the insolvent or any trustee or assignee on their behalf.

61. Transfer of mortgage

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

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

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

62. Transmission of interest in mortgage in certain circumstances

Where the interest of a mortgagee in a ship or share is transmitted on death, or insolvency, or by any lawful means other than by a transfer under this Act, the transmission shall be authenticated by a Declaration of Transmission in the prescribed form, and the provisions of section 52 shall, so far as may be, apply to such transmission.

63. Authority to sell or mortgage out of Bangladesh

(1) Where a registered owner of a Bangladesh ship or a share therein, is desirous of disposing by way of sale or mortgage of that ship or share at any place out of Bangladesh, he may make application, by declaration in writing, to the Registrar of Ships.

(2) In an application under sub-section (1), there shall be set forth the following particulars—

(a) the name and address of the person by whom the power mentioned in the certificate is to be exercised, together with—

(i) in the case of a sale, the minimum price at which a sale is to be made if it is intended to fix any such minimum; or
(ii) in the case of a mortgage, the maximum amount thereof, if it is intended to fix any such maximum;
(b) the place where the power is to be exercised, or, if no place is specified, a declaration that the power may be exercised anywhere, subject to this Act;
(c) the limit of time within which the power may be exercised.
(3) in the case of an application to dispose of a ship by way of sale, the Registrar of Ships shall enable any such applicant to dispose of the ship or share in the manner desired in accordance with sub-section (4).
(4) On receiving an application made under this section, the Registrar of Ships shall enter in the register book a statement of the particulars set forth in the application, and shall grant to the applicant a Certificate of Sale or a Certificate of Mortgage, as the case may require.
(5) A Certificate of Sale and a Certificate of Mortgage shall—
(a) each be in the prescribed form;
(b) not authorise any sale or mortgage to be made in Bangladesh or by any person not named in the certificate; and
(c) contain a statement of the particulars set forth in the application, and also a statement of any registered mortgages and certificates of any registered mortgages and certificates of sale or mortgage affecting the ship or share in respect of which the certificate is given.
64. General rules for Certificate of Sale
(1) A Certificate of Sale shall not be granted except for sale of an entire ship.
(2) The power conferred by any such certificate shall be exercised in conformity with the directions contained therein.
(3) An agreement for sale entered in good faith in exercise of the power conferred by any such certificate to a purchaser for valuable consideration shall not be impeached by reason of the person by whom the power was given dying at any time between the giving of the power and the completion of the sale.
(4) Whenever any such certificate contains a specification of the place at which, and a limit of time not exceeding twelve months within which the power is to be exercised, a sale made in good faith to a purchaser for valuable consideration without notice shall not be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given.
65. Sale and registration of ship under Certificate of Sale
(1) Where a Bangladesh ship is sold, in exercise of a power conferred by a Certificate of Sale granted under this Part, to persons qualified to own a Bangladesh ship or a foreign entity-
(a) a transfer of the ship shall be made by Bill of Sale in the manner provided in this Part, and the Bill of Sale, when duly executed, and the Certificate of Sale shall be produced to a consular officer at the place at which the ship is sold, and that officer shall thereupon endorse and sign on the certificate of sale a statement of the fact of that ship having been sold, and shall forthwith notify the Registrar of Ships;
(b) the ship may be registered anew in the manner provided by this Act; and

(c) the Registrar of Ships, upon receipt of the Certificate of Sale and the ship’s Certificate of Registry from a consular officer, each of those certificates having endorsed thereon an entry of the fact of the sale having taken place, shall thereupon enter the sale of the ship in the register book.

(2) Where a Bangladesh ship is sold in exercise of a power conferred by a Certificate of Sale, issued under this Part, to persons not qualified to own a Bangladesh ship-
(a) the Certificate of Sale and the Certificate of Registry shall be produced to the consular officer at the place at which the ship is sold, and the consular officer shall endorse and sign on each of them a statement of the fact of that ship having been sold to persons not qualified to own a Bangladesh ship;

(b) the consular officer making the endorsements required by paragraph (a) shall forward the Certificates of Sale and Registry, each being duly endorsed, to the Registrar of Ships;

(c) the Registrar of Ships, upon receipt of the Certificates of Sale and Registry, each being endorsed in accordance with paragraphs (a) and (b), shall make an entry of the sale in his register book, and the registration of the ship shall be considered as closed, except as far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein; and

(d) where default is made in the production of the certificates mentioned in this sub-section, the persons to whom the ship is sold shall be considered to have acquired no title to or interest in, the ship, and the person on whose application the Certificate of Sale was granted, and the person exercising the powers conferred thereby, each commits an offence.

(3) Where no agreement for sale is entered into in exercise of the powers conferred by a Certificate of Sale granted under this Part, that certificate shall be delivered to the Registrar of Ships, and the Registrar shall thereupon cancel the certificate, and shall enter the fact of the cancellation in the register book; and every certificate so cancelled shall be void.

66. Revocation of certificate of sale or mortgage

(1) The owner of a Bangladesh ship, or a share therein in respect of which a Certificate of Sale or mortgage has been granted specifying the places where the power thereby given is to be exercised, may, by an instrument under his hand, authorise the Registrar of Ships by whom the certificate was granted to give notice to the consular officer at every such place that the certificate is revoked.

(2) Notice shall thereupon be given accordingly and be recorded by the consular officer receiving it, and after it is recorded, the certificate shall be deemed to be revoked in respect of any sale or mortgage to be thereafter made at that place.

(3) After it has been recorded, the notice shall be exhibited to every person applying for the purpose of effecting or obtaining a transfer or mortgage under the certificate.
(4) A consular officer, on recording any such notice, shall inform the Registrar of Ships by whom the Certificate was granted whether any previous exercise of the power to which the certificate refers has taken place.
CHAPTER 10
MARITIME LIENS

67. Maritime liens

(1) Subject to the provisions of this Act, the following claims may be secured by maritime liens on the vessel:

(a) wages and other sums due to the master, officer and other members of the ship’s complement, in respect of their employment on the ship;
(b) port and other waterway dues and pilotage dues;
(c) claims against the owner in respect of loss of life or personal injury occurring, whether on land or water, in direct connection with the operation of the ship;
(d) claims against the owner, based on a wrongful act and not on contract, in respect of loss of or damage to property occurring whether on land or on water, in direct connection with the operation of the ship;
(e) claims for salvage, wreck removal and contribution in general average.

(2) In sub-section (1), “owner” includes, in relation to a ship, the charterer, manager or operator of such ship.

68. Priority of liens

The maritime liens set out in section 67 shall take priority over mortgages and preferential rights registered under this Part, or arising under the law relating to bankruptcy, and except as provided in section 69 no other claim shall take priority over them.

69. Order of priority of liens

The maritime liens set out in section 67 shall—

(a) rank in the order in which they are set out in that section, so however, that maritime liens securing claims for salvage, wreck removal and contribution in general average shall take priority over all other maritime liens which have attached to the ship prior to the time when the operations giving rise to such liens were performed;
(b) in the case of claims arising under section 67(1)(a), (b), (c) or (d), rank paripassu among themselves;
(c) in the case of claims arising under section 67(1)(e), rank in the inverse order of the time when the claim secured thereby accrued; and for this purpose claims for contribution on general average shall be deemed to have accrued on the date on which the general average act was performed and claims for salvage shall be deemed to have accrued on the date on which the salvage operation was terminated.
70. Rights of ship builders and repairers

Where a preferential right arises, pursuant to the law relating to bankruptcy, or insolvency, in respect of a ship in the possession of:-

(a) a ship builder, in order to secure claims for the building of the ship; or

(b) a ship repairer, in order to secure claims for the repair of the ship, effected during such possession, such rights shall be postponed to all the maritime liens set out in section 68 but may take precedence over any mortgage or other preferential right registered under this Part so long as the ship is in the possession of the ship builder or ship repairer, as the case may be.

71. Overriding nature of maritime liens

The maritime liens set out in section 67 shall arise whether the claims secured by such liens are against the owners, the demise or other charterer, manager or operator of the ship and such liens shall, subject to section 72, remain attached to the ship, notwithstanding any change of ownership or of registration.

72. Claims arising from radioactive products, etc.

A maritime lien shall not attach to a ship to secure a claim under section 67(1)(c) or (d) where such claim arises out of or results from the radioactive properties, or a combination of the radioactive properties with toxic, explosive or other hazardous properties, of nuclear fuel or of radioactive products or waste.

73. Limitation period

(1) The maritime liens relating to a ship set out in section 67 shall be extinguished after a period of one year from the time when the claims secured thereby arose unless, prior to the expiry of such period, the ship has been arrested and the arrest has led to a forced sale pursuant to the provisions of the rules of court or any other law for the time being in force relating to the sale of property in admiralty proceedings.

(2) The one year period referred to in sub-section (1) shall not be subject to interruption or suspension except that time shall not run during the period the lien holder is legally prevented from arresting the vessel.

74. Notification of forced sale and certificate of sale by court

(1) Before a forced sale of a ship as referred to in section 73, the executing officer shall give or cause to be given thirty days’ written notice of the time and place of such sale to -

(a) all holders of mortgages and other preferential rights registered under this Part which have not been issued to bearer;

(b) the holders of such mortgages and rights as have been issued to bearer, whose claims have been notified to the officer;

MARINECARE Consultants Bangladesh Ltd.
(c) the holders of maritime liens set out in section 67, whose claims have been notified to the executing officer; and
(d) the Registrar of Ships.

(2) Where a ship has been subject to a forced sale and the proceeds of the forced sale have been distributed in accordance with section 76, the court shall, at the request of the purchaser, having ascertained that the provisions of this Part of this Act have been complied with, cause to be issued, a certificate to the effect that the ship is sold free of all mortgages and all liens and other encumbrances, except those assumed by the purchaser.

(3) Upon production by the purchaser of a ship under sub-section (2) of this section, of a certificate described in that sub-section relating to any ship registered under this Act, the Registrar shall delete all registered mortgages and other preferential rights except those assumed by the purchaser and register the ship in the name of the purchaser or issue a certificate of de-registration as the case may be.

75. Effect of sale on mortgages

(1) In the event of the forced sale of a ship as referred to in section 73 and in accordance with this Part –

(a) all mortgages and other preferential rights registered under this Part, except those assumed by the purchaser with the consent of the holders thereof; and

(b) all liens and other encumbrances of whatever nature, but not including a charter party or contract for the use of the ship, shall cease to attach.

(2) No charter party or contract for the use of the ship shall be deemed to be lien or encumbrance for the purpose of this section.

76. Disposition of proceeds of sale

The costs awarded by the Court and arising out of the arrest and subsequent sale of a ship shall be paid first out of the proceeds of such sale, and the balance of such proceeds shall be distributed among -

(a) the holders of maritime liens under section 67;

(b) the holders of preferential rights under section 70; and

(c) holders of mortgages and other preferential rights registered under this Part in accordance with the provisions of this Act and to the extent necessary to satisfy their claims.
CHAPTER 11
RECYCLING OF SHIPS

77. Application

This chapter applies to :-

every ship within Bangladesh waters; and

the master, owner, importer, operator, and agent of every ship intending to recycle in Bangladesh.

78. Interpretation

In this chapter:

“Convention” means The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009;

“Competent Authority” means the Board established under section 8(1) of the Ship Recycling Act 2018.

79. Authorization of Ship Recycling Facilities

No ships can be recycled in Bangladesh except in the yards authorized for the purpose under the laws of Bangladesh.

80. Compliance with recycling law

Every ship imported from abroad or procured locally for the purpose of recycling shall comply with the relevant provisions of the Bangladesh Ship Recycling Act 2018 and the guidelines, rules and regulations made thereunder.

81. Initial notification and reporting requirements before recycling

(1) A shipowner shall notify its flag Administration in due time and in writing of the intention to recycle a ship in order to enable the Administration to prepare for the survey and certification required by this Convention.

(2) A Ship Recycling Facility when preparing to receive a ship for recycling shall notify in due time and in writing to the Competent Authority and the Department of the intent, and the notification shall include at least the following ship details:

(a) name of the State whose flag the ship is entitled to fly;
(b) date on which the ship was registered with that State;
(c) ship’s identification number (IMO number);
(d) hull number on new-building delivery;
(e) name and type of the ship;
(f) port at which the ship is registered;
(g) name and address of the shipowner as well as the IMO registered owner identification number;
(h) name and address of the company as well as the IMO company identification number;
(i) name of all classification society(ies) with which the ship is classed;
(j) ship’s main particulars (Length overall (LOA), Breadth (Moulded), Depth (Moulded), Lightweight, Gross and Net tonnage, and engine type and rating);
(k) inventory of hazardous materials; and
(l) draft ship recycling plan.

(3) When the ship is destined to be recycled has acquired the International Ready for Recycling Certificate, the Ship Recycling Facility shall report to the Competent Authority and the Department of the planned start of the Ship Recycling which report shall be in accordance with the reporting format specified by Convention, which shall at least include a copy of the International Ready for Recycling Certificate, and the recycling of the ship shall not start until the report mentioned in this sub-section is submitted.

82. Safety security and pollution prevention with respect recycling vessels

(1) Measures to ensure compliance with provisions of applicable maritime Conventions and this Act shall not be applicable to vessels after making the notifications required under section 81, and such vessels shall, till beaching, comply with safety, security and pollution prevention related directives issued by the Director General not inconsistent with applicable maritime Convention.

(2) Every authorized Ship Recycling Facilities shall establish and maintain an emergency preparedness and response plan which shall be made having regard to the location and environment of the Ship Recycling Facility, and shall take into account the size and nature of activities associated with each Ship Recycling operation.

83. Change of crew

(1) After making notification for recycling under section 81, no change of ship’s manning shall take place before beaching, without prior permission of the Director General who shall consider the safety, security and pollution prevention functions of the vessel before allowing any reduction or change in ship’s manning.

(2) A dead ship when notified for recycling under section 81 shall maintain a master onboard, maintain a tug while at anchor and shall comply with safety, security and pollution prevention related directives given by the Director General, in general or specific to the ship, till beaching.

84. Beaching Report

The master, owner, importer, operator, recycling yard or agent, as appropriate, of every ship shall submit a report along with a copy of the ships certificate of registry to the Director General forthwith after beaching with following information:-

a) Name and IMO number of the ship;
b) Name of the yard and berth number;
c) Date of beaching.

85. Penal provision

A person who contravenes or attempts to contravene any provision of this Chapter commits an offence and on conviction is liable to a fine not exceeding five hundred thousand penalty units, and in addition, the Court may order the ship to be detained and the functioning of the recycling yard in respect of which the offence was committed to cease.
PART III
SEAFARERS
CHAPTER 12
GENERAL

86. Application of this Part

Except as otherwise expressly provided, this Part applies to -

(a) all maritime training providers in Bangladesh;
(b) all Bangladesh ships engaged in commercial activities wherever they may be;
(c) all ships, not being Bangladesh ships, in Bangladesh, whether publicly or privately owned, engaged in commercial activities; and
(d) all seafarers employed on ships referred to in paragraph (b) or (c).

CHAPTER 13
INTERNATIONAL CONVENTIONS ON SEAFARERS’ TRAINING EMPLOYMENT ETC.

87. Application of international maritime Conventions

(1) Subject to this Act, the following international maritime Conventions related to seafarers’ training certification watchkeeping, employment and identity shall have the force of law in Bangladesh:

(a) The International Convention on Standards of Training, Certification and Watch-keeping for Seafarers 1978, as amended;

(b) The Maritime Labour Convention (MLC) 2006, as amended;

(c) The Seafarers Identity Documents Convention (Revised) 2003, as amended.

(2) An amendment made to a Convention or a Protocol referred to in sub-section (1) shall not apply if Bangladesh has withheld consent to the amendment.

88. Compliance with the Convention obligations and penalty

(1) Subject to this Act and regulations made under it, all concerned to which an international maritime Convention applies shall:

(a) comply with the requirements specified in the applicable Conventions;

(b) maintain all records required under the applicable Conventions;

(c) hold current certificates and documents as required under the applicable Conventions;

(d) comply with the training, examination, certification, employment, welfare and other requirements specified under the applicable Conventions;

(e) provide the manning, training and levels of competency required under the applicable Conventions; and

(f) otherwise comply with the requirements specified in the applicable Conventions, subject to any exemptions or exclusions provided for in the specific Convention.

MARINECARE Consultants Bangladesh Ltd.
(2) A person who contravenes sub-section (1), is guilty of an offence and is liable to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding 12 months, or both.

(3) In addition to any penalty imposed under sub-section (2), the following action can be taken by the Director General in relation to a violating ship, person or entity:
   (a) the ship may be detained;
   (b) the registration of a ship or an entity approved under this Act may be suspended or cancelled;
   (c) notification of a breach by a ship which is not registered under this Act shall be given to the maritime administration responsible for regulating the ship;
   (d) disciplinary action can be taken against the master, owner, seafarer or any other person who is responsible for or involved in the breach.

89. Power to make regulations

(1) The Authority may, with the approval of the Government, make regulations for carrying out the purposes of this Part.

(2) Without prejudice to the generality of sub-section (1) the Authority may, with the approval of the Government, make regulations providing for:
   (a) training, examination and certification of seafarers;
   (b) minimum requirements for seafarers to work on a ship;
   (c) conditions of employment;
   (d) accommodation, recreational facilities, food and catering;
   (e) health protection, medical care, welfare and social security protection;
   (f) identity document for seafarer;
   (g) certification and inspection of ships and entity.

(3) The Authority may, with the approval of the Government, make provisions in the regulations to give effect to any international Convention or agreement concerning or relating to ships, owners, master, seafarer or persons employed on ships and entities performing under this Act.

(4) When there is a difference between the regulations made under this section and the requirements of the applicable maritime Convention that has entered into force internationally the effect of the relevant international instruments shall take precedence over the provisions of the regulations, except when the contents of the provisions of the regulations include higher standards.
90. Government Maritime Training Institutes

(1) The Government shall maintain the Bangladesh Marine Academy and the National Maritime Institute at Chittagong to provide maritime training and education to seafarers as they were immediately before the commencement of this Act and may establish and maintain such other maritime training institutes at any other port or place as required, for providing quality maritime education and training in the country.

(2) The Bangladesh Marine Academy, the National Maritime Institute and any other established institution under this Act shall undertake, required course curriculum in accordance with IMO Model course and/or the requirements of the STCW Convention, as amended, and in conducting the course curriculum shall be subject to the control of the Director-General.

91. Private Maritime Training Institutes

(1) The Government may allow private maritime training institutes to provide maritime training and education in Bangladesh in accordance with IMO model course and/or requirements of STCW Convention, as amended and other relevant international instruments, with conditions as follows:

(a) every private maritime training institute shall be approved by the Government;
(b) every training program conducted by the private maritime training institute shall be approved by the authority;
(c) approved private training institutes and approved training programs shall comply with the requirements of the maritime training guidelines promulgated by the Authority;
(d) every private maritime training institute shall maintain a quality standard system certified by a certification body accredited by Bangladesh Accreditation Board;
(e) approved private maritime training Institutes and training programs shall be under continuous monitoring of the authority and the approval may be cancelled if found to be noncompliant with applicable Conventions or this Act or the guidelines and regulations made thereunder.

(3) A person who contravenes or attempts to contravene any provision of sub-section (1) paragraph (c) commits an offence and on conviction is liable to a fine not exceeding two hundred thousand penalty units.

92. Fee for establishing or aiding training institutions

(1) For the purpose of establishing or aiding institutions for training in the various trades, professions and callings provided for in this Act, there shall be paid, in the prescribed manner, a monthly fee by the owner of every Bangladesh ship at such rate as may be prescribed, not exceeding ten Taka per gross tonnage, and different rates may be prescribed for different classes of ships.

(2) If any owner fails or refuses to pay such fee, any Principal Officer may detain the ship in respect of which the fee has not been paid in accordance with the provisions of MARINECARE Consultants Bangladesh Ltd.
(3) The Government may, by notification in the official Gazette, make rules providing for-

(a) the appointment of a Committee to administer the proceeds of the fees paid or collected under this section;

(b) the rates of such fees;

(c) the manner in which such fees shall be paid or collected;

(d) such other matter as may be considered necessary for carrying out the purposes of this Chapter.
CHAPTER 5
CERTIFICATION

93. Application

This Chapter applies to power driven seagoing ships and seafarers serving on board such ships.

94. Manning of ships

(1) No ship shall go to sea or proceed on a voyage unless it is manned in accordance with the provisions of the safe manning document issued by the Director General with respect to that ship.

(2) The Director General shall issue the safe manning document under sub-section (1) in such manner as may be specified.

(3) (a) The Director General may, by order notified in the official Gazette, require a ship to carry such minimum number of officers, doctors, cooks and other seafarers as may be specified in the order.

(b) In making such orders under this sub-section, the Director General shall have due regard to the SOLAS Convention, STCW Convention and the Maritime Labour Convention, as amended, and other relevant instruments of the International Maritime Organization.

(4) The Director-General shall not exercise his power under sub-section (3) requiring a ship to carry seafarers, other than doctors and cooks, except to the extent that it appears to him necessary or expedient in the interest of safety of the ship.

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

95. Penalty for going to sea undermanned

If a ship to which this Chapter applies goes or attempts to go to sea or proceed on a voyage without carrying such seafarers as it is required to carry under section 94, the owner or master shall be guilty of an offence and liable—

a) on summary conviction, to a fine not exceeding five hundred thousand penalty units; and

b) the ship, if in Bangladesh, may be detained.

96. Certificate of Competency

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

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

(3) Notwithstanding anything contained in this section, the Director-General may relax the requirement of this section in respect of a person if such person satisfies the
Director-General that he is reasonably capable of discharging the duties and responsibilities of the trade for which he is sought to be employed or engaged.

97. Recognition of Certificate of Competency not granted by the Director General

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

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

98. Production of documents on qualifications

(1) Any person serving or engaged to serve in any ship to which this section applies and holding any certificate or other document which is evidence that he is qualified for the purposes of section 96 shall on demand produce it to the Director General, any surveyor of ships and, if he is not himself the master, to the master of the ship.

(2) Where, without reasonable excuse, a person fails to comply with sub-section (1), he commits an offence and shall be liable, upon conviction, to a fine not exceeding fifty thousand penalty units, or to imprisonment for a term not exceeding six months or both.

99. Penalty for unqualified seafarers going to sea

(1) Where a person goes to sea as a qualified seafarer of any description without being such a qualified seafarer, he commits an offence and shall be liable, upon conviction, to a fine not exceeding one hundred thousand penalty units, or to imprisonment for a term not exceeding six months or to both.

(2) In this section, “qualified" means qualified for purposes of section 96.

100. Master to be custodian of Certificates

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

101. Board of inquiry

Where as a result of any accident investigation or reporting or otherwise it is alleged to the Director General that a seafarer:-

MARINECARE Consultants Bangladesh Ltd.
a) is guilty of incompetence, dishonesty, or misconduct in the performance of the functions as a seafarer; or
b) procured the certificate of competency as a result of a misleading, false or fraudulent misrepresentation; or
c) is suffering from a habit or a mental or physical condition that renders the seafarer unfit to be a seafarer;

he may appoint a board of inquiry of two or three persons, one of whom is a senior officer of a ship, to enquire into the allegation and report its findings with its recommendations in writing to the Director General.

102. Powers of the board

A board appointed under section 101 shall have all the powers of the ‘investigation committee’ holding an investigation under the section 324(3).

103. Power to cancel or suspend Certificate

(1) If as a result of the investigation the Director General is satisfied, with respect to any seafarer, of any of the matters mentioned below in sub paragraph (a) to (c), he may, subject to sub-section (2), cancel or suspend any certificate issued to the seafarer under this Chapter:-

(a) if, on receipt of a report after formal investigation under Part VII, the Director General considers cancellation or suspension necessary;

(b) if a seafarer is proved to have been convicted:-

(i) of any offence under this Act or of any non-bailable offence committed under any other law for the time being in force in Bangladesh or an offence involving moral turpitude and so committed; or

(ii) of an offence committed outside Bangladesh which, if committed in Bangladesh, would be a non-bailable offence or an offence involving moral turpitude;

(c) if it has reason to believe that any seafarer has become, unfit to discharge his duties.

(2) No such cancellation or suspension order as is mentioned in sub-section (1) shall be passed by the Director General unless the holder of the certificate has been given an opportunity of making a representation against the proposed order.

(3) If it appears to the Director General on the basis of information or report or otherwise that a fraudulent certificate is being used or intending to be used by a seafarer, he may after confirmation of the fact, without prejudice to any other penalty to which such holder may be liable, by order, cause such certificate to be surrendered and the relevant details of the certificate to be disseminated to all concern.

(4) Upon cancellation of a Certificate under sub-section (1), the holder of the Certificate shall surrender the same to the Director-General.
(5) If any person contravenes sub-section (4), he shall be liable to fine not exceeding one lakh penalty units.

104. Appeals against cancellation or suspension of certificate or approval

A person who is aggrieved by a decision of canceling or suspending a certificate under section 103(1) or withdrawing an approval under this Act, may refer an appeal to the Government within a period of one month from the date of such order and the decision of the Government on such appeal shall be final.

105. Power of Government to revoke cancellation, etc.

(1) The Government may, subject to sub-section (2), order a case under section 109 to be reheard, and on receipt of the report of re hearing, and in any case not so ordered, may at any time, if it thinks that the justice of the case so requires:

(a) revoke any order of cancellation or suspension made by the Director General under section 103(1); or

(b) shorten or lengthen the period of suspension ordered by the Director General under section 103(1); or

(c) pass order to re-issue the certificate or grant in lieu thereof a certificate of a lower grade, in the ease of any certificate cancelled or suspended under the aforesaid clause.

(2) No order referred to in sub-section (1) shall be passed unless the person concerned has been given an opportunity of making a representation against the order proposed.

(3) A Certificate granted under paragraph(c) of sub-section (1) shall have the same effect as if it had been granted after examination.

106. Power of Government to censure seafarer

Where it appears to the Government that, having regard to the circumstances of the case, an order of cancellation or suspension is not justified or where it revokes or sets aside an order of cancellation or suspension, it may pass an order censuring the seafarer in respect of his conduct.

107. Record of orders affecting Certificate, etc.

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

108. Penalty

If any person-

(a) forges or fraudulently alters or assists in forging or fraudulently altering any Certificate of Competency or an official copy of any such Certificate; or

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

(d) fraudulently lends his certificate of Competency or allows it to be used by any other person, he shall be punishable with imprisonment for a term not exceeding three years, and shall also be liable to fine not exceeding one lakh penalty units, or both.

109. Power to make regulations

(1) The Director General may, with the approval of the Government, make regulations for carrying out the purposes of this Chapter.

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

(a) classification of Certificate of Competency of different grades;
(b) syllabi and courses of examinations or tests for Certificates of Competency and Certificate of Proficiency;
(c) eligibility for appearing in examinations or tests for various grades of Certificate of Competency and Certificate of Proficiency and manner of holding such examinations or tests;
(d) the number of each category of seafarer to be carried on board a ship having regard to her type, tonnage, trading area and mode of propulsion;
(e) conditions as to the nationality of a person for service on board a Bangladesh ship, or a ship engaged in trade in Bangladesh waters;
(f) watchkeeping provisions requiring that a ship shall be under the charge of a properly certificated master and that watch-keeping at sea and in port are always kept by suitably qualified officers and engineers;
(g) provisions requiring seafarers and any other persons performing prescribed functions in relation to the operation and maintenance of Bangladesh ships to be holders of certificates of competency, or otherwise and to satisfy any other prescribed conditions, including conditions as to nationality and prescribing for the grant, dispensation, loss, renewal, revocation, extension, validation, endorsement or variation and recording of those certificates;
(h) provisions relating to the:-
   (i) conduct of examinations in respect of seafarers' qualification;
   (ii) issue of certificates of competency, certificate of recognition, certificate of proficiency to seafarers;
   (iii) the training, qualification and the examiners;
   (iv) the remuneration of examiners;
   (v) the fees for the examinations; and
   (vi) any other matters that the Director General thinks necessary for the purpose of the examinations;
(i) provisions for the exemption of persons with prescribed qualifications or experience from the whole or parts of the examinations for those certificates;
(j) provisions for the programmes of training and the curricula of study to be followed in the training of seafarers;
(k) provisions for the establishment, maintenance and operation of Maritime Training Institutes for the training of persons for certification as seafarers, and designating institutions as recognized or affiliated maritime training institute;
(l) provisions prescribing the manner in which enquiries may be instituted before a board of inquiry appointed under section 101; and
(m) provisions prescribing any other matter which is required by this Act to be prescribed.

In making regulations under sub-section (1) the Director General shall consider the relevant Conventions of the International Labour Organization, the International Convention on Standards of Training, Certification and Watch keeping for Seafarers, 1978, as amended, and any other related international Conventions and instruments to which Bangladesh is a party.
CHAPTER 16
MINIMUM REQUIREMENTS FOR SEAFARERS TO WORK ON SHIPS

110. Application of this Chapter

(1) This Chapter applies to all seafarers employed in ships to which Maritime Labour Convention 2006 applies.

(2) In this chapter the term “seafarer” means any person who is employed or engaged or works in any capacity on board a ship to which Maritime Labour Convention 2006 applies.

111. Minimum age

No young person under sixteen years of age shall be employed or carried to sea to work in any capacity in any ship, and no seafarers under the age of eighteen shall be engaged night work or hazardous works as may be prescribed.

112. Seafarer to have valid medical fitness certificate

(1) Subject to sub-section (2), no person shall work as a seafarer on a ship unless that person has been issued with a medical fitness certificate complying with requirements as may be specified, and which is still valid and is not suspended.

(2) A seafarer whose medical fitness certificate has expired during the course of a voyage may continue to work until the first port of call at which it is possible for an application for a medical fitness certificate in respect of that person to be made and for that person to be examined by a qualified medical practitioner, but in any case not for a period exceeding 3 months.

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

(4) The Director General may, by order, specify standards of medical fitness and the certification of medical fitness for seafarers to give effect to the requirements of regulation 1.2 of the Maritime Labour Convention 2006 and the STCW Convention 1978 as amended.

113. Seafarer’s identity document

(1) The Director General may, by order, provide-

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

(b) for requiring the holder of a seafarer’s identity document to produce it to such person in such circumstances as may be specified in the order;

(c) for the surrender of the Seafarer’s Identity Document in such circumstances as may be specified in the order;
(d) for any incidental or supplementary matter which the Government thinks expedient for the purpose of the order to provide;

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

(2) An order under this section shall conform with the applicable requirements of the relevant Convention and may make a contravention of any provision thereof an offence punishable on a summary conviction, with a fine not exceeding ten thousand penalty units.

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

114. Seafarer to be in possession of Continuous Discharge Certificate/Seamen’s Book

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

(2) If a person engages or carries to sea, any seafarer in contravention of sub-section (1), he shall, for each offence, be punishable with fine not exceeding fifty thousand penalty units.

115. Seafarers to be qualified

(1) Seafarers shall not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties.

(2) Seafarers shall not be permitted to work on a ship unless they have successfully completed training for personal safety on board ship.

116. Recruitment and placement services

(1) No person shall operate a seafarer recruitment and placement service in Bangladesh unless he is authorised to do so by the Director General.

(2) No person shall demand or receive, directly or indirectly, from a seafarer or a person seeking employment as a seafarer (referred to as a prospective employee), or from a person on behalf of a prospective employee, any remuneration whatsoever for providing the prospective employee with employment.
(3) The Authority may, with the approval of the Government, make regulations for the control and management of seafarer recruitment and placement services for the purposes of this section with necessary provisions as may be required.

(4) The Director General or an inspector may, at any time, for the purposes of this section —

(a) enter and inspect any premises of any seafarer recruitment and placement service;

(b) require and enforce the production of any book, certificate or document relating to any ship, seafarer or seafarer recruitment and placement service; and

(c) summon any person before him and require him to answer questions.

(5) A shipowner shall not use a seafarer recruitment and placement service located in a state or territory that has not acceded to or ratified the Convention unless he has satisfied the Director General that the seafarer recruitment and placement service is compliant with the requirements of the Convention.

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

117. Power to make regulations

(1) The Director General may, with the approval of the Government, make regulations to fulfill the national commitments under the Maritime Labour Convention in accordance with its terms and to give full force to the regulations, and the Standards of the Code, of that Convention with respect to ships (within the meaning of Article II(1)(i) of the Convention) which are Bangladesh ships and seafarers sailing on those ship, and in making such regulations the Director General shall give due consideration to the relevant guidelines of the Code of the Convention.

(2) Without prejudice to the generality of sub-section (1), regulations made under this section shall specify -

(a) the conditions of employment of young persons in foreign going ships and coasting ships;

(b) the requirements for issuance of Continuous Discharge Certificate and Seafarers Identity Document having due regards to the Seafarers Identity document Convention 2003 as amended;

(c) the authorities whose certificates of medical fitness shall be accepted for the purposes of section 112;

(d) the licensing requirements of Agents who act on behalf of owners in engaging seafarers for foreign ships and the conditions to be complied with by such Agents before licence is granted or renewed.
CHAPTER 17
ENGAGEMENT AND DISCHARGE OF SEAFARERS

118. Regulation relating to engagement of seafarer

(1) Subject to the other provisions of this Act, the Director General may, with the approval of the Government, make regulations for regulating the engagement of seafarers, their employment on various ships, and other matters affecting maritime labour generally.

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

(a) the establishment of one or more Seafarers' Employment Boards, and the constitution, composition and functions thereof;

(b) the registration of seafarers, and the fees to be charged by the Shipping Master for the issue of Roster Book to them;

(c) the maintenance of seafarers' rosters;

(d) the principles and procedure to be followed by ship owners in engaging and promoting seafarers.

119. Employment of seafarers

(1) An agreement in writing known as a “seafarer employment agreement” shall be made between every seafarer employed in a Bangladesh ship and the shipowner or his authorised representative and the agreement shall be signed by both the seafarer and the shipowner or his authorised representative.

(2) The Director General may, with approval of the Government, make regulations as specified in regulations 1.4, 2.1, 2.4, 2.5, and 2.6 of the Maritime Labour Convention, 2006, providing for the recruitment of seafarers, and the terms and conditions of seafarer employment agreements, including—

(a) leave entitlement;

(b) repatriation entitlement; and

(c) compensation entitlement, resulting from the loss or foundering of ships.

(3) Regulations made by the Director General in accordance with sub-section (2) shall take into account the fundamental rights in Articles III and IV of the Maritime Labour Convention, 2006 and may specify the classes of ship to which the regulations apply, may define the categories of seafarers to which they apply and may exempt certain classes of ship from the application of the regulations.

(4) Regulations made by the Director General in accordance with sub-section (2) may specify penalties to be applied for contravention of the regulations and for a ship, if in Bangladesh, to be detained.

120. Seafarer’s employment agreement

(1) No person shall cause or permit any person without a seafarer’s employment agreement to be employed as a seafarer on a ship, except a coasting ship of less
than two hundred tons gross so long as such coasting ship is employed on
voyages confined to ports or places within Bangladesh.

(2) Every shipowner shall —

(a) ensure that the seafarer’s employment agreement is read over and explained
to the seafarer;
(b) ascertain that the seafarer understands the agreement;
(c) ensure that the seafarer has been given an opportunity to examine and seek
advice on the agreement before he signs it; and
(d) ensure that the agreement is signed by both the seafarer and by the shipowner
or on behalf of the shipowner.

(3) Where a collective agreement forms all or part of a seafarer’s employment
agreement, a copy of that collective agreement shall be available on board ship
and, where that collective agreement is not in English, that collective agreement
shall also be available in English.

(4) The Authority may prescribe the form of and the matters to be included in the
seafarer’s employment agreement and the particulars to be entered into it having

(5) Either party to a seafarer’s employment agreement may at any time give to the
other party notice of his intention to terminate the agreement.

(6) The Authority may, with the approval of the Government, make regulations for all
matters relating to the engagement and discharge of seafarers, including the
following matters:

(a) the categories of seafarer’s employment agreements;
(b) discharge books and other records of employment;
(c) circumstances under which a notice period shorter than the minimum notice
period of 7 days may be permitted.

(7) Any person who employs a seafarer or enters into a seafarer’s employment
agreement with a seafarer in contravention of this section shall be guilty of an
offence and shall be liable on conviction to a fine not exceeding one hundred
thousand penalty units or to imprisonment for a term not exceeding 6 months or to
both and, in the case of a second or subsequent conviction, to a fine not exceeding
five hundred thousand penalty units or to imprisonment for a term not exceeding
12 months or both.

121. Obligations of shipowners as to seaworthiness

(1) In every contract of employment between the owner of a Bangladesh ship and any
seafarer employed in the ship there shall be implied an obligation on the owner of
the ship that the owner of the ship; master of the ship; and every agent charged
with the loading of the ship, the preparing of the ship for sea; or the sending of the
ship to sea; shall use all reasonable means to ensure the seaworthiness of the
ship for the voyage at the time when the voyage commences and to keep the ship
in a seaworthy condition for the voyage during the voyage.

(2) The obligation imposed by sub-section (1) applies notwithstanding any agreement
to the contrary.

MARINECARE Consultants Bangladesh Ltd.
122. Special provisions with regard to agreements with seafarers of Bangladesh foreign-going ships

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

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

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

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

(d) the agreement may be made for a voyage of the ship or, if the voyages of the ship average less than six months in duration, may, subject to the provisions of sub-section (2), be made to extend over two or more voyages not exceeding six months from the date it was executed and agreements so made are in this Act referred to as running agreements;

(e) on every return to a port or place in Bangladesh before the final termination of a running agreement, the master shall discharge or engage before Shipping Master at such port or place any seafarer whom he is required by law so to discharge or engage, and shall upon every such return endorse on the agreement a statement that no such discharges or engagements have been made or are intended to be made before the ship leaves such port or place or, as the case may be, that all those made have been made as required by law; and

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

(2) A running agreement shall not extend beyond the expiration of the period of six months from the date on which it was executed, or beyond the first arrival of the ship at her port or place of destination in Bangladesh after the expiration of that period, or beyond the discharge of cargo consequent upon such arrival, whichever of these dates shall be the latest and in no circumstances such period shall exceed twelve months.

(3) If any master willfully makes a false statement in any such endorsement as is referred to in paragraph (f) of sub-section (1), he shall, for each offence, be punishable with a fine not exceeding fifty thousand penalty units.

MARINECARE Consultants Bangladesh Ltd.
123. Changes in seafarer to be reported

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

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

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

124. Certificate as to agreement with seafarer of foreign going ship

(1) In the case of a Bangladesh foreign going ship on the due execution of an agreement with the seafarer in accordance with this Act, and also when, in the case of a Bangladesh foreign going ship, the agreement is a running agreement, on compliance by the master, before the second and every subsequent voyage made after the first commencement of the agreement, with the provisions of this Act respecting that agreement, the Shipping Master shall grant the master of the ship a certificate to that effect.

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

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

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

125. Alteration in agreement with the seafarer

(1) Every erasure, interlineation or alteration in any agreement with the seafarer, except additions made for the purpose of shipping substitutes or persons engaged subsequently to the first departure of the ship, shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation or alteration by the written attestation, if made in Bangladesh, of some Shipping Master, or, if made elsewhere, of a Bangladesh Consular Officer.

(2) Any dispute relating to sub-section (1) shall not be referred to a Bangladesh Consular Officer if such reference is contrary to the rules of International Law.
126. List of seafarer to be furnished to Shipping Masters

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

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

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

127. Engagement of seafarers for ships other than Bangladesh ships

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

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

(3) The master of such ship shall give to the Shipping Master documentary evidence of financial security in respect of any such seafarers who is discharged or left behind at any port or place outside Bangladesh and becomes distressed as may be prescribed.

(4) If the master of a ship other than a Bangladesh ship engages such a seafarer in Bangladesh otherwise than in accordance with the provisions of this section, he shall, for each offence, be punishable with a fine not exceeding ten thousand penalty units.

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

(1) If a Master of a foreign ship, who has entered into an agreement with a Bangladeshi seafarer under sub section (1) of section 129, which shall be deemed to be the governing agreement between the Master of the ship and the seafarer, requires the seafarer to sign an agreement to meet the requirements of the law of the country of registration of the ship, the seafarer shall sign such agreement.

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

(3) Any seafarer claiming or demanding the salary or other benefits from the Master...
or owner of a foreign ship on the basis of any agreement, other than the governing agreement during its continuance in force, shall be tried and be punished under section 129.

129. Penalties for violating Sec. 128

(1) If a Bangladeshi seafarer engaged under sub section (1) of 127 refuses to sign or enter into an agreement as required by sub section (1) of section 128, he shall be liable to a fine not exceeding fifty thousand penalty units.

(2) If a Bangladeshi seafarer engaged under sub section (1) of section 127 breaks or attempts to break, whether in a port or place in or outside Bangladesh, an agreement made under sub section (1) of section 128, he shall be punishable with a fine not exceeding fifty thousand penalty units.

(3) If he claims or demands salary or other benefits in excess of the salary or other benefits admissible to him under the governing agreement in violation of provision of sub section (2) of section 128, he shall be liable a fine not exceeding fifty thousand penalty units.

130. Power to board ships and muster seafarers

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

(2) If the master or any other person obstructs any Shipping Master in the execution of his duty under this section, he shall, for each offence, be punishable with fine not exceeding fifty thousand penalty units.

131. Discharge of seafarers to be before Shipping Master

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

(2) If any master, owner or owners' agent acts in contravention of any of the provisions of this section, he shall, for each offence, be punishable with fine not exceeding five thousand penalty units.

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

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

(2) The master shall, upon the discharge of every Certificated Officer whose Certificate of Competency has been delivered to and retained by him, return the Certificate
to the officer.

(3) If a master acts in contravention of sub-section (1), or fails, without reasonable cause, to return the Certificate of Competency to the officer concerned as required by sub section (2), he shall, for each offence, be punishable with a fine which may, in the former case, not exceeding fifty thousand penalty units and in the latter, twenty hundred penalty units.

133. Discharge of seafarers abroad

(1) When the master of a Bangladesh ship discharges a seafarer at any port or place outside Bangladesh, except at a port or place in a country in which the seafarer was engaged, the provisions of this Act respecting the discharge of seafarers in Bangladesh shall apply, and a seafarer shall not be discharged except with the previous sanction of the shipping master and intimation to the Bangladesh Consular Officer at the discharge port, if any;

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

(3) If a master acts in contravention of this section, he shall, for each offence, be punishable with imprisonment for a term not exceeding one year, or with a fine, not exceeding twenty thousand penalty units or both.

134. Discharge of seafarers on change of ownership

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

(2) Where a seafarer is so discharged, the provisions of this Act as to Continuous Discharge Certificate and the repatriation of the seafarer or apprentice to a proper return port shall apply as if the service of the seafarer or apprentice had terminated otherwise than by the consent of the seafarer to be discharged during the currency of the agreement.
CHAPTER 18
WAGES, LEAVE, REST AND COMPENSATION OF SEAFARERS

135. Seafarers’ wages, leave, rest and compensation

(1) Every seafarer shall be paid at no greater than monthly intervals and in accordance with the terms of a seafarer employment agreement and shall be provided with a monthly account of payments due and amounts paid.

(2) The Director General may, with the approval of the Government, make regulations providing for the payment of wages, arrangements for seafarers to transmit all or part of their wages to nominated beneficiaries, and related matters such as leave, hours of rest, compensation to give effect to regulations 2.2, 2.4, 2.5 and 2.6 of the Maritime Labour Convention 2006 taking into account the fundamental rights in Articles III and IV of the Convention.

(3) Regulations made by the Director General in accordance with sub-section (2) may specify interest to be payable on unpaid wages, may specify the classes of ship to which the regulations apply, may define the categories of seafarer to which they apply and may exempt certain classes of ship from the application of the regulations.

(4) Regulations made by the Director General in accordance with sub-section (2) may specify penalties to be applied for contravention of the regulations and for a ship, if in Bangladesh, to be detained.

136. Payment of wages before Shipping Master

Where a seafarer is discharged before a Shipping Master in Bangladesh, the master or owner of the ship shall pay the wages of the seafarer through, or in the presence of, the Shipping Master, and if the master or owner pays the wages in any other manner, he shall, for each offence, be punishable with fine not exceeding two thousand penalty units.

137. Settlement of wages

(1) Where a seafarer is discharged, and the settlement of his wages completed before a Shipping Master, he shall sign in the presence of the Shipping Master a release in a form sanctioned by the Government of all claims in respect of the past voyage or engagement, and the release shall also be signed by the master or owner of the ship and attested by the Shipping Master.

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

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

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

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

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

138. Decision on disputes by Shipping Masters

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

(a) Where the amount in dispute does not exceed five thousand Taka, at the instance of either party to the dispute; and

(b) in any other case, if both parties to the dispute agree in writing to submit the dispute to the Shipping Master.

(2) The Shipping Master shall hear and decide the dispute so submitted and an award made by him upon the submission shall be conclusive as to the rights of the parties, and any document purporting to be submission or award shall be prima facie evidence thereof except that if, in any case, the Shipping Master is of opinion that the question is one which ought to be decided by a Court of law, he may refuse to decide the dispute.

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

(4) Nothing in the Arbitration Act, 1940 (X of 1940), shall apply to any matter submitted to a Shipping Master for decision under this section.
CHAPTER 19

PROVISIONS AND ACCOMMODATION FOR SEAFARERS AND THEIR HEALTH

139. Seafarers’ accommodation

(1) The Director General may, with the approval of the Government, make regulations with respect to the seafarers' accommodation to be provided in Bangladesh ships as specified in regulations 3.1 and standard A 3.1 of the Maritime Labour Convention 2006.

(2) Regulations made by the Director General in accordance with sub-section (1) shall take into account the fundamental rights provided in Articles IV of the Maritime Labour Convention 2006 and may specify the classes of ship to which the regulations apply and may exempt certain classes of ship from the application of the regulations.

(3) Regulations under this section may make different provision with respect to different descriptions of ship or with respect to ships which were registered in Bangladesh at different dates or the construction of which was begun at different dates and with respect to accommodation provided for seafarers of different descriptions.

(4) Regulations under this section may exempt ships of any description from any requirements of the regulations and the Director General may grant other exemptions from any such requirement with respect to any ship.

(5) Regulations under this section may require the master of a ship or any officer authorised by him for the purpose to carry out such inspections of the seafarer accommodation as may be prescribed by the regulations.

(6) If the provisions of any regulations under this section are contravened in the case of a ship the owner or master shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding one hundred thousand penalty units and the ship, if in Bangladesh, may be detained.

(7) In this section “seafarer accommodation” includes sleeping rooms, mess rooms, sanitary accommodation, hospital accommodation, recreation accommodation, store rooms and catering accommodation provided for the use of seafarers but does not include any accommodation which is also used by or provided for the use of passengers.

140. Provisions water and catering

(1) All Bangladesh ships and all ships for which seafarers have been engaged from Bangladesh shall have on board sufficient provisions and water of good quality and fit for consumption of the seafarer on the scale specified in the agreement with the seafarer and takes into account, where appropriate, differing cultural and religious backgrounds.

(2) The Director General may, with the approval of the Government, make regulations providing for supply of food and drinking water for seafarers and for the required qualifications and training of ships’ cooks and the training of catering staff, and related matters to give effect to regulation 3.2 of the Maritime Labour Convention
2006 taking into account the fundamental rights in Articles III and IV of the Convention.

(3) Regulations made by the Director General in accordance with sub-section (2) may specify the classes of ship to which the regulations apply, may define the categories of seafarer to which they apply and may exempt certain classes of ship from the application of the regulations.
CHAPTER 20
MEDICAL CARE ON BOARD AND ASHORE AND SHIP OWNERS LIABILITY

141. Medical care on board and ashore

(1) Seafarers shall be covered by adequate measures for the protection of their health and shall have access to prompt and adequate medical care while working on board a ship at no cost to the seafarer.

(2) The Director General may, with the approval of the Government, make regulations providing for the provision of medical care on board a ship and for seafarers’ access to medical treatment ashore in order to give effect to regulation 4.1 of the Maritime Labour Convention 2006 taking into account the fundamental rights in Articles III and IV of the Maritime Labour Convention 2006.

(3) Regulations made by the Director General in accordance with sub-sections (2) may specify the classes of ship to which the regulations apply, may define the categories of seafarer to which they apply and may exempt certain classes of ship from the application of the regulations.

142. Ship Owners’ liability

(1) Every seafarer shall have a right to material assistance and support from the shipowner with respect to the financial consequences of sickness, injury or death occurring while the seafarer is employed under a seafarer employment agreement or arising from their employment under such an agreement.

(2) The right in sub-section (1) shall not affect any other legal remedies that a seafarer may have or seek.

(3) The Director General may make regulations defining the responsibilities of shipowners for the provision of health and medical care for seafarers in accordance with and to give effect to regulation 4.2 of the Maritime Labour Convention 2006 taking into account the fundamental rights provided in Articles III and IV of the Convention and such regulations may also incorporate the limitations on shipowners’ liability that are permitted by Standard A4.2 of the Maritime Labour Convention 2006.

(4) Regulations made by the Director General in accordance with sub-sections (3) may specify the classes of ship to which the regulations apply, may define the categories of seafarer to which they apply and may exempt certain classes of ship from the application of the regulations.
CHAPTER 21
HEALTH AND SAFETY PROTECTION AND ACCIDENT PREVENTION

143. Duties of shipowner to ensure safety and health of seafarers

(1) It shall be the duty of a shipowner to take, so far as is reasonably practicable and in accordance with any standards prescribed by the Authority, such measures as are necessary, and as may be prescribed, to ensure the safety and health of the seafarers on board his ship.

(2) For the purposes of sub-section (1), the measures necessary to ensure the safety and health of seafarers on board a ship include —

(a) providing and maintaining for seafarers a work environment which is safe, without risk to health and adequate as regards facilities and arrangements for their welfare at work;

(b) ensuring that adequate safety measures are taken to prevent occupational accidents, injuries and diseases;

(c) developing and implementing procedures for inspection, reporting and dealing with emergencies that may arise on board the ship; and

(d) ensuring that the master and seafarers on board the ship have adequate instruction, information, training and supervision, especially with regard to young seafarers, as is necessary for them to comply with the measures as may be prescribed.

144. Duty of master to implement measures

(1) It shall be the duty of the master to ensure that the measures taken by the shipowner to ensure safety and health of seafarers as referred to in section 143, are implemented on board the ship.

(2) The master, or a person designated by the master, shall at regular intervals, inspect and correct unsafe conditions on board the ship, and shall report such occurrences to the shipowner.

145. Duties of seafarers at work on board a ship

It shall be the duty of every seafarer at work on board a ship —

(a) to comply with the safety measures to prevent occupational accidents, injuries and diseases as referred to in section 143(2)(b) are taken by the shipowner; and

(b) to co-operate with the shipowner or the master to the extent as will enable the shipowner or the master, as the case may be, to comply with the provisions of this Act.
146. Safety committee

(1) Every ship which ordinarily operates with 5 or more seafarers on board shall have a safety committee for that ship.

(2) Every safety committee shall comprise the master, any person designated by the master and seafarer representatives.

(3) The functions of the safety committee appointed for a ship shall be —

(a) to keep under review circumstances on board the ship which affect or may affect the safety or health of the seafarers;

(b) to carry out inspections of the scene of any accident in the interest of the safety and health of the seafarers; and

(c) to exercise such other functions and duties as may be necessary to assist the shipowner in discharging his duties under this Part.

147. Codes of safe practice

(1) For the purpose of providing practical guidance with respect to the requirements of this Part relating to measures necessary to ensure the safety and health of seafarers, including measures on occupational health protection and medical care, the Authority may, from time to time, do all or any of the following:

(a) issue one or more codes of practice, which may include any code of practice issued or approved by IMO or ILO if the Authority considers that code of practice suitable for this purpose;

(b) approve a code of practice any document prepared by any person or organization other than the Authority if the Authority considers the document suitable for this purpose;

(c) amend or revoke any code of practice issued or approved under this section.

(2) Any approved code of safe practice shall be deemed not to be subordinate legislation.
148. Seafarers’ welfare officer

(1) The Government may appoint Seafarers’ Welfare Officers at such ports or places in or outside Bangladesh as it may consider necessary.

(2) A Seafarers’ Welfare Officer appointed under sub-section (1) shall, under the general supervision and control of the Director General, perform-

(a) at any port or place in Bangladesh, such functions in relation to welfare of seafarers as may be assigned to him by the Director General; and

(b) at ports or places, outside Bangladesh such function may be assigned to a Bangladesh Consular Officer, at or near that port or place.

149. Constitution of Seafarers’ Welfare Board

(1) The Government may, by notification in the official Gazette, constitute an advisory Board as may be prescribed, to be called the "Seafarers’ Welfare Board", hereinafter referred to as the Board, for the purpose of advising the Government on the measures to be taken for promoting the welfare of seafarers, whether ashore or on board ship, generally and in particular the following:

(a) the establishment of hostels or boarding and lodging houses for seafarers;

(b) the establishment of clubs, canteens, libraries and other like amenities for the benefit of seafarers;

(c) the establishment of hospitals for seafarers or the provision of medical treatment for seafarers;

(d) the provision of educational and other facilities for seafarers;

(e) the management of seafarers’ provident fund as may be prescribed;

(f) any other matter deemed necessary for the welfare of seafarers.

150. Funds for seafarers’ welfare

(1) The Government may for the welfare of Bangladeshi seafarers employed through the shipping master, establish a "seafarers’ contributory provident fund" scheme with contribution by the seafarers, the employers and others as may be prescribed.

(2) The Government shall establish and maintain a "Seafarers welfare fund" with contributions from foreign ship owners employing Bangladeshi seafarers and all fines, penalties, forfeitures done by shipping master.

(3) The Government may establish for the welfare of all seafarers while within Bangladesh territory on board any commercial ships a "levy fund" for welfare of seafarers and the levy of fees payable by owners of ships visiting Bangladesh ports at such rates as may be prescribed (which may be at different rates for different classes of ships) for the purpose of providing amenities to seafarers and for taking
other measures for the welfare of all seafarers while in Bangladesh territory and 
social security scheme for seafarers with Bangladesh nationality.

(4) The Government shall continue to maintain the ‘Seafarers education trust fund’
established for the educational welfare of Bangladeshi seafarers’ dependents.

151. Rule-making powers

The Government may make rules providing for-
(a) the establishment of Seafarer’s Contributory Provident Fund scheme;
(b) the establishment of ‘Levy fund for seafarers’;
(c) the establishment of ‘Seafarers’ Welfare Fund’;
(d) the establishment of ‘Seafarers’ Education Trust Fund’;
(e) the composition of the Board for the management of the funds and the term of office
   of members thereof;
(f) the procedure to be followed in the conduct of business by the Board;
(g) travelling and other allowances payable to members of the Board;
(h) the establishment a social security scheme for seafarers (SSSS) to cover all types
   of contingencies during the vulnerable part of the life cycle of a seafarer and their
   dependents, in accordance with the MLC 2006.

152. Constitution of Maritime Advisory Committee for Seafarers

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

(2) The functions of the Committee shall be-
   (a) to prevent and adjust differences between ship-owners and seafarers;
   (b) to advise the Government on the improvements to be made in the system of
      recruitment of seafarers;
   (c) to advise the Government on the improvements or modifications to be made in
      the terms and conditions of employment of seafarers, such as, standardisation
      of their rates of wages, hours of work, manning scale, and similar other matters;
   (d) to advise the Government on the steps to be taken for ameliorating
      unemployment among seafarers;
   (e) to recommend the minimum wages for each rank, considering the living
      standard, special nature of maritime job, manning level of ship, family and social
      needs, cost of living, international rate, social benefits, occupational hazards
      and other factors at interval not exceeding two years ; and
   (f) to advise the Government on any other matter relating to seafarers which may
      be referred to it.

(3) The Committee shall meet at regular interval, not exceeding six months and submit
   report with respect to each of its function, as appropriate, to the Chairman of the
   National Maritime Council constituted under section 15 of this Act.
CHAPTER 23
INSPECTION AND CERTIFICATION

153. Inspection and certification of ships

(1) The Director General may, with the approval of the Government, make regulations providing for the issue of certificates to ships, the inspection of ships, and the authorisation of recognised organizations, in accordance with regulation 5.1.1, 5.1.2, 5.1.3, and 5.1.4 of the International Labour Organization’s Maritime Labour Convention 2006 and may provide in those regulations for compliance with all of the requirements of those regulations.

(2) Regulations made by the Director General in accordance with sub-section (1) may specify the classes of ship to which the regulations apply, may define the categories of seafarer to which they apply and may exempt certain classes of ship from the application of the regulations.

(3) Regulations made by the Director General in accordance with sub-section (1) may grant to persons making inspections for the issue of certificates, the powers of an enforcement officer included in section 438 of this Act.

154. Complaints by seafarers

(1) Every seafarer shall have access to appropriate procedures to allow seafarers to make a complaint against any person in connection with any possible breach of any relevant rules and regulations.

(2) A shipowner shall cause a copy of the procedures referred to in sub-section (1) to be provided to each seafarer employed on his ship.

(3) Victimisation of a seafarer by any person for making a complaint shall be prohibited.

(4) The provisions of any complaints procedure adopted on board a ship shall be without prejudice to the individual seafarer’s right to seek redress through other legal means.

(5) The Director General may, with the approval of the Government, make regulations for the adoption of procedures for handling complaints, the penalties attached to victimisation and related matters to give effect to regulations 5.1.5 and 5.2.2 of the Maritime Labour Convention 2006 taking into account the fundamental rights in Articles III and IV of the Maritime Labour Convention 2006.

(6) Regulations made by the Director General in accordance with sub-section (5) may specify the classes of ship to which the regulations apply, may define the categories of seafarer to which they apply and may exempt certain classes of ship from the application of the regulations.

155. Investigation into occupational accidents, injuries and diseases on board ships
(1) Where the Director General becomes aware of any occupational accident, injury or disease arising from service on board any ship, he may appoint surveyor to investigate the cause and circumstances of the occupational accident, injury or disease.

(2) The Director General or a surveyor appointed by the Director General under subsection (1) may, for the purposes of an investigation under this section —
   (a) board any ship;
   (b) inspect any ship;
   (c) summon any person before him and require him to answer questions;
   (d) require any person to furnish a sworn statement relating to the cause or circumstances of the occupational accident, injury or disease; and
   (e) require the production of any book, log book, certificate, register, document or other information relating to any ship or persons on board the ship.

(3) Except with the permission of the Director General, no person shall, unless necessary for the prevention of any accident or for the safe navigation of a ship —
   (a) alter, replace, remove or add to any machinery, equipment or article which may have contributed to the cause of any occupational accident, injury or disease; or
   (b) modify the scene of the occupational accident or injury or the place where the occupational disease occurred.

156. Inspection of vessels in port

(1) A ship shall be subject to inspection by any person duly authorised by the Director General as may be prescribed to verify and ensure compliance with applicable provisions of the Maritime Labour Convention as amended.

(4) The person duly authorised by the Director General for the purposes of an inspection shall carry necessary identification with him in support of the authorization.

157. Power to detain ships

(1) Where, following an inspection as referred to in section 156, a ship is found not to conform to the requirements of relevant rules and regulations, or of the Convention, as the case may be, the person conducting the inspection shall serve on the shipowner and the master of the ship, a notice of detention requiring that the ship shall not proceed to sea until any non-conformity has been rectified, or until the Director General has accepted a plan of action to rectify such non-conformity.

(2) In case it is proved that a ship was unduly detained or delayed under this section, the Authority shall be liable to pay to the shipowner all costs of and incidental to the detention of the ship, and also compensation for any loss or damage sustained due to the detention.
CHAPTER 24
DISCIPLINE OF SEAFARERS

158. Master in overall command, etc.

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

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

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

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

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

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

(7) The master of a ship who fails to deliver the documents as required by subsection (6) shall be punishable with fine not exceeding ten thousand penalty units.

159. Misconduct endangering ships, persons, etc.

(1) This section applies to—
(a) the seafarers employed in, a Bangladesh ship; and
(b) the seafarers employed in, a ship which—
   (i) is a foreign ship; and
(ii) is in a port in Bangladesh or within Bangladesh waters while proceeding to or from any such port.

(2) Where a person, to whom this section applies, while on board a ship or in its immediate vicinity—

(a) does any act which causes or is likely to cause—

(i) the loss or destruction of or serious damage to the ship or its machinery, navigational equipment or safety equipment;

(ii) the loss or destruction of or serious damage to any other ship or any structure; or

(iii) the death of or serious injury to any person;

(b) omits to do anything required—

(i) to preserve the ship or its machinery, navigational equipment or safety equipment from being lost, destroyed or seriously damaged;

(ii) to preserve any person on board the ship from death or serious injury; or

(iii) to prevent the ship from causing the loss or destruction of, or serious damage to, any other ship or any structure, or the death of or serious injury to any person not on board his ship, and either of the conditions specified in sub-section (3) is satisfied with respect to that act or omission, he, subject to sub-sections (6) and (7), commits an offence.

(3) The conditions referred to in sub-section (2) are—

(a) that the act or omission was deliberate or amounted to a breach or neglect of duty; or

(b) that the master or seafarer in question was under the influence of alcohol or a drug at the time of the act or omission.

(4) Where a person to whom this section applies—

(a) discharges any of his duties, or performs any other function in relation to the operation of a ship or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as is mentioned in sub-section (2)(a); or

(b) fails to discharge any of his duties, or to perform any such function, properly to such an extent as to cause, or to be likely to cause, any of those things, subject to sub-sections (6) and (7), commits an offence.

(5) A person who commits an offence under this section shall be, liable upon conviction, to imprisonment for a term not exceeding two years, or to a fine not exceeding one hundred and fifty thousand penalty units, or both.

(6) In proceedings for an offence under this section, it shall be a defence to prove—

MARINECARE Consultants Bangladesh Ltd.
(a) in the case of an offence under sub-section (2) where the act or omission alleged against the accused constituted a breach or neglect of duty, that the accused took all reasonable steps to discharge that duty;
(b) in the case of an offence under sub-section (2) that at the time of the act or omission alleged against the accused, he was under the influence of a drug taken by him for medical purposes and either that he took it on medical advice and complied with any directions given as part of that advice or that he had no reason to believe that the drug might have the influence it had;
(c) in the case of an offence under sub-section (4), that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence;
(d) in the case of an offence under either of sub-section (2) or (4)—
   (i) that he could have avoided committing the offence only by disobeying a lawful command; or
   (ii) that in all the circumstances the loss, destruction, damage, death or injury in question, or, as the case may be, the likelihood of its being caused, either could not reasonably have been foreseen by the accused or could not reasonably have been avoided by him.

(7) In the application of this section to any person falling within sub-section (1) (b), sub-sections (2) and (4) shall have effect as if sub-section (2)(a)(i) and (b)(i) were omitted.

(8) In this section—
a) “breach or neglect of duty”, except in relation to a master, includes any disobedience to a lawful command;
b) “duty” means-
   (i) in relation to a seafarer, any duty falling to be discharged by him in his capacity as such;
   (ii) in relation to a master, his duty with respect to the good management of his ship and his duty with respect to the safety of operation of his ship, its machinery and equipment; and

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

160. Concerted disobedience and neglect of duty

(1) Where a seafarer employed in a Bangladesh ship combines with other seafarers employed in that ship—
   (a) to disobey lawful commands which are required to be obeyed at a time while the ship is at sea;
   (b) to neglect any duty which is required to be discharged at such a time;
   (c) to impede, at such a time, the progress of a voyage or the navigation of the ship, he commits an offence.

(2) A seafarer who commits an offence under sub-section (1) shall be liable, upon conviction, to imprisonment for a term not exceeding two years, or to a fine not exceeding fifty thousand Penalty units, or both.

(3) For purposes of this section, a ship shall be treated as being at sea at any time when it is not securely moored in a safe berth.
161. Desertion and absence without leave from ships

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

(a) if he deserts from his ship, he shall be guilty of the offence of desertion, and shall be punishable with imprisonment for a term not exceeding five years and with a fine, not exceeding one million penalty units and shall also be liable to forfeit all or any part of the effects he leaves on board and of the wages which he has then earned;

(b) if he neglects or refuses without reasonable cause to join his ship or proceed to sea in his ship or is absent without leave at any time within twenty four hours of the ship's sailing from a port either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient reason, from his ship or from his duty, he shall, if the offence does not amount to desertion or is not treated as such, be guilty of the offence of absence without leave, and shall be punishable with imprisonment not exceeding three years and with a fine, not exceeding fifty thousand penalty units and shall also be liable to forfeit out of his wages a sum not exceeding one month's pay.

162. Measures to prevent desertion from Bangladesh and foreign ships

(1) Whenever it becomes necessary, the Shipping Master shall-

(a) take a bond binding the guarantors of the seafarers, apprentices or masters to pay 5 (five) lakh penalty units compensation, in the case of desertion and it shall be payable to the concerned person or authority who incurred loss due to the desertion;

(b) cancel the continuous discharge certificate of a deserter;

(c) enforce a ban on the deserter from entering into seafaring profession;

(d) enforce a ban on the deserter from entering into any Government service in Bangladesh.

(2) The Government may forfeit the properties of a deserter excluding inherited properties.

163. Report of desertions and absence without leave

(1) Whenever any seafarer, or apprentice or master deserts or otherwise absents himself without leave from a ship in which he is engaged under this Act to serve, the master or the person in charge, in absence of the master, shall within forty-eight hours of discovering such desertion or absence, report the same to the Shipping Master or to such other Officer as the Government may appoint in this behalf, unless in the meantime the deserter or absentee returns.
(2) Any person who willfully neglects to comply with the provisions of sub-section (1) shall be punishable with imprisonment for a term not exceeding one month, or with a fine not exceeding fifty thousand penalty units, or both.

164. Entries and certificates of desertion

(1) In every case of desertion as defined in this Act, the master or the person in charge, in the absence of the master, shall in addition to the measures and procedures required by the appropriate authority of the port, make in the official log book an entry of the desertion which shall be signed by him and also by a deck officer and a seafarer, and shall transmit the entry to the Shipping Master by any available means including email, prior to departure from the port.

(2) The copy of the official log book entries made in accordance with sub-section (1) and certified by the master shall constitute prima facie evidence of desertion in any legal proceeding.

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

165. Payment of fines imposed under agreement to Shipping Master

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

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

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

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

(3) All fines under sub-section (1) and (2) shall be deposited to the Seafarers’ welfare fund.
CHAPTER 25
LITIGATION AGAINST SEAFARERS

166. Definitions

(1) In this Chapter, unless there is anything repugnant in the subject or context,-
   (a) “Court” means the Admiralty Court or a Marine Court;
   (b) “Proceeding” includes any suit, appeal or application; and
   (c) “Shipping Master” means the Shipping Master for the port at which the serving
       seafarer entered into or is believed to have entered into an agreement, or where
       there is no such agreement, for the port to which the serving seafarer has returned
       or is expected to return on the completion of his last voyage.

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

(3) Subject to sub-section (4), the Shipping Master or any Officer authorised by the
    Government in this behalf or a Police Officer not below the rank of Inspector of
    Police may report any offence against this Act or any rule made thereunder to a
    court having jurisdiction to try the offence and thereupon the court shall take
    cognizance of the offence:

(4) In the case of any offence relating to or arising out of any agreement entered into
    with any seafarer, master or owner of the ship concerned or any other person duly
    authorised by him in that behalf, shall have the power to make a report under sub-
    section(3).

167. Place of trial of the offender

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

168. Particulars to be furnished in plaints, etc.

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

169. Power of Court in case of unrepresented seafarer

If any Magistrate or Judge has reason to believe that any seafarer who is a party to any
proceeding pending before any Court, is unable to appear therein or is a serving
seafarer, the Magistrate or Judge may certify the facts in the prescribed manner to the Court.

170. Notice to be given in case of unrepresented seafarer

If a Court has reason to believe that a seafarer who is a party to any proceeding before the Court is unable to appear therein or is a serving seafarer, the Court shall suspend the proceeding and shall give notice thereof in the prescribed manner to the Shipping Master.

171. Power to make rules

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

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

(a) the manner and form in which any notice under this Chapter shall be given;

(b) the period for which proceedings or any class of proceedings shall be postponed; and

(d) any other matter which is to be or may be prescribed.

172. Reference in matters of doubt to Shipping Masters

If any Court is in doubt whether a seafarer is or was at any particular time or during any particular period a serving seafarer, it may refer the question to the Shipping Master, and the certificate of the Shipping Master shall be conclusive evidence on the question.
173. Uniform to be prescribed

(1) The Director General may, with the approval of the Government, make regulations prescribing the uniforms, hereinafter referred to as the Standard Uniform, which a person employed on a Bangladesh Ship shall be entitled to wear; and a different Standard Uniform may be prescribed for persons of different positions or ranks.

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

174. Certificated officers may wear uniforms while unemployed

A person holding a Certificate of Competency issued under this Act and a citizen of Bangladesh holding a Certificate of Competency recognised under section 97, being temporarily unemployed, shall be entitled to wear on such occasions as the Government may direct, the Standard Uniform appropriate to the rank in which he was last employed.

175. Uniforms when not to be worn

A person entitled to wear the Standard Uniform shall not wear it while he is employed ashore other than as Commandant or Principal or Nautical or Engineering Instructor in any approved maritime training institute.

176. Penalties

(1) If any person who is required to wear the Standard Uniform does not so wear it, he shall be punishable with a fine not exceeding ten thousand penalty units.

(2) If any person, not being so entitled, wears the Standard Uniform or any part thereof or any dress having the appearance or bearing any of the distinctive marks of the Standard Uniform, he shall be punishable with a fine not exceeding ten thousand penalty units.

177. Official log books.

(1) Every Bangladesh ship shall keep onboard an official log book in a prescribed form.

(2) The Director General may, with the approval of the Government, make regulations prescribing the particulars to be entered in official log books, the persons by whom such entries are to be made, signed or witnessed, and the procedure to be followed in the making of such entries.

(3) The regulations may require the production or delivery of official log books to the Shipping Master, in such circumstances and within such times as may be specified therein.
(4) Regulations under this section may exempt ships of any description from any requirements thereof, either generally or in such circumstances as may be specified in the regulations.

178. Lists of crew

(1) The master of every Bangladesh ship shall make and maintain onboard a list of the crew containing such particulars as may be prescribed.

(2) The Director General may, with the approval of the Government, make regulations specifying the particulars, which shall comply with the requirements of the Convention on Facilitation of International Maritime Traffic 1965 (FAL), to be entered in a list of the crew:

(a) providing for the maintenance, in the ship, of a copy or copies of each list of crew, and for the notification to such persons as may be specified in the regulations of any changes therein;

(b) for the production of a list of the crew to such persons, in such circumstances as may be specified in the regulations; and

(c) for the delivery to the Shipping Master or the Registrar General of Shipping and Seafarer, in such circumstances as may be specified in the regulations, of a list of the crew or a copy thereof maintained under the regulations and for the notification to him of any changes in such a list.

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

(4) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding fifty thousand penalty units.

179. General power to make regulations

(1) Without prejudice to any other power in that behalf conferred by any other provision of this Part, the Director General may, with the approval of the Government, make regulations as may be necessary or expedient —

(a) for carrying out the purposes and provisions of this Part and for the due administration thereof;

(b) for prescribing anything which may be prescribed under this Part; and

(c) for the purpose of giving effect to any provision of the relevant Convention which has not been given effect to in this Act.

(2) Without prejudice to the generality of sub-section (1), regulations may be made to—

(a) prescribe the form of any document or certificate that may be required and to prescribe different forms for different circumstances;

MARINECARE Consultants Bangladesh Ltd.
(b) make different provisions for different descriptions of persons or ships or for persons or ships of the same description in different circumstances;

(c) prescribe the standards of medical fitness and conditions to be satisfied by a seafarer and the contents of a medical fitness certificate;

(d) prescribe the conditions to be complied with for recognition of medical practitioners qualified to assess the medical fitness of seafarers and for medical certification;

(e) provide for the establishment maintenance and operation of a Fund which may be called the Seafarers’ Welfare Fund;

(f) provide for the recognition by the Director General of foreign medical fitness certificates on such conditions as the Director General may determine;

(g) provide for the registration of provisions in a collective agreement or other agreement between a seafarer and shipowner setting out exceptions to hours of rest;

(h) regulate the conditions under which a young seafarer may be employed in night work;

(i) regulate the manner and method for calculating wages for normal hours of work and overtime;

(j) prescribe the information relating to wages that is to be provided to a seafarer;

(k) regulate the manner and method of payment and allotment of wages;

(l) prescribe the requirements for the repatriation of seafarers;

(m) provide for the recognition by the Director General of foreign qualifications for qualified cooks on such conditions as the Director General may determine;

(n) prescribe the requirements for the training of catering staff and persons processing food in the galley;

(o) regulate the issuance, cancellation, suspension and alteration of a certificate of proficiency as a ship’s cook, seafarers’ identity document and continuous discharge certificate;

(p) prescribe the costs of repatriation that may be recoverable by a seafarer from a shipowner;

(r) prescribe the requirements for a medicine chest, medical equipment and medical guide to be carried on board a ship, and for their inspection and maintenance;
(s) define the types of injury or sickness of a seafarer that a shipowner may be liable to bear the costs or provide financial security for;

(t) prescribe the occupational safety and health programmes to be adopted on a ship, and to prescribe measures to prevent occupational accidents, injuries and diseases on board a ship;

(u) prescribe the standards relating to occupational safety and health on board a ship, having regard to recognised international standards;

(v) prescribe the requirements for the reporting of any occupational accident, injury or disease on board a ship;

(w) provide for the implementation of safeguards and safety measures on board Bangladesh ships and the duties of the shipowner, master or seafarers in relation to the implementation of the safeguards and safety measures;

(x) provide for the conduct of any risk assessment or safety and health arrangement on board Bangladesh ships and the duties of the shipowner, master or seafarers in relation to the conduct of the risk assessment or the safety and health arrangement;

(y) regulate the keeping of records of any inspection conducted by a master;

(z) prescribe the terms and conditions that a contract of insurance or other approved financial security providers must contain, including —

(i) terms and conditions relating to all or any of the following:

aa. scope of coverage;
ba. right of seafarers covered by the contract of insurance or other financial security to claim under the contract of insurance or other financial security;
ca. submission and handling of claims;
da. interim payments;
ea. minimum service standards;

(ii) a condition that the liability of the provider of the insurance or other financial security under the contract of insurance or other financial security will not cease before the end of the period of validity of the contract of insurance or other financial security unless the provider has given the Director General prior notice of the pending cessation of liability of such minimum length as may be prescribed; and

(iii) any other term or condition necessary or desirable to ensure that the contract of insurance or other financial security meets the requirements of financial security by shipowners.

(3) Any regulations under this section may, provide that any contravention of any of the provisions of such regulations shall be an offence punishable with a fine not exceeding one hundred thousand penalty units.
180. Interpretations

In this Part -

“unseaworthy ship” within the meaning of this Act refers to the materials of which the ship is made, her construction, the qualifications of the crew including officers, the weight, description and stowage and securing of the cargo and ballast (as applicable), the condition of her hull and equipment (including life-saving appliance, fire-fighting appliances, navigational and radio equipment, etc), boilers and machinery, living and working conditions are not such as to render her in every respect fit for the proposed voyage or service;

“port” means any port which the Director General may, with the approval of the Government, declare or may under any law for the time being in force have declared, to be a port;

“Collision regulations” means the Convention on the International Regulations for Preventing Collisions at Sea, done at London on 20 October 1972, as amended;

“ship” includes every description of vessel used in navigation, including a vessel used for the exploration or exploitation of the seabed, and any other structure whether permanent or temporary within the maritime zones.
181. International maritime Conventions

(1) Subject to this Act and sub-section 2, the following international maritime Conventions related to safety are applied and enforced under this Act and have the force of law in Bangladesh:

(a) The International Convention for the Safety of Life at Sea, 1974 as amended;

(b) The Protocol of 1988 relating to the International Convention for the Safety of Life at Sea 1974, as amended;

(c) The International Convention on Load Lines 1966, as amended;


(e) The International Convention on Tonnage Measurement of Ships 1969, as amended;

(f) The Convention on the International Regulations for Preventing Collisions at Sea 1972, as amended;

(g) Special Trade Passenger Ships Agreement, 1971 (STP 1971);

(h) Protocol On Space Requirements For Special Trade Passenger Ships, 1973 (Space STP 1973);

(i) International Convention On Maritime Search and Rescue, 1979, As Amended (SAR 1979);


(2) When an amendment made to a Convention or a Protocol is referred to in sub-section (1), such amendment does not apply if Bangladesh has withheld its consent to the amendment.

182. Ships to comply with Convention obligations and requirements

(1) Unless expressly otherwise, this section applies to:

(a) all ships registered under this Act;

(b) all foreign flag ships in Bangladesh waters-

which are subject to the requirements of an international maritime Convention as provided for by this Act, any other law or under the provisions of an applicable Convention (whether based upon the class, type, size, use or voyage of the ship, or otherwise).

(2) Subject to this Act and relevant regulations, a ship to which an international maritime Convention applies in accordance with sub-section (1) shall:

(a) be operated in a manner that complies with the requirements specified in all the Conventions applicable to the ship;

(b) maintain all records and plans required under all the Conventions applicable to the ship;
(c) provide all information and notifications required under all the Conventions applicable to the ship;
(d) hold current certificates as required under all the Conventions applicable to the ship;
(e) comply with the design requirements specified in all the Conventions applicable to the ship;
(f) carry equipment required under all the Conventions applicable to the ship, and ensure that they are maintained in good working order;
(g) provide the manning, training and levels of competency required under all the Conventions applicable to the ship;
(h) otherwise comply with the requirements specified in an applicable Convention, subject to any exemptions or exclusions provided for in the specific Convention.

(3) An owner or master of a ship who contravenes sub-section (2), is guilty of an offence and is liable:

(4) If the ship is more than 500 gross tonnage to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding 12 months, or both.

(5) if the ship is 500 gross tonnage or less - to a fine not exceeding one hundred thousand penalty units, or to imprisonment for a term not exceeding 6 months, or both.

(6) In addition to any penalty imposed under sub-section (3) and to any action which may be taken in accordance with law, the following action can be taken by the Director General in relation to a ship which has breached a requirement applicable under this section.

(7) the ship may be detained on the order of the Director General;

(8) the registration of a ship registered under this Act can be suspended or cancelled on the order of the Director General.

(9) notification of a breach by a ship which is not registered under this Act shall be given by the Director General to the maritime administration responsible for regulating the ship.

(10) disciplinary action can be taken against the master or any other crew member who is responsible for or involved in the breach.

(11) the owner of the ship can be ordered by a court to reimburse or cover the cost of any remedial action, if the breach has resulted in damage to property or to the environment in anyway.
183. Survey and Certification of ships engaged in international voyages

(1) When a survey or surveys to meet the applicable safety requirements set out in this Act and regulations and the requirements of the applicable safety related Convention are satisfactorily completed the Director-General, or any other person or organization 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 three hundred gross tonnage or over engaged on international voyages, a Cargo Ship Safety Radio Certificate;

(c) in the case of a cargo ship of five hundred gross tonnage or over engaged on international voyages, a Cargo Ship Safety Equipment Certificate; or

(d) in the case of a cargo ship of five hundred gross tonnage 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 sub-section (1)(b), (c) and (d).

(3) Whenever in this Part reference is made to a Cargo Ship Safety Construction Certificate, 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.

(4) Subject to any exemption, no ship shall go to sea unless that ship has been issued with certificates by the issuing authority in compliance with applicable safety Conventions and this Act and the rules and regulation made thereunder.

184. Issue of Certificates to ships by other states

(1) The Bangladesh Government may, at the request of the Government of a country to which the Safety Convention applies, cause an appropriate Safety Convention Certificate to be issued in respect of a ship of that country if it is satisfied in like manner as in the case of a Bangladesh ship that such Certificate can properly be issued, and, where a Certificate is issued at such a request, it shall contain a statement that it has been issued at such request.

(2) The Bangladesh Government may request the Government of a country to which the Safety Convention applies to issue in respect of a Bangladesh ship any Certificate, the issue of which is authorised under this Chapter, and a Certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for purposes of this Act as if it had been issued by the Bangladesh Government.

(3) Where the Bangladesh Government requests the Government of a country to issue any such certificate as aforesaid, and that Government is willing to issue, in pursuance of that request, an appropriate Qualified Certificate, but is not willing to
issue the corresponding Exemption Certificate, the Government may issue that Exemption Certificate.

185. General regulation making power

(1) The Director General may, with the approval of the Government, make regulations for carrying out the purposes and provisions of this Part and to apply and enforce any international maritime Convention listed under chapter 181 of this Part.

(2) Without prejudice to the generality of sub-section (1) such regulations may provide for—
   (a) the design, construction, maintenance, repair, alteration, inspection, surveying and marking of ships and their machinery and equipment;
   (b) the standards of constructions and equipment of ships including the provision of life-saving appliances fire-fighting appliances;
   (c) the standards for accommodation for crew and passengers;
   (d) the loading and carriage of goods;
   (e) the carriage of livestock;
   (f) the safety of navigation;
   (g) giving effect to the Safe Container Convention;
   (h) the prevention of collision at sea and make provision in relation to giving effect to the Prevention of Collisions Convention;
   (i) the manner and frequency of the survey or inspection and the issue, suspension, cancellation, extension and period of the validity of certificates or exemption certificates;
   (j) the form of the Certificates to be issued under the safety Conventions, the charging of fees for the grant of such Certificates, the amount of such fees, and the manner in which they shall be recoverable;
   (k) International Safety Management System;
   (l) safety training and familiarization;
   (m) musters, drills, checks of machinery and equipment and other tests, including:
      i. boat drills, fire drills and collision drills;
      ii. checks and tests of machinery and equipment.

(3) The power to make regulations conferred by sub-section (1) above shall extend also to the making of regulations for the prevention of collisions between seaplanes on the surface of water and between ships and seaplanes and the steps to be taken to prevent any collision involving a ship and inconsequence of any collision involving a ship.

(4) Safety regulations may provide—

   (a) that in such cases as are prescribed by the regulations that a ship shall be liable to be detained and that provision relating to enforcement of detention shall have effect, with such modifications (if any) as are prescribed by the regulations, in relation to the ship;

   (b) that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding one hundred thousand penalty units.

186. Radio regulations

(1) The Director General may, with the approval of the Government, make regulations requiring ships, to which this section applies, to-

MARINECARE Consultants Bangladesh Ltd.
(a) be provided with radio installations, other than a radio navigational aids, of such a nature as may be prescribed by the regulations;

(b) maintain in the radio room a radio log in which shall be entered such particulars relating to the operation of the radio installation and the maintenance of the radio service as may be prescribed; and

(b) maintain such a radio service and to carry such number of radio officers or operators, of such grades and possessing such qualifications, as may be so prescribed, and the regulations may contain provisions for preventing, as far as is practicable electrical interference with the radio installation by other apparatus on board.

(2) This section applies to-

(a) a Bangladesh seagoing ship;

(b) any other sea-going ship while it is within Bangladesh waters.

(3) The radio regulations shall include such requirements as appear to be necessary to implement the provisions of the Safety Convention relating to communications.

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

(5) A notice given under sub-section (4) of this section shall be communicated to the Principal Officer, at any port at which the ship may seek to obtain a clearance, and the ship shall be detained until provided with a radio installation and radio officers or operators in conformity with the radio regulations.
CHAPTER 30
LOAD LINES

187. Interpretation

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

“Convention country” means a country or territory which is either —
(a) a country the government of which has been declared under this paragraph to have accepted or acceded to the Load Lines Convention, and has not been so declared to have denounced that Convention; or
(b) a territory to which it has been so declared that the Load Lines Convention extends, not being a territory to which it has been so declared that that Convention has ceased to extend;
“contracting Government” means any such Government as is referred to in paragraph (a);

(2) Any reference in this Chapter to any provision of the Load Lines Convention shall, in relation to any time after that provision has been amended in pursuance of Article 29 of that Convention, be construed as a reference to that provision as so amended.

188. Application of Chapter

This Chapter applies to all ships except—
(a) ships of war;
(b) ships solely engaged in fishing; and
(c) pleasure vessels not engaged in trade.

189. Regulations

(1) The Director General may, with the approval of the Government, make regulations for the purposes of this Chapter, and in making such regulations, the Director General shall have regard in particular to the Load Lines Convention, as amended.

(2) Regulations made under this section may make provision for—
(a) the surveying, and inspection of ships to which this Chapter applies;
(b) determining freeboards to be assigned from time to time to such ships;
(c) determining, in relation to any such ship, the deck which is to be taken to be the freeboard deck of the ship, and for requiring the position of that deck to be indicated on each side of the ship by a mark of a description as may be prescribed by the regulations; and
(d) determining, by reference to that mark and the freeboards for the time being assigned to any such ship, the positions in which each side of the ship is to be marked with lines of a description as maybe prescribed by the regulations, indicating the various maximum depths to which the ship may be loaded in circumstances as may be prescribed by the regulations.

(3) Regulations made under this section may make provisions—
(a) specifying such requirements in respect of the hulls, superstructures, fittings and appliances of ships to which this Chapter applies as may appear to the Director General to be relevant to the assignment of freeboards to such ships;

(b) whereby, at the time when freeboards are assigned to a ship in accordance with such regulations, such particulars relating to those requirements as may be determined in accordance with the regulations are to be recorded in such manner as may be so determined; and

(c) for determining by reference to those requirements and that record whether, at any time after freeboards have been so assigned to a ship and while they continue to be so assigned, the ship is for the purposes of this Chapter to be taken to comply, or not to comply, with the conditions of assignment.

(4) Regulations may also include provisions requiring such information relating to the stability of any ship to which freeboards are assigned thereunder, and such information relating to the loading and ballasting of any such ship, as may be determined in accordance with the regulations, to be provided for the guidance of the master of the ship in such manner as may be so determined.

(5) In relation to any matter authorised or required by this Chapter to be prescribed by regulations, those regulations may make different provisions by reference to (or to any combination of) any of the following—

(a) different descriptions of ships;

(b) different areas;

(c) different seasons of the year; and

(d) any other different circumstances.

190. Compliance with Load Lines regulations

(1) Subject to any exemption granted by or under this Act, no Bangladesh ship to which this Chapter applies shall proceed or attempt to proceed to sea unless—

(a) the ship has been surveyed in accordance with such regulations as may be made under section 189;

(b) the ship is marked with a deck-line and with load lines in accordance with such regulations;

(c) the ship complies with the conditions of assignment; and

(d) the information as may be provided for in accordance with section 189(4) is provided for the guidance of the master of the ship in the manner determined in accordance with the regulations.

(2) Where any ship proceeds or attempts to proceed to sea in contravention of sub-section (1), the owner or master of the ship commits an offence and shall be liable, upon conviction, to a fine not exceeding three hundred thousand penalty units, or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

(3) Any ship which, in contravention of sub-section (1), attempts to proceed to sea without being surveyed and marked as mentioned in sub-section (1)(a) and (b) may be detained until it has been so surveyed and marked.

(4) Any such ship as is mentioned in sub-section (1) which does not comply with the conditions of assignment shall be deemed to be unsafe for the purposes of Chapter 31.

CHAPTER 31

MARINECARE Consultants Bangladesh Ltd.
UNSEAWORTHY AND UNSAFE SHIPS

191. Unseaworthy and unsafe ship not to be sent to sea and to be detained

(1) Every person who sends or attempts to send a Bangladesh ship to sea from any port or place in Bangladesh in such an unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that he used all reasonable means to ensure her being sent to sea in a seaworthy state, or that her going to sea in such an unseaworthy state was under the circumstances reasonable and justifiable, be punishable with imprisonment which may extend to two years, or with fine which may extend to one hundred thousand penalty units, or with both.

(2) Every master of a Bangladesh ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was, under the circumstances reasonable and justifiable, be punishable with imprisonment which may extend to two years, or with fine which may extend to one hundred thousand penalty units, or with both.

(3) Where the Director-General has reason to believe that any ship, being in any port in Bangladesh, is an unsafe ship, that is to say, is by reason of any of the matters mentioned in sub-section (4) unfit to proceed to sea without serious danger to human life having regard to the nature of the service for which it is intended, such ship shall be liable to be detained till compliance with the requirements of the relevant applicable maritime Conventions with no more favourable treatment given to the ships of countries which are not Party to such Conventions.

(4) The matters referred to in sub-section (3) are—
(a) the condition, or the unsuitability for its purpose, of—
(i) the ship or its machinery or equipment; or
(ii) any part of the ship or its machinery or equipment;
(b) under manning;
(c) overloading or unsafe or improper loading; or
(d) any other matter relevant to the pollution prevention, safety and security of the ship, and the reference in that sub-section to proceeding to sea shall, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.

192. Obligation of owner to crew with respect to seaworthiness

(1) In every contract of service, express or implied, between the owner of a Bangladesh ship and the master or any seafarer thereof, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to ensure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state during the voyage.

(2) For the purpose of seeing that the provisions of this section have been complied with, the Director General, may, either at the request of the owner or otherwise, arrange for a survey or inspection of the hull, equipment or machinery of any sea-going ship by a Surveyor.
Chapter 32
SPECIAL PROVISIONS RELATING TO PASSENGERS SHIPS

193. Ships to which this Chapter applies

(1) This Chapter applies to power driven sea going passenger ships.

(2) Notwithstanding anything contained in sub section (1), the Director General, may declare that all or any of the provisions of Chapter 33 shall apply to sailing ships, or any class of sailing ships, carrying more than fifteen un-berthed passengers.

194. No ship to carry passengers without a Passenger Ship Safety Certificate

(1) No ship shall take onboard, or carry between ports or places in Bangladesh or to or from any port or place in Bangladesh from or to any port or place outside Bangladesh, more than twelve passengers unless she has a Passenger Ship Safety Certificate under this Chapter in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

(2) Nothing in sub-section (1) shall apply to any ship having a Passenger Ship Safety Certificate deemed to have been granted by the Director General, before the commencement of this Act and in force immediately before such commencement, unless it appears from the Certificate that it is inapplicable to the voyage on which the ship is about to proceed or the service on which she is about to be employed, or unless there is reason to believe that the ship has, since the grant of the Certificate, sustained damage or been found unseaworthy or otherwise inefficient.

(3) If the owner or master of a ship to which this section applies fails to discharge the duty imposed on him by sub-section (1), the owner shall be liable on conviction to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding 2 years or to both.

195. No port clearance until Passenger Ship Safety Certificate produced

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

196. Power to detain ship not having Passenger Ship Safety Certificate

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

197. Offences in connection with passenger ships

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

(a) being drunk or disorderly has been on that account refused admission thereto

MARINECARE Consultants Bangladesh Ltd.
by the owner or any person in his employment and, after having the amount of
his fare, if he has paid it, returned or tendered to him, nevertheless persists in
attempting to enter the ship; or

(b) being drunk or disorderly on board the ship is requested by the owner or any
person in his employment to leave the ship at any place in Bangladesh at which
he can conveniently do so and after having the amount of his fare, if he has
paid it, returned or tendered to him, does not comply with the request; or

(c) on board the ship after warning by the master or other officer thereof, molests
or continues to molest any passenger; or

(d) having gone on board the ship at any place and being requested, on account
of the ship being full, by the owner or any person in his employment to leave
the ship, before it has departed from that place and having had the amount of
his fare, if he has paid it, returned or tendered to him, does not comply with
the request; or

(e) travels or attempts to travel in the ship without first paying his fare and with
intent to avoid payment thereof; or

(f) on arriving in the ship at the place for which he has paid his fare knowingly and
willfully refuses or neglects to quit the ship; or

(g) on board the ship, fails when requested by the master or other officer thereof
either to pay his fare or to produce such ticket or other receipt, if any, showing
the payment of his fare as is usually given to a person travelling by and paying
fare for the ship, he shall be punishable with fine which may extend to one
hundred thousand penalty units but such punishment shall not prejudice the
recovery of the fare, if any, payable by him.

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

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

198. Offences - Obstructing ship or machinery

(1) A passenger or other person on board a vessel must not:
   (a) obstruct or interfere with any part of the machinery or equipment of the
       vessel; or
   (b) obstruct, hinder or harm a seafarer on board the vessel.
(2) A person who contravenes sub-section (1) commits an offence and on summary conviction is liable to a fine not exceeding one hundred thousand penalty units, or to imprisonment for a term not exceeding six months, or both.

(3) A person is liable to a civil penalty if the person contravenes sub-section (1), and shall be punishable with a civil penalty of one hundred thousand penalty units.

199. Offence – certain persons may be refused entry to or asked to leave a vessel

(1) A person shall not:
(a) board a vessel after being refused permission to board by or on behalf of the owner or master; or
(b) remain on board a vessel after being asked to leave the vessel by or on behalf of the owner or master.

(2) A person who contravenes sub-section (1) is guilty of an offence and liable on conviction to a fine not exceeding one hundred thousand penalty units.

200. Offence - Power of master etc. to detain

(1) If the master or other officer of a vessel reasonably believes that a person (the offender) has contravened section 198, the master or officer, or a person asked by the master or officer to assist, may detain the offender without warrant.

(2) A person who detains an offender under sub-section (1) must, as soon as practicable after the detention, arrange for the offender, and any property found on the offender, to be delivered to a police officer.

201. Penalty for carrying passengers in excess

(1) The owner or master of any passenger ship shall not carry or receive on board thereof, or on or in any part thereof, any number of passengers which, having regard to the time, occasion and circumstances of the case, is greater than the number allowed by the passenger ship safety certificate, and if he does so, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding 2 years or both;

(2) The Director General, may detain any ship which has contravened sub-section (1) for such period until the ship complies with the passenger ship safety certificate.

202. Power to exclude drunken passengers from passengers hip

(1) The master of any passenger ship may refuse to receive onboard the ship any person who by reason of drunkenness or otherwise is in such a state or misconducts himself in such a manner as to cause annoyance or injury to passengers on board and if any such person is on board, may put him on shore at any convenient place; and a person so refused admittance or put on shore shall not be entitled to the return of any fare he has paid.

203. Return to be furnished

(1) The master of every ship, whether a Bangladesh ship or a foreign ship which carries any passenger to a place in Bangladesh from a place out of Bangladesh or from any place in Bangladesh to any place out of Bangladesh, shall furnish to MARINECARE Consultants Bangladesh Ltd.
such person and in such manner as the Director General, directs, a return giving the total number of passengers so carried, distinguishing, if so directed by the Director General, the total number of any class of passengers so carried, and giving, if the Director General directs such particulars with respect to passengers as may for the time being be required.

(2) Every passenger shall furnish the master of the ship with any information required of him for the purpose of there turn.

(3) If the master of a ship fails to make a return as required by this section, or makes a false return, and if any passenger refuses to give any information required by the master of the ship for the purpose of the return required by this section, or gives any false information for the purpose, the master or as the case may be, the passenger shall be liable for each offence to a fine not exceeding one hundred thousand penalty units.

204. Regulation making power in respect of carriage of passengers

(1) The Director General may, with the approval of the Government, make regulations in relation to the carriage of passengers.

(2) Without affecting the generality of subsection (1), the Director General may, with the approval of the Government, make regulations for or with respect to all or any of the following matters:

(a) the times and places at which, and the manner in which, surveys are to be held;
(b) the requirements as to construction, machinery, equipment and marking of subdivision load lines, which are to be fulfilled before a declaration of survey may be granted;
(c) survey of ships by two or more surveyors;
(d) the duties of the Surveyor making a survey, and where two or more Surveyors are employed, the respective duties of each of the Surveyors employed;
(e) the form in which the declarations of survey, Passenger Ship Safety Certificates, Special Trade Passenger Ship Certificates and Special Trade Passenger Ship Space Certificates under this Chapter are to be made, and the nature of the particulars which are to be stated there in; and
(f) the rates according to which the fees payable in respect of surveys are to be calculated.

(3) Without limiting sub-section (1), the regulations may make provision in relation to the following:

(a) equipment;
(b) the number of passengers to be carried;
(c) accommodation;
(d) provisions and water;
(e) medical and surgical stores;
(f) medical inspection;
(g) medical staff and attendants;
(h) hospital accommodation;
(i) sanitary matters;
(j) discipline;
(k) passenger lists.
(4) Without limiting sub-section (1), the regulations may make provision in relation to:
   (a) the obligations to passengers of the owner and master of a wrecked vessel or a vessel that is unable to proceed on a voyage; and
   (b) the landing of passengers at a port other than in accordance with a contract.

(5) The regulations may make provision in relation to the carriage on a vessel of cargo and livestock.

(6) Without limiting sub-section (5), the regulations may make provision in relation to the following:
   (a) the loading, stowing or carriage of cargo or livestock in vessels;
   (b) the unloading of cargo and livestock from vessels;
   (c) the giving of notices relating to a matter referred to in paragraph (a) or (b).

(7) The regulations may make provision in relation to the carriage of dangerous goods.

(8) Without limiting sub-section (7), the regulations may make provision in relation to the following:
   (a) the classes of vessels in which dangerous goods may be carried;
   (b) the quantities of dangerous goods that may be carried from a Bangladesh port;
   (c) the precautions to be observed in connection with loading or unloading dangerous goods at a Bangladesh port;
   (d) the conditions as to the packing and stowing of dangerous goods loaded at a Bangladesh port, and the ventilation of holds containing such goods.
CHAPTER 33
PROVISIONS RELATING TO SPECIAL TRADE PASSENGER SHIPS

205. Ships to which this Chapter applies

This Chapter applies to Special Trade Passenger Ships operating to and from Bangladesh ports and harbours.

206. Ships not to proceed on voyage from any place not designated by the Government

(1) A special trade passenger ship shall not depart or proceed on a voyage from, or embark or disembark special trade passengers at, any port or place within Bangladesh other than a port or place designated in this behalf by the Government.

(2) After a ship has departed or proceeded on a voyage from a port or place so designated, no special trade passenger shall be received on board except at some other port or place so designated.

207. Notice to be given about day of departure

(1) The owner, agent or master of a special trade passenger ship intending to depart or proceed on a voyage from a port or place designated under section 206 shall give notice to an officer appointed in this behalf by the Government, hereinafter called the Certifying Officer, stating that the ship is to carry special trade passengers and also specifying her destination and the time at which it is proposed to depart or proceed.

(2) The notice under sub section (1) shall be given not less than 24 hours before the time of the ship's departure from the first port in Bangladesh at which passengers are embarked.

208. Power to board and inspect ship

After receiving the notice under section 207, the Certifying Officer or a person authorised by him may at all times board the ship and inspect her and her fittings and the provisions and stores on board to ensure compliance with the applicable requirements of this Act.

209. Certification and survey

(1) The provisions of Chapter 32 as applicable to passenger ships are also applicable to special trade passenger ships and no special trade passenger ship shall proceed on any voyage unless she has, in addition to the Passenger Ship Safety Certificate, a Special Trade Passenger Ship Safety Certificate, together with a Special Trade Passenger Ship Space Certificate, both of which shall be issued, by the Certifying Officer on receipt of a declaration of survey stating that a special trade passenger ship complies with the applicable requirements relating to special trade passenger ships.

(2) The Certifying Officer or person so authorised by section 208 to inspect the ship, shall, if he is satisfied that he can with propriety do so, grant to the master a certificate for clearance, that is to say, a certificate stating that all the requirements of this Part have been duly complied with and that in his opinion the ship is in all

MARINECARE Consultants Bangladesh Ltd.
respects fit for the intended voyage and that the special trade passengers are in a fit state to proceed and that, if the ship is a pilgrim ship, the master's bond has been executed.

(3) The Special Trade Passenger Ship Safety Certificate and the Special Trade Passenger Ship Space Certificate may be combined in one document and shall be issued in a prescribed form for a period not exceeding one year.

210. Special power to make rules

Without prejudice to the powers to make rules under section 204, the Government may, by notification in the official Gazette, make rules relating to requirements for special trade passenger ships which may provide for all or any of the following matters, namely:

(a) the accommodation space required to be provided, which shall include the location of such accommodation and space in the ship, provision of bunks and specifications thereof, number of hospitals, lavatories, supply of light and ventilation and the provision of airing spaces and awnings;

(b) provision for the separation of different categories of passengers;

(c) the number of persons to be carried on a special trade passenger ship;

(d) the seasons of fair weather during which periods passengers may be accommodated on the weather deck;

(e) the seasons of foul weather during which periods passengers may not be accommodated on the weather deck except for the use of the deck as airing space as may be required to be provided in the rules made under this section;

(f) the classification of voyages with reference to the distance between the port of departure and the port of destination, the duration of the voyage, or any other consideration which the Government may think fit to take into account for the purpose;

(g) the prohibition or regulation of the carriage of cargo in any space reserved for passengers;

(h) the disposal of baggage of passengers on board the ship and the provision of separate space in between the decks for the storage of light baggage;

(i) the licensing, supervision and control of persons engaged in assisting persons to obtain special trade passenger accommodation in ships departing or proceeding from any port or place in Bangladesh and the prohibition of unlicensed person from being so engaged;

(j) the space to be set apart for alleyways, passages and the like;

(k) the scale according to which dining rooms, latrines, wash places, baths, dressing rooms and other amenities are to be provided;

(l) the conditions under which passengers may be allowed to be carried in the upper deck in seasons of foul weather;

MARINECARE Consultants Bangladesh Ltd.
(m) the provision of bunks for special trade passengers or for any proportion of such passengers on any specified classes of voyages, and the size and other particulars relating to the bunks to be so provided;

(n) the functions of the, medical officer (if any) and other officers of the ship during the voyage;

(o) the access of between-decks passengers to the upper deck;

(p) the time within which any ship of a specified class is to depart or proceed on her voyage after commencing to take passengers on board;

(q) the conditions under which live-stock may be allowed to be carried;

(r) the provision of separate accommodation for women and children;

(s) any other matter which is to be made or may be prescribed under this Chapter.

211. Cooking food prohibited

Special trade passengers shall not be permitted to cook food on board.

212. List of departing special trade passenger

(1) The master of every special trade passenger ship departing or proceeding on a voyage from any port or place in Bangladesh shall sign a statement in duplicate in the prescribed form specifying the total number, indicating the number of each gender of all special trade passengers embarked and the number of crew, and such other particulars as may be prescribed, and shall deliver both copies to the Certifying Officer, who shall thereupon, after first having satisfied himself that the entries are correct, countersign and return to the master one of the copies.

(2) If, at any time after the passenger list has been signed and delivered as aforesaid, any additional special trade passenger is taken on board, the master shall add to his copy of the list, and also enter on an additional list signed by him, the prescribed particulars of every such additional passenger.

(3) The master’s amended copy of the list shall be signed by the Certifying Officer at the time at which he delivers the additional list to that officer.

(4) The foregoing requirements are in addition to, and not in substitution for, the passenger returns required by section 203.

213. List of arriving special trade passenger

(1) The master of every special trade passenger ship arriving at any port or place in Bangladesh at which it is intended to disembark special trade passengers, shall, before any such passenger is landed, deliver to the Certifying Officer appointed there a statement signed by him specifying the total number, indicating the number of each gender of all the special trade passengers on board and the number of other passengers and the number of crew and such other particulars as may be

MARINECARE Consultants Bangladesh Ltd.
prescribed.

(2) The foregoing requirements of this section are in addition to, and not in substitution for, the passenger returns required by section 203.

214. Deaths on Board

The master of every special trade passenger ship, in addition to recording in the official log book every case of death happening on board, shall note on the copy of the statement returned to him under section 212 and on any additional list signed by him, the date and supposed cause of death of any special trade passenger who dies on board, and shall, when the ship arrives at her destination and before any such passengers are disembarked, produce the statement,-

(a) where such destination is in Bangladesh, to the Commissioner of Customs;

(b) where such destination is outside Bangladesh, to the Bangladesh Consular Officer.

215. Medical Officers and attendants

(1) Every special trade passenger ship which has on board more than one hundred persons, which number shall include special trade passengers, cabin passengers and crew, shall have on board a Medical Officer possessing such qualifications as may be prescribed. If the number of such persons exceeds one thousand, two such Medical Officers shall be carried and if the number exceeds two thousand, three such Medical Officers shall be carried, and in addition to the aforementioned Medical Officers, there shall also be carried such attendants as may be prescribed.

(2) The services of all such Medical Officers and attendants shall be provided without charge to all special trade passengers on board.

(3) If Medical Officers and attendants are not carried on a special trade passenger ship in accordance with the provisions of sub section (1), the master and owner shall each be liable to a fine not exceeding one hundred thousand penalty units.

216. Penalty for failing to supply special trade passengers with prescribed provisions

(1) If the master of a special trade passenger ship, or any contractor employed by him for the purpose, should, without reasonable cause, the burden of proving which shall lie upon him, omit to supply to any special trade passenger the prescribed allowance of food and water, he shall be punishable with a not exceeding twenty thousand penalty units for every special trade passenger who has not been supplied with such allowance.

(2) Where, under the terms of the ticket issued to him, a special trade passenger is not entitled to the supply of food as aforesaid, sub section (1) shall have effect in relation to such passenger as if reference therein to “food” were omitted.

217. Penalty for ship unlawfully departing or receiving passengers on board

(1) If a special trade passenger ship departs or proceeds on a voyage from or lands special trade passengers at any port or place within Bangladesh in contravention of the provisions of this Chapter, or if a person is received as a special trade passenger on board any such ship in contravention of any such provision, the master or owner shall, for every special trade passenger so landed or received on board, be punishable with imprisonment for a
term not exceeding three months, or with a fine not exceeding one hundred thousand penalty units, or with both; so however, the aggregate term of imprisonment awarded under this section shall not exceed two years.

(2) The Commissioner of Customs, if he has reasonable grounds to believe that the master or owner of a ship has incurred any penalty under sub-section (1), may seize and detain the ship, whenever found in any port or place within Bangladesh, until the penalties so incurred have been adjudicated and the payment of the fines, if any, imposed on the master or owner, with all costs, has been enforced.

218. Penalty for landing special trade passenger at a port or place other than that contracted for

If the master of a special trade passenger ship lands any special trade passenger at any port or place other than the port or place contracted for by the passenger, except with his previous consent, or except when the landing is made necessary by perils of the sea or an unavoidable accident, the master shall, for each offence, be punishable with imprisonment for a term not exceeding three months, or with a fine not exceeding twenty thousand penalty units, or both.

219. Forwarding of passengers by Bangladesh Consular Officers

(1) If any special trade passenger from a ship which is on a voyage from any port or place in Bangladesh finds himself, without any neglect or default of his own at any port or place outside Bangladesh other than the port or place for which the ship was originally bound, or at which he has contracted to be landed, the Bangladesh Consular Officer at or near that port or place may forward the passenger to his intended destination, unless the master, owner or agent of the ship gives to that officer, within forty eight hours of the arrival of the passenger, a written undertaking to forward the passenger within six weeks thereafter to his original destination and forwards him accordingly within that period.

(2) A passenger so forwarded by a Bangladesh Consular Officer shall not be entitled to the return of his passage money or to any compensation for loss of passage.

220. Recovery of expenses incurred in forwarding passengers

(1) All expenses incurred under section 219 by a Bangladesh Consular Officer in respect of the forwarding of a passenger to his destination, including the cost of maintaining the passenger until he is forwarded to his destination, shall be a debt due to the Government jointly and severally from the owner, charterer, agent and master of the ship on board which the passenger had embarked.

(2) In any proceeding for the recovery of that debt, a certificate purporting to be under the hand of the Bangladesh Consular Officer and stating the circumstances of the case and the total amount of the expenses shall be prima facie evidence of the amount of the expenses and of the fact that the same were duly incurred.

221. Information to be sent to ports of embarkation and disembarkation

(1) The officer appointed by the Government in this behalf at any port or place within Bangladesh at which a special trade passenger ship touches or arrives shall send any particulars which he may deem important respecting the special trade passenger ship, and the special trade passengers carried therein, to the officer so

MARINECARE Consultants Bangladesh Ltd.
appointed at the port or place from which the ship commenced her voyage, and to the officer appointed at any other port or place within Bangladesh where the special trade passengers or any of them embarked or are to be disembarked.

(2) The officer aforesaid may go on board any such ship and inspect her in order to ascertain whether the provisions of this Chapter as to the number of special trade passengers and other matters have been complied with.

222. Information sent under section 221, etc. to be admissible in evidence

In any proceeding for the adjudication of any penalty incurred under this Chapter, any document purporting to be particulars sent under sub section (1) of section 221, or a copy of the proceedings of any Court duly authenticated, and also any like document purporting to be made and signed by a Bangladesh Consular Officer shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Chapter is held.

223. Hospital accommodation.

Every special trade passenger ship certified to carry more than one hundred passengers on a voyage the duration of which, in ordinary circumstances, may extend to forty-eight hours or more, shall provide on board a hospital offering such conditions relating to security, space, health and sanitation and capable of accommodating such proportion of the maximum number of passengers the ship is certified to carry, as may be prescribed.

224. Bond where special trade passenger ship is to carry pilgrims on outward voyage

(1) Port clearance shall not be granted from any port in Bangladesh to any special trade passenger ship carrying pilgrims unless the master, owner or agent and two sureties resident in Bangladesh have executed, in favour of the Government, a joint and several bond for the sum as may be fixed by the Government covering all voyages which may be made by the ship in the current pilgrimage season on the conditions that-

(a) the master and medical officer or officers, if any, shall comply with this Chapter and regulations made thereunder; and

(b) the master, owner or agent, as the case may be, shall pay any sum claimed by the Government under section 231.

(2) A bond may be given under this section covering any or all of the pilgrim ships owned by one owner, and in such case the amount of the bond shall be one hundred thousand Taka for each ship covered.

225. Medical inspection and permission required before embarkation of pilgrims

(1) No pilgrim shall be received on board any special trade passenger ship at any port or place in Bangladesh unless and until he has been medically inspected at such time and place and in such manner as the Government may fix in this behalf nor until the Certifying Officer has given permission for the embarkation of pilgrims to commence.

(2) So far as may be practicable, and subject to any regulations made in this behalf, the medical inspection of female pilgrims shall be carried out by female medical officers.
(3) No pilgrim shall be received on board any special trade passenger ship unless he produces medical certificates signed by persons who, in the opinion of the officer making an inspection under this section, are duly qualified to grant such certificates showing that the pilgrim has been, inoculated and vaccinated against such diseases and quarantined for such period, as may, from time to time, be prescribed.

(4) If, in the opinion of the officer making an inspection under this section any pilgrim is suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, such pilgrim shall not be permitted to embark.

(5) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected of having been so contaminated shall, before being taken on board a special trade passenger ship, be disinfected, under the supervision of a medical officer appointed by the Government for the purpose, in such manner as may be prescribed.

(6) If the master of any ship knowingly receives on board any pilgrim or contaminated articles in contravention of any of the provisions of this section, he shall be punishable with a fine not exceeding one hundred thousand Penalty units for each such pilgrim or one thousand Taka for each such article, or with imprisonment for a term not exceeding one year, or both.

226. Medical inspection after embarkation in certain cases

(1) If, in the case of a special trade passenger ship, after all the pilgrims have been received on board, there is reason to suspect that any person on board is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, a medical inspection of all persons on board may be held in such manner as the Government may direct.

(2) If on such inspection any person is found to be suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, he shall, together with all articles belonging to him, be at once removed from the ship.

227. Return passage to be secured

(1) No pilgrim shall be received on board any special trade passenger ship at any port or place in Bangladesh unless he-

(a) is in possession of a return ticket, or

(b) has deposited in the prescribed manner such sum for the purpose of defraying the cost of a return ticket as the Government may, by notification in the official Gazette, specify.

(2) The officer authorised in this behalf by the Government may, if he is satisfied that it is inexpedient in the special circumstances of the case to enforce all or any of the above requirements, exempt any pilgrim from the same.

228. Issue or production of tickets

(1) Subject to sub-section (2), every pilgrim travelling on a special trade passenger ship
shall be entitled, on payment of his passage-money and fulfillment of other
prescribed conditions, if any, to receive a ticket in the prescribed form, and shall be
bound to produce it to such officers and on such occasions as may be prescribed
and otherwise to deal with it in the prescribed manner:

(2) A pilgrim who has not been exempted under the proviso to section 227 shall not be
given a ticket other than a return ticket unless he has made deposit required by that
section.

(3) Any ticket issued to a pilgrim for a voyage on a special trade passenger ship shall
entitle him to receive food and water on the scale and of the quality prescribed and
necessary medicines and medical treatment free of further charge throughout the
voyage.

229. Refund of deposits and passage money

(1) Every pilgrim prevented from embarking under section 225, or removed from the
ship under section 226, or otherwise prevented from proceeding, shall be entitled
to the refund of any passage money which he may have paid, and of any deposit
which he may have made under section 227.

(2) Any pilgrim who, within three months of his sailing from Bangladesh, satisfies the
Bangladesh Consular Officer at Jeddah that he intends to remain in the Hedjaz or
to return to Bangladesh by a route other than the route by which he came from
Bangladesh, shall be entitled to a refund of any deposit made by him under section
234 or, if he is in possession of a return ticket, to a refund of half the passage money
paid by him.

(3) Where any pilgrim dies in the Hedjaz or on the voyage thereto, any person
nominated by him in this behalf in writing in the prescribed manner, or, if no person
has been so nominated, his legal representative, shall be entitled to a refund of any
deposit made by such pilgrim under section 227, or, if such pilgrim was in
possession of a return ticket, to a refund of half the passage money paid by such
pilgrim.

(4) Where any pilgrim fails to return to Bangladesh from the Hedjaz within six months
of his departure from Bangladesh, or returns to Bangladesh by a route other than
the route by which he came from Bangladesh, he or any person nominated by him
in this behalf in writing in the prescribed manner shall be entitled to a refund of any
deposit made by such pilgrim under section 227, or, if such pilgrim was in
possession of a return ticket, to a refund of half the passage money paid by such
pilgrim, except where such deposit or passage money has already been refunded
under this section.

(5) Refunds under sub sections (1), (2), (3), and (4) of deposits shall be subject to such
conditions and of passage money to such deductions and conditions as may be
prescribed.

230. Unclaimed deposits and passage money to vest in Government

(1) All deposits made under section 227, which have been unclaimed for the prescribed
period shall vest in the Government.

(2) If any pilgrim entitled to a refund of passage money under sub section (1) of section
229, does not claim such refund within the prescribed period, or if any pilgrim who

MARINECARE Consultants Bangladesh Ltd.
has purchased a return ticket does not, on the basis of such ticket, obtain a return passage from the Hedjaz within the prescribed period and half the passage money has not been refunded under sub section (2) or sub section (3) or sub section (4) of section 229, such passage money or, as the case may be, half the passage money shall vest in the Government.

(3) Unclaimed deposits and passage money vesting in the Government under sub-section (1) or sub-section (2) shall be made over to such authority administering any fund maintained for the assistance of pilgrims as the Government may, by general or special order, designate in this behalf.

231. Cost of return journey of pilgrims on ships other than those for which return ticket is available

(1) Subject to sub-section (2), the master, owner or agent of a special trade passenger ship carrying pilgrims shall make all arrangements for ensuring the return from Jeddah, within a period of ninety days after the Hajj day in the year, of all pilgrims in possession of return tickets issued in Bangladesh who are carried to the Hedjaz by such ship.

(2) For the purpose of computing the said period of ninety days, no period shall be taken into account during which the ship is prevented from carrying pilgrims on the return passage by reason of the port of Jeddah, having been declared by proper authority to be infected, or by reason of war disturbance, or any other cause not arising from any act or default of the master, owner or agent.

232. Notice of proceeding of special trade passenger ship carrying pilgrims on voyage

(1) The master, owner or agent of any ship which is intended to proceed on a voyage as a special trade passenger ship carrying pilgrims from any port or place in Bangladesh shall, before advertising such ship for the conveyance of pilgrims or offering to convey any pilgrims by such ship or selling or permitting any person to sell a passage ticket to any pilgrim for conveyance by such ship, supply to the prescribed officer, hereinafter referred to as the Port Hajj Officer, at the port or place from which the ship is to commence the voyage and at each port or place in Bangladesh at which it is to touch for the purpose of receiving pilgrims on board, full particulars as to the class, tonnage and age of the ship, the maximum number of passage tickets of each class to be issued, the maximum price of each class of ticket, the date on which the ship is to depart or proceed on a voyage from that port or place, the ports, if any, at which it is to touch, the destination of the ship, and the probable date of its arrival there.

(2) The master, owner or agent shall supply to the Port Hajj Officer, within three days from the date of demand, such further information in regard to the matters mentioned in sub section (1) as that officer may in writing demand from him.

(3) The master, owner or agent of a ship intending to carry pilgrims shall at such time, not being less than ten days preceding the date of departure or proceeding on voyage of the ship from any port or place in Bangladesh as may be prescribed, advertise at such port or place in the prescribed manner.

233. Compensation for delay in departing or proceeding on voyage

(1) Subject to sub-sections (2) and (3), if a ship fails to depart or proceed on voyage from any port or place on the date advertised under sub section (3) of section 232,
the master, owner or agent shall be liable to pay as compensation to each pilgrim who has paid his passage money on or before that date the sum of five hundred Taka for each completed day during which the departure or proceeding on voyage of the ship is delayed after that date.

(2) Such compensation as is mentioned in sub-section (1) shall not be payable in respect of any period during which the departure of the ship is impossible owing to any cause not arising from the act or default of the master, owner or agent, the burden of proving which shall lie on the master, owner or agent.

(3) Where the compensation mentioned in sub-section (1) has been paid or has become payable to any pilgrim in respect of delay in the departure or proceeding on voyage of the ship from any port or place and the departure or proceeding on voyage of the ship from any other port or place is thereafter delayed, the pilgrim shall be entitled to compensation only in respect of any period by which the duration of such further delay exceeds the duration of the delay in respect of which he has already received or become entitled to compensation.

(4) In the event of such failure, the master, owner or agent shall be bound forthwith to inform the Port Hajj Officer at the port or place at which the delay occurs of the number of passage tickets of each class which have been issued for the voyage on or before the advertised date of departure or proceeding on voyage.

(5) Subject to sub-sections (6) and (7), any sum payable to the pilgrims as compensation under sub-section (1) shall be paid to the Port Hajj Officer at the port or place at which the delay occurs by the master, owner or agent on receipt by him of a notice from that Officer specifying the sum payable; and the Port Hajj Officer shall, in such manner as may be prescribed, pay to each such pilgrim the compensation paid in respect of his detention.

(6) If an objection is made by the master, owner or agent that the sum specified in any such notice or any part of such sum is not payable by him, the sum paid or, as the case may be, the balance thereof remaining after payment to the pilgrims entitled thereto of compensation the right to which is not in dispute, shall be held in deposit until the objection has been decided.

(7) If, for any reason, the compensation due to any pilgrim cannot be paid to him at the time of embarkation or at or before the time of his disembarkation at the port of his destination, the sum so remaining unpaid shall be paid to such authority as is referred to in sub-section (3) of section 230.

(8) If the master, owner or agent objects that the sum specified in the notice issued under sub-section (5) or any part thereof is not payable by him, he may, at the time of payment of such sum, give to the Port Hajj Officer notice of his objection, together with a statement of the grounds thereof, and the Port Hajj Officer shall thereupon either cancel or modify the aforesaid notice in accordance with the objection and refund the sum held in deposit under sub-section (5), or refer the objection for decision to a Magistrate exercising jurisdiction in the port or place at which the ship is delayed; and the decision of the Magistrate on such reference shall be final.

(9) If the Magistrate decides on a reference under sub-section (8) that any sum held in deposit is not payable as compensation under sub-section (1), such sum shall be refunded to the master, owner or agent, as the case may be.

(10) On the failure of any ship carrying pilgrims to depart or proceed on a voyage from any port or place on the date advertised under sub-section (3) of section 239, the
Port Hajj Officer at that port or place shall forthwith give notice of such failure to the officer authorised to grant port clearance to ships thereat, and such officer shall refuse port clearance to the ship until the master, owner or agent produces to him a certificate of the Port Hajj Officer that all sums payable by way of compensation under this section up to the day on which the ship is to depart or proceed on voyage have been paid.

234. Substitution of ships

Notwithstanding anything contained in section 232 or 233, where any ship which has been advertised under sub section (3) of section 232, for the conveyance of pilgrims has been or is likely to be delayed beyond the advertised date of departure or proceeding on voyage, the owner or agent may, with the permission in writing of the Government, substitute for it any other ship which is capable of carrying not less than the same number of each class, and where the ship is substituted with such permission, the advertisement shall be deemed to have been made in respect of the ship so substituted, and all the provisions of those sections shall apply accordingly in respect of such ship.

235. Sanitary taxes payable by the Master

The amount of the sanitary taxes imposed in respect of the pilgrims by any lawful authority at the ports visited by a ship shall be paid by the master thereof.

236. Power to make regulations

(1) The Government may, by notification in the official Gazette, make regulations to carry out the purposes of this Chapter.

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

(a) the basic scale on which, and the manner in which, food and water are to be supplied to pilgrims, and the quality of such food and water;

(b) the kinds of food to be provided for pilgrims on payment, in addition to the food to be supplied in accordance with the basic scale;

(c) the nature and the extent of the hospital accommodation and the medical stores, disinfectants, and other appliances and fittings to be provided on board free of charge to pilgrims for maintaining health, cleanliness and decency;

(d) the form of the statements to be furnished by the master under sections 212 and 213 and the particulars to be entered therein;

(e) the appointment of Medical Officers and other attendants in cases where they are required by this Chapter to be carried;

(f) the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship;

(g) the manner in which deposits shall be made for the purposes of section 227, and any matter in respect of which provision is, in the opinion of the Government, necessary or expedient for the purpose of giving effect to the provisions of that section;

MARINECARE Consultants Bangladesh Ltd.
(h) the supply of tickets to intending pilgrims, the form of such tickets and the conditions and other matters to be specified thereon;

(i) the refund of deposits and passage money under section 236 and the manner in which persons shall be nominated under that section for the purpose of entitling them to a refund;

(j) the period after which unclaimed passage money and deposits liable to be refunded shall vest in the Government and the purposes to which sums so vested shall be applied;

(k) the manner in which the proposed date of departure or proceeding on voyage shall be advertised under section 232, and manner in which payment shall be made under section 233 to pilgrims and to the Port Hajj Officer; and the procedure to be followed by masters, owners or agents and by Port Hajj Officers and Magistrates in proceedings under that section;

(l) the local limits within which, and the time and mode at and in which, pilgrims shall be received on board or disembarked at any port or place appointed under this Chapter in that behalf.

(3) If the master or a Medical Officer, if any, of a ship carrying pilgrims, without reasonable cause, the burden of proving which shall lie upon him, contravenes, or omits or neglects to comply with, any rule under this Chapter, he shall, for each offence, be punishable with a fine which may extend to twenty thousand penalty units.

237. Compliance with International Health regulations

The Special Trade Passenger Ships shall comply with the International Health Regulations having regard to the circumstances and the nature of the voyage within the meaning of the said Health regulations.

238. Penalty and procedure for breach of regulations

In making a regulation under this Chapter, the Government may direct that a contravention of the provisions thereof shall, unless a penalty for such contravention has been expressly provided in this Chapter be punishable with a fine not exceeding one hundred thousand penalty units.
CHAPTER 34
FISHING VESSELS, PLEASURE VESSELS AND OTHER SMALL CRAFTS

239. Application of this Chapter

This Chapter applies to power driven sea-going fishing vessels, pleasure vessels and other small crafts as may be prescribed.

240. Ascertainment of tonnage

For the purpose of this Chapter, the tonnage of fishing vessels shall be such as may be ascertained, in accordance with the regulations made for the ascertainment of tonnage under section 257.

241. Registration of fishing vessels

(1) Every fishing vessel to which this Chapter applies shall be registered in accordance with this section.

(2) A fishing vessel registered at any time before the commencement of this Chapter at any port in Bangladesh under any law for the time being in force shall be deemed to be registered under this Chapter and be recognized as a fishing vessel registered in Bangladesh and, if it is not registered under this Chapter, shall be liable to be forfeited to the Director General.

(3) The owner of every fishing vessel shall make an application in the prescribed form to the Registrar of Bangladesh Ship for the grant to him of a Certificate of Registry in respect of the vessel and shall cause the tonnage of the vessel to be ascertained in the prescribed manner.

(4) The Registrar may make such inquiry as he thinks fit with respect to the particulars contained in the application, and shall enter in a register, to be called the Fishing Vessels Register, the following particulars in respect of the vessel, namely:-

(a) the name of the vessel, the place where she was built, and the port to which she belongs;

(b) her tonnage ascertained as aforesaid;

(c) type of engines;

(d) the name, occupation and address of the owner;

(e) the letter and number assigned to the vessel;

(f) the mortgages, if any, effected by the owner in respect of the vessel;

(g) such other particulars as may be prescribed.

(5) After the particulars in respect of the vessel have been entered in the Fishing Vessels Register under sub section (4), the Registrar shall grant to the applicant a Certificate of Registry in the prescribed form on payment of a fee according to such scale as may be prescribed having regard to the tonnage of the vessel.

MARINECARE Consultants Bangladesh Ltd.
(6) A fishing vessel which is required to be registered under this Act but is not so registered shall be detained by the Principal Officer, Surveyor or Commissioner of Customs until the Certificate of Registry is produced.

(7) The owner or skipper of every fishing vessel which is required to be registered under this Act but has not been so registered shall be liable to pay a fine not exceeding one hundred thousand penalty units.

242. Effect of registration of fishing vessels

(1) In all proceedings under this Act against the owner or skipper of, or any person belonging to, any vessel entered in the Fishing Vessels Register, or for the recovery of damages for injury done by such vessel, the Register shall be conclusive evidence that the person entered therein at any date as owner of the vessel was at that date the owner thereof, and that the vessel is a Bangladesh sea going fishing vessel.

(2) This section shall not prevent any proceedings being instituted against any person not so entered who is beneficially interested in the vessel nor shall it affect the rights of the owners among themselves if there be more than one owner, or the rights of any owner entered in the Register, against any person not so entered who is beneficially interested in the vessel.

(3) Save as aforesaid, entry in the Fishing Vessels Register shall not confer, take away, or affect any title to or interest in any such vessel.

243. Safety Certificate

(1) No fishing vessel shall proceed to sea unless a Safety Certificate is in force.

(2) A Safety Certificate in respect of a fishing vessel shall specify-
   (a) the name, number, port of registry and length of the vessel;
   (b) the number of crew that may be carried;
   (c) the particulars of life saving and fire appliances, and lights and shapes, and the means of making fog and distress signals carried on board, and shall contain a statement to the effect that her hull, machinery, equipment and radio apparatus are in good condition.

(3) A Safety Certificate shall be in force for such period as may be prescribed.

(4) Where at any time after the issue of a Safety Certificate in respect of a fishing vessel, the Director General has reason to believe that the vessel is not fit to proceed to sea, or that the vessel has undergone material alteration or has met with an accident, it may, after giving the owner an opportunity of making a representation, cancel such certificate.

244. Statement relating to the fishing vessel personnel to be maintained
(1) Every owner or skipper of a sea going fishing vessel shall maintain or cause to be maintained in the prescribed form a statement of the fishing vessel personnel on board.

(2) Every change of the fishing vessel personnel shall be entered in the statement maintained under sub section (1).

(3) A copy of such statement and of every change therein shall be communicated as soon as possible to the Registrar of the port where the vessel is registered.

(4) If the owner or skipper fails to comply with any of the provisions of this section, he shall, for each offence, be punishable with fine which may extend to five thousand penalty units.

245. Skippers, officers and engineers to be duly certificated

(1) No fishing vessel shall proceed to sea unless the skipper, officers and engineers are duly certificated as may be prescribed, nor shall any person not so certificated accept any such employment in respect of any such vessel.

(2) Every fishing vessel shall carry minimum number of qualified fishing vessel personnel as may be prescribed.

(3) Any person who -

(a) having been engaged in a fishing vessel as a skipper, officer or engineer goes to sea as such without being duly certificated; or

(b) employs a person in contravention of sub section (1), without ascertaining that the person is duly certificated, shall, for each offence, be punishable with fine which may extend to fifty thousand penalty units.

246. Power to exempt

The Director General may, with the approval of the Government, exempt any type of fishing vessel from the requirements of any of the provisions of this Chapter.

247. Power to make regulations

(1) The Director General may, with the approval of the Government may make regulations prescribing safety requirements and providing for the issue of certificates in respect of—

(a) fishing vessels;

(b) pleasure vessels; or

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

(2) In making regulations respecting fishing vessels, the Director General shall have due regard to the Torremolinos International Convention for the Safety of Fishing Vessels 1977, as amended, International Convention on Standards of Training,
Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), 1995 and may provide for all or any of the following matters, namely:

(a) the form in which applications for Certificates of Registry and Safety Certificate shall be made and the particulars which such applications should contain;

(b) the form in which Certificates of Registry and Safety Certificates may be issued;

(c) the issue of duplicate copies of Certificates of Registry and Safety Certificates when the originals are destroyed, lost, mislaid, mutilated or defaced;

(d) the manner in which, and the time within which, reports for the registration of alterations in the Certificates of Registry shall be made, the endorsements of the particulars of alteration on such certificates, the grant of provisional certificates where vessels are directed to be registered anew, the period for which provisional certificates shall be valid and all other matters ancillary to the registration of alterations;

(e) the form and manner in which applications for the transfer of registry from one port to another in Bangladesh shall be made, and the procedure to be followed by the Registrar in connection with such transfer;

(f) the form and manner in which change of ownership is to be reported, and the procedure to be followed in connection with such change;

(g) the construction, equipment, machinery, radio apparatus and other matters relating to the safety of the vessels;

(h) the fees which may be levied for the issue or re issue of Certificates of Registry or Safety Certificates and for any other purposes of this Chapter;

(i) training examination and certification of personnel on board such vessels;

(j) safe manning scale for such vessels;

(k) lights to be carried and exhibited and the steering and sailing rules to be observed;

(l) surveys and inspection;

(m) change of name of such vessel;

(n) provision of evidence of financial responsibility or security against risks of damage to third parties;

(o) life saving and fire fighting appliances to be carried; and

(p) any other matter which is to be or may be prescribed under this Chapter.
CHAPTER 35
SAILING VESSELS

248. Application of Chapter

Notwithstanding anything to the contrary contained in this Act, this Chapter applies to every sea-going sailing vessel registered in Bangladesh.

249. Certificate of Registry

(1) Every sailing vessel shall be registered in accordance with the provisions of this section.

(2) A sailing vessel registered at any time before the commencement of this Chapter at any port in Bangladesh, shall be deemed to be registered under this Chapter and be recognized as a sailing vessel registered in Bangladesh and, if a sailing vessel is not registered under this Act, shall be liable to be forfeited to the Government.

(3) The owner of every sailing vessel shall make an application in the prescribed form to the Registrar for the grant to him of a Certificate of Registry in respect of the vessel, and shall cause the tonnage of the vessel to be ascertained in the prescribed manner.

(4) Registrar may make such inquiry as he thinks fit with respect to the particulars contained in such application and shall enter in a register, to be called the Sailing Vessels Register, the following particulars in respect of the vessel, namely:

(a) the name of the sailing vessel, place where she was built, and the port to which she belongs;

(b) the rig, type and tonnage of the vessel;

(c) the name, occupation and address of the owner;

(d) the number assigned to the vessel;

(e) the mortgages, if any, effected by the owner in respect of the vessel; and

(f) such other particulars as may be prescribed.

(5) After the particulars in respect of the vessel have been entered in the Sailing Vessels Register under sub section (4), the Registrar shall grant to the applicant a Certificate of Registry in the prescribed form on payment of a fee according to such scale as may be prescribed having regard to the tonnage of the vessel.

(6) A sailing vessel which is required to be registered under this Chapter but is not so registered shall be detained by the Principal Officer, Surveyor or Commissioner of Customs until the Certificate of Registry is produced.

250. Prevention of overloading or overcrowding

(1) The Director General may, with the approval of the Government, make regulations to regulate the carriage of cargo or passengers in sailing vessels and the protection of life and property on board such vessels.
(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the assignment of freeboard to sailing vessels;

(b) the marking of such freeboard on such vessels and the maintenance of such markings;

(c) the survey of the space allotted to passengers on board such vessels; and

(d) the scale and type of accommodation to be provided for each passenger.

(3) Any sailing vessel attempting to proceed to sea without freeboard markings or any sailing vessel which has been so loaded as to submerge such markings may be detained by the Principal Officer, Surveyor or Commissioner of Customs, until freeboard markings are made in accordance with the regulations made under subsection (1) or the vessel is so loaded that such markings are not submerged.

(4) Subject to subsection (5), if any sailing vessel arrives at a port or place in Bangladesh with a number of passengers in excess of the number which the vessel is certified to carry, or arrives at such port or place with the freeboard markings submerged, the owner and skipper shall, for each offence, be punishable with a fine not exceeding one hundred thousand penalty units.

(5) The fine shall not exceed an amount calculated at the rate of five hundred Taka for every passenger in excess as aforesaid or one hundred thousand Taka for every centimeter by which the freeboard markings are submerged.

251. Certificate of Inspection

(1) No sailing vessel shall proceed to sea unless a Certificate of Inspection applicable to the intended voyage is in force.

(2) A Certificate of Inspection in respect of a sailing vessel shall specify-

(a) the name and tonnage of the vessel;

(b) the names of the owner and skipper of the vessel;

(c) the minimum number of the seafarer and the maximum number of passengers that may be carried;

(d) the limits within which the vessel may be used for the purposes of trading;

(e) the particulars of freeboard assigned to the vessel;

(f) the particulars of life saving and fire appliances, and lights and shapes, and the means of making fog and distress signals carried on board, and shall contain a statement to the effect that her hull, rigging and equipment, including auxiliary machinery, if any, are in good condition.

(3) A Certificate of Inspection shall be in force for one year or for such shorter period as may be specified therein.

(4) The Director General, or any person authorised by the Director General in this behalf, may grant an extension of any certificate issued under this Chapter in respect of a
Bangladesh ship of a period not exceeding one month from the date on which the Certificate would but for such extension, have expired, or if the ship is absent from Bangladesh on that date, for a period not exceeding five months from that date.

(5) The Commissioner of Customs shall not grant a port clearance until after the production of a Certificate of Inspection in respect of the vessel.

(6) Where at any time after the issue of a Certificate of Inspection in respect of a sailing vessel, the Government has reason to believe that the vessel is not fit to ply or proceed to sea, it may, after giving the owner an opportunity of making a representation, cancel such certificate.

(7) Where at any time after the issue of a Certificate of Inspection a sailing vessel has undergone material alteration or has met with an accident or, where the Certificate of Inspection of a sailing vessel has been cancelled under sub- section (5) and an application is made for the re issue of such certificate or for the grant of a fresh certificate, the Registrar may, before reissuing the certificate or issuing a fresh certificate, as the case may be, cause such vessel to be inspected; and if the authority inspecting the vessel reports that she is not fit to proceed to sea or that her hull, rigging and equipment, including auxiliary machinery, if any, are defective, such certificate shall not be re issued or issued until the vessel is, in the opinion of such authority, fit to proceed to sea or the defect is rectified to the satisfaction of such authority.

252. Detention, etc. of foreign sailing vessels

(1) The provisions of sub section (5) of section 250 shall apply to any sailing vessel registered in any country other than Bangladesh which arrives in a port or place in Bangladesh in an overloaded condition.

(2) A sailing vessel shall be deemed to be in an overloaded condition for the purposes of this section-

(a) where the vessel is loaded beyond the limit specified in any certificate issued in the country in which she is registered; or

(b) in case where no such certificate has been issued in respect of the vessel, where the actual freeboard of the vessel is less than the freeboard which would have been assigned to it had it been registered under this Chapter.

(3) Any overloaded vessel which is about to proceed from a port or place in Bangladesh may be detained until it ceases to be in an overloaded condition.

253. Application to sailing vessels of certain provisions relating to ships and fishing vessels

(1) The provisions relating to registration, mortgages, life-saving appliances, and certification of crew and manning shall, mutatis mutandis, apply to sailing vessels as they apply to fishing vessels.

(2) The Government may, by notification in the official Gazette, direct that any other provisions of this Act which do not apply to sailing vessels shall also apply to such vessels, subject to such conditions, exceptions and modifications, if any, as may be specified in the notification.
254. Power to make regulations respecting sailing vessels

(1) The Director General may, with the approval of the Government, make regulations to carry out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may, besides providing for all or any of the matters specified in section 247, in so far as such matters relate to sailing vessels, provide for all or any of the following matters, namely:-

(a) the manner in which the tonnage of sailing vessels shall be ascertained;

(b) the manner in which free board is to be assigned to sailing vessels and the free board markings are to be made;

(c) the form and manner in which applications for the change of name of sailing vessels shall be made and the procedure to be followed by the Registrar in connection with such change;

(d) the criteria by which sailing vessels may be classified for the purpose of determining the limits within which they may be used for purposes of trading;

(e) the survey of space provided for passengers of sailing vessels and the scale and type of accommodation to be provided for such passengers; and

(f) any other matter which is to be or may be prescribed under this Chapter.
CHAPTER 36
TONNAGE

255. Application of this Chapter

This Chapter applies to ships to which the Tonnage Convention applies.

256. Certain ships taken to be registered

If a ship is in the course of construction, or the construction of a ship has been completed, and the ship:

(a) has not been registered and is not flying the flag of a country; and
(b) is intended to be registered in a particular country;

the ship is taken, for the purposes of this Chapter, to be registered in that country.

257. Tonnage regulations

(1) The Director General may, with the approval of the Government, make regulations for ascertaining tonnage of any ship to be registered under this Act 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 shall be re-measured, and her tonnage determined and registered according to the tonnage regulations.

(2) Tonnage regulations may—

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

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

(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 liable for an offence and upon conviction liable to a fine not exceeding one hundred thousand Penalty units, or to imprisonment for a term not exceeding six months 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;
(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 organizations as may be authorised for the purpose by the Director-General.

(5) Tonnage regulations may provide for the issue, by the Director-General or by persons appointed by such organizations as may be authorised for the purpose by the Director-General, 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 Bangladesh, 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 upon conviction with a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding six months.

(7) In making the tonnage regulations, the Government shall pay due regard to the provisions of the Tonnage Convention.
CHAPTER 37
SAFETY OF NAVIGATION

258. Observance of Collision regulations

Owners, masters or persons in charge of navigation of vessels shall obey the collision regulations and shall not carry, exhibit or use any other lights or use any other signals, other than those that are required by the collision regulations.

259. Obligation to render assistance to other ship in case of collision

(1) In every case of collision between ships, the master of each ship shall, if and so far as he can do so without damage to his own ship, crew and passengers, if any—

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

(b) give the master of the other ship the name and port of registry of his ship, and the names of the ports from which his ship sailed and to which his ship is bound.

(2) If the master fails without reasonable cause to comply with this section he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred thousand penalty units and an inquiry into his conduct may be held and his certificate may be cancelled or suspended.

260. Division of loss in case of collision

(1) Whenever by the fault of two or more ships, damage or loss is caused to one or more of them or to the cargo of one or more of them or to any property on board one or more of them, the liability to make good the damage or loss shall be in proportion to the degree in which each ship was at fault.

(2)(a) if having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally;

(b) nothing in this section shall operate so as to render any ship liable for any loss or damage to which her fault has not contributed;

(c) nothing in this section shall affect the liability of any person under any contract or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law or as affecting the right of any person to limit his liability in the manner provided by law.

(3) For the purposes of this Chapter, references to damage or loss by the fault of a ship shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable in law by way of damages.

261. Power to make regulations relating to collisions, lights, signals and reporting requirements

MARINECARE Consultants Bangladesh Ltd.
(1) The Director General may, with the approval of the Government, make regulations in relation to requirements for the prevention of collisions and may make provision in relation to the provision and use of lights and signals on vessels.

(2) Without limiting sub-section (1), the regulations may make provision in relation to giving effect to the Prevention of Collisions Convention.

(3) The regulations may make provision in relation to:
   (a) liability for loss of life or injury to a person on board a vessel because of the fault of the vessel and one or more other vessels; and
   (b) the division of liability for loss if two or more vessels are involved or at fault in a collision; and
   (c) the right of contribution in relation to a collision involving two or more vessels that results in loss of life or injury to a person on board a vessel;
   (d) Obligation to record requests for assistance;
   (e) Reporting of marine incidents to the Director General;
   (f) Report of dangers to navigation;
   (g) Obligations to render assistance;
   (h) Obligation to render assistance if requisitioned.

262. Regulations relating to lighthouse and aids to navigation

(1) The Director General may, with the approval of the Government, make regulations in relation to lighthouses and aids to navigation.

(2) The regulations may make provision in relation to-
   (b) appointing a lighthouse authority for establishing and maintaining lighthouses, buoys and other aids to navigation;
   (c) powers, functions, jurisdiction area and responsibilities of the lighthouse authority;
   (d) intentionally, recklessly, or negligently destroying, fouling or damaging aids to navigation;
   (e) intentionally, recklessly, or negligently obstructing the view of aids to navigation;
   (f) intentionally, recklessly, or negligently interfering with aids to navigation;
   (g) intentionally or recklessly removing or altering aids to navigation;
   (h) fees leviable;
   (i) trespassing on aids to navigation;
   (j) notice of damage to aids to navigation;
   (k) any other matter for the purpose of this Chapter.
CHAPTER 38
CARRIAGE OF PASSENGERS AND CARGOES

263. Power to make regulations relating to passenger and cargo operations

(1) The Director General may, with the approval of the Government, make regulations in relation to the carriage of passengers and cargo.

(2) Without affecting the generality of subsection (1), the Director General may, with the approval of the Government, make regulations for or with respect to all or any of the following matters:
   (a) equipment;
   (b) the number of passengers to be carried;
   (c) accommodation;
   (d) provisions and water;
   (e) medical and surgical stores;
   (f) medical inspection;
   (g) medical staff and attendants;
   (h) hospital accommodation;
   (i) sanitary matters;
   (j) discipline;
   (k) passenger lists.

(3) The regulations may make provision in relation to:
   (a) the obligations to passengers of the owner and master of a wrecked vessel or a vessel that is unable to proceed on a voyage; and
   (b) the landing of passengers at a port other than in accordance with a contract.

264. Power to make regulations relating to cargo and livestock operations

(1) The Director General may, with the approval of the Government, make regulations in relation to the carriage of cargoes and livestock on ships.

(2) Without affecting the generality of subsection (1), the Director General may, with the approval of the Government, make regulations for or with respect to all or any of the following matters:
   (a) the loading, stowing or carriage of cargo or livestock in vessels;
   (b) the unloading of cargo and livestock from vessels;
   (c) the giving of notices relating to a matter referred to in paragraph (a) or (b);
   (d) any other matter related to carriage of cargo and livestock.

265. Carriage of dangerous goods

(1) The Director General may, with the approval of the Government, make regulations for regulating, in the interests of safety, the carriage of dangerous goods in ships, or adopt, with or without modification, any rules, regulations or codes relating to the carriage of such goods made by any other country or any international organization and the provisions of the rules, regulations or codes so adopted shall have effect as if they were regulations made under this sub-section.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulation may provide for the classification of such goods, the packing, marking and stowing of such goods or any class of such goods, and the fixing of the maximum quantity of any such class of goods which may be carried in different ships or classes of ships.
(3) The owner, master or agent of a ship carrying or intending to carry any dangerous goods as cargo and about to make a voyage from a port or place in Bangladesh shall furnish in advance the prescribed particulars of the ship and the cargo to the Principal Officer or to such other officer or entity or committee as may be specified for the purpose.

266. Power to make regulations in relation to deck cargo

(1) The Director General, with the approval of Government, may by notification in the official Gazette, make regulations hereinafter referred to as “the deck cargo regulations” prescribing requirements to be complied with where cargo is carried in any uncovered space on the deck of a Bangladesh ship or any other ship within any port or place in Bangladesh; and different requirements may be so prescribed in relation to different descriptions of ships, different descriptions of cargo, different voyages or classes of voyages, different seasons of the year or any other different circumstances.

(2) If the load line regulations provide, either generally or in particular cases or classes of cases, for assigning special freeboards to ships which are to have effect only where a cargo of timber is so carried, then, without prejudice to the generality of the preceding sub-section, the deck cargo regulations may prescribe special requirements to be complied with in circumstances where any such special freeboard has effect.

267. Carriage of grain

(1) Where grain is loaded on board any Bangladesh ship or is loaded on board any ship within any port or place in Bangladesh, all necessary and reasonable precautions shall be taken to prevent the grain from shifting; and if such precautions are not taken, the owner or the master of the ship or any agent of the owner who was charged with the loading or with sending the ship to sea laden with grain shall be punishable with a fine which may extend to one hundred thousand penalty units, and the ship shall be deemed for the purposes of this Chapter to be unsafe by reason of improper loading.

(2) Subject to sub-section (3), Where any ship which is loaded with grain outside Bangladesh without all necessary and reasonable precautions having been taken to prevent the grain from shifting, enters any port or place in Bangladesh so laden, the owners or the master of the ship shall be punishable with a fine not exceeding one hundred thousand penalty units, and the ship shall be deemed for the purposes of this Part to be unsafe by reason of improper loading.

(3) Sub section (2) shall not apply to a ship which would not have entered any such port or place but for stress of weather or any other circumstances that neither the master nor the owner nor the charterer, if any, could have prevented or forestalled.

(4) On the arrival at a port or place in Bangladesh from a port or place outside Bangladesh of any ship carrying a cargo of grain, the master shall cause to be delivered at the office of the Principal Officer or to such other officer as may be specified by the Director General, a notice stating-

the draught of water and free board of the said ship after the loading of the cargo was completed at the final port of loading; and

the following particulars of the grain carried, namely:

MARINECARE Consultants Bangladesh Ltd.
(i) the kind of grain and quantity;
(ii) the mode in which the grain is stowed; and
(iii) the precautions taken to prevent the grain from shifting.

(5) If the master fails to deliver the notice required by sub-section (4), or if in any such notice makes any statement that he knows it to be false in a material particular, or recklessly makes a statement that is false in a material particular, he shall be punishable with fine which may extend to one hundred thousand penalty units.

(6) The Director General may, with the approval of the Government, make regulations prescribing in relation to loading of ships generally or of ships of any class the precautions to be taken, and when such precautions have been prescribed, they shall be treated for the purposes of this section to be included in the expression “necessary and reasonable precautions”.

(7) In this section, the expression “grain” includes wheat, maize, oats, rye, barley, rice, pulses and seeds and processed forms thereof whose behavior are similar to that of grain in its natural state.

268. Carriage of bulk cargoes other than grain, etc.

(1) The Director General, with the approval of Government may make regulations in relation to the loading of bulk cargoes, other than grain as defined in section 267 and oil in bulk, on any Bangladesh ship or in any ship within any port or place in Bangladesh.

(2) The owner or master of a ship in respect of which any regulations made under sub-section (1) are contravened shall be punishable with a fine not exceeding one hundred thousand penalty units.

Offences relating to passenger and cargo operations

269. Proper precautions in loading a vessel

(1) A person who is involved in an activity of packing, sending, stowing, loading, unloading, securing or carrying cargo, livestock or ship’s stores on a vessel contravenes this sub-section if-

(a) the person does not:

(i) ensure, so far as is reasonably practicable, that the activity is carried out in such a way that it does not damage the vessel, risk the safety of a person or damage the environment; and
(ii) carry out, or arrange the carrying out of, such procedures as may be necessary for compliance with sub-paragraph (i); and

(b) in the case of a foreign vessel, when the activity concerned occurs, the vessel is-

(i) in a Bangladesh port; or
(ii) entering or leaving a Bangladesh port; or
(iii) in the internal waters of Bangladesh; or
(iv) in the territorial sea of Bangladesh, other than in the course of innocent passage.

(2) Without limiting sub-section (1), an owner of a vessel contravenes that sub-section if the owner does not implement and maintain a safety management system that

MARINECARE Consultants Bangladesh Ltd.
ensures, so far as is reasonably practicable, that an activity referred to in that sub-
section is carried out in such a way that it does not damage the vessel, risk the
safety of a person or damage the environment.

(3) A person commits an offence if the person:
   (a) contravenes sub-section (1); and
   (b) is reckless as to whether the activity that constitutes the contravention risks
damaging the vessel, the safety of a person or damaging the environment,
and such person shall be punishable with a fine not exceeding one hundred
thousand penalty units or with imprisonment not exceeding one year or both.

270. Carrying improperly labeled dangerous goods on a vessel

(1) A person contravenes this sub-section if:
   (a) the person carries dangerous goods on board, or causes or permits
dangerous goods to be placed for carriage on board a Bangladesh registered
sea-going vessel or a foreign vessel; and
   (b) the outside of the package containing the goods is not distinctly marked with
   a correct description of the goods; and
   (c) if the vessel is a foreign vessel, at the time when the goods are carried or
   placed on board the vessel, the vessel is-
      (i) in a Bangladesh port; or
      (ii) entering or leaving a Bangladesh port; or
      (iii) in the internal waters of Bangladesh; or
      (iv) in the territorial sea of Bangladesh, other than in the course of conducting
innocent passage.

(2) A person commits an offence if the person contravenes sub-section (1) and shall
be punishable with a fine which may extend to one hundred thousand penalty units
or with imprisonment which may extend to one year or both.

271. Requirement to give a description to master or owner of dangerous goods on a vessel

(1) A person contravenes this sub-section if:
   (a) the person causes or permits dangerous goods to be placed on board a
vessel; and
   (b) the person is not the owner or master of the vessel; and
   (c) a description in writing of the goods, additional to the description contained in
the ordinary shipping documents related to the vessel, is not given to the
owner or master of the vessel at or before the time the goods are placed on
board the vessel; and
   (d) if the vessel is a foreign vessel at the time when the goods are placed on
board the vessel, the vessel is:
      (i) in a Bangladesh port; or
      (ii) entering or leaving a Bangladesh port; or
      (iii) in the internal waters of Bangladesh; or
      (iv) in the territorial sea of Bangladesh, other than in the course of carrying
out innocent passage.

(2) A person commits an offence if the person contravenes sub-section (1) and shall
be punishable with a fine not exceeding one hundred thousand penalty units or
with imprisonment not exceeding one year or both.
272. Carrying etc. dangerous goods under a false description

(1) A person contravenes this sub-section if:
(a) the person carries dangerous goods on board a vessel under a false description, or causes or permits dangerous goods to be carried on board a vessel under a false description; and
(b) if the vessel is a foreign vessel—at the time when the goods are carried, the vessel is:
   (i) in a Bangladesh port; or
   (ii) entering or leaving a Bangladesh port; or
   (iii) in the internal waters of Bangladesh; or
   (iv) in the territorial sea of Bangladesh, other than in the course of innocent passage.

(2) A person commits an offence if the person contravenes sub-section (1) and shall be punishable with a fine not exceeding one hundred thousand penalty units or with imprisonment not exceeding one year or both.

273. Falsely describing the sender of dangerous goods

(1) A person contravenes this sub-section if:
(a) dangerous goods are or will be carried on a vessel; and
(b) the person describes the sender of the goods:
   (i) on the packaging containing the goods; or
   (ii) on any document relating to the carrying of the goods; and
(c) the description is false or misleading in a material particular.

(2) A person commits an offence if the person contravenes sub-section (1) and shall be punishable with a fine not exceeding one hundred thousand penalty units or with imprisonment not exceeding one year or both.

274. Notice of intention to ship

(1) Before dangerous goods are shipped in a Bangladesh registered seagoing vessel or a foreign vessel, the shipper shall give notice of his or her intention, in the manner and to the person prescribed by the regulations, to ship the goods.

(2) A person commits an offence if the person contravenes sub-section (1) and shall be punishable with a fine not exceeding one hundred thousand penalty units or with imprisonment not exceeding one year or both.
275. Obligation to assist vessels in distress, etc.

(1) The master of a Bangladesh ship, on receiving at sea a signal of distress or information from any source that a ship or other vessel or an aircraft or any person is in distress at sea, shall proceed with all speed to the assistance of the persons in distress, informing them if possible, that he is doing so, unless he is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to do so, or unless he is released under the provisions of sub-section (3) or sub-section (4) of this section.

(2) Where the master of any ship in distress has requisitioned any Bangladesh ship that has answered his call, it shall be the duty of the master of the requisitioned ship to comply with the requisition by continuing to proceed with all speed to the assistance of the persons in distress.

(3) A master shall be released from the obligation imposed by sub-section (1) as soon as he is informed of the requisition of one or more ships, other than his own, and that the requisition is being complied with by the ship or ships requisitioned.

(4) A master shall be released from the obligation imposed by sub-section (1) and if his ship has been requisitioned, from the obligation imposed by sub-section (2), if he is informed by the persons in distress or by the master of any ship that has reached the persons in distress, that assistance is no longer required.

(5) The master of a ship who fails to comply with sub-sections (1) and (2), commits an offence and on conviction is liable to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding two years or both.

(6) Where a master of a Bangladesh ship, upon receiving at sea a signal of distress or information from any source that a ship or other vessel or an aircraft or any person is in distress at sea, is unable or in the special circumstances of the case considers it unreasonable or unnecessary, to go to the assistance of those persons and if he fails to do so, he commits an offence and on conviction is liable to a fine not exceeding fifty thousand penalty units.

(7) The master of every Bangladesh ship shall enter or cause to be entered in the official log-book every signal of distress or message that a ship or other vessel, or an aircraft or person, is in distress at sea; and, if he fails to do so, he shall be guilty of an offence and on conviction shall be liable to a fine not exceeding fifty thousand penalty units.

276. Responsible entity for Search and Rescue

(1) The Director General is the responsible entity for providing a search and rescue service.

(2) The provision of a search and rescue service must be in a manner consistent with Bangladesh’s obligations under:

**MARINECARE Consultants Bangladesh Ltd.**
(a) the Chicago Convention;
(b) the Safety Convention;
(c) the International Convention on Maritime Search and Rescue 1979 done at Hamburg on 27 April 1979.

277. Search and rescue regulations

The Government may make rules for the search and rescue procedures to be followed by all Bangladesh vessels and the organizations, and the establishment of Rescue Co-ordination Centres.
278. Application of this Part
   This Part applies to –
   (a) Bangladesh ships wherever they may be;
   (b) foreign flag ships in Bangladesh waters including Exclusive Economic Zone (EEZ).

279. Interpretation
   In this Part –
   “Pollution certificates” means certificates required to be issued under the international Conventions listed in section 280;
   “Issuing body” means the Department of Shipping or any organization recognized by the Department of Shipping in accordance with section 17;
   “Prevention of Pollution Convention” means MARPOL 73/78 as amended;
   “ship” includes every description of vessel used in navigation, including a vessel used for the exploration or exploitation of the seabed, and any other structure whether permanent or temporary within the maritime zones;
   “ship” includes vessel.
CHAPTER 41

INTERNATIONAL MARITIME CONVENTIONS ON POLLUTION PREVENTION

280. International maritime Conventions on pollution prevention

(1) Subject to this Act, the following international maritime Conventions are applied and enforced under this Act and have the force of law in Bangladesh:

(a) The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended;
(b) The Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended;
(c) the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969 (the Intervention Convention) as amended;
(d) the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990;
(e) The International Convention on the Control of Harmful Anti-fouling Systems on Ships 2001, as amended;

(2) The following international maritime instruments shall have the force of law in Bangladesh from the date of coming into force of these instruments for Bangladesh as may be declared by the Government:

(a) The Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil, 1973;
(b) The International Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, (LDC) 1972;
(c) The Protocol on Preparedness response and Cooperation to Pollution Incidents by Hazardous and Noxious Substances, 2000 (HNS Protocol);

(3) An amendment made to a Convention or a Protocol referred to in sub-sections (1) and (2) does not apply if Bangladesh has withheld its consent to the amendment.

281. Ships to comply with Convention obligations and requirements

(1) This section applies to;

(a) all Bangladesh registered sea-going ships; and
(b) all foreign flag ships in Bangladesh waters-

which are subject to the requirements of an international maritime Convention as provided for by this Act, any other law or under the provisions of an applicable Convention (whether based upon the class, type, size, use or voyage of the ship, or otherwise).

(2) Subject to this Act, and relevant regulations, a ship to which an international maritime Convention applies in respect of sub-section(1) shall:

(a) be operated in a manner that complies with the requirements specified in all the Conventions applicable to the ship;

MARINECARE Consultants Bangladesh Ltd.
(b) maintain all records and plans required under all the Conventions applicable to the ship;

(c) provide all information and notifications required under all the Conventions applicable to the ship;

(d) hold current certificates as required under all the Conventions applicable to the ship;

(e) comply with the design requirements specified under all the Conventions applicable to the ship;

(f) carry equipment required under all the Conventions applicable to the ship, and ensure that it is maintained in good working order;

(g) provide the manning, training and levels of competency required under all the Conventions applicable to the ship;

(h) otherwise comply with the requirements specified in an applicable Convention, subject to any exemptions or exclusions provided for in the specific Convention.

(3) The owner or master of a ship which contravenes sub-section (2), is guilty of an offence and is liable:

(a) if the ship is more than 500 gross tonnage to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding 12 months, or both; or

(b) if the ship is 500 gross tonnage or less - to a fine not exceeding one hundred thousand penalty units, or to imprisonment for a term not exceeding 6 months, or both.

(4) In addition to any penalty imposed under sub-section (3) and to any action which may be taken in accordance with law, the following action can be taken by the Director General, in relation to a ship which has breached a requirement under this section:

(a) the ship may be detained;

(b) the registration of a ship registered under this Act can be suspended or cancelled;

(c) notification of a breach by a ship which is not registered under this Act shall be given to the maritime administration responsible for regulating the ship;

(d) disciplinary action can be taken against the master or any other crew member who is responsible for or involved in the breach.
282. Powers to make regulations

(1) The Director General may, with the approval of the Government, make regulations for the protection and preservation of the marine environment from pollution generated by ships.

(2) Without prejudice to the generality of sub-section (1), the regulations may give effect to the following international maritime Conventions and agreements, if applicable:

(a) the United Nations Convention on the Law of the Sea (UNCLOS), 1982;
(b) the International Convention for the Prevention of Pollution from Ships (MARPOL), 1973 as modified by the Protocol of 1978 relating thereto, (as amended);
(c) the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969 (the Intervention Convention) as amended;
(d) the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil, 1973;
(e) the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990;
(f) the International Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, (LDC) 1972;
(g) the Protocol on Preparedness response and Cooperation to Pollution Incidents by Hazardous and Noxious Substances, 2000 (HNS Protocol);
(h) the International Convention on the Control of Harmful Anti-Fouling Systems on Ships (AFS) 2001; and
(i) the International Convention for the Control and Management of Ships’ Ballast Water and Sediments, (BWM) 2004;

(3) Regulations may in particular include provisions –

(a) regarding any enactment or instrument relating to pollution of the seas or other waters;
(b) with respect to the carrying out of surveys and inspections in relation to pollution certificates;
(c) for the requirement of pollution certificates for specified classes of ships, either generally or in specified circumstances, including certificates relating to the following:
   (i) ship construction or equipment;
   (ii) carriage of oil or noxious liquids;
   (iii) carriage of packaged harmful substances;
   (iv) sewage or garbage;
   (v) air pollution or ozone depleting substances;
   (vi) energy efficiency;
   (vii) antifouling systems;
   (viii) ballast water management.
(d) with respect to the application of the regulations and extraterritorial operation of any provision made by or under them;
(e) that a contravention of a provision made by or under the regulations shall be an offence punishable on summary conviction by a fine not exceeding one hundred thousand penalty units;

MARINECARE Consultants Bangladesh Ltd.
(f) for detaining any ship in respect of which such a contravention is suspected to have occurred and, in relation to such a ship.

(4) Regulations may -
(a) make different provisions for different circumstances;
(b) make provisions in terms of any document which the Director General considers relevant from time to time;
(c) provide for exemptions from any provisions of the regulations;
(d) provide for the delegation of functions exercisable by virtue of the regulations;
(e) include such incidental, supplemental and transitional provisions as appear to the Director General to be expedient for the purposes of the regulations.

283. Regulations in relation to transfers between ships in territorial waters

(1) The Director General may, with the approval of the Government, make regulations, in relation to the transfer of cargo, stores, bunker fuel or ballast between ships while within Bangladesh waters, such provision as the Director General considers appropriate for preventing pollution, danger to health or to navigation, or hazards to the environment or to natural resources.

(2) Regulations under this Chapter may, in particular do any of the following:
(a) prohibit transfers of any specified description or prohibit transfers if, or unless, carried out in specified areas, circumstances or ways;
(b) make provisions regarding—
   (i) the design of, and standards to be met by, ships and equipment;
   (ii) the manning of ships, including the qualifications and experience to be possessed by persons of any specified description employed onboard; and
   (iii) the qualifications and experience to be possessed by persons (whether masters or not) controlling the carrying out of transfers or operations ancillary thereto;
   (iv) provide for proposed transfers to be notified to and approved by persons appointed by the Director General or another person, and for the supervision of transfers, and the inspection of ships and equipment, by persons so appointed;
   (v) provide-
      aa. for the procedure to be followed in relation to the approval of transfers to be such as may be prescribed by any document specified in the regulations; and
      ba. for references in the regulations to any document so specified to operate as references to that document as revised or re-issued from time to time;
(c) provide for the making and keeping of records regarding ships and equipment, the issuing of certificates, and the furnishing of information;
(d) limit any provision of the regulations to specified cases or kinds of cases.

(3) Regulations under this Chapter may provide that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding two hundred thousand penalty units.

(4) Regulations under this Chapter may -
(a) make different provisions for different classes or descriptions of ships and for different circumstances; and
(b) make such transition, incidental or supplementary provisions as appears to the Director General to be necessary or expedient.

284. Offences and civil penalties relating to vessels operating without pollution certificates

(1) The owner or master of a ship shall not take a vessel to sea, or cause or permit another person to take a vessel to sea, if:
(a) the ship is required by the regulations to have a pollution certificate of a specified kind; and
(b) a pollution certificate of that kind is not in force for the ship.

(2) A person commits an offence if the person contravenes sub-section (1) which is punishable on summary conviction by a fine not exceeding two hundred thousand penalty units.
CHAPTER 43
WASTE RECEPTION FACILITIES AT BANGLADESH PORTS

285. Regulations for waste reception facilities.

(1) The Director General may, with the approval of the Government, make regulations in relation to—
   (a) the provision at ports in Bangladesh of facilities for the reception of waste from ships (in this Chapter referred to as “waste reception facilities”);
   (b) the use of waste reception facilities provided at such ports;
   (c) waste management plan; and
   (d) charges for and use of waste reception facilities.

(2) In making the regulations, the Director General shall take into account the need to give effect to provisions—
   (a) which are contained in any international agreement mentioned in section 280 which has been ratified by Bangladesh; and
   (b) which relate to waste reception facilities.

CHAPTER 44
OIL POLLUTION
General provisions for preventing pollution

286. Discharge of oil from ships into Bangladesh waters

(1) If any oil or mixture containing oil is discharged as mentioned in the following paragraphs into Bangladesh waters which are navigable by sea-going ships, then, subject to the following provisions of this Chapter, the following persons shall be guilty of an offence, that is to say—
   (a) if the discharge is from a ship, the owner or master of the ship, unless he proves that the discharge took place and was caused as mentioned in paragraph (b) below;
   (b) if the discharge is from a ship but takes place in the course of a transfer of oil to or from another ship or a place on land and is caused by the act or omission of any person in charge of any apparatus in that other ship or that place, the owner or master of that other ship or, as the case may be, the occupier of that place.

(2) Sub-section (1) above does not apply to any discharge which- 
   (a) is made into the sea; and
   (b) is of a kind or is made in circumstances for the time being prescribed by the Director General, with the approval of the Government.

(3) A person guilty of an offence under this section shall be liable on summary conviction, to a fine not exceeding five hundred thousand penalty units.

(4) In this section “place on land” includes anything resting on the bed or shore of the sea, or of any other waters included in Bangladesh waters, and also includes anything afloat (other than a ship) if it is anchored or attached to the bed or shore of the sea or any such waters.
287. Defences of owner or master charged with offence under section 286

(1) Where a person is charged with an offence under section 286 as the owner or master of a ship, it shall be a defence to prove that the oil or mixture was discharged for the purpose of -
   (a) securing the safety of any ship;
   (b) preventing damage to any ship or cargo; or
   (c) saving life,
   unless the court is satisfied that the discharge of the oil or mixture was not necessary for that purpose or was not a reasonable step to take in the circumstances.

(2) Where a person is charged with an offence under section 286 as the owner or master of a ship, it shall also be a defence to prove -
   (a) that the oil or mixture escaped in consequence of damage to the ship, and that as soon as practicable after the damage occurred all reasonable steps were taken for preventing, or (if it could not be prevented) for stopping or reducing, the escape of the oil or mixture; or
   (b) that the oil or mixture escaped by reason of leakage, that neither the leakage nor any delay in discovering it was due to any want of reasonable care, and that as soon as practicable after the escape was discovered all reasonable steps were taken for stopping or reducing it.

288. Defences of occupier charged with offence under section 286

Where a person is charged, in respect of the escape of any oil or mixture containing oil, with an offence under section 286 as the occupier of a place on land, it shall be a defence to prove that neither the escape nor any delay in discovering it was due to any want of reasonable care and that as soon as practicable after it was discovered all reasonable steps were taken for stopping or reducing it.

289. Duty to report discharge of oil into waters of harbours

(1) If any oil or mixture containing oil—
   (a) is discharged from a ship into the waters of a harbour in Bangladesh; or
   (b) is found to be escaping or to have escaped from a ship into any such waters;
   the owner or master of the ship shall forthwith report the occurrence to the Director General.

(2) A report made under sub-section (1) above shall state whether the occurrence falls within sub-section (1)(a) or (b) above.

(3) If a person fails to make a report as required by this section, the person shall be liable on summary conviction to a fine not exceeding one hundred thousand penalty units.

290. Shipping casualties

(1) The powers conferred by this section shall be exercisable where—
   (a) an accident has occurred to or in a ship; and
   (b) in the opinion of the Director General oil from the ship will or may cause significant pollution in Bangladesh waters; and
(c) in the opinion of the Director General the use of the powers conferred by this section is urgently needed,
but those powers are subject to the limitations contained in sub-section (7) below.

(2) For the purpose of preventing or reducing oil pollution, or the risk of oil pollution, the Director General may give directions as respects the ship or its cargo -

(a) to the owner of the ship, or to any person in possession of the ship; or
(b) to the master of the ship; or
(c) to any pilot of the ship; or
(d) to any salvor in possession of the ship, or to any person who is the servant or agent of any salvor in possession of the ship, and who is in charge of the salvage operation; or
(e) where the ship is in waters within any harbour limit to the harbour master.

(3) Directions under sub-section (2) above may require the person to whom they are given to take, or refrain from taking, any action of any kind whatsoever, and without prejudice to the generality of the preceding provisions of this sub-section the directions may require -

(a) that the ship is to be, or is not to be, moved, or is to be moved to a specified place, or is to be removed from a specified area or locality; or
(b) that the ship is not to be moved to a specified place or area, or over a specified route; or
(c) that any oil or other cargo is to be, or is not to be, unloaded or discharged; or
(d) that specified salvage measures are to be, or are not to be, taken.

(4) If in the opinion of the Director General the powers conferred by sub-section (2) above are, or have proved to be, inadequate for the purpose, the Director General may, for the purpose of preventing or reducing oil pollution, or the risk of oil pollution, take, as respects the ship or its cargo, any action of any kind whatsoever, and without prejudice to the generality of the preceding provisions of this sub-section the Director General may -

(a) take any such action as he has power to require to be taken by a direction under this section;
(b) undertake operations for the sinking or destruction of the ship, or any part of it, of a kind which is not within the means of any person to whom he can give directions;
(c) undertake operations which involve the taking over of control of the ship.

(5) The powers of the Director General under sub-section (4) above shall also be exercisable by such persons as may be authorised for the purpose by the Director General.

(6) Every person concerned with compliance with directions given, or with action taken, under this section shall use his best endeavours to avoid any risk to human life.

(7) This section is without prejudice to any rights or powers of the Director General exercisable apart from those sections whether under international law or otherwise.

(8) It is hereby declared that any action taken as respects a ship which is under arrest or as respects the cargo of such a ship, being action duly taken in pursuance of a direction given under this section, or being any action taken under sub-section (4) or (5) above -

(a) does not constitute contempt of court; and
(b) does not in any circumstances make the Director General liable in any civil proceedings.

MARINECARE Consultants Bangladesh Ltd.
(9) In this section, unless the context otherwise requires -

(a) “accident” means a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to a ship or cargo;

(b) “owner”, in relation to the ship to or in which an accident has occurred, includes its owner at the time of the accident;

(c) “pilot” means any person not belonging to a ship who has the conduct of the ship; and

(d) “specified” in relation to a direction under this section, means specified by the direction.

291. Operating a vessel so as to pollute or damage the Bangladesh marine environment

(1) The master of a vessel must not operate the vessel in a manner that causes:

(a) pollution to the marine environment in the coastal sea of Bangladesh or the exclusive economic zone of Bangladesh; or

(b) damage to the marine environment in the coastal sea of Bangladesh or the exclusive economic zone of Bangladesh.

(2) A person commits an offence if the person contravenes sub-section (1) and is liable on summary conviction to a fine not exceeding one hundred thousand penalty units or to imprisonment not exceeding 1 year or both.

292. Operating a vessel so as to pollute or damage the marine environment outside Bangladesh

(1) The master of a Bangladesh registered ship shall not operate the vessel in a manner that causes:

(a) pollution to the marine environment in seas that are beyond the territorial sea and the exclusive economic zone of Bangladesh; or

(b) damage to the marine environment in seas that are beyond the territorial sea and the exclusive economic zone of Bangladesh.

(2) A person commits an offence if the person contravenes sub-section (1) and is liable on summary conviction to a fine not exceeding one hundred thousand penalty units or to imprisonment not exceeding 1 year or both.
CHAPTER 45
PREVENTION OF POLLUTION BY NOXIOUS SUBSTANCES

293. Interpretation

(1) In this Chapter:

‘Annex II’ means Annex II to MARPOL as referred to in section 282, sub-section (2) paragraph (b) of this Act;

‘liquid substance’ does not include oil;

‘mixture’ includes ballast water, tank washings and other residues;

‘oil’ has the same meaning as in the MARPOL;

(2) Except in so far as the contrary intention appears, an expression that is used in this Chapter and in Annex II (whether or not a particular meaning is assigned to it by that Annex) has, in this Chapter, the same meaning as in that Annex.

294. Application of Act to mixture of oil and liquid substance

Where a mixture contains oil and a liquid substance or oil and liquid substances, Chapter 44 and this Chapter apply in relation to the mixture.

295. Provisional assessment of substances

(1) Where:

(a) a liquid substance is not referred to in Appendix II to Annex II of MARPOL and is not referred to in Appendix III to that Annex; and

(b) the Director General has been notified under section 296 that it is proposed to carry that liquid substance in bulk in a ship;

the Director General may, in writing, declare that, for the purposes of this Act, that liquid substance so carried on that ship shall be taken to be a substance provisionally assessed under the provisions of Regulation 3(4) of Annex II as falling within, and to be a substance in, a category specified in the instrument, being Category A, B, C or D, and that declaration shall have effect accordingly.

296. Notification of proposal to carry certain substances

(1) Where a person who proposes to export or import a liquid substance referred to in sub-section 295(1)(a) proposes to do so by having that liquid substance carried in bulk in a ship, that person or the master of the ship shall, within a prescribed time, notify, in the prescribed manner, a prescribed officer of the proposal and, if a prescribed officer is not so notified of the proposal and the liquid substance is carried as proposed, that person and the master are each guilty of an offence punishable, upon conviction, by a fine not exceeding one hundred thousand penalty units.

297. Prohibition of discharge of substances into the sea

(1) Subject to sub-section (2), if
(a) a person, or the master, or the owner of a ship engages in conduct that causes a discharge of a liquid substance, or of a mixture containing a liquid substance, being a substance or mixture carried as cargo or part cargo in bulk, from a ship into the sea; and

(b) the person, or the master, or the owner of a ship is reckless or negligent as to causing the discharge by that conduct; and

(c) one of the following sub-paragraphs applies:

(i) the discharge occurs in inland waters and there is no law of other Government agency that makes provision giving effect to regulations 3, 4, 5 and 6 of Annex II to MARPOL in relation to those waters;

(ii) the discharge occurs into the sea in the exclusive economic zone;

(iii) the discharge occurs into the sea beyond the exclusive economic zone and the ship is a Bangladesh registered ship;

the person, or the master, or the owner of a ship commits an offence punishable, on conviction, by a fine not exceeding two hundred thousand penalty units.

(2) Sub-section (1) does not apply if the discharge is made in accordance with Annex II to MARPOL.
CHAPTER 46
PREVENTION OF POLLUTION BY PACKAGED HARMFUL SUBSTANCES

298. Interpretation

(1) In this Chapter:

‘Annex III’ means Annex III to MARPOL as referred to in section 282, sub-section (2) paragraph (b) of this Act.

‘harmful substance’ means a substance which is identified as a marine pollutant in the International Maritime Dangerous Goods (IMDG) Code.


(2) Except in so far as the contrary intention appears, an expression that is used in this Chapter and in Annex III to MARPOL (whether or not a particular meaning is assigned to it by that Annex) has, in this Chapter the same meaning as in that Annex.

299. Prohibition of discharge by jettisoning of harmful substances into the sea

(1) Subject to sub-section (2), if:

(a) a person, or the master, or the owner of a ship engages in conduct that causes a harmful substance, being a substance carried as cargo in packaged form, to be jettisoned from a ship into the sea; and

(b) the person, or the master, or the owner of a ship is reckless or negligent as to causing the discharge by that conduct; and

(c) one of the following subparagraphs applies:

(i) the discharge occurs in inland waters and there is no law of other Government agency that makes provision giving effect to regulation 7 of Annex III to MARPOL in relation to those waters;

(ii) the discharge occurs into the sea in the exclusive economic zone;

(iii) the discharge occurs into the sea beyond the exclusive economic zone and the ship is a Bangladesh registered ship;

The person, or the master, or the owner of a ship commits an offence punishable, on conviction, by a fine not exceeding two hundred thousand penalty units.

(2) Sub-section (1) does not apply, when jettisoning is necessary for the purpose of securing the safety of the ship or saving life at sea.
300. Interpretation

(1) “Annex V" means Annex V of MARPOL as referred to in section 282, sub-section(2) paragraph (b) of this Act.

(2) Except in so far as the contrary intention appears, an expression that is used in this Chapter and in Annex IV to MARPOL (whether or not a particular meaning is assigned to it by that Annex) has, in this Chapter, the same meaning as in that Annex.

301. Prohibition of discharge of sewage into the sea

(1) Subject to sub-section (2), if

   (a) a person, or the master, or the owner engages in conduct that causes a discharge of sewage from a ship into sea; and
   (b) the person is reckless or negligent as to causing the discharge by that conduct; and
   (c) one of the following sub-paragraphs applies:

      I. the discharge occurs into the inland waters and there is no law of other Government law that makes provision giving effect to regulation 3 and to paragraph 1 of Regulation 11 of Annex IV to MARPOL in relation to those waters;
      II. the discharge into the sea in the exclusive economic zone;
      III. the discharge occurs into the sea beyond the exclusive economic zone and the ship is Bangladesh registered ship;

   the person, or the master, or the owners commits an offence punishable, on conviction, by a fine not exceeding two hundred thousand penalty units.

(2) Sub-section (1) does not apply if the discharge is done in accordance with Annex IV to MARPOL.
302. Interpretation

(1) In this Chapter:

Annex V means Annex V of MARPOL as referred to in section 282, subsection (2) paragraph (b) of this Act.

303. Prohibition of discharge of garbage into the sea

(1) Subject to sub-section (2), if-

(a) A person, or the master or the owner of a ship engages in a conduct that causes a disposal of garbage from a ship into the sea; and

(b) The person is reckless or negligent as to causing the disposal by that conduct; and

(c) anyone of the following sub-paragraphs applies:

(i) the disposal occurs into the inland waters and there is no other Government law that makes provision giving effect to Regulation 3, 5 and 6 of Annex V of MARPOL in relation to those waters.

(ii) the disposal occurs into the sea in the exclusive zone;

(iii) the disposal occurs into the sea beyond the exclusive economic zone and the ship is a Bangladesh registered ship.

the person, or the master or the owner commits an offence punishable, on conviction, by a fine not exceeding two hundred thousand penalty units.

(2) Sub-section (1) does not apply, if the discharge is done in accordance with Annex V of MARPOL.
CHAPTER 49
PREVENTION OF AIR POLLUTION

304. Interpretation

(1) In this Chapter:

Annex VI means Annex VI of MARPOL as referred to in section 282, subsection(2) paragraph (b) of this Act;

‘fuel oil’ means fuel oil for combustion purposes and does not include coal in its solid form, or nuclear fuels;

‘fuel oil supplier’ of fuel oil delivered to a ship means the person responsible for the final blend of the fuel oil immediately before it is delivered to the ship;

‘prescribed’ means prescribed in Regulation;

‘registered local supplier of fuel oil’ means a local supplier of fuel oil registered in the Register of Local Suppliers of Fuel Oil;

‘Register of Local Suppliers of Fuel Oil’ means the register established under section xx;

“SOx emission control conditions” for a ship in a SOx emission control area means the sulphur content of fuel oil used on board the ship while the ship is within that area as specified in Annex VI of MARPOL.

(2) An expression that is used in this chapter and in Annex VI of MARPOL has, in this chapter, the same meaning as in that Annex (whether or not a particular meaning is assigned to it by that Annex).

305. Using fuel oil with a Sulphur content of more than prescribed limit

A person or owner or master of a ship commits an offence if:

(a) the person or owner or master of a ship engages in conduct; and

(b) the conduct results in fuel oil with a sulphur content of more than the prescribed being used on board a ship; and

(c) the person or owner or master of a ship is reckless or negligent as to causing that result; and

(d) one of the following applies:

(i) the fuel oil is used while the ship is in Bangladesh waters and no law of other Government gives effect to Regulation 14(1) of Annex VI in relation to those waters;
(ii) the fuel oil is used while the ship is in the exclusive economic zone;
(iii) the fuel oil is used on board a Bangladesh registered ship while the ship is beyond the exclusive economic zone, but not within an SOx emission control area,

and is liable on conviction, by a fine not exceeding two hundred thousand penalty units.
CHAPTER 50
HARMFUL ANTI-FOULING SYSTEM

306. Application
This Chapter applies to all vessels to which the Convention applies.

307. Interpretation


‘HAFC’ (short for harmful anti-fouling compound) means an organotin compound that acts as a biocide in an anti-fouling system. For this purpose, organotin compound, biocide and anti-fouling system have the same meaning as in the Convention.

‘shipping facility’ means:
(a) a port; or
(b) a shipyard; or
(c) an offshore terminal;
within the meaning of the Convention.

308. Powers to make regulations
(1) The Director General may, with the approval of the Government, make regulations to give effect to the Convention and may in particular include provisions, in relation to –
(a) HAFC not to be applied to a ship;
(b) issue and endorsement of antifouling certificates;
(c) cancellation of anti-fouling certificate;
(d) obligation to carry anti-fouling certificate;
(e) obligation to report damage etc. to ship;
(f) direction in relation foreign registered ships operating in Bangladesh waters;
(g) shipping facilities.
CHAPTER 51
BALLAST WATER CONVENTION

309. Control and management of ballast

(1) The International Convention for the Control and Management of Ships' Ballast Water and Sediments (Ballast Water Convention or BWM, 2004) shall apply to all Bangladesh registered ships engaged in international voyages and other ships in Bangladesh waters as soon as the Convention enters into force.

(2) On board every ship to which the Ballast Water Convention applies, there shall be an approved “Ballast Water Management Plan” detailing with safety procedures and actions to be taken to implement the ballast water management requirements; and a “Ballast Water Record Book” for recording each operation concerning ballast water management.

(3) Ships of 400 GT and above excluding Floating Platforms, Floating Production Storage and Offloading Facilities (FPSOs)/Floating Storage Units (FSUs) complying with the requirements of the international instrument shall be issued with an “International Ballast Water Management Certificate” with a validity of five years subject to annual, intermediate and renewal surveys.

(4) Any vessel in Bangladesh waters not complying with the Ballast Water Convention may be detained by the Director General till there is compliance, and in case of any discharge of ballast in violation of the Convention, the master or the owner may be liable on summary conviction, to a fine not exceeding five hundred thousand penalty units.

(5) The Director General may, with approval of the Government, make regulations for the purposes of this Chapter and to implement the BWM 2004 Convention.
PART VI

CHAPTER 52

MARITIME SECURITY

310. Application

Unless expressed otherwise this Chapter applies to as mentioned in the Convention and the Code as those terms are defined in section 311.

311. Interpretation

(1) In this Part—

“act of violence” means any act done—
(a) in Bangladesh which constitutes the offence of murder, attempted murder, manslaughter, or assault; or
(b) outside Bangladesh which, if done in Bangladesh would constitute such an offence as is mentioned in paragraph (a);

“appropriate officer” means—
(a) in relation to Bangladesh, a police officer or Coast Guard officer or immigration officer; and
(b) in relation to any other Convention country, an officer having functions corresponding to the functions, in Bangladesh;

“armed robbery against ships” means any unlawful act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, directed against persons or property on board such a ship, within territorial waters or waters under Bangladesh jurisdiction;


“Convention country” means a country in which the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, is for the time being in force

“declaration of security” means an agreement reached between a ship and either a port facility or another ship with which it interfaces, specifying the security measures each will implement;

“piracy” means—
(a) any act of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed—
   (i) against another ship or aircraft, or against persons or property on board such ship or aircraft; or
   (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
(b) any voluntary act of participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; or
(c) any act of inciting or of intentionally facilitating an act described in paragraph (a) or (b);

“port facility” means a location, as determined by the Director-General, where the ship-port interface takes place, and includes areas such as anchorages, waiting berths and approaches from seaward, as appropriate;

“port facility security assessment” means an assessment of the security of a port facility carried out in accordance with section 15 of Part A of the Code;

“port facility security plan” means a plan developed to ensure the application of measures designed to protect the port facility and ships, persons, cargo, cargo transport units and ship’s stores within the port facility from the risks of a security incident;

“recognized security organization” means an organization with appropriate expertise in security matters and with appropriate knowledge of ship and port operations authorized to carry out an assessment, a verification, or an approval or a certification activity, required by this Act or by Part A of the Code;

“security level” means the qualification of the degree of risk that a security incident will be attempted or will occur;

“ship security plan” means a plan developed to ensure the application of measures on board the ship designed to protect persons on board, cargo, cargo transport units, ship’s stores, or the ship from the risks of a security incident.

312. Offences against safety of ships
   (1) If a person, whatever the nationality-
       (a) unlawfully, by the use of force or by threats of any kind, seizes a ship or exercises control of it; or
       (b) unlawfully and intentionally destroys a ship, damages a ship or its cargo so as to endanger, or to be likely to endanger, the safe navigation of the ship; or
       (c) commits, on board a ship, an act of violence which is likely to endanger the safe navigation of the ship; or
       (d) places or causes to be placed on a ship any device or substance which is likely to destroy the ship or is likely so to damage it or its cargo as to endanger its safe navigation; or

       MARINECARE Consultants Bangladesh Ltd.
(e) attempting or conspiring to commit, or aiding, abetting, counseling, procuring or inciting, or being of and part in, the commission of acts mentioned in sub-section (a) (b) (c) and (d) above

and whether the ship is in Bangladesh or elsewhere, commits an offence under this section.

(2) A person who commits an offence under this section shall be liable, upon conviction, to imprisonment for life.

313. Offences of piracy and armed robbery

Any person who—

(a) commits any act of piracy; or

(b) in territorial waters, commits any act of armed robbery against ships,

shall be liable, upon conviction, to imprisonment for life.

314. Offences endangering safe navigation, etc.

(1) It is an offence for any person unlawfully or intentionally to—

(a) destroy, damage or interfere with the operation of any property and where the destruction, damage or interference is likely to endanger the safe navigation of any ship, or

(b) order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do in relation to any ship an act which is an offence by virtue of this Chapter and the making of that threat is likely to endanger the safe navigation of the ship, or

(c) compel any other person to do or abstain from doing any act, he threatens that he or some other person will do an act which is an offence by virtue of this Chapter; and

(d) making any threat and that threat is likely to endanger the safe navigation of any ship.

whether any such act as is mentioned above is committed in Bangladesh or elsewhere and whatever the nationality of the person commits an offence and shall be liable, upon conviction, to imprisonment for life.

315. Trial of offences

(1) This section shall have effect for the purposes of any proceedings before the Court.

(2) Where the master of a ship, wherever that ship may be, and whatever the State (if any) in which it may be registered, has reasonable grounds to believe that any person on board the ship has—

(a) committed any offence under this Chapter; or

(b) attempted to commit such an offence; or

(c) aided, abetted, counseled, procured or incited, or been at and part in, the commission of such an offence,

in relation to any ship he may deliver that person to an appropriate officer in Bangladesh or any other Convention country.

(3) Where the master of a ship intends to deliver any person in Bangladesh or any other Convention country in accordance with this section, he shall notify an

**MARINECARE Consultants Bangladesh Ltd.**
appropriate officer in that country as soon as reasonably practicable after the ship
has entered that territorial sea.
(4) Where the master of a ship delivers any person to an appropriate officer in any
country, he shall—
(a) make to an appropriate officer in that country such oral or written statements
relating to the alleged offence as that officer may reasonably require; and
(b) deliver to an appropriate officer in that country such other evidence relating to
the alleged offence as in the master’s possession.

316. Designated authority for Ship and Port Facility Security

(1) A Committee headed by the Director General, as may be prescribed, is the
‘Designated authority’ for Bangladesh in terms of section 4 Part B of the Code.
(2) The principal duties of the designated authority are to—
(a) undertake activities necessary for the effective implementation of the Code and
in particular—
(i) with respect to port facilities within the territorial limits of Bangladesh, ensure
that—
(aa) port facility security assessment are carried out, reviewed and approved
in accordance with regulations made by the Government;
(bb) port facility security plans are developed, implemented, maintained and
approved in accordance with regulations made under this Part;
(ii) with respect to Bangladesh ships, ensure that—
(aa) ship security assessment are carried out, reviewed in accordance with
regulations made under this Part;
(bb) ship security plans are developed, implemented, maintained and
approved in accordance with regulations made under this Part;
(b) specify, in accordance with regulations made under this Part, the appropriate
security level for—
(i) port facilities within Bangladesh; and
(ii) ships—
(aa) registered in Bangladesh;
(bb) using port facilities within territorial limits of Bangladesh;
(cc) conducting ship to ship activities within Bangladesh continental waters;
and
(dd) mobile offshore drilling units (MODU) that are on location within
Bangladesh continental shelf;
(c) approve—
(i) any ship security plans in accordance with regulations for the purpose; and
(ii) any amendment to an approved ship security plan that is specified in
regulations as requiring the approval of the designated authority;
(d) specify and communicate the measures that must be addressed in a port facility
plan or a ship security plan for each security level;
(e) determine—
(i) whether a declaration of security is required; and
(ii) the requirement of any declaration of security;
(f) approve—
(i) any port security assessment carried out by a recognised security organization in accordance with regulations;
(ii) any port facility plan in accordance with regulations; and
(iii) any amendment to an approved port facility plan that is specified in regulations and requiring the approval of the designated authority;
(g) exercise all control measures specified in the regulations;
(h) authorise recognised security organizations in accordance with regulations made under this Act;
(i) undertake any functions or duties specified in regulations made under this Part; and
(j) carry out any lawful directions as may be given by the Government.

317. Regulations
(1) The Director General may, with approval of the Government, make regulations for all or any of the following purposes—
(a) prescribing, or providing for the fixing of, fees and charges payable in respect of security functions provided by, or security activities undertaken by, government agency;
(b) prescribing the security requirements for a ship or port facility, including, but not limited to—
(i) a declaration of security, a ship security plan;
(ii) a port facility security plan;
(iii) an assessment of a ship security plan or a port facility security plan;
(iv) an identification system for accessing a specified port security area or a specified port facility;
(c) providing for any other matters that are contemplated by, or necessary for giving full effect to, the provisions of this section or for its due administration.
(2) Any regulations made under this section may prescribe offences and penalties for contravention of, or non-compliance with, their provisions.

318. Exemptions
(1) The Director General may, if he considers it appropriate and on such conditions as he considers appropriate, exempt any person, ship, or port facility from a requirement specified in regulations made under this Chapter.
(2) The Director General may not grant an exemption under sub-section (1) unless he is satisfied in the circumstances that—
(a) the exemption will not breach Bangladesh’s international obligations under any relevant maritime Convention; and
(b) one or more of the following conditions apply—
(i) the prescribed requirements have been substantially complied with and that further compliance is unnecessary;
(ii) the action taken or provision made in respect of the matter to which the prescribed requirements relate is as effective or more effective than actual compliance with the prescribed requirements; and
(c) the risk to safety will not be significantly increased by the granting of the exemption.
319. Extension of application

(1) If the Director General has reasonable cause to believe that a security risk exists that may warrant the extension of this action to a ship or port facility to enhance ship or port security or to prevent organised intimidation, the Director General may—
(a) conduct a security assessment of that ship; or
(b) require a security assessment of that ship to be carried out.

(2) For the purposes of sub-section (1), reasonable cause to believe that a security risk exists may be based on the—
(a) receipt of threat or security information; or
(b) results of a security assessment of a ship under this section.

(3) If, following a security assessment under sub-section (1), the Director General considers that the action should be extended to a ship or class of ship, the Director General shall make a recommendation to that effect to the Designated Authority.

(4) Following a recommendation by the Director-General under sub-section (3), the Designated Authority may issue notification to extend the application of this section to a ship or port facility.

(5) A notification under sub-section (4) -
(a) shall -
   (i) clearly identify the ship or port facility concerned;
   (ii) state which sections of this section apply to that ship or port facility; and
   (iii) state, the time period for the extension of this section; and
(b) may cover-
   (i) more than one ship or port facility; and
   (ii) any combination of ships and port facilities and includes fixed and floating platforms and mobile offshore drilling units.

320. Seafarers' identification document

(1) The Government may, by regulations made under this Chapter, require seafarers on vessels calling at Bangladesh ports to carry and present on demand any identification that the Government may consider necessary, having regard to the Seafarers’ identity documents Convention C-185 of ILO.

(2) Regulations may establish the proper forms and processes to be used for identification and verification of a seafarer.

321. Automatic identification system

(1) Subject to sub-section (2), all ships engaged on international voyages, while operating in navigable Bangladesh waters, shall be equipped with and operate an automatic identification system under regulations prescribed, but this section shall not apply to ships as mentioned in sub-section (2).

(2) The Director General may -
(a) exempt a vessel from sub-section (1) if the Director General finds that an automatic identification system is not necessary for the safe navigation of the vessel on the waters on which the vessel operates; or
(b) waive the application of sub-section (1) with respect to operation of vessels on navigable waters of the Bangladesh specified by the Government if the Government finds that automatic identification systems are not needed for safe navigation on those waters.

MARINECARE Consultants Bangladesh Ltd.
(3) The Director General may, with the approval of the Government, make regulations prescribing any of the following—

(a) requirements for the operation and maintenance of the automatic identification systems so required under this section;

(b) matters that are required to be prescribed to give effect to this Chapter; and

(c) anything that may be necessary or convenient to be prescribed for carrying out or giving effect to the relevant Conventions on security.

322. Long-range vessel tracking system

(1) The Authority may develop and implement a long-range automated vessel tracking system for all vessels in Bangladesh waters that are equipped with the Global Maritime Distress and Safety System or equivalent satellite technology.

(2) The system shall be designed to provide the Authority with the capability of receiving information on vessel positions at intervals appropriate to deter transportation security incidents.

(3) The Authority may use existing maritime organizations to collect and monitor tracking information under the system.
PART VII

MARINE CASUALTY INVESTIGATION

CHAPTER 53

323. Marine casualty and report thereof

(1) For the purpose of inquiries and investigations under this Part, a marine casualty shall be deemed to occur when-

(a) on or near the coasts of Bangladesh, including the territorial waters thereof, any ship is lost, abandoned, stranded or materially damaged;
(b) any ship causes marine pollution, loss or material damage to any other ship on or near such coasts, or within such waters;
(c) any fire, explosion, loss of life ensues by reason of any casualty, happening to or on board any ship on or near those coasts, or within such waters;
(d) in any place, any such marine pollution, loss, abandonment, stranding, material damage or casualty as above mentioned occurs to or on board any Bangladesh ship or by any Bangladesh ship, and any competent witness thereof is found in Bangladesh;
(e) any Bangladesh ship is lost or is supposed to have been lost, and any evidence is obtainable in Bangladesh as to the circumstances under which it proceeded to sea or was last heard of;
(f) However, a marine casualty does not include a deliberate act or omission, with the intention to cause harm to the safety of a ship, an individual or the environment.

(2) In the cases mentioned in clause (a), (b) and (c) of sub-section (1), the master or other person in charge of the ship, or where two or more ships are concerned, in charge of each ship at the time of shipping casualty, shall give immediate notice of the marine casualty to the officer appointed in this behalf by the Director General; and if such officer is not the Principal Officer himself, he shall inform the nearest Principal Officer of the shipping casualty.

(3) In the case mentioned in clause (d) of sub-section (1), where the master of the ship concerned, or, except in the case of a loss, where the ship concerned proceeds to any place in Bangladesh from the place where the marine casualty has occurred, the master of the ship shall, on arriving in Bangladesh, give immediate notice of the marine casualty to the nearest Principal Officer.

(4) Any person bound to give notice under this section and willfully failing to give the same shall be punishable with a fine not exceeding fifty thousand penalty units.

(5) Whenever any Principal Officer receives, by notice as aforesaid or otherwise, credible information that a marine casualty has occurred, he shall forthwith communicate in writing the information to the Director General and the Government.

324. Safety investigation into marine casualties

(1) On receipt of information that a marine casualty has occurred, the Director General may appoint a committee of at least two qualified and independent persons to hold a preliminary safety investigation immediately after the incidence to inquire into the causes and reason for the occurrence and the persons so appointed shall have all the powers of an inspector under this Act; such investigation shall be held-

MARINECARE Consultants Bangladesh Ltd.
(a) where the shipping casualty occurs on or near the coast of Bangladesh, including the territorial waters thereof, by a committee headed by the Principal Officer of the Mercantile Marine Office Chittagong or the Chief Nautical Surveyor or the Chief Engineer and Ship Surveyor of the Department of Shipping; or
(b) where the marine casualty occurs elsewhere, the committee to be headed by the Principal Officer or a Surveyor to whom the casualty has been reported;
(c) where a marine casualty occurs within Bangladesh territory, including territorial sea, involving foreign flag ships the Director General shall consult to seek agreement on which substantially interested State or States will be the marine safety investigating State(s) in accordance with IMO requirements;
(d) Where a marine casualty occurs on the high seas or in the exclusive economic zone of Bangladesh, and involves more than one flag State, then the Director General shall consult to seek agreement on which substantially interested State or States that will be the marine safety investigating State(s) in accordance with IMO requirements.

(2) Notwithstanding sub-section (1), the Government may appoint any qualified person to hold a safety investigation respecting any shipping casualty.

(3) All persons holding an investigation under this section-

(a) may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipment or articles on board thereof, to which the provisions of this Ordinance apply, not unnecessarily detaining or delaying her from proceeding on any voyage;

(b) may enter and inspect any premises the entry or inspection of which appears to him to be necessary for the purpose of the investigation;

(c) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make;

(d) may require and enforce the production of all books, papers or documents which he considers important for such purpose; and

(e) may administer oaths, or may, in lieu of requiring or administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination;

(f) shall follow the Casualty Investigation Code adopted by the International Maritime Organization, as amended.

(4) The Director General shall ensure that the safety investigating committee members have available to them sufficient material and financial resources and are suitably qualified to undertake marine safety investigations into marine casualties and marine incidents.

(5) A preliminary safety investigation shall not determine liability, or apportion blame, but the investigator(s) carrying out a marine safety investigation should not refrain from full reporting on the causal factors as fault or liability maybe inferred from the findings.
(6) A committee making a preliminary safety investigation under this section shall send report thereof with the cause(s), reason(s) and lessons to be learned for the occurrence to the Director General and the Government;

(7) The Director General may submit the final report of a marine safety investigation to IMO for every marine safety investigation conducted into a very serious marine casualty and other investigation reports that have a safety issue which may prevent or lessen the seriousness of marine casualties or marine incidents in the future.

(8) The Director General may, with the approval of the Government, make regulations with such provision as he considers appropriate and such regulations may make provision -

a) imposing requirements as to the reporting of accidents;
b) prohibiting, pending investigation, access to or interference with any ship or ship's involved in an accident;
c) authorising any person, so far as may be necessary for the purpose of determining whether an investigation should be carried out, to have access to, examine, remove, test, take measures for the preservation of, or otherwise deal with, any such ship or ships;
d) for the formation of a marine casualty investigation cell to work directly under the Director General;
e) specifying training qualification and experience of the investigators;
f) specifying, with respect to the investigation of accidents, the functions of the Chief Investigator (which may include the function of determining whether, and if so by whom, particular accidents should be investigated), the functions of other investigators of marine accidents, and the manner in which any such functions are to be discharged;
g) for the procedure to be followed in connection with investigations or reviews;
h) for the submission to the Government and other organizations, and the publication, of reports of investigations or reviews;
i) any other obligatory matters related to casualty investigation emanating from international Conventions.

(9) Regulations under this section may provide that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding one hundred thousand penalty units.

325. Formal investigation into marine casualty.

(1) Whether a safety investigation under section 324 has been held or not, the Government may direct an officer to make an application to a Marine Court for investigation into such casualty if there was a deliberate act or omission, with the intention to cause harm to the safety of a ship, an individual or the environment or the Government has a valid reason to believe that such investigation is necessary. and upon the making of such application, the Marine Court shall make such investigation.

(2) Magistrates of the Marine Court specially empowered by the Government shall have jurisdiction to make investigation into shipping casualties under this Chapter.
326. Power of Court to inquire into charges against seafarers and pilot.

(1) A Court making an investigation under section 325 may inquire into any charge of incompetency or misconduct arising, in the Courts of the investigation, against any seafarer and pilot, as also into any charge of a wrongful act or default on his part causing the shipping casualty.

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arise against any seafarer and pilot, in the course of an investigation, the Court shall, before the commencement of the investigation, cause to be furnished to him a statement of the case upon which the investigation has been directed.

327. Power of Government to direct investigation into charges of incompetency or misconduct

(1) The Government, if it has reason to believe that there are grounds for charging any seafarer or pilot with incompetency, negligence or misconduct, including drunkenness or tyranny, otherwise than in the course of an investigation under section 325, may-

(a) if any seafarer or pilot holds a certificate under this Act, in any case; and
(b) if any seafarer or pilot holds a certificate under the law of a country other than Bangladesh, in a case where the incompetence, negligence or misconduct has occurred on board a Bangladesh ship, transmit statement of the case to any Court having jurisdiction under section 441 and may direct that Court to make an investigation into that charge.

(2) Notwithstanding the provisions of sub-section (1), the Government may, where it considers expedient so to do, appoint a person to hold the investigation if it has reason to believe that any seafarer or pilot is due to incompetency or misconduct unfit to discharge his duties, or that, in the case of a collision, he has failed to render such assistance or give such information as is required by section 259; and transmit a statement of the case to such person.

(3) Before commencing an investigation under this section, the Court or the person appointed under sub-section (2), shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Government.

(4) Where the investigation is held by a person appointed under sub-section (2), that person, for the purpose of the investigation, shall have all such powers as are specified in sub-section (3) of section 324, and shall give a report of the case to the Government except that no such investigation shall be held without giving the master, mate or engineer concerned an opportunity to make a representation.

328. Person accused to be heard

For the purpose of an investigation by a Court under this Chapter into any charge against any seafarer or pilot, the Court may summon him to appear, and shall give him full opportunity of making a defence either in person or otherwise.

329. Power of Court as to evidence and regulation of proceedings
For the purpose of any investigation under this Chapter, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have the same powers as are exercisable by that Court in the exercise of its criminal jurisdiction.

330. Assessors

(1) Subject to sub-section (2), a Court making any such investigation shall constitute as its assessors not less than two and not more than four persons, of whom one shall be a person conversant with maritime affairs and the other or others shall be conversant with either maritime or mercantile affairs.

(2) Where the investigation involves, or appears likely to involve, any question as to the cancellation or suspension of the certificate of a seafarer or pilot, two of the assessors shall be persons having also experience in the merchant service.

(3) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings, but the exercise of all powers conferred on the Court by this Chapter or any other law for the time being in force shall rest with the Court.

(4) The assessors shall be chosen from a list to be prepared from time to time by the Government.

331. Power to arrest witnesses and enter ships, etc.

(1) If any Court making an investigation under this Chapter thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer, subject, nevertheless, to any general or special instructions from the Government, to enter any vessel, and any officer so authorised may, for the purpose of enforcing the entry, call to his aid any officer of police or Customs or any other person.

(2) Where any officer of police or Customs or any person is called under sub-section (1), it shall be the duty of such officer or person to render all such assistance as may be required by the Court.

332. Power to commit for trial and bind over witnesses

Whenever, in the course of any such investigation it appears that any person has committed within the jurisdiction of any Court in Bangladesh an offence punishable under any law in force in Bangladesh, the Court making the investigation may, subject to such rules consistent with this Act as the Supreme Court may from time to time make, cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court, and may bind over any person to give evidence at the trial, and may for the purposes of this section, exercise all its powers as a Criminal Court.

333. Report by Court to Government

(1) The Court shall, in the case of all investigations under this Chapter, transmit to the Government a full report of the conclusions at which it has arrived together with the evidence; and may make such recommendations as it may deem fit in regard to the various matters inquired into including a recommendation for the cancellation or suspension of any Certificate of Competency.

MARINECARE Consultants Bangladesh Ltd.
(2) Where the investigation affects a seafarer of a ship other than a Bangladesh ship who holds a certificate under the law of a country other than Bangladesh, the Government may transmit a copy of the report together with the evidence to the proper authority in that country.

334. Re-hearing and appeal

(1) Where a formal investigation has been held under section 325 the Government may order the whole or part of the case to be re-heard, and shall do so -
if new and important evidence which could not be produced at the investigation has been discovered; or

if there appear to the Government to be other grounds for suspecting that a miscarriage of justice may have occurred.

(2) An order under sub-section (1) above may provide for the re-hearing to be done by the Marine Court.

(3) Where the Marine Court holding the investigation has decided to cancel or suspend the certificate of any person or has found any person at fault, then, if no application for an order under sub-section (1) above has been made or such an application has been refused, that person or any other person who, having an interest in the investigation, has appeared at the hearing and is affected by the decision or finding, may appeal to the Admiralty Court of the High Court Division.

335. This Chapter to apply to certain other vessels

This Chapter relating to investigation applies to, mutatis mutandis, to fishing vessels as they apply to any other ship.
336. Application and enforcement of this part

This Part shall be applicable and enforceable in Bangladesh, only after specific notification in the official gazette is published by the Government with date of commencement.

CHAPTER 55
LIABILITY FOR OIL POLLUTION

337. Interpretation

(1) In this Chapter—

“Bunkers Convention” means the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001;

338. Liability for oil pollution by tanker

(1) Where, as a result of any occurrence, any oil is discharged or spillages from a ship to which this section applies, then (except as otherwise provided by this Chapter) the registered owner of the ship shall be liable—

(a) for any damage caused outside the ship in the territory of Bangladesh, including the territorial sea, and in the Exclusive Economic Zone (EEZ) by contamination resulting from the discharge or spillage; and
(b) for the cost of any measures reasonably taken after the discharge or spillage for the purpose of preventing or minimising any damage so caused; and
(c) for any damage caused by any measures so taken.

(2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship to which this section applies by the contamination that might result if there were a discharge or spillage of oil from the ship, then (except as otherwise provided by this Chapter) the registered owner of the ship shall be liable—

(a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of Bangladesh, including the territorial sea, and in the Exclusive Economic Zone (EEZ); and
(b) for any damage caused outside the ship in the territory of Bangladesh, including the territorial sea, and in the Exclusive Economic Zone (EEZ) by any measures so taken.
(3) In this Chapter, a threat is a threat referred to in sub-section (2) as a relevant threat of contamination.

(4) Subject to sub-section (5), this section applies to any ship constructed or adapted for carrying oil in bulk as cargo.

(5) Where any ship so constructed or adapted is capable of carrying other cargoes besides oil, this section shall apply to any such ship—
(a) while it is carrying oil in bulk as cargo; and
(b) unless it is proved that no residues from the carriage of any such oil remain in the ship, while it is on any voyage following the carriage of any such oil; but not otherwise.

(6) Where a person incurs a liability under sub-section (1) or (2) he shall also be liable for any damage or cost for which he would be liable under that sub-section if the references in it to the territory of Bangladesh included the territory of any other Liability Convention country.

(7) Where -
(a) as a result of any occurrence, a liability is incurred under this section by the registered owner of each of two or more ships; but
(b) the damage or cost for which each of the registered owners would be liable cannot reasonably be separated from that for which the other or others would be liable;
each of the registered owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

339. Liability for pollution by bunker oil

(1) Subject to sub-section (3), where, as a result of any occurrence, any bunker oil is discharged or spilled from a ship within Bangladesh territorial water and the EEZ then (except as otherwise provided by this Chapter) the owner of the ship is liable—
(a) for any damage to the marine environment caused outside the ship by contamination resulting from the discharge or spillage; and
(b) for the cost of any measures reasonably taken after the discharge or spillage for the purpose of preventing or minimising any damage to the marine environment so caused by contamination resulting from the discharge or spillage; and
(c) for any damage caused by any measures so taken.

(2) Subject to sub-section (3), where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship by the contamination that might result if there were a discharge or spillage of bunker oil from the ship then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—
(a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage; and
(b) for any damage caused outside the ship in Bangladesh by any measures so taken.

(3) There shall be no liability under this section in relation to—

MARINECARE Consultants Bangladesh Ltd.
(a) a discharge or spillage of bunker oil from a ship to which section 338 applies; or

(b) a threat mentioned in sub-section (2) arising in relation to a potential discharge or spillage of bunker oil from such a ship, where that bunker oil is also persistent hydrocarbon mineral oil.

(4) In the subsequent provisions of this Chapter -

(a) a discharge or spillage of bunker oil from a ship, other than a discharge or spillage of oil excluded by sub-section (3), is referred to as a discharge or spillage of bunker oil falling within sub-section (1); and

(b) a threat mentioned in sub-section (2), other than one excluded by sub-section (3), is referred to as a relevant threat of contamination falling within sub-section (2).

(5) Where a person incurs a liability under sub-section (1) or (2) he shall also be liable for any damage or cost for which he would be liable under that sub-section if the references in it to the territory of Bangladesh included the territory of any other Bunkers Convention country.

(6) Where—

(a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships; and

(b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable, each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(7) In this Chapter (except in section 358(1)) “owner”, except when used in the term “registered owner”, means the registered owner, bareboat charterer, manager or operator of the ship.

340. Liability for oil pollution in other cases

(1) Subject to sub-section (3), as a result of any occurrence, any oil is discharged or spillages within the territory or EEZ of Bangladesh from a ship, then (except as otherwise provided by this Chapter) the registered owner of the ship shall be liable -

(a) for any damage caused outside the ship by contamination resulting from the discharge or spillage; and

(b) for the cost of any measures reasonably taken after the discharge or spillage for the purpose of preventing or minimising any damage so caused by contamination resulting from the discharge or spillage; and

(c) for any damage so caused by any measures so taken.

(2) Subject to sub-section (3), as a result of any occurrence, within the territory or EEZ of Bangladesh, there arises a grave and imminent threat of damage being caused outside a ship by the contamination which might result if there were a discharge or spillage of oil from the ship, then (except as otherwise provided by this Chapter) the registered owner of the ship shall be liable -

(a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage; and
(b) for any damage caused outside the ship by any measures so taken.

(3) No liability shall be incurred under this section by reason of—

(a) a discharge or spillage of oil from a ship to which section 338 applies or a relevant threat of contamination falling within sub-section (2) of that section; or

(b) a discharge or spillage of bunker oil falling within section 339(1) or a relevant threat of contamination falling within section 339(2).

(4) In the subsequent provisions of this Chapter—

(a) a discharge or spillage of oil from a ship, other than one excluded by sub-section (3), is referred to as a discharge or spillage of oil falling within sub-section (1); and

(b) a threat mentioned in sub-section (2), other than one excluded by sub-section (3), is referred to as a relevant threat of contamination falling within sub-section (2).

(5) Where—

(a) as a result of any occurrence, a liability is incurred under this section by the registered owner of each of two or more ships; but

(b) the damage or cost for which each of the registered owners would be liable cannot reasonably be separated from that for which the other or others would be liable;

each of the registered owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the registered owners together would be liable under this section.

(6) The applicable provisions of this Act shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.

(7) In this section, except for sub-section (3), “ship” includes a vessel which is not sea-going.

341. Exceptions from liability under sections 338, 339 and 340

(1) No liability shall be incurred by a person (“the defendant”) under section 338, 349 or 340 by reason of a discharge or spillage of oil or bunker oil from a ship, or of a relevant threat of contamination, if the defendant proves that sub-section (2) applies.

(2) This sub-section applies if the discharge or spillage or the relevant threat of contamination (as the case may be)—

(a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon;

(b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the defendant, with intent to do damage; or

(c) was due wholly to the negligence or wrongful act of a government in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

342. Restriction of liability for pollution from oil or bunker oil
(1) Where, as a result of any occurrence—

(a) there is a discharge or spillage of oil from a ship to which section 338 applies or there arises a relevant threat of contamination falling within sub-section(2) of that section; or

(b) there is a discharge or spillage of oil falling within section 340(1) or there arises a relevant threat of contamination falling within section 340(2), then, whether or not the registered owner of the ship in question incurs a liability under section 338 or 339—

(i) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it; and

(ii) no person to whom this paragraph applies shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by him either with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.

(2) Sub-section (1)(b)(ii) applies to—

(a) any servant or agent of the registered owner of the ship;

(b) any person not falling within paragraph (a) but employed or engaged in any capacity on board the ship or to perform any service for the ship;

(c) any charterer of the ship (however described and including a demise charterer), and any manager or operator of the ship;

(d) any person performing salvage operations with the consent of the registered owner of the ship or on the instructions of a competent public authority;

(e) any person taking any such measures as are mentioned in sub-section (1) or (2)(a) of section 338 or 340;

(f) any servant or agent of a person falling within paragraph (c), (d) or (e).

(3) Where, as a result of any occurrence—

(a) there is a discharge or spillage of bunker oil falling within section 339(1); or

(b) there arises a relevant threat of contamination falling within section 339(2), then, whether or not the registered owner of the ship in question incurs any liability under section 339—

(i) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it; and

(ii) no person to whom this paragraph applies shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by him either with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.

(4) Sub-section (3)(ii) applies to—

(a) any servant or agent of the registered owner;

(b) any person not falling within paragraph (a) but engaged in any capacity on board the ship or to perform any service for the ship;

(c) any person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;

MARINECARE Consultants Bangladesh Ltd.
(d) any person taking any such measures as are mentioned in section 339(1)(b) or (2) (a);
(e) any servant or agent of a person falling within paragraph (c) or (d).

(5) The liability of a person under section 338, 339 or 340 for any impairment of the environment shall be taken to be a liability only in respect of—
(a) any resulting loss of profits; and
(b) the cost of any reasonable measures of reinstatement actually taken or to be taken.

343. Liability under section 338, 339 or 340: supplementary provisions

(1) For the purposes of this Chapter—
(a) references to a discharge or spillage of oil or bunker oil from a ship are references to such a discharge or spillage wherever it may occur;
(b) references to a discharge or spillage of oil from a ship include a discharge or spillage of oil carried in the bunkers of the ship;
(c) where more than one discharge or spillage of oil or bunker oil results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one, but any measures taken after the first of them shall be deemed to have been taken after the discharge or spillage; and
(d) where a relevant threat of contamination results from a series of occurrences having the same origin, they shall be treated as a single occurrence.

(2) Sub-sections (3), (4), (5) and (6) shall apply in relation to any damage or cost for which a person is liable under section 338, 339 or 340, but which is not due to his fault, as if it were due to his fault.

(3) Where any person suffers damage as a result partly of his own fault and partly of the fault of any other person or persons, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof shall be reduced to such extent as the court thinks just and equitable having regard to the claimant’s share in the responsibility for the damage.

(4) Sub-section (3) shall not operate to defeat any defence arising under a contract; and where any contract or enactment providing for the limitation of liability is applicable to the claim, the amount of damages recoverable by the claimant under sub-section (3) shall not exceed the maximum limit so applicable.

(5) Where damages are recoverable by any person under sub-section (3) subject to such reduction as is therein mentioned, the court shall find and record the total damages which would have been recoverable if the claimant had not been at fault.

(6) Where, in any case to which sub-section (3) applies, one of the persons at fault avoids liability to any other such person or his personal representative by pleading the Limitation under any applicable law, or any other enactment limiting the time within which proceedings may be taken, he shall not be entitled to recover any damages or contributions from that other person or representative by virtue of the said sub-section.

(7) Where any case to which sub-section (3) applies is tried with a jury, the jury shall determine the total damages which would have been recoverable if the claimant had not been at fault and the extent to which those damages are to be reduced.
Limitation of liability

344. Limitation of liability under section 338

(1) Where, as a result of any occurrence, the registered owner of a ship incurs liability under section 338 by reason of a discharge or spillage or by reason of any relevant threat of contamination falling within sub-section (2) of that section, then subject to sub-section (3)-(a) he may limit that liability in accordance with this Chapter; and

(b) if he does so, his liability (being the aggregate of his liabilities under section 338 resulting from the occurrence) shall not exceed the relevant amount.

(2) In sub-section (1), “the relevant amount” means—

(a) in relation to a ship not exceeding 5,000 gross tonnage, 4.51 million Special Drawing Rights;

(b) in relation to a ship exceeding 5,000 gross tonnage, 4.51 million special drawing rights together with an additional 631 Special Drawing Rights for each ton of its tonnage in excess of 5,000 gross tonnage up to a maximum amount of 89.77 million Special Drawing Rights; but the Government may by order make such amendments of paragraphs (a) and (b) as appear to him to be appropriate for the purpose of giving effect to the entry into force of any amendment of the limits of liability laid down in paragraph I of Article V of the Liability Convention.

(3) Sub-section (1) shall not apply in a case where it is proved that the discharge or spillage, or (as the case may be) the relevant threat of contamination, resulted from anything done or omitted to be done by the registered owner either with intent to cause any such damage or cost as is mentioned in section 338 or recklessly and in the knowledge that any such damage or cost would probably result.

(4) For the purposes of this section a ship’s tonnage shall be its gross tonnage calculated in such manner as may be prescribed by an order made by the Government.

(5) Any such order shall, so far as it appears to the Government to be practicable, give effect to the regulations in Annex 1 of the International Convention on Tonnage Measurement of Ships 1969.

345. Limitation actions

(1) Where the registered owner of a ship has or is alleged to have incurred a liability under section 338 he may apply to the court for the limitation of that liability to an amount determined in accordance with section 344.

(2) If on such an application the court finds that the applicant has incurred such a liability but has not found that he is entitled to limit it, the court shall, after determining the limit which would apply to the applicant’s liability if he were entitled to limit it and directing payment into court of the amount of that limit—

(a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and
(b) direct the distribution of the amount paid into court (or, as the case may be, so much of it as does not exceed the liability) among those persons in proportion to their claims, subject to the following provisions of this section.

(3) Where—
(a) distribution is made under sub-section (2)(b) without the court having found that the applicant is entitled to limit his liability; and
(b) the court subsequently finds that the applicant is not so entitled;
the making of the distribution is not to be regarded as affecting the applicant’s liability in excess of the amount distributed.

(4) A payment into court of the amount of a limit determined in pursuance of this section shall be made in Taka by Bangladesh ships and in United States dollars by other ships; and—
(a) for the purpose of converting such an amount from special drawing rights into relevant currencies one special drawing right shall be treated as equal to such a sum in the relevant currency, the International Monetary Fund have fixed as being the equivalent of one special drawing right for—
(i) the day on which the determination is made; or
(ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;
(b) a declaration by Bangladesh Bank in exercise of the power conferred by Article 18 of the Bangladesh Bank Order, 1972 with respect to SRD shall be conclusive evidence of those matters for the purposes of this Chapter;
(c) a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

(5) No claim shall be admitted in proceedings under this section unless it is made within such time as the court may direct or such further time as the court may allow.

(6) Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends—
(a) by the registered owner or the persons referred to in section 353 as “the insurer” (in relation to any insurance or other security provided as mentioned in sub-section (1) of that section); or
(b) by a person who has or is alleged to have incurred a liability, otherwise than under section 338, for the damage or cost and who is entitled to limit his liability in connection with the ship by virtue of section 372 or 373;
the person who paid the sum shall, to the extent of that sum, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.

(7) Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce damage to which the liability extends or might have extended he shall be in the same position with respect to any distribution made in proceedings under this section as if he had a claim in respect of the liability equal to the cost of the sacrifice or other measures.
(8) The court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a court of any country outside Bangladesh.

(9) No lien or other right in respect of any ship or other property shall affect the proportions in which any amount is distributed in accordance with sub-section (2)(b).

346. Restriction on enforcement after establishment of limitation fund

(1) Where the court has found that a person who has incurred a liability under section 338 is entitled to limit that liability to any amount and he has paid into court a sum not less than that amount -

(a) the court shall order the release of any ship or other property arrested in connection with a claim in respect of that liability or any security given to prevent or obtain release from such an arrest; and

(b) no judgment or order for any such claim shall be enforced, except so far as it is for costs;

if the sum paid into court, or such part thereof as corresponds to the claim, will be actually available to the claimant or would have been available to him if the proper steps in the proceedings under section 345 had been taken.

347. Concurrent liabilities of owners and others

Where, as a result of any discharge or spillage of oil from a ship or as a result of any relevant threat of contamination, the registered owner of the ship incurs a liability under section 338 and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in sub-section (1) or (2) of that section then, if -

(a) the registered owner has been found, in proceedings under section 345 to be entitled to limit his liability to any amount and has paid into court a sum not less than that amount; and

(b) the other person is entitled to limit his liability in connection with the ship by virtue of section 372 or 373;

no proceedings shall be taken against the other person in respect of his liability, and if any such proceedings were commenced before the registered owner paid the sum into court, no further steps shall be taken in the proceedings except in relation to costs.

348. Establishment of limitation fund outside Bangladesh

Where the events resulting in the liability of any person under section 338 also resulted in a corresponding liability under the law of another Liability Convention country sections 346 and 347 shall apply as if the references to sections 338 and 345 included references to the corresponding provisions of that law and the references to sums paid into court included references to any sums secured under those provisions in respect of the liability.

**Limitation period for claims under this Chapter**
349. Extinguishment of claims

No action to enforce a claim in respect of a liability incurred under section 338, 339 or 340 shall be entertained by any court in Bangladesh unless the action is commenced not later than three years after the claim arose nor later than six years after the occurrence or first of the occurrences resulting in the discharge or spillage, or (as the case may be) in the relevant threat of contamination, by reason of which the liability was incurred.

Compulsory insurance

350. Compulsory insurance against liability for pollution

(1) Subject to the provisions of this Chapter relating to Government ships, sub-section (2) applies to any ship carrying in bulk a cargo of more than 2,000 tons of oil of a description specified in regulations made by the Government.

(2) The ship shall not enter or leave a port in Bangladesh or arrive at or leave a terminal in the territorial sea of Bangladesh nor, if the ship is a Bangladesh ship, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force a certificate complying with the provisions of sub-section (3) and showing that there is in force in respect of the ship a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention (cover for owner’s liability).

(3) The certificate must be—

(a) if the ship is a Bangladesh ship, a certificate issued by or under the authority of the Government;

(b) if the ship is registered in a Liability Convention country other than Bangladesh, a certificate issued by or under the authority of the government of the other Liability Convention country; and

(c) if the ship is registered in a country which is not a Liability Convention country, a certificate issued by the Government or by or under the authority of the government of any Liability Convention country other than Bangladesh.

(4) Any certificate required by this section to be in force in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master to any officer authorized by the Government.

(a) If a ship enters or leaves, or attempts to enter or leave, a port or arrives at or leaves, or attempts to arrive at or leave, a terminal in contravention of sub-section (2), the master or registered owner shall be liable on summary conviction to a fine not exceeding five hundred thousand penalty units;

(5) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by sub-section (4), the master shall be guilty of an offence and shall be liable on summary conviction to a fine of one hundred thousand penalty units.

(6) If a ship attempts to leave a port in Bangladesh in contravention of this section the ship may be detained.

351. Compulsory insurance against liability for pollution from bunker oil
(1) Subject to this Chapter relating to government ships, sub-section (2) applies to any ship having a gross tonnage greater than 1,000 calculated in the manner prescribed.

(2) The ship shall not enter or leave a port in Bangladesh or arrive at or leave a terminal in the territorial sea of Bangladesh nor, if the ship is a Bangladesh ship, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force—

a. a contract of insurance or other security in respect of the ship satisfying the requirements of Article 7 of the Bunkers Convention; and

b. a certificate complying with sub-section (3) showing that there is in force in respect of the ship a contract of insurance or other security satisfying those requirements.

(3) The certificate must be—

a. if the ship is a Bangladesh ship, a certificate issued by or under the authority of the Government;

b. if the ship is registered in a Bunkers Convention country other than Bangladesh, a certificate issued by or under the authority of the government of the other Bunkers Convention country; and

c. if the ship is registered in a country which is not a Bunkers Convention country, a certificate issued by the Government or by or under the authority of the government of any Bunkers Convention country other than Bangladesh.

(4) Any certificate required by this section to be in force in respect of a ship shall be carried on the ship and shall, on demand, be produced by the master to any officer, authorized by the Government.

(5) If a ship enters or leaves, or attempts to enter or leave a port or arrives at or leaves, or attempts to arrive or leave a terminal, in contravention of sub-section (2) by reason of there being no certificate in force as mentioned in that sub-section, the master or registered owner is liable on summary conviction to a fine not exceeding one hundred thousand penalty units.

(6) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by sub-section (4), the master is liable on summary conviction to a fine not exceeding ten thousand penalty units.

(7) If a ship attempts to leave a port in Bangladesh in contravention of sub-section(2), the ship may be detained.

(8) Any person authorised to serve any document for the purposes of the institution of (or otherwise in connection with) the institution of proceedings for an offence under this section shall, for that purpose, have the right to go on board the ship in question.

(9) In the case of a ship of which, at any relevant time, the tonnage has not been and cannot be ascertained in the manner set out in sub-section (1), the best available evidence shall be used in calculating the tonnage of the ship.

352. Issue of certificate by Government
(1) (a) Subject to sub-section (2), if the Government is satisfied, on the application for such a certificate as is mentioned in section 350(2) in respect of a Bangladesh ship or a ship registered in any country which is not a Liability Convention country, that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention, the Government shall issue such a certificate to the registered owner.

(b) Subject to sub-section (2), if the Government is satisfied, on the application for such a certificate as is mentioned in section 351(2) in respect of a Bangladesh ship or a ship registered in any country which is not a Bunkers Convention country, that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other security satisfying the requirements of Article 7 of the Bunkers Convention, the Government shall issue such a certificate to the registered owner.

(2) The Government may refuse the certificate if he is of the opinion that there is a doubt as to whether—

(a) the person providing the insurance or other security will be able to meet his obligations thereunder; or

(b) the insurance or other security will cover the registered owner’s liability under section 338, or the owner’s liability under section 339, as the case may be.

(3) The Government may make regulations providing for the cancellation and delivery up of a certificate under this section in such circumstances as may be prescribed by the regulations.

(4) If a person required by regulations under sub-section (3) to deliver up a certificate fails to do so he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred thousand penalty units.

(5) The Government shall send a copy of any certificate issued by him under this section in respect of a Bangladesh ship to the Registrar, and the Registrar shall make the copy available for public inspection.

353. Rights of third parties against insurers

(1) Where it is alleged that the registered owner of a ship has incurred a liability under section 338 as a result of any discharge or spillage of oil occurring, or as a result of any relevant threat of contamination arising, while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section 350(2) related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security.

(2) Where it is alleged that the owner of a ship has incurred a liability under section 339 as a result of any discharge or spillage of bunker oil occurring, or as a result of any relevant threat of contamination arising, while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section 351(2) related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security.

(3) In the following provisions of this section, “the insurer” means the person who provided the insurance or other security referred to in sub-section (1)(a) or sub-section(1)(b), as the case may be.

(4) In any proceedings brought against the insurer by virtue of this section in respect of liability under section 338 it shall be a defence (in addition to any defence affecting
the registered owner’s liability) to prove that the discharge or spillage, or (as the case may be) the threat of contamination, was due to the willful misconduct of the registered owner himself.

(5) The insurer may limit his liability in respect of claims in respect of liability under section 338 which are made against him by virtue of this section in like manner and to the same extent as the registered owner may limit his liability under section 344 but the insurer may so whether or not the discharge or spillage, or (as the case may be) the threat of contamination, resulted from anything done or omitted to be done by the registered owner as mentioned in section 344(3).

(6) Where the registered owner and the insurer each apply to the court for the limitation of his liability (in relation to liability under section 338) any sum paid into court in pursuance of either application shall be treated as paid also in pursuance of the other.

(7) In any proceedings brought against the insurer by virtue of this section in respect of liability under section 339 it shall be a defence (in addition to any defence affecting the owner’s liability) to prove that the discharge or spillage, or (as the case may be) the threat of contamination, was due to the willful misconduct of the owner himself.

(8) The insurer may limit his liability in respect of claims in respect of liability under section 339 which are made against him by virtue of this section in like manner and to the same extent as the owner may limit his liability by virtue of section 372; but the insurer may do so whether or not the discharge or spillage, or (as the case may be) the threat of contamination, resulted from any act or omission mentioned in Article 4 of the Convention on Limitation of Liability for Maritime Claims 1976.

(9) Where the owner and the insurer each apply to the court for the limitation of his liability (in relation to liability under section 339) any sum paid into court in pursuance of either application shall be treated as paid also in pursuance of the other.

(10) The Third Parties (Rights against Insurers) shall not apply in relation to any contract of insurance to which such a certificate as is mentioned in section 350 or 351 relates.

354. Jurisdiction of Bangladesh courts and registration of foreign judgments

(1) The Admiralty Court Act 2000 as applied in Bangladesh shall be construed as extending to any claim in respect of a liability incurred under this Chapter.

(2) Where—

(a) there is a discharge or spillage of oil from a ship to which section 338 applies, or a discharge or spillage of oil falling within section 340(1) which does not result in any damage caused by contamination in Bangladesh and no measures are reasonably taken to prevent or minimise such damage in Bangladesh; or

(b) any relevant threat of contamination falling within section 338(2) or 340(2) arises but no measures are reasonably taken to prevent or minimise such damage in Bangladesh;

no court in Bangladesh shall entertain any action (whether in rem or in personam) to enforce a claim arising from any relevant damage or cost-

(i) against the registered owner of the ship; or
(ii) against any person to whom section 342(1)(ii) applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

(3) In sub-section (2), “relevant damage or cost” means—

(a) in relation to any such discharge or spillage as is mentioned in paragraph (a) of that sub-section, any damage caused in the territory of another Liability Convention country by contamination resulting from the discharge or spillage, or any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country;

(b) in relation to any such threat of contamination as is mentioned in paragraph (b) of that sub-section, any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country;

(c) any damage caused by any measures taken as mentioned in paragraph (a) or (b); and section 342(2)(e) shall have effect for the purposes of sub-section (2)(ii) above as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b).

(4) Where—

(a) there is a discharge or spillage of bunker oil falling within section 339(1) which does not result in any damage caused by contamination in Bangladesh and no measures are reasonably taken to prevent or minimise such damage in Bangladesh; or

(b) any relevant threat of contamination falling within section 339(2) arises but no measures are reasonably taken to prevent or minimise such damage in Bangladesh,

no court in Bangladesh shall entertain any action (whether in rem or in personam) to enforce a claim arising from any relevant damage or cost—

(i) against the owner of the ship; or

(ii) against any person to whom section 342(3)(ii) applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

(5) In sub-section (4), “relevant damage or cost” means—

(a) in relation to any such discharge or spillage as is mentioned in paragraph (a) of that sub-section, any damage caused in the territory of another Bunkers Convention country by contamination resulting from the discharge or spillage, or any cost incurred in taking measures to prevent or minimise such damage in the territory of another Bunkers Convention country;

(b) in relation to any such threat of contamination as is mentioned in paragraph (b) of that sub-section, any cost incurred in taking measures to prevent or minimise such damage in the territory of another Bunkers Convention country;

(c) any damage caused by any measures taken as mentioned in paragraph (a) or (b) above;

and section 342(4)(d) shall have effect for the purpose of sub-section (4)(ii) as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b).
(6) The Judgments of the Admiralty Court shall be deemed as a court to which that Act applies to in respect of any liability incurred under section 338 or 339 or any provision corresponding to section 338 or 339.

(7) A judgment given by a court in a Liability Convention country or a Bunkers Convention country other than Bangladesh in respect of any liability incurred by a Liability Convention country or a Bunkers Convention country under section 338 or 339 or any provision corresponding to section 338 or 339 which is enforceable in the State of origin and is no longer subject to ordinary forms of review, shall be recognised in Bangladesh unless—

(a) the judgment was obtained by fraud; or

(b) the defendant was not given reasonable notice and a fair opportunity to present his or her case.

(8) A judgment recognised by Bangladesh under sub-section (5), shall be enforceable in Bangladesh as soon as the formalities required in that State (which shall not permit the merits of the case to be re-opened) have been complied with.

355. Government ships

(1) Nothing in the preceding provisions of this Chapter applies in relation to any warship or any ship for the time being used by the government of any State for other than commercial purposes.

(2) In relation to a ship owned by a State and for the time being used for commercial purposes—

(a) it shall be sufficient compliance with section 350(2) if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article I of the Liability Convention will be met up to the limit prescribed by Article V of that Convention; and

(b) it shall be sufficient compliance with section 351(2) if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article 1 of the Bunkers Convention will be met up to the limits set out in Chapter II of the Convention on Limitation of Liability for Maritime Claim 1974.

(3) Every Liability Convention State shall, for the purposes of any proceedings brought in a court in Bangladesh to enforce a claim in respect of a liability incurred under section 338, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in this sub-section shall authorise the issue of execution against the property of any State.

(4) Every Bunkers Convention State shall, for the purposes of any proceedings brought in a court in Bangladesh to enforce a claim in respect of a liability incurred under section 339, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in this sub-section shall authorise the issue of execution against the property of any State.

356. Limitation of liability under section 339 or 340

MARINECARE Consultants Bangladesh Ltd.
For the purposes of section 372 any liability incurred under section 339 or 340 shall be deemed to be a liability to damages in respect of such damage to property as is mentioned in paragraph 1 (a) of Article 2 of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea (PAL), 1974 modified by its Protocol of 2002.

357. Saving for recourse actions

Nothing in this Chapter shall prejudice any claim, or the enforcement of any claim, a person incurring any liability under this Chapter may have against another person in respect of that liability.

358. Interpretation

(1) In this Chapter—

“bunker oil” means any hydrocarbon mineral oil (including lubricating oil) which is carried by a ship and used or intended to be used for the operation or propulsion of that ship and any residues of such oil;

“the court” means the Marine Court;

“damage” includes loss;

“oil”, except in the term “bunker oil”, means persistent hydrocarbon mineral oil;

“owner” has the same meaning as “owner” under section 339(7);

“registered owner” means the person registered as the owner of the ship or in the absence of registration, the person owning the ship, except that, in relation to a ship owned by a State, which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“relevant threat of contamination” includes—

(a) a relevant threat of contamination falling within section 338(2) (as defined in section 338(3));

(b) a relevant threat of contamination falling within section 339(2) (as defined in section 339(4)); and

(c) a relevant threat of contamination falling within section 340(2) (as defined in section 340(4));

“ship” (subject to section 340(7)) means any sea-going vessel or seaborne craft of any type whatsoever.

(2) In relation to any damage or cost resulting in the discharge or spillage of any oil or bunker oil from a ship, or from a relevant threat of contamination, references in this Chapter to the owner or the registered owner of the ship are references to the owner or the registered owner (as the case may be) at the time of the occurrence or first of the occurrences resulting in the discharge or spillage or (as the case may be) in the threat of contamination.

(3) References in this Chapter to the territory of any country include the territorial sea of that country and—

(a) in the case of Bangladesh, any area within the exclusive economic zone established by the Maritime Zone Act 2018; and
(b) in the case of any other Liability Convention country or Bunkers Convention country, the exclusive economic zone of that country established in accordance with international law, or, if such a zone has not been established, such area adjacent to the territorial sea of that country and extending not more that 200 nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by that State in question in accordance with international law.
CHAPTER 56
INTERNATIONAL OIL POLLUTION COMPENSATION FUND

359. Meaning of the “Liability Convention”, “the Fund Convention” and related expressions

(1) In this Chapter—

(a) “the Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992;

(b) “the Fund” means the International Fund established by the Fund Convention.

360. Contributions by importers of oil and others

(1) Contributions shall be payable to the Fund in respect of oil carried by sea to ports or terminal installations in Bangladesh other than oil carried on domestic voyage.

(2) Sub-section (1) applies whether or not the oil is being imported, and applies even if contributions are payable in respect of carriage of the same oil on a previous voyage.

(3) Contributions shall also be payable to the Fund in respect of oil when first received in any installation in Bangladesh after having been carried by sea and discharged in a port or terminal installation in a country which is not a Fund Convention country.

(4) The person liable to pay contributions is—

(a) in the case of oil which is being imported into Bangladesh, the importer; and

(b) otherwise, the person by whom the oil is received.

(5) A person shall not be liable to make contributions in respect of the oil imported or received by him in any year if the oil so imported or received in the year does not exceed 150,000 tonnes.

(6) For the purpose of sub-section (5)—

(a) all the members of a group of companies shall be treated as a single person; and

(b) any two or more companies which have been amalgamated into a single company shall be treated as the same person as that single company.

(7) The contributions payable by a person for any year shall—

(a) be of such amount as may be determined by the Director of the Fund under Article 12 of the Fund Convention and notified to that person by the Fund;

(b) be payable in such installments, becoming due at such times, as may be so notified to him;

and if any amount due from him remains unpaid after the date on which it became due, it shall from then on bear interest, at a rate determined from time to time by the Assembly of the Fund, until it is paid.

(8) The Government may by regulations impose on persons who are or may be liable to pay contributions under this section obligations to give security for payment to the Government, or the Fund.

(9) Regulations under sub-section (8)—
(a) may contain such supplemental or incidental provisions as appear to the Government expedient; and
(b) may impose penalties for contravention of the regulations punishable on summary conviction by a fine not exceeding two hundred thousand penalty units or such lower limit as may be specified in the regulations.

(10) In this section and in section 361, unless the context otherwise requires—

“company” means a body incorporated in Bangladesh or in any other country;
“group” in relation to companies, means a holding company and its subsidiaries, and in the case of a company incorporated outside Bangladesh, to any necessary modifications of those definitions;
“importer” means the person by whom or on whose behalf the oil in question is entered for customs or excise purposes on importation, and “import” shall be construed accordingly;
“oil” means crude oil and fuel oil; and

(a) “crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation, and includes—
   (i) crude oils from which distillate fractions have been removed; and
   (ii) crude oils to which distillate fractions have been added;
(b) “fuel oil” means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials’ Specification for Number Four Fuel Oil (Designation D39669)”, or heavier;

“terminal installation” means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated offshore and linked to any such site.

361. Power to obtain information

(1) For the purpose of transmitting to the Fund the names and addresses of the persons who under section 360 are liable to make contributions to the Fund for any year, and the quantity of oil in respect of which they are so liable, the Government may by notice require any person engaged in producing, treating, distributing or transporting oil to furnish such information as may be specified in the notice.

(2) A notice under this section may require a company to give such information as may be required to ascertain whether its liability is affected by section 366(6).

(3) A notice under this section may specify the way in which, and the time within which, it is to be complied with.

(4) In proceedings by the Fund against any person to recover any amount due under section 360, particulars contained in any list transmitted by the Government to the Fund shall, so far as those particulars are based on information obtained under this section, be admissible as evidence of the facts stated in the list; and so far as particulars which are so admissible are based on information given by the person against whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.
(5) If a person discloses any information which has been furnished to or obtained by him under this section, or in connection with the execution of this section, then, unless the disclosure is made—

(a) with the consent of the person from whom the information was obtained;

(b) in connection with the execution of this section; or

(c) for the purposes of any legal proceedings arising out of this section or of any report of such proceedings;

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred thousand penalty units.

(6) A person who—

(a) refuses or wilfully neglects to comply with a notice under this section; or

(b) in furnishing any information in compliance with a notice under this section makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular;

shall be guilty of an offence and liable on summary conviction, to a fine not exceeding one hundred thousand penalty units in the case of an offence under paragraph (a) and not exceeding twenty thousand penalty units in the case of an offence under paragraph (b).

362. Liability of the Fund

(1) The Fund shall be liable for pollution damage in the territory of Bangladesh if the person suffering the damage has been unable to obtain full compensation under section 338—

(a) because the discharge or spillage, or the relevant threat of contamination, by reason of which the damage was caused—

(i) resulted from an exceptional, inevitable and irresistible phenomenon;

(ii) was due wholly to anything done or omitted to be done by another person (not being a servant or agent of the owner) with intent to do damage; or

(iii) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible;

and because liability is accordingly wholly displaced by section 341; or

(b) because the owner or guarantor liable for the damage cannot meet his obligations in full; or

(c) because the damage exceeds the liability under section 338 as limited by section 344.

(2) Sub-section (1) applies to with the substitution for the words “Bangladesh” of the words “a Fund Convention country” where—

(a) the headquarters of the Fund is for the time being in Bangladesh, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country; or

(b) the incident has caused pollution damage in the territory of Bangladesh and of another Fund Convention country, and proceedings under the Liability
Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country or in Bangladesh.

(3) Where the incident has caused pollution damage in the territory of Bangladesh and of another country in respect of which the Liability Convention is in force, references in this section to the provisions of Chapter IV of this Part shall include references to the corresponding provisions of the law of any country giving effect to the Liability Convention.

(4) Where proceedings under the Liability Convention for compensation for pollution damage have been brought in a country which is not a Fund Convention country and the Fund is liable for that pollution damage by virtue of sub-section (2)(a), references in this section to the provisions of Chapter IV of this Part shall be treated as references to the corresponding provisions of the law of the country in which those proceedings were brought.

(5) For the purposes of this section an owner or guarantor is to be treated as incapable of meeting his obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.

(6) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise pollution damage shall be treated as pollution damage for the purposes of this section, and accordingly he shall be in the same position with respect to claims against the Fund under this section as if he had a claim in respect of liability under section 338.

(7) The Fund shall incur no obligation under this section if—

(a) it proves that the pollution damage—
   (i) resulted from an act of war, hostilities, civil war or insurrection; or
   (ii) was caused by oil which has spillaged or been discharged from a warship or other ship owned or operated by a State and used, at the time of the occurrence, only on government non-commercial service; or
(b) the claimant cannot prove that the damage resulted from an occurrence involving a ship identified by him, or involving two or more ships one of which is identified by him.

(8) If the Fund proves that the pollution damage resulted wholly or partly—

(a) from anything done or omitted to be done with intent to cause damage by the person who suffered the damage; or
(b) from the negligence of that person;

the Fund may (subject to sub-section (10)) be exonerated wholly or partly from its obligations to pay compensation to that person.

(9) Where the liability under section 338 in respect of the pollution damage is limited to any extent by sub-section (8) of that section, the Fund shall (subject to sub-section (10)) be exonerated to the same extent.

(10) Sub-sections (8) and (9) shall not apply where the pollution damage consists of the costs of preventive measures or any damage caused by such measures.

363. Limitation of Fund’s liability under section 362

(1) The Fund’s liability under section 362 shall be subject to the limits imposed by paragraphs 4 and 5 of Article 4 of the Fund Convention (which impose an overall limit on the liabilities of the Fund, and in those provisions references to the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country or in Bangladesh.

(3) Where the incident has caused pollution damage in the territory of Bangladesh and of another country in respect of which the Liability Convention is in force, references in this section to the provisions of Chapter IV of this Part shall include references to the corresponding provisions of the law of any country giving effect to the Liability Convention.

(4) Where proceedings under the Liability Convention for compensation for pollution damage have been brought in a country which is not a Fund Convention country and the Fund is liable for that pollution damage by virtue of sub-section (2)(a), references in this section to the provisions of Chapter IV of this Part shall be treated as references to the corresponding provisions of the law of the country in which those proceedings were brought.

(5) For the purposes of this section an owner or guarantor is to be treated as incapable of meeting his obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.

(6) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise pollution damage shall be treated as pollution damage for the purposes of this section, and accordingly he shall be in the same position with respect to claims against the Fund under this section as if he had a claim in respect of liability under section 338.

(7) The Fund shall incur no obligation under this section if—

(a) it proves that the pollution damage—
   (i) resulted from an act of war, hostilities, civil war or insurrection; or
   (ii) was caused by oil which has spillaged or been discharged from a warship or other ship owned or operated by a State and used, at the time of the occurrence, only on government non-commercial service; or
(b) the claimant cannot prove that the damage resulted from an occurrence involving a ship identified by him, or involving two or more ships one of which is identified by him.

(8) If the Fund proves that the pollution damage resulted wholly or partly—

(a) from anything done or omitted to be done with intent to cause damage by the person who suffered the damage; or
(b) from the negligence of that person;

the Fund may (subject to sub-section (10)) be exonerated wholly or partly from its obligations to pay compensation to that person.

(9) Where the liability under section 338 in respect of the pollution damage is limited to any extent by sub-section (8) of that section, the Fund shall (subject to sub-section (10)) be exonerated to the same extent.

(10) Sub-sections (8) and (9) shall not apply where the pollution damage consists of the costs of preventive measures or any damage caused by such measures.
Convention are references to the Liability Convention within the meaning of this Chapter.

(2) A certificate given by the Director of the Fund stating that subparagraph (c) of paragraph 4 of Article 4 of the Fund Convention is applicable to any claim under section 362 shall be conclusive evidence for the purposes of this Chapter that it is so applicable.

(3) For the purpose of giving effect to paragraphs 4 and 5 of Article 4 of the Fund Convention a court giving judgment against the Fund in proceedings under section 362 shall notify the Fund, and—
   (a) no steps shall be taken to enforce the judgment unless and until the court gives leave to enforce it;
   (b) that leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount; and
   (c) in the latter case the judgment shall be enforceable only for the reduced amount.

(4) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in sub-section (3) shall be steps to obtain payment in Taka; and-
   (a) for the purpose of converting such an amount from special drawing rights into Taka one special drawing right shall be treated as equal to such a sum in Taka as the International Monetary Fund have fixed as being the equivalent of one special drawing right for-
      (i) the relevant day, namely the day on which the Assembly of the Fund decide the date for the first payment of compensation in respect of the incident; or
      (ii) if no sum has been so fixed for the relevant day, the last day before that day for which a sum has been so fixed; and
   (b) a declaration by Bangladesh Bank in exercise of the power conferred by Article 18 of the Bangladesh Bank Order, 1972 with respect to SDR shall be conclusive evidence of those matters for the purposes of this Chapter;

(5) Any document purporting to be such a certificate as mentioned in sub-section or (4)(b) shall, in any legal proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

364. Jurisdiction and effect of judgments

(1) Jurisdiction in claims for damage done by ship shall be applied in Bangladesh by the Admiralty Court Jurisdiction and shall be construed as extending to any claim in respect of a liability falling on the Fund under this Chapter.

(2) Where in accordance with rules of court made for the purposes of this sub-section the Fund has been given notice of proceedings brought against an owner or guarantor in respect of liability under section 338, any judgment given in the proceedings shall, after it has become final and enforceable, become binding upon the Fund in the sense that the facts and evidence in the judgment may not be disputed by the Fund even if the Fund has not intervened in the proceedings.
(3) Where a person incurs a liability under the law of a Fund Convention country corresponding to Chapter 55 of this Part for damage which is partly in the territory of Bangladesh, sub-section (2) shall, for the purpose of proceedings under this Chapter, apply with any necessary modifications to a judgment in proceedings under that law of the said country.

(4) Subject to sub-section (5) the Judgments (Reciprocal Enforcement) shall apply, whether or not it would so apply apart from this sub-section, to any judgment given by a court in a Fund Convention country to enforce a claim in respect of liability incurred under any provision corresponding to section 362; and in its application to such a judgment the said Act shall have effect with the omission of sections 4(2) and (3) of that Act.

(5) No steps shall be taken to enforce such a judgment unless and until the Admiralty court in which it is registered gives leave to enforce it; and—

(a) that leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under paragraph 4 of Article 4 of the Fund Convention or that it is to be reduced to a specified amount; and

(b) in the latter case, the judgment shall be enforceable only for the reduced amount.

365. Extinguishment of claims

(1) No action to enforce a claim against the Fund under this Chapter shall be entertained by a court in Bangladesh unless—

(c) the action is commenced; or

(d) a third party notice of an action to enforce a claim against the owner or his guarantor in respect of the same damage is given to the Fund; not later than three years after the claim against the Fund arose.

(2) No action to enforce a claim against the Fund under this Chapter shall be entertained by a court in Bangladesh unless the action is commenced not later than six years after the occurrence, or first of the occurrences, resulting in the discharge or spillage, or (as the case may be) in the relevant threat of contamination, by reason of which the claim against the Fund arose.

(3) In sub-section (1) “third party notice” means a notice of the kind described in sections 364 (2) and (3).

366. Subrogation

(1) In respect of any sum paid by the Fund as compensation for pollution damage the Fund shall acquire by subrogation any rights in respect of the damage which the recipient has (or but for the payment would have) against any other person.

(2) In respect of any sum paid by a public authority in Bangladesh as compensation for pollution damage, that authority shall acquire by subrogation any rights which the recipient has against the Fund under this Chapter.

367. Supplementary provisions as to proceedings involving the Fund

(1) Any proceedings by or against the Fund may either be instituted by or against the Fund in its own name or be instituted by or against the Director of the Fund as the Fund’s representative.
(2) Evidence of any instrument issued by any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Fund; and any document purporting to be such a copy shall, in any such proceedings, be received in evidence without proof of the official position or handwriting of the person signing the certificate.

368. Interpretation

(1) In this Chapter, unless the context otherwise requires—
   “damage” includes loss;
   “discharge or spillage”, in relation to pollution damage, means the discharge or spillage of oil from the ship;
   “guarantor” means any person providing insurance or other financial security to cover the owner’s liability of the kind described in section 350;
   “incident” means any occurrence, or series of occurrences having the same origin, resulting in a discharge or spillage of oil from a ship or in a relevant threat of contamination;
   “oil”, except in sections 360 and 361, means persistent hydrocarbon mineral oil;
   “owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;
   “pollution damage” means—
   (a) damage caused outside a ship by contamination resulting from a discharge or spillage of oil from the ship;
   (b) the cost of preventive measures; and
   (c) further damage caused by preventive measures;
   but does not include any damage attributable to any impairment of the environment except to the extent that any such damage consists of—
   (i) any loss of profits; or
   (ii) the cost of any reasonable measures of reinstatement actually taken or to be taken;
   “preventive measures” means any reasonable measures taken by any person to prevent or minimise pollution damage, being measures taken—
   (a) after an incident has occurred; or
   (b) in the case of an incident consisting of a series of occurrences, after the first of those occurrences;
   “relevant threat of contamination” means a grave and imminent threat of damage being caused outside a ship by contamination resulting from a discharge or spillage of oil from the ship; and
   “ship” means any ship (within the meaning of Chapter 55 of this Part) to which section 338 applies.

(2) For the purposes of this Chapter—
(a) references to a discharge or spillage of oil from a ship are references to such a
discharge or spillage wherever it may occur, and whether it is of oil carried in a
cargo tank or of oil carried in a bunker fuel tank; and
(b) where more than one discharge or spillage results from the same occurrence or
from a series of occurrences having the same origin, they shall be treated as
one.
(3) References in this Chapter to the territory of any country shall be construed in
accordance with section 358(3) reading the reference to a Liability Convention
country as a reference to a Fund Convention country.
CHAPTER 57
CARRIAGE OF HAZARDOUS AND NOXIOUS SUBSTANCES

369. Meaning of the Convention

(1) In this Chapter, unless the context otherwise requires, “the Convention” means the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea 1996.

(2) In interpreting the definition of “hazardous and noxious substances” in Article 1, paragraph 5 of the Convention, any reference in that paragraph to a particular Convention or code as amended shall be taken to be a reference to that Convention or code as amended from time to time (whether before or after the commencement of this Chapter).

370. Power to give effect to Convention

(1) The Government may by order make such provision as it considers appropriate for the purpose of giving effect to—
(a) the Convention on or after its signature or ratification by Bangladesh; or
(b) any revision of the Convention which appears to the Director General to have been agreed to by Bangladesh.

(2) The power conferred by sub-section (1) to make provision for the purpose of giving effect to the Convention or an agreement revising the Convention includes power to provide for the provision to come into force even though the Convention or the agreement has not come into force.

(3) Without prejudice to the generality of sub-section (1), an order under that sub-section may include provision—
(a) requiring contributions to be paid in accordance with the Convention to the International Hazardous and Noxious Substances Fund established under the Convention;
(b) for applying for the purpose mentioned in sub-section (1) any enactment or instrument relating to the pollution of the sea or other waters (including provisions creating offences) with such modifications, if any, as may be prescribed by the order;
(c) for detaining any ship in respect of which a contravention of a provision made by or under the order is suspected to have occurred and, in relation to such a ship, for applying section 444 with such modifications, if any, as are prescribed by the order;
(d) for a certificate issued by or on behalf of the Director General stating that at a particular time a particular substance was, or was not, a hazardous or noxious substance for the purposes of the Convention to be conclusive evidence of that matter.

(4) An order under sub-section (1) may—
(a) make different provision for different circumstances;
(b) make provision for references in the order to any specified document to operate as references to that document as revised or re-issued from time to time;

MARINECARE Consultants Bangladesh Ltd.
(c) provide for the delegation of functions exercisable by virtue of the order;

(d) include such incidental, supplemental and transitional provisions as appear to the Government to be expedient for the purposes of the order.

(5) The Government may make regulations for the purposes of this section.
CHAPTER 58
LIABILITY OF SHIPOWNERS AND OTHERS
CARRIAGE OF PASSENGERS AND LUGGAGE BY SEA

371. Convention related to Carriage of Passenger to have force of law

(1) The provisions of the Convention relating to the Carriage of Passengers and their Luggage by Sea as included in Schedule 3 along with relevant Protocols and amendments in force shall have the force of law in Bangladesh and shall apply to passenger ships registered in Bangladesh engaged in international voyages.

(2) If there is a conflict between any provisions relating to the carriage of passengers or luggage for reward by land, sea or air in -
   (a) any Convention which has been signed or ratified by Bangladesh; or
   (b) any enactment of the Legislature of Bangladesh giving effect to such a Convention;
the Director General may, with approval of the Government, make such regulations as appropriate for resolving the conflict.

(3) If the Government has agreed in respect of any revision of the Convention relating to the Carriage of Passengers, the Director General shall by order make such circulation as appropriate in consequence of the revision.

(4) Nothing in sub-section (1) or (2) or in any modification made by virtue of sub-section (3) shall affect any rights or liabilities arising out of an occurrence which took place before the day on which the said sub-section (1) or (2), or as the case may be, the modification, comes into force.

372. Limitation of liability for maritime claims

(1) The Convention on Limitation of Liability for Maritime Claims 1976 as included in Schedule 3 shall have the force of law in Bangladesh.

(2) The provisions having the force of law under this section shall not apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to any property of, a person who is on board the ship in question or employed in connection with that ship or with the salvage operations in question if -
   (a) he is so on board or employed under a contract of service governed by the law of Bangladesh; and
   (b) the liability arises from an occurrence which took place after the commencement of this Act.

373. Exclusion of liability

(1) Subject to sub-section (3), the owner of a Bangladesh ship shall not be liable for any loss or damage in the following cases, namely -

MARINECARE Consultants Bangladesh Ltd.
(a) where any property on board the ship is lost or damaged by reason of fire on board the ship; or
(b) where any gold, silver, watches, jewels or precious stones on board the ship are lost or damaged by reason of theft, robbery or other dishonest conduct and their nature and value were not at the time of shipment declared by their owner or shipper to the owner or master of the ship in the bill of lading or otherwise in writing.

(2) Subject to sub-section (3), where the loss or damage arises from anything done or omitted by any person in his capacity of master or member of the crew or (otherwise than in that capacity) in the course of his employment as a servant of the owner of the ship, sub-section (1) shall also exclude the liability of -
(a) the master, member of the crew or servant; and
(b) in a case where the master or member of the crew is the servant of a person whose liability would not be excluded by that sub-section apart from this paragraph, the person whose servant he is.

(3) This section does not exclude the liability of any person for any loss or damage resulting from any such personal act or omission of his as is mentioned in Article 4 of the Convention on Limitation of Liability for Maritime Claims 1976.

(4) In this section “owner”, in relation to a ship, includes any part owner and any charterer, manager or operator of the ship.

374. Apportionment of liability for damage or loss

(1) Where, by the fault of two or more ships, damage or loss is caused to one or more of those ships, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each ship was in fault.

(2) If, in any such case, having regard to all the circumstances, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.

(3) This section applies to persons other than the owners of a ship who are responsible for the fault of the ships, as well as to the owners of a ship and where, by virtue of any charter or demise, or for any other reason, the owners are not responsible for the navigation and management of the ship, this section applies to the charterers or other persons for the time being so responsible instead of the owners.

(4) Nothing in this section shall operate so as to render any ship liable for any loss or damage to which the fault of the ship has not contributed.

(5) Nothing in this section shall affect the liability of any person under a contract of carriage or any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.

(6) In this section, “freight” includes passage money and hire.

(7) In this section, references to damage or loss caused by the fault of a ship include references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

375. Loss of life or personal injuries: joint and several liability
(1) Where loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and of any other ship or ships, the liability of the owners of the ships shall be joint and several.

(2) Section 374(3) applies also to this section.

(3) Nothing in this section shall be construed as depriving any person of any right of defence on which, apart from this section, he might have relied in an action brought against him by the person injured, or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in the manner provided by law.

(4) Section 374(7) applies also for the interpretation of this section.

376. Loss of life or personal injuries: right of contribution

(1) Where loss of life or personal injuries are suffered by any person on board a ship owing to the fault of that ship and any other ship or ships, and a proportion of the damages is recovered against the owners of one of the ships which exceeds the proportion in which the ship was in fault, they may recover by way of contribution the amount of the excess from the owners of the other ship or ships to the extent to which those ships were respectively in fault.

(2) Section 374(3) applies also to this section.

(3) Nothing in this section authorises the recovery of any amount which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.

(4) In addition to any other remedy provided by law, the persons entitled to any contribution recoverable under this section shall, for the purposes of recovering it, have the same rights and powers as the persons entitled to sue for damages in the first instance.

377. Time limit for proceedings against owners or ship

(1) This section applies to any proceedings to enforce any claim or lien against a ship or her owners—

(a) in respect of damage or loss caused by the fault of that ship to another ship, its cargo or freight or any property on board it; or

(b) for damages for loss of life or personal injury caused by the fault of that ship to any person on board another ship.

(2) The extent of the fault is immaterial for the purposes of this section.

(3) Subject to sub-sections (5) and (6), no proceedings to which this section applies shall be brought after the period of two years from the date when—

(a) the damage or loss was caused; or

(b) the loss of life or injury was suffered.

(4) Subject to sub-sections (5) and (6), no proceedings under any of sections 374 to 376 to enforce any contribution in respect of any overpaid proportion of any damages for loss of life or personal injury shall be brought after the period of one year from the date of payment.

(5) Any court having jurisdiction in such proceedings may, in accordance with rules of court, extend the period allowed for bringing proceedings to such extent and on such conditions as it thinks fit.
(6) Any such court, if satisfied that there has not been during any period allowed for bringing proceedings any reasonable opportunity of arresting the defendant ship within—

(a) the jurisdiction of the court; or

(b) the territorial sea of the country to which the plaintiff’s ship belongs or in which the plaintiff resides or has his principal place of business;

shall extend the period allowed for bringing proceedings to an extent sufficient to give a reasonable opportunity of so arresting the ship.

Limitation of liability of harbour and dock authorities

378. Limitation of liability

(1) This section applies in relation to the following authorities and persons, that is to say, a harbour authority and the owners of any dock.

(2) The liability of any authority or person to which this section applies for any loss or damage caused to any ship, or to any goods, merchandise or other things whatsoever on board any ship shall be limited in accordance with sub-section (5) by reference to the tonnage of the largest Bangladesh ship which, at the time of the loss or damage is, or within the preceding five years has been, within the area over which the authority or person discharges any functions.

(3) The limitation of liability under this section relates to the whole of any loss or damage which may arise on any one distinct occasion, although such loss or damage may be sustained by more than one person, and shall apply whether the liability arises at common law or under any general or local or private Act, and notwithstanding anything contained in such an Act.

(4) This section does not exclude the liability of an authority or person to which it applies for any loss or damage resulting from any such personal act or omission of the authority or person as is mentioned in Article 4 of the Convention on Limitation of Liability for Maritime Claims 1976.

(5) For the purposes of sub-section (2) a ship shall not be treated as having been within the area over which a harbour authority discharges any functions by reason only that it has been built or fitted out within the area, or that it has taken shelter within or passed through the area on a voyage between two places both situated outside that area, or that it has loaded or unloaded mails or passengers within the area.

(6) Nothing in this section imposes any liability for any loss or damage where no liability exists apart from this section.

(7) In this section—

“dock” includes wet docks and basins, tidal docks and basins, locks, cuts, entrances, dry docks, graving docks, gridirons, slips, quays, wharves, piers, stages, landing places and jetties.
PART IX

CHAPTER 59

COASTAL AND NEAR-COASTAL SHIPS

379. Application of this Chapter

(1) This Chapter applies to –
   (a) Coastal Ship; and
   (b) Near coastal ship

380. Interpretation – in this chapter -

(a) a “coastal ship”, means a ship which does not exceed one thousand five hundred gross tonnage and is exclusively employed in trading coastwise within ports or places in Bangladesh.

(b) a “near-coastal ship”, means a ship which does not exceed three thousand gross tonnage and is exclusively employed in trading coastwise from ports or places in Bangladesh and ports and places in the countries around the Bay of Bengal coast, as may be agreed.

(c) “coastal voyage “ means a voyage partly or wholly through the sea between ports or places in Bangladesh.

(d) “near coastal voyage” means—
   (i) a voyage made exclusively within waters under Bangladesh jurisdiction; and
   (ii) the ship is for the entire voyage within fifty miles from a safe haven in Bangladesh; or
   (iii) a voyage which, by agreement between Bangladesh and another state, is considered or treated as a near coastal voyage.

381. Regulation-making power

(1) The Director General may, with the approval of the Government, make regulations generally for coastal and near-coastal vessels and for carrying out the purposes of this Chapter.

(2) Without prejudice to the generality of the foregoing, regulations made under sub-section (1) shall have regard to -

(a) classification of coastal and near-coastal ships;
(b) safety of navigation;
(c) safety and security;
(d) passenger lists;
(e) cargo that may be carried and the method of storing the cargo;
(f) the safety equipment to be carried on board;
(g) radio equipment to be carried on board;
(h) assignment of load lines;
(i) sanitary requirements, ventilation, lighting access, shelters, screens, cooking and toilet facilities for deck and unberthed passengers;
(j) fees to be charged for any licences;
(k) training, examination and certification of seafarers on board coastal and near-coastal vessels;
(l) maintenance of good order on board these vessels;
(m) prevention of marine pollution;
(n) penalty for damaging navigational aids and port facilities;
(o) notification by master of a sunken vessel to the Shipping Authority;
(p) lights to be carried and exhibited and the steering and sailing rules to be observed;
(q) duties of masters of vessels carrying explosives and dangerous cargoes;
(r) licensing, supervision and regulation of cargo boats and for securing the orderly conduct of such boatmen;
(s) surveys and inspection of coastal and near-coastal vessels;
(t) issue of certificates;
(u) provision of evidence of financial responsibility or security against risks of damage to third parties;
(v) number of passengers to be carried on passenger vessels;
(w) safe manning scale;
(x) crew lists; and
(y) any other matter that the Director General may deem fit to enhance the safety and security of vessels engaged in the coastal voyage and near-coastal voyage as well as to preserve the aquatic environment.

(3) In making the regulations referred to in this section, the Director General shall take into consideration Coastal agreements and/or Protocols that may have been concluded and adopted by Bangladesh in that respect and the relevant International maritime Conventions that are applicable.
PART X

WRECK AND SALVAGE

CHAPTER 60

WRECK

382. Appointment and functions of Receivers of Wreck

(1) The Government may, by notification in the official Gazette, appoint any person to be a Receiver of Wreck to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as may be specified in the notification.

(2) A Receiver of Wreck may, by order in writing, direct that all or any of his functions under this Part shall, in such circumstances and subject to such conditions, if any, as may be specified in the order, be discharged by officers of Coast Guard as may be so specified, and any person while discharging any such functions shall be deemed to be a Receiver of Wreck for the purposes of this Act.

(3) An officer discharging any such functions of the receiver shall, with respect to any goods or articles belonging to a vessel the delivery of which to the receiver is required by any provision of this Chapter, be treated as the agent of the receiver.

383. Duty of Receiver where vessel in distress

(1) Where any vessel is wrecked, stranded or in distress at any place on or near the coasts of Bangladesh including the territorial waters thereof, the Receiver of Wreck within the limits of whose jurisdiction the place is situated shall, upon being informed of the same forthwith proceed there, and upon his arrival shall take command of all persons present and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel and of its cargo and equipment; so however the Receiver shall not interfere between the master and the crew of the vessel in reference to the management thereof unless he is requested to do so by the master.

(2) If any person willfully disobeys the directions of the Receiver, he shall, for each offence, be punishable with a fine not exceeding fifty thousand penalty units.

384. Powers of Receiver in case of vessel in distress

(1) The Receiver of Wreck may, with a view to the preservation of ship-wrecked persons of the vessel, cargo or equipment,-

(a) require such persons as he thinks necessary to assist him;

(b) require the master, or other person having the charge, of any vessel near at hand to give such aid with his men or vessel as may be in his power;

(c) demand the use of any vehicles or animals that may be near at hand.
(2) If any person refuses without reasonable cause to comply with any such requisition or demand, he shall, for each offence, be punishable with a fine not exceeding fifty thousand penalty units.

385. Power to pass over adjoining land

(1) Whenever a vessel is wrecked, stranded or in distress as aforesaid, all persons may, for the purpose of rendering assistance to the vessel, or of saving the lives of the shipwrecked persons, or of saving the cargo or equipment of the vessel, unless there is some public road equally convenient, pass and re-pass, either with or without vehicles or animals, over any adjoining lands without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and may also, on the like condition, deposit on those lands any cargo or other article recovered from the vessel.

(2) Any damage sustained by an owner or occupier in consequence of the exercise of the rights given by this section shall be a charge on the vessel, cargo or articles in respect of or by which the damage is occasioned, and the amount payable in respect of the damage shall, in case of dispute, be determined, and shall, in default of payment, be recoverable, in accordance with the provisions of section 468, as in the case of salvage.

(3) If the owner or occupier of any land-

(a) impedes or hinders any person in the exercise of the rights given by this section by locking his gates, or refusing, upon request, to open the same, or otherwise; or

(b) impedes or hinders the deposit of any cargo or other articles recovered from the vessel as aforesaid on the land; or

(c) prevents or endeavours to prevent any such cargo or other article from remaining deposited on the land for a reasonable time until it can be removed to a safe place of deposit;

he shall, for each offence, be punishable with a fine not exceeding fifty thousand penalty units.

386. Power of Receiver to suppress, plunder and disorder by force

(1) Whenever a vessel is wrecked, stranded or in distress as aforesaid, and any person plunders, creates disorder or obstructs the preservation of the vessel or of the shipwrecked persons or of the cargo or equipment of the vessel, the Receiver of Wreck may take such steps and use such force as he may consider necessary for the suppression of any such plundering, disorder or obstruction, and may, for that purpose, command any person to assist him.

(2) If any person is killed, maimed, or hurt by reason of his resisting the Receiver or any person acting under the orders of the Receiver in the execution of his duties under this Chapter, neither the Receiver nor the person acting under his orders shall be liable to any punishment, or to pay any damages by reason of the person being so killed, maimed or hurt.
387. Rules to be observed by persons finding wreck

(1) Any person finding and taking possession of any wreck within any local limits for which a Receiver of Wreck has been so appointed, or bringing within such limits any wreck which have been found and taken possession of elsewhere, shall, as soon as practicable:

(a) if he be the owner thereof, give the Receiver of Wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished;

(b) if he be not the owner of such wreck, deliver the same to the Receiver of Wreck.

(2) Any person who fails to give notice of the finding of, or to deliver, any wreck to the Receiver of Wreck as required by sub-section (1) shall be punishable with a fine not exceeding fifty thousand penalty units, and, in the case of failure to deliver any wreck, shall, in addition to such fine, forfeit all claims to salvage, and pay to the owner of such wreck if the same is claimed, or if the same is unclaimed, to the Government, a penalty not exceeding twice the value of such wreck.

388. Provisions as respects cargo, etc.

(1) Where a vessel is wrecked, stranded, or in distress at any place on or near the coasts of the Bangladesh or any tidal water within Bangladesh waters, any cargo or other articles belonging to or separated from the vessel which are washed on shore or otherwise lost or taken from the vessel shall be delivered to the Receiver.

(2) If any person conceals or keeps possession of any such cargo or article, or refuses to deliver any such cargo or article to the receiver or to any person authorised by the receiver to require delivery, he shall be liable, on summary conviction, to a fine not exceeding one hundred thousand penalty units.

389. Notice to be given by Receiver

The Receiver of Wreck shall, as soon as may be after taking possession of any wreck, publish a notification, in such manner and at such place as the Government may, by general or special order, direct, containing a description of the wreck and the time at which and the place where the same was found.

390. Claims of owners to wreck

(1) The owner of any wreck in the possession of the receiver who establishes his claim to the wreck to the satisfaction of the receiver within one year from the time when the wreck came into the Receiver's possession shall, on paying the salvage, fees and expenses due, be entitled to have the wreck delivered or the proceeds of sale paid to him.

(2) Where a foreign ship has been wrecked on or near the coasts of the Bangladesh, or

(3) Where any articles belonging to or forming part of or of the cargo of a foreign ship which has been wrecked on or near the coasts of the Bangladesh are found on or near the coast or are brought into any port, the appropriate consular officer shall, in the absence of the owner and of the master or other agent of the owner, be treated as the agent of the owner for the purposes of the custody and disposal of the wreck and such articles.

(3) Where the owner of the wreck does not appear and claim the balance of the proceeds of sale within six months from the date of sale, the said balance shall vest in the Government.
391. Immediate sale of wreck in certain cases

A Receiver of Wreck may at any time sell any wreck in his custody if in his opinion-

(a) it is under the value of one thousand Taka, or

(b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept, or

(c) it is not of sufficient value for warehousing, and the proceeds of the sale shall, after defraying the expenses thereof, be held by the Receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

392. Removal of wreck by harbour or conservancy authority

Where any vessel is sunk, stranded or abandoned in any harbour or tidal waters under the control of a harbour or conservancy authority, or in or near any approach thereto, in such manner as, in the opinion of the authority, to be, or be likely to become, an obstruction or danger to navigation, that authority may-

(a) take possession of, and raise, remove or destroy the whole or any part of the vessel;

(b) light or buoy any such vessel or part until the raising, removal or destruction thereof; and

(c) subject to paragraphs (d) and (e), sell, in such manner as it thinks fit, any vessel or part so raised or removed or and also any other property, recovered by it in the course of the exercise of its powers under this section, and out of the proceeds of the sale, reimburse itself for the expenses incurred by it in relation thereto under this section, and the authority shall hold the surplus, if any, of the proceeds in trust for the persons entitled thereto; and if the proceeds of such sale are less than the expenses so incurred, the owners of the vessel at the time of the casualty or immediately before abandonment shall be liable to pay to the harbour or conservancy authority the amount by which the proceeds may fall short to meet the expenses incurred;

(d) a sale shall not, except in the case of property which is of a perishable nature or which would deteriorate in value by delay, be made under this section until at least seven clear days' notice of the intended sale has been given by advertisement in some newspaper circulating in or near the area over which the authority has control;

(e) at any time before any property is sold under this section, the owner thereof shall be entitled to have the same delivered to him on payment to the authority of the expenses incurred by the authority, to be ascertained by agreement between the authority and the owner, or failing agreement, by some person to be named for the purpose by the Government.

393. Right of Government to unclaimed wreck

The right to all unclaimed wrecks found anywhere in Bangladesh vests in the Government, except where it has granted to any other person the right thereto.
394. Notice of unclaimed wreck to be given to persons entitled.

(1) Where any person, is entitled for his own use to unclaimed wreck found in any place within the jurisdiction of a Receiver of Wreck, he shall deliver to the Receiver a statement containing the Particulars of his title, and an address to which notices may be sent.

(2) When a statement has been so delivered and the title proved to the satisfaction of the Receiver, the Receiver shall, on taking possession of any wreck found in a place to which the statement refers, send, within forty eight hours, to the address delivered, a description of the wreck and of any marks by which it is distinguished.

395. Disposal of unclaimed wreck

Where no owner established a claim to any wreck found in Bangladesh and in the possession of a Receiver of Wreck within six months after it came into his possession, the wreck shall be dealt with as follows, that is to say:-

(a) if the wreck is claimed by any person who has delivered a statement under section 394, to the Receiver and has proved to the satisfaction of the Receiver his title to receive unclaimed wreck found in the place where that wreck was found, the wreck, after payment of all expenses, costs, fees, and salvage due in respect thereof, shall be delivered to him;

(b) if the wreck is not claimed by any such person as aforesaid, the Receiver shall sell the same and shall pay to the Government the proceeds of the sale, after deduction therefrom, the expenses of the sale, and any other expenses incurred by him, and his fees, and paying thereout to the salvors such amount of salvage as the Government may in each case, or by any general rule, determine.

396. Disputed title to unclaimed wreck

(1) Where any dispute arises between any person who has delivered a statement under section 394, and the Receiver of Wreck respecting title to wreck found in any place, or where more persons than one claim title to that wreck and a dispute arises between them as to that title, that dispute may be referred and determined in the same manner as if it were a dispute as to salvage to be determined summarily under this part.

(2) If any party to the dispute is unwilling to have the same so referred or, where it is so referred, is dissatisfied with the decision, he may, within three months after the expiration of six months from the time when the wreck has come into the Receiver's hands or from the date of the decisions, as the case may be, take proceedings in any Court having jurisdiction in the matter for establishing his title.

397. Taking wreck to foreign port

If any person takes into any foreign port any vessel, stranded, derelict, or otherwise in distress, found on or near the coasts of Bangladesh, including the territorial waters thereof, or any part of the cargo or equipment of the vessel, or anything belonging thereto, or any wreck found within those limits, without the permission in writing of the Government, he shall be punishable with imprisonment for a term not exceeding five years but shall not be less than three years, and with a fine not exceeding twice the
398. Interfering with wrecked vessel or wreck

(1) A person shall not, without the leave of the master, board or endeavour to board any vessel which is wrecked, stranded or in distress, unless that person is, or acts by command of, the Receiver of Wreck or a person lawfully acting as such, and if he does so, shall be liable to be removed from the vessel or repelled by the master of the vessel by force.

(2) A person shall not-

(a) impede or hinder, or endeavour in any way to impede or hinder, the saving of any vessel stranded or in danger of being stranded, or otherwise in distress on or near the coasts of Bangladesh, including the territorial waters thereof, or of any part of the cargo or equipment of the vessel, or of any wreck;

(b) secret any wreck, or deface obliterate any marks thereon; or

(c) wrongfully carry away or remove any part of a vessel stranded or in danger of being stranded, or otherwise in distress, on or near such coasts or within those waters, or any part of the cargo or equipment of the vessel, or any wreck.

(3) If any person acts in contravention of this section, he shall, for each offence, be punishable with a fine not exceeding fifty thousand penalty units, which may be imposed in addition to any other punishment to which he may otherwise be liable.

399. Search warrants where wreck is concealed

Where a Receiver of Wreck suspects or receives information that any wreck is secreted or is in the possession of some person who is not the owner thereof, or that any wreck is otherwise improperly dealt with, he may apply to the nearest Magistrate for a search warrant, and that Magistrate shall have power to grant such warrant, and the Receiver of Wreck by virtue thereof may enter any house or other place wherever situated and also any vessel and search for, seize and detain any such wreck there found.

400. Functions of Director General as to wreck

(1) The Director General shall have the general superintendence throughout the Bangladesh of all matters relating to wreck.

(2) The Director General may, with the approval of the Government, appoint one or more persons to be receiver of wreck for the purposes of this Part and a receiver so appointed shall discharge such functions as are assigned to him by the Director General.

401. Expenses and fees of receivers

(1) There shall be paid to the receiver the expenses properly incurred by him in the discharge of his functions and also, in respect of such matters as may be prescribed by regulations made by the Director General, such fees as may be so prescribed.

(2) The Receiver shall not be entitled to any other remuneration.
(3) The Receiver shall, in addition to all other rights and remedies for the recovery of those expenses and fees, have the same rights and remedies in respect of those expenses and fees as a salvor has in respect of salvage due to him.

(4) Whenever any dispute arises as to the amount payable to the Receiver in respect of expenses or fees, that dispute shall be determined by the Director General whose decision shall be final.

Coastguard services

402. Remuneration for services of coastguard

(1) Subject to sub-section (2) below, where services are rendered by any officers or men of Bangladesh coastguard service in watching or protecting shipwrecked property the owner of the property shall pay in respect of those services remuneration according to a scale fixed by the Director General.

(2) The scale fixed by the Director General shall not exceed the scale by which remuneration to officers and men of the coastguard for extra duties in the ordinary service, for the time being regulated.

Release from customs and excise control

403. Release of goods from customs and excise control

(1) The Commissioners of Customs shall, subject to taking security for the protection of the revenue in respect of the goods, permit all goods saved from any ship stranded or wrecked on its homeward voyage to be forwarded to the port of its original destination.

(2) The Commissioners of Customs shall, subject to taking such security, permit all goods saved from any ship stranded or wrecked on her outward voyage to be returned to the port at which they were shipped.

(3) In this section “goods” includes wares and merchandise.

404. Referral of questions as to powers between authorities

If any question arises between Mercantile Marine Office or Port authority and the Coast Guard as to their respective powers in relation to any place in territorial waters in or near an approach to a harbour or tidal water, that question shall, on the application of any authority, be referred to the Director General for his decision, and any decision of the Director General under this section shall be final.

405. Interpretation.

(1) In this Part—
“Receiver” means a receiver of wreck appointed under this part;
“salvage” includes, subject to the Salvage Convention, all expenses properly incurred by the salvor in the performance of the salvage services;
“salvor” means, in the case of salvage services rendered by the officers or crew or part of the crew of any ship, the person in command of the ship;
“tidal waters” means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides, and not being a harbour;
“vessel” includes any ship or boat, or any other description of vessel used in navigation; and
“wreck” includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water.

(2) Fishing boats or fishing gear lost or abandoned at sea and either -
(a) found or taken possession of within Bangladesh waters; or
(b) found or taken possession of beyond those waters and brought within those waters.

shall be treated as wreck for the purposes of this Part.
406. Meaning of Wreck Removal Convention

(1) In this Chapter—

(b) “Wreck Removal Convention State” means a State which is a party to the Wreck Removal Convention.
(c) “wreck removal insurance” means a contract of insurance or other security satisfying the requirements of Article 12 of the Wreck Removal Convention, and
(d) “insurer” means the person providing the insurance or other security, and
(d) “wreck removal insurance certificate” means a certificate required by sub-section (2)(b) or (3)(b) of section 420.
(e) “Bangladesh Convention Area” means the sea area comprises of the ‘internal waters’ and ‘the territorial sea’ as defined in section 5 and 9 respectively of Bangladesh Maritime Zones Act 2018.
(f) “ship” means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft, and fixed or floating platforms or mobile offshore drilling units when such platforms or units are not on location engaged in the exploration, exploitation, storage or production of sea-bed mineral resources;

(b)

407. Reporting of Wrecks

(1) Where a Bangladesh ship is involved in a maritime casualty resulting in a wreck in a Convention area other than Bangladesh Convention area, the master or the operator of that ship must report the wreck to the government of the affected State without delay.
(2) Where a Bangladesh ship is involved in a maritime casualty resulting in a wreck within Bangladesh Convention area, the master or the operator of that ship must report the wreck to the Government without delay.
(3) A report under sub-section (1) and (2) must include the information mentioned in paragraph (2) of Article 5 of the Wreck Removal Convention (so far as it is known).
(4) If one of the persons responsible for a ship makes a report under sub-section (1) the others are no longer under a duty to make a report.
(5) Failure to comply with the reporting requirement is an offence.
(6) A master or an operator of a ship who is guilty of an offence under this section shall be liable on conviction to a fine not exceeding ten thousand penalty units.

408. Locating and marking wrecks

Upon becoming aware of a wreck, the Director General must take all reasonable steps to ensure compliance with national obligations under Articles 7 and 8 of the Wreck Removal Convention.

409. Removal by registered owner

(1) This section applies where—
(a) a ship has been involved in an accident as a result of which it or anything from it has become a wreck in the Bangladesh Convention area; and
(b) the Government has determined that the wreck poses a hazard.

(2) The Government must take all reasonable steps to give a notice (a “wreck removal notice”) requiring the registered owner to comply with the obligations imposed on registered owners by paragraph 2 and 3 of Article 9 of the Wreck Removal Convention (removal of wrecks and production of evidence of insurance).

(3) The notice must be in writing and must—
(a) specify the deadline set under paragraph 6(a) of that Article for the removal of the wreck; and
(b) inform the registered owner of the other matters set out in paragraph 6(b) and (c) of that Article.

### 410. Imposition of conditions about removal

(1) This section applies if the Government has given a registered owner a wreck removal notice.

(2) The Government may impose conditions as to the removal of the wreck in accordance with paragraph 4 of Article 9 of the Wreck Removal Convention.

(3) A condition is imposed by giving notice of it to the registered owner.

### 411. Removal in default

(1) The Government may remove a wreck in the Bangladesh’s Convention area in the circumstances set out in paragraph 7 or 8 of Article 9 of the Wreck Removal Convention.

(2) The Government may, instead of exercising the power under sub-section (1), direct that the power be exercised by any of the following -
(a) The Mercantile Marine Office; or
(b) The port authority.

(3) A direction may be given to any port authority only in relation to a wreck within the authority’s area,

(4) A direction may be given to the Mercantile Marine Office only in relation to a wreck within Bangladesh Convention area outside any port limit.

(5) A direction -
(a) must be in writing; or
(b) where it is not reasonably practicable to give it in writing, must be confirmed in writing as soon as reasonably practicable.

(6) An authority to whom a direction is given must comply with it.

### 412. Liability for costs

(1) This section applies where -
(a) a ship has been involved in an accident as a result of which it or anything from it has become a wreck in the Bangladesh Convention area; and
(b) costs have been incurred complying with locating and marking and removal of wrecks.

(2) The person who incurred the costs is entitled to recover them from the ship’s registered owner unless the owner proves that an exception set out in paragraph 1(a), (b) or (c) of Article 10 of the Wreck Removal Convention applies.

(3) The owner is not liable for costs under this section if or to the extent that liability would conflict with—
(a) a Convention listed in paragraph 1 of Article 11 of the Wreck Removal Convention (exceptions to liability);
(b) an enactment implementing such a Convention; or
(c) any other provision specified by order made by the Government.

(4) Where the registered owner of each of two or more ships is liable for costs under this section but the costs for which each is liable cannot reasonably be separated, the registered owners shall be jointly liable for the total costs.

(5) This section does not prevent the exercise of the right (if any) to limit liability by virtue of the section of this Act related to limitation of liability or maritime claims.

(6) An order may include incidental, supplemental or transitional provision.

413. Limitation period

An action to recover costs under section 412 may not be brought after the end of whichever of the following ends earlier -

(a) the period of 3 years beginning with the date on which a wreck removal notice was given in respect of the wreck; and
(b) the period of 6 years beginning with the date of the accident which resulted in the wreck.

414. Expenses of authorities

Costs incurred by Mercantile Marine Office or Port Authority in complying with a direction for locating and marking of the wreck or for removal shall be paid out of the Light dues collection Fund or Port dues collection Fund, as appropriate, if or to the extent that they are not recovered under section 412.

415. Compulsory insurance against liability for wreck removal

(1) This section applies to ships with a gross tonnage of 300 or more.

(2) A Bangladesh ship may not enter or leave a port in the Bangladesh or elsewhere unless—
   (a) the ship is covered by wreck removal insurance; and
   (b) the Government has certified that it has wreck removal insurance.

(3) A foreign ship may not enter or leave a port in the Bangladesh unless—
   (a) the ship is covered by wreck removal insurance; and
   (b) there is a certificate confirming that it has wreck removal insurance.

(4) For a ship registered in a foreign Wreck Removal Convention State the certificate must be one that has been issued by or under the authority of the government of that State.

(5) For a foreign ship registered in any other State the certificate must be one that has been issued—
   (a) by the Government; or
   (b) by or under the authority of the government of a Wreck Removal Convention State.

(6) For the purposes of sub-section (1) the gross tonnage of a ship is to be calculated in accordance with the Tonnage Convention.

(7) The master and operator of a ship are each guilty of an offence if in contravention of this section —
   (a) the ship enters or leaves a port; or
   (b) anyone attempts to navigate the ship into or out of a port.

(8) The master and operator guilty of an offence and shall each be liable on conviction to a fine not exceeding one hundred thousand penalty units.

MARINECARE Consultants Bangladesh Ltd.
416. Detention of ships
A ship may be detained if anyone attempts to navigate it out of a port in contravention of section 415.

417. Production of certificates
(1) This section applies to a ship which is required to have a wreck removal insurance certificate before entering or leaving a port.
(2) The master of the ship shall ensure that the certificate is carried on board.
(3) The master of the ship shall, on request, produce the certificate to—
   (a) an authorized pilot of the port before entering port; and
   (b) if the ship is in port to, a principal officer before leaving port.
(4) Failure to comply with sub-section (2) or (3) is an offence.
(5) A person guilty of the offence is liable on summary conviction to a fine not exceeding five hundred thousand penalty units.

418. Issue of certificates
(1) This section applies where the registered owner applies to the Government for a wreck removal insurance certificate in respect of—
   (a) a Bangladesh ship; or
   (b) a foreign ship registered in a State other than a Wreck Removal Convention State.
(2) In relation to a Bangladesh ship, the Government or an agency authorized by the Government shall issue the certificate if satisfied—
   (a) that the ship has wreck removal insurance in place for the period to which the certificate will relate; and
   (b) that the obligations of the person providing the wreck removal insurance will be met.
(3) In relation to a foreign ship registered in a State other than a Wreck Removal Convention State, the Government or an agency authorized by the Government may issue the certificate if satisfied of the matters in paragraphs (a) and (b) of sub-section (2).
(4) The Government or the authorized agency as the case may be shall send a copy of a certificate issued in respect of a Bangladesh ship to the Registrar General of Shipping and Seafarer.
(5) The Registrar shall make such certificates available for public inspection.

419. Cancellation of certificates
(1) The Government may make rules about the cancellation and delivery up of wreck removal insurance certificates issued under section 418.
(2) A person who fails to deliver up a certificate in accordance with the rules is guilty of an offence and is liable on summary conviction to a fine not exceeding one hundred thousand penalty units.

420. Third parties’ rights against insurers
(1) This section applies where—
   (a) a ship has been involved in an accident as a result of which it or anything from it has become a wreck in the Bangladesh Convention area;

MARINECARE Consultants Bangladesh Ltd.
(b) at the time of the accident the ship had wreck removal insurance; and
(c) there is a wreck removal insurance certificate in relation to the insurance.
(2) A person who is entitled to recover costs from the ship’s registered owner under section 412 may recover them from the insurer.
(3) It is a defence for the insurer to prove that the accident was caused by the willful misconduct of the ship’s registered owner.
(4) The insurer may also rely on any defences available to the registered owner (including section 413).
(5) The insurer may limit liability in respect of claims made under this section to the same extent as the registered owner may limit liability.
(6) But an insurer may limit liability whether or not the accident is caused by an act or omission mentioned in Article 4 of LLMC.

421. Government ships
(1) This Chapter does not apply in relation to warships or ships for the time being used by a Government agency for non-commercial purposes only.
(2) Government may apply this chapter to warship or other ship owned or operated by it and used, for the time being, only on Government non-commercial service, with notification to the Secretary General of IMO under paragraph 3 of Article 4 of the Wreck Removal Convention.
(3) An exempt ship must have a certificate issued by the government of the State concerned and stating—
(a) that the ship is owned by that State, and
(b) that any liability under section 412 will be met up to the limits prescribed by paragraph 1 of Article 12 of the Wreck Removal Convention (compulsory insurance).
(4) Section 417 (2) to (5) applies to such a certificate.
(5) Where a ship is owned by a State and operated by a company which is registered in that State as operator of the ship, references in this Part to the registered owner are references to that company.
(6) In proceedings against a Wreck Removal Convention State for the recovery of costs under section 412 the State shall be treated as having submitted to the jurisdiction of the court in which the proceedings are brought.

422. Power to make regulations
(1) The Director General may, with the approval of the Government, make regulations for carrying out the purposes of this Chapter and in making such regulations shall have due regard to the provisions of the Wreck Removal Convention, as amended.
(2) Without affecting the generality of subsection (1), the Director General may, with the approval of the Government, make regulations for or with respect to all or any of the following matters: In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:-
(a) prescribe the fees to be paid for the purposes of this Chapter;
(b) provide for the cancellation and delivery up to the issuing agency a certificate issued under this section;

(c) prescribe the offences under this Chapter;

(d) provide that any contravention of any provision of the regulations shall be an offence punishable with a fine not exceeding five hundred thousand penalty units or with imprisonment for a term not exceeding 12 months or with both;

(e) provide for any other matter which is required by any provision of Wreck Removal Convention to be provided for by regulations.

CHAPTER 62
SALVAGE

423. Salvage Convention 1989 to have force of law.

(1) The International Convention on Salvage, 1989 shall have the force of law in Bangladesh.

(2) If the Government has agreed to any revision of the Salvage Convention, it may make such modifications as it considers appropriate in consequence of the revision.

(3) Nothing in sub-section (1) or (2) above shall affect any rights or liabilities arising out of any salvage operations started or other acts done before coming into force of this Act.

(4) Nothing in any modification made by virtue of sub-section (3) above shall affect any rights or liabilities arising out of any salvage operations started or other acts done before the day on which the modification comes into force.

424. Salvage of ships and cargoes

(1) Salvage of a ship or its cargo would be considered an act of salvage and will be paid for in accordance with international practice and procedures.

(2) The Director General shall take measures for salvage payment for any services provided by any person, agencies or Government agencies in rescuing, recovering or salvaging a ship or its cargo which shall include towing a vessel to safety.

425. Salvage Contract

The master of a Bangladesh ship shall have the authority to conclude contracts for salvage operations on behalf of the owners when in his opinion that is the only remedy available to save or salvage the ship and its cargo.

426. Duty to render assistance

(1) The master of a Bangladesh ship shall be bound to participate in a salvage operation when in his opinion the ship in question requires such urgent assistance and that his ship is in the best position to render such services.

(2) The master of a Bangladesh ship who fails to render assistance, to a ship in danger at sea, when he is able to do so commits an offence and shall be liable on summary
conviction, to imprisonment not exceeding six months or a fine not exceeding two hundred thousand penalty units or both.

427. Annulment and modification of Contract

Any contract relating to salvage or any terms thereof may be annulled or modified by a competent Court, where it appears to the court, that the contract had been entered into under undue influence or the influence of danger and its terms are inequitable; or the payment under the contract is in an excessive degree too large or too small for the services actually rendered.

428. Duties and responsibilities of the salvor and of the owner and master

(1) Where any ship or aircraft is wrecked, stranded or in distress in waters under Bangladesh jurisdiction or on the shores of Bangladesh and services are rendered, by any person assisting the ship or aircraft or saving the cargo or apparel of the ship or any part thereof; or in saving any wreck, the owner of the ship, aircraft, cargo, apparel or wreck shall pay to the salvor, a reasonable amount of salvage, to be determined in the manner set out in this Act.

(2) The salvor shall owe a duty to the owner of the ship or other property in danger to:

(a) carry out the salvage operation with due care;
(b) exercise due care to prevent or minimize damage to the environment in performing the salvage operation;
(c) seek assistance from other salvors whenever the circumstances reasonably so require; and
(d) accept the intervention of other salvors when reasonably requested to do so by the master of the ship or of other property in danger provided that the amount of his reward shall not be prejudiced where he proves that such a request for intervention was unreasonable.

(3) The owner and master of the ship or the owner of the property in danger shall owe a duty to the salvor to co-operate fully with him during the course of the salvage operations; to exercise due care to prevent or minimize damage to the environment; and when the ship or other property has been brought to a place of safety to accept redelivery when reasonably requested to do so by the salvor.

429. Criteria for fixing rewards

(1) Salvage awards shall be fixed with a view to encouraging salvage operations, taking into account the following criteria with no regard to the order in which they are listed:

(a) salved value of the ship and/ or property;
(b) skill and efforts of the salvors in preventing or minimizing damage to the environment;
(c) measure of success achieved by the salvor;
(d) nature and degree of the risk/ danger;
(e) skill and efforts of the salvors in salving the ship and other property;
(f) time used and expenses and losses incurred by the salvors;
(g) risk of liability and other risks run by the salvors or their equipment;
(h) promptness of the services rendered;
(i) availability and use of ships or other equipment intended for salvage operations; and

MARINECARE Consultants Bangladesh Ltd.
(j) state of readiness and efficiency of the salvor’s equipment and the value thereof.

(2) The salvage award excluding any interest and recoverable legal costs that may be payable thereon, shall not exceed the salved value of the ship and other property salved.

430. Special compensation

(1) Where the salvor despite his best efforts fails to earn a salvage award, may still earn special compensation payable by the owner for all expenses incurred by the salvor to prevent and minimize damage to the environment. A competent court, taking into consideration the efforts put in by the salvor to protect the environment, may increase the amount of special compensation, but in any case such increase shall not be more than one hundred percent of the expenses incurred by the salvor.

(2) No payment shall be due under this Act unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger arose.

431. Apportionment of award

The apportionment of an award between the owner, master and crew serving on the salvaging ship (other than a dedicated salvage ship) shall be determined by the law of the State in which the ship is registered – and in case of it being a Bangladesh ship, the apportionment of award amongst the master and crew will be in the same proportion as their basic salary.

432. Claims and actions

(1) The salved ship and property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after completion of the salvage.

(2) Nothing stated in this Act shall affect the salvor’s maritime lien provided however that the salvor may not enforce his maritime lien when reasonable security for his claim, including interest and costs, has been duly tendered or provided.

(3) A person liable for payment under this law shall, upon the request of the salvor, give security to the satisfaction of the salvor for the claim, including interest and costs of the salvor.

(4) Payment of a reward fixed in accordance with sub-section (8) shall be made by all owners of the ship and other property interests in proportion to their respective salved values.

(5) For expediency the ship-owner shall pay the reward on behalf of all interests subject to his retaining the right to be reimbursed by these other interests.

(6) The ship-owner who makes such payment, may require the other interests to provide security not exceeding the values of their respective salved interests until he has been fully reimbursed.

433. Duty to provide security

(1) The owner of the salved ship shall take all reasonable steps to ensure that the owners of the cargo provide security to the satisfaction of the owner of the ship or

MARINECARE Consultants Bangladesh Ltd.
of the salvor for the claims against them, including interest and cost, before the cargo is released.

(2) The court or person adjudicating the claim of the salvor may, upon the application of the salvor, make an interim order for payment to the salvor of such amount as the court or person may deem fair and just, and on such terms as considered appropriate, and in the event of an interim payment, the security provided shall be reduced accordingly.

434. Salvage of Humanitarian Cargoes

Non-commercial cargoes owned by a State or humanitarian cargoes donated by a State shall not be subject to seizure, arrest or detention where the State agrees to pay for salvage services rendered in respect of such cargoes.
PART XI

CHAPTER 63

INTERNATIONAL CONVENTIONS, PROTOCOLS AND AGREEMENTS

435. Conventions, protocols and agreements to be enforced by Bangladesh

(1) Schedule 2 lists the international Conventions, protocols and agreements that Bangladesh has signed, before the commencement of this Act, that relate to matters that are within the scope of this Act and that the Government has determined should be brought into force, in whole or in part, through the provisions of this Act or by rules or regulations made under this Act.

(2) A Convention or protocol includes any mandatory code that is attached to it.

(3) The Government may, by notification in the Official Gazette, add international Conventions, protocols, agreements to which it becomes a party to Schedule 2.

(4) The Government may, by notification in the Official Gazette, delete an international Convention, protocol and agreement from Schedule 2 or amend Schedule 2.

(5) Schedule 3 lists the international Conventions, protocols and agreements that Bangladesh has not signed, till the commencement of this Act, that relate to matters that are within the scope of this Act and that the Government has determined should be brought into force, in whole or in part, through the provisions of this Act or by rules or regulations made under this Act, and these provisions of the Act will come into force as and when decided by the Government through notification in the official Gazette.

(6) The Government may, after becoming a party to a Convention, protocol or agreement listed in Schedule 3 by notification in the Official Gazette, delete same from Schedule 3 and add to Schedule 2 or amend Schedule 2 and 3.

436. Incorporation by reference

(1) A regulation made under this Act may incorporate by reference material produced by:

(a) the International Maritime Organization;
(b) the International Labour Organization;
(c) any other international organization;
(d) a government body or agency, including a foreign government body or agency;
(e) an organization established for the purpose of writing standards, including an organization accredited by the (reference to Bangladesh Bureau of Standards);

or

(f) an industrial or a trade organization.

(2) A regulation made under this Act may incorporate by reference material that reproduces or translates from material produced by any person or body.
(a) with any adaptations of form and reference that will facilitate its incorporation into the relevant rules or regulations; or

(b) in a form that sets out only the parts of the material that apply for the purposes of the relevant rules or regulations.

(3) A regulation incorporating material by reference may provide for such material to enjoy force of law in Bangladesh provided the material is reasonably accessible to the person or vessel to which it applies, and the requirement of reasonable access shall be satisfied by the publication of the material on the website of the Department.

(4) Material may be incorporated by reference as amended from time to time by the organizations, bodies, agencies or persons referred to in sub-sections (1) and (2).

(5) Subject to sub-section (3), material which has been incorporated by reference in a rules or regulations and which are amended subsequently, shall enjoy the same validity as the original material incorporated by reference.
437. Appointment of Enforcement Officers

(1) The Department of Shipping, the Mercantile Marine Office, the Shipping Office and the Directorate of Seafarers’ Welfare established under section 6 of this Act shall have the responsibilities to enforce various requirements of this Act and the rules, regulations and orders issued thereunder and the requirements of the relevant Conventions.

(2) The persons appointed as Principal Officers, Surveyors and Directors in the offices mentioned in sub-section (1) shall be called “enforcement officers” for the purpose of enforcing the requirements of this Act.

(3) Notwithstanding anything contained in sub-sections (1) and (2) the Director General may by order, appoint any Surveyor, Examiner, Inspector, or Director from the Department of Shipping or other offices mentioned in subsection (1), who has suitable qualifications or experience as he considers appropriate with such conditions as may be mentioned in the order, as enforcement officers.

(4) Every enforcement officer shall be deemed to be a Surveyor appointed generally under sub-section (2) above to report to the Director General in every kind of case falling within his responsibility.

(5) Every enforcement officer shall be assigned specific responsibilities and issued with a valid identity card in an approved form signed by the Director General.

438. Powers of Enforcement Officers

(1) For the purposes of ensuring that this Act and the regulations made thereunder are complied with or that the terms of any approval, license, consent, direction or exemption given by virtue of such regulations are duly complied with, an enforcement officer may at all reasonable times go on board a ship in Bangladesh waters and inspect the ship and its equipment or any part thereof, any articles on board and any document carried in the ship in pursuance of this Act or the regulations made thereunder and the applicable Conventions.

(2) Enforcement officers shall not, except to the extent necessary for the purposes of this sub-section, hinder the loading or unloading of the ship or detain or delay it from proceeding on any voyage.

(3) The owner, master and officers of the ship shall afford to an enforcement officer all reasonable facilities for a survey of the ship and shall furnish all such information respecting the ship and its machinery and equipment as the enforcement officer may reasonably require.

(4) Every Bangladesh Ship before being issued with any certificate under this Act shall be surveyed by an assigned enforcement officer to ensure compliance with the requirements of this Act, rules, regulations and Conventions with respect to that certificate and in case of any non-compliance the issuance of the certificate shall be withheld till compliance and in case of a supplementary survey, may detain the

MARINECARE Consultants Bangladesh Ltd.
ship for any non-compliance.

(5) Where any foreign flag vessel is in Bangladesh waters, an assigned enforcement officer may inspect a vessel to ensure compliance with the applicable requirements of this Act, rules, regulations and Conventions and in case of any non-compliance the vessel may be detained till there is compliance.

(6) A person exercising powers under this section shall not unnecessarily detain or delay a ship but may, if he considers it necessary in consequence of an accident or for any other reason, survey its hull and machinery.

(7) Where any such person has reasonable grounds for believing that there are on any premises provisions or water intended for supply to a ship which, if provided on the ship, would not be in accordance with safety regulations containing requirements as to provisions and water to be provided on ships, he may enter the premises and inspect the provisions or water for the purpose of ascertaining whether they would be in accordance with the regulations.

(8) If any person obstructs a person in the exercise of his powers under this section, he shall be liable, on summary conviction, to a fine not exceeding one hundred thousand penalty units.

439. Enforcing detention of ship

(1) Where under this Act a ship is authorised or ordered to be detained, any commissioned officer of the Bangladesh Navy, or any Principal Officer, Pilot or Commissioner of Customs may detain the ship.

(2) If any ship, after detention, or after service on the master of any notice of, or order for, such detention, proceeds to sea before it is released by a competent authority, the master of the ship shall be punishable with a fine not exceeding one hundred thousand penalty units.

(3) If a ship so proceeding takes to sea, when any person authorised under this Act to detain or survey the ship is on board in the execution of his duty, the owner, master or agent of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea, and shall also be punishable with imprisonment for a term not exceeding six months or with fine not exceeding twenty thousand penalty units, or both.

(4) When any owner, master or agent is convicted of an offence under sub-section (3), the court convicting him may inquire into and determine the amount payable on account of expenses by such owner, master or agent under that sub-section, and may direct that the same be recovered from him in the manner provided for the recovery of fines.

440. Regulations relating to functions and power of enforcement officers

(1) The Director General may, with the approval of the Government make regulations in relation to functions and powers of enforcement officers.

(2) Without limiting sub-section (1), the regulations may make provision in relation to the following:
   (a) Survey and inspection of Ships;
   (b) the power of an enforcement officer to detain a vessel;

MARINECARE Consultants Bangladesh Ltd.
(c) the power of an enforcement officer to give direction, improvement and prohibition notices;
(d) Search and seizure powers of an enforcement officer;
(e) Monitoring and enforcement powers of an enforcement officer;
(f) Procedures to be followed in connection with detailed inspection and detention;
(g) Compensation for undue detention;
(h) Uniforms of the enforcement officers;
(i) Any other matter in carrying out the purpose of this Chapter.
PART XIII

CHAPTER 65

COURTS OF SURVEY AND SCIENTIFIC REFEREES

441. Court of Survey

(1) if a Surveyor authorised to survey or inspect a ship-

(a) makes a statement in his report of survey or inspection with which the owner or his agent or the master of the ship is dissatisfied, or

(b) gives notice under this Act of any defect in any ship, or

(c) declines to give any certificate under this Act, the owner, master or agent, as the case may be, may, subject to the provisions of sub section (2) of section 447, appeal to a Court of Survey.

(2) Whenever a Surveyor surveys or inspects any ship, he shall, if the owner, master or agent of the ship so requires, be accompanied on the survey or inspection by some person nominated by the owner, master or agent, as the case may be, and if the person so nominated agrees with the Surveyor as to the statement made or the notice given by the Surveyor or the refusal by the Surveyor to give a certificate, there shall be no appeal to a Court of Survey from that statement, notice or refusal.

442. Constitution of Court of Survey

(1) A Court of Survey for a port shall consist of a Judge, sitting with two assessors.

In this Chapter, “Judge” means a Joint District Judge, a Judge of Court of Small Causes, or other fit person appointed in this behalf by the Government, either generally or for any specified case.

(2) The assessors shall be persons of nautical, engineering or other special skill or experience.

(3) Subject to the provisions of Part III as regards ships other than Bangladesh ships, one of the assessors shall be appointed by the Government either generally or for any specified case and the other shall be summoned by the Judge in the manner prescribed out of a list of persons prepared by the Government for the purpose from time to time, or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the Judge.

443. Powers and procedure of Court of Survey

(1) The Judge shall, on receiving notice of an appeal or a reference from the Government, immediately summon the assessors to meet forthwith in the prescribed manner.

(2) The Court of Survey shall hear every case in open Court.

(3) The Judge and each assessor shall, for the purposes of this Act have the same powers of inspection, and of enforcing the attendance of witness and the production of evidence, as are by this Act conferred on a Detaining Officer.
(4) The Judge may appoint any competent person to survey the ship and report thereon to the Court.

(5) The Judge shall have the same power as the Government has to order the ship to be released or finally detained; but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

(6) The owner and master of the ship and any person appointed by the owner or master and also any person appointed by the Government may attend at any inspection or survey made in pursuance of this section.

(7) The Judge shall report the proceedings of the Court in each case to the Government in the manner prescribed, and each assessor shall either sign such report or report to the Government the reasons for his dissent.

444. Power of Government to make rules with respect to Court of Survey

(1) The Government may make rules to carry out the purposes of this Chapter.

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

(a) the procedure before a Court of Survey;

(b) the requiring, on an appeal, of security for costs and damages;

(c) the amount and application of fees; and

(d) the ascertainment, in case of dispute, of the proper amount of costs.

445. Reference in difficult cases to scientific persons

(1) If the Government is of opinion that an appeal to a Court of Survey involves a question of construction or design or of scientific difficulty or important principle, it may refer the matter to such one or more out of a list of scientific referees to be, from time to time, prepared by the Government as may appear to possess the special qualifications necessary for the particular case and may be selected by agreement between a person duly appointed by the Government in this behalf and the appellant, or in default of any such agreement by the Government; and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

(2) The Government, if the appellant in any such appeal so requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

(3) The referee or referees shall have the same powers as a Judge of the Court of Survey.
PART XIV
LEGAL PROCEEDINGS AND MISCELLANEOUS

CHAPTER 66
LEGAL PROCEEDINGS

446. Jurisdiction of Magistrates

(1) No Court inferior to that of a Joint District Judge shall try any offence under this Act or any rules or regulations made thereunder.

(2) No Court shall take cognizance of an offence under this Act or any rules or regulations made thereunder except upon a report made by an officer authorised by the Government in this behalf.

447. Jurisdiction in relation to offences

(1) For the purpose of conferring jurisdiction, any offence under this Act shall be deemed to have been committed in any place in Bangladesh where the offender may for the time being be.

(2) For the same purpose, any matter of complaint under this Act shall be deemed to have arisen in any place in Bangladesh where the person complained against may for the time being be.

(3) The jurisdiction under sub-sections (1) and (2) above shall be in addition to and not in derogation of any jurisdiction or power of a court under any other enactment.

448. Jurisdiction over ships lying off the coasts

Where any area within which any Court has jurisdiction, either under this Act or under any other law for any purpose whatever, is situated on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river, or other navigable water, every such Court or Magistrate shall have jurisdiction over any vessel being on, or lying or passing off, that coast, or being in or near that bay, channel, lake, river, or navigable water, and over all persons on board that vessel or for the time being belonging thereto, in the same manner as if the vessel or persons were within the limits of the original jurisdiction of the Court of Magistrate.

449. Jurisdiction in case of offences on board ships

Where any person, being a citizen of Bangladesh, is charged with having committed any offence on board any Bangladesh ship on the high seas, or in any foreign port or harbour, or on board any ship other than a Bangladesh ship to which he does not belong, or, not being a citizen of Bangladesh, is charged with having committed any offence on board any Bangladesh ship on the high seas, and that person is found within the jurisdiction of any Court which would have had jurisdiction to take cognizance of the offence if it had been committed on board a Bangladesh ship within the limits of its ordinary jurisdiction, that Court shall have jurisdiction to try the offence as if it had been so committed.

450. Place of trial of the offender

Any person committing any offence under this Act or any rule or regulation made by the Government in this behalf.
thereunder may be tried for the offence in any place in which he may be found, or which
the Government may by notification in the official Gazette, direct in this behalf, or in any
other place in which he might be tried under any other law for the time being in force.

451. Enforcement of penalties in certain cases

The penalties to which masters and owners of Special Trade Passenger Ship are liable
under Chapter 33 shall be enforced only on information laid at the instance of the
Certifying Officer, or, at any port or place where there is no such officer, at the instance
of such other officer as the Government may specify in this behalf.

452. Special provision regarding punishment

Notwithstanding anything contained in section 32 of the Code of Criminal Procedure,
1898 (Act V of 1898), a Magistrate duly authorised may pass any sentence authorised
by or under this Act any person convicted of an offence under this Act or rule or
regulation made thereunder.

453. Offences by companies, etc.

(1) Subject to subsection (2), if the person committing an offence under this Act is a
company, every person who, at the time the offence was committed, was in charge
of, and was responsible to, the company for the conduct of the business of the
company, as well as the company, shall be deemed to be guilty of the offence and
shall be liable to be proceeded against and punished accordingly.

(2) Nothing in sub-section(1) shall render any person liable to any punishment under
this Act, if he proves that the offence was committed without his knowledge or that
he exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (1), where an offence under this
Act has been committed by a company, and it is proved that the offence was
committed with the consent or connivance of, or is attributable to any neglect on the
part of, any director, partner, manager, secretary or other officer of the company,
such director, partner, manager, secretary or other officer shall also be deemed to
be guilty of that offence and shall be liable to be proceeded against and punished
accordingly.

454. Depositions to be received in evidence when witness cannot be produced

(1) Whenever, in the course of any legal proceeding under this Act instituted at any
place in Bangladesh before any Court of Magistrate or before any person authorised
by law or by consent of parties to receive evidence, the testimony of any witness is
required in relation to the subject matter, and the defendant or the person accused,
as the case may be, after being allowed a reasonable opportunity for so doing, does
not produce the witness before the Court, Magistrate or person so authorised, any
deposition previously made by the witness in relation to the same subject matter
before any Court, Judge or Magistrate in Bangladesh, or, if elsewhere, before any
Bangladesh Consular Officer, shall be admissible in evidence-

(a) if the deposition is authenticated by the signature of the Presiding Officer of the
Court or the Judge or Magistrate or of the Consular Officer, before whom it is
made;

(b) if the defendant or the person accused had an opportunity by himself or his

MARINECARE Consultants Bangladesh Ltd.
agent of cross examination of the witness; and

(c) where the proceeding is criminal, if it is proved that the deposition was made in the presence of the person accused.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed such deposition; and a certificate by such person that the defendant or the person accused had an opportunity of cross examining the witness, and that the deposition, if made in a criminal proceeding, was made in the presence of the person accused, shall, unless the contrary proved, be sufficient evidence that he had that opportunity and that it was so made.

455. Procedure in certain allegations in desertion cases

(1) Whenever, in any proceeding against any seafarer belonging to any ship for the offence of desertion, or absence without leave, it is alleged by one fourth, or if their number exceeds twenty by not less than five, of the seafarers belonging to the ship, that the ship is by reason of unseaworthiness, overloading, improper loading, defective equipment, or for any other reason, not in a fit condition to having cognizance of the case shall take such means as may be in its power to proceed to sea, or that the accommodation in the ship is insufficient, the Court having cognizance of the case shall take such means as may be in its power to satisfy itself concerning the truth or untruth of the allegation, and shall for that purpose receive the evidence of the persons making the same, and may summon any other witness whose evidence it may think is desirable to hear, and shall, if satisfied that the allegation is groundless, adjudicate in the case, but if not so satisfied shall, before adjudication, cause the ship to be surveyed.

(2) A seafarer charged with desertion, or with absence without leave, shall not have any right to apply for a survey under this section unless he has before deserting or absenting himself without leave complained to the master of the circumstances so alleged in justification.

(3) For the purposes of this section, the Court shall require any Surveyor or, if such Surveyor cannot be obtained without unreasonable expense or delay, then any other competent person appointed by the Court and having no interest in the ship, its freight, or cargo, to survey the ship, and to answer any question concerning it which the Court thinks fit to put.

(4) Surveyor or other person, appointed under sub-section (3) of this section, shall survey the ship, and make his written report to the Court, including an answer to every question put to him by the Court, and the Court shall cause the report to be communicated to the parties and unless the opinions expressed in the report are proved to the satisfaction of the Court to be erroneous, shall determine the questions before it in accordance with those opinions.

(5) Any person making a survey under this section shall for the purposes thereof have all such powers as are specified in sub-section (3) of section 324.

(6) The costs, if any, of the survey shall be determined in accordance with the scale of fees fixed by the Government, by notification in the official Gazette, in this behalf.

(7) If it is proved that the ship is in a fit condition to proceed to sea, or that the accommodation is sufficient, as the case may be, the costs of the survey shall be paid by the person upon whose demand or in consequence of whose allegation the survey was made, and may be deducted by the master or owner out of the wages.
due or to become due to that person, and shall be paid over to the Government.

(8) If it is proved that the ship is not in a fit condition to proceed to sea, or that the accommodation is insufficient, as the case may be, the master or owner of the ship shall pay the cost of the survey to the Government, and shall also be liable to pay to the seafarer or apprentice who has been detained in consequence of the said proceeding before the Court under this section such compensation for his detention as the Court awards.

456. Power to detain foreign ship that has occasioned damage or has liability

(1) Whenever any damage has in any part of the world been caused to property belonging to the Government, or to any citizen of Bangladesh or a company, or is liable for any violation under this Act by a ship other than a Bangladesh ship, and at any time thereafter that ship is found in any port or place in Bangladesh including the territorial waters thereof, the Admiralty Court may, upon the application of any person who alleges that the damage or liability was caused by the misconduct or want of skill or violation of the master or any member of the crew of the ship, issue an order directed to any Principal Officer, Commissioner of Customs, or other person named in the order, requiring him to detain the ship until such time as the owner, master or agent thereof has satisfied any claim in respect of the damage or liability, or has given security to the satisfaction of the Admiralty Court to pay all costs of damages or liability that may be awarded in any legal proceedings that may be instituted in respect of the damage or liability, and the officer or person to whom the order is directed shall detain the ship accordingly.

(2) Whenever it appears that, before an application can be made under this section, the ship in respect of which the application is to be made will have departed from Bangladesh or the territorial waters thereof, any Principal Officer or Commissioner of Customs may detain the ship for such time as to allow the application to be made and the result thereof to be communicated to the officer detaining the ship, and that officer shall not be liable for any costs or damages in respect of the detention unless the same is proved to have been made without reasonable grounds.

(3) In any legal proceedings in relation to any such damage or liability as aforesaid, the person giving security shall be made a defendant and shall, for the purpose of such proceedings, be deemed to be the owner of the ship that has occasioned the damage.

457. Levy of wages, etc. by distress of movable property

When an order under this Act for the payment of any wages or other money is made by a Shipping Master or a Magistrate or other officer or authority, and the money is not paid at the time or in the manner directed, the sum mentioned in the order, with such further sum as may be thereby awarded for costs, may, under a warrant to be issued for that purpose by a Magistrate, be levied by distress and sale of the movable property of the person directed to pay the same.

458. Levy of wages, fines, etc. by distress of ship

Where any Court of Magistrate or other officer or authority has power under this Act to make an order directing payment to be made of any seafarer's wages, fines or other sums of money, then if the person so directed to pay the same is the master, owner or agent of a ship and the same is not paid at the time or in the manner directed by the order, the Court or Magistrate or officer or authority, as the case may be, may, in
addition to any other power it or he may have for the purpose of compelling payment, by warrant, direct the amount remaining unpaid to be levied by distress and sale of the ship and her equipment.

459. Notice to be given to consular representative of proceedings in respect of foreign ships

If any ship other than a Bangladesh ship is detained under this Act or if any proceedings are taken under this Act against the master, owner or agent of any such ship, notice shall forthwith be served on the Consular Officer of the country in which the ship is registered, at or nearest to the port where the ship is for the time being, and such notice shall specify the grounds on which the ship has been detained or the proceedings have been taken.

460. Service of documents

Where for the purposes of this Act any document is to be served on any person, that document may be served-

(a) in any case, by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode;

(b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship, with the persons being or appearing to be in command or charge of the ship; and

(c) if the document is to be served on the master of a ship where there is no master and the ship is in Bangladesh, on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in Bangladesh, or where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship;

(d) if the email address of the person is known, by sending a scanned copy of the document to his email address.

461. Proof of attestation not required

Where any document is required by this Act to be executed in the presence of or to be attested by any witness or witnesses, that document may be proved by the evidence of any person who is able to bear witness to the requisite facts without calling the attesting witness or the attesting witnesses or any of them.

462. Application of fines

A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which fine is imposed or in or towards payment of the expenses of the prosecution.

CHAPTER 67
MISCELLANEOUS
463. Certain persons to be deemed public servants

The following persons shall be deemed to be public servants within the meaning of section 21 of the Penal Code (Act XLV of 1860), namely:

(a) every Director General of Shipping, Additional Director General of Shipping, Director of Shipping, Principal Officer, Surveyor, Shipping Master, Registrar of Ships and Seafarers and Shipping Authority appointed under this Act;
(b) every person appointed for the purpose of examining the qualifications of persons desirous of obtaining Certificates of Competency under this Act;
(c) every Director of Directorate of Seafarers and Emigration Welfare;
(d) every judge, assessor, scientific referee or other person acting under part XIII;
(e) every person authorised under this Act to make inquiry or investigation under Part VII;
(f) every person certified as an independent surveyor under this Act;
(g) every person in command of a Bangladesh foreign-going vessel;
(h) every Receiver of Wreck, and all persons whom he calls to his aid;
(i) every other officer or person appointed under this Act to perform any functions thereunder.

464. Inquiry into cause of death on board of Bangladesh ship

(1) If any person dies on board a Bangladesh foreign-going ship, the Shipping Master at the port where the crew of the ship is discharged, or the Shipping Master at any earlier port of call in Bangladesh, shall, on the arrival of the ship at that port, inquire into the cause of death, and shall make in the official log book an endorsement to the effect, either the statement of the cause of death in the log-book is in his opinion true, or the contrary, according to the result of the inquiry.

(2) If, in the course of any such inquiry, it appears to the Shipping Master that a death has been caused on board the ship by violence or other unlawful act, he shall either report the matter to the Government or, if the emergency of the case so requires, take immediate steps for bringing the offender to trial.

(3) For the purposes of an inquiry under this section, the Shipping Master shall have all such powers as are specified in sub section (3) of section 324.

465. Qualifications and certification of Independent Ship Surveyor

(1) No person shall, in any port or in territorial waters of Bangladesh practice the profession of an Independent Ship Surveyor unless he holds a valid certificate granted under this section.

(2) Notwithstanding anything contained in sub-section (1) nothing shall abstain any person employed by a classification society which, the Government may, by notification in the official Gazette, specify in this behalf, from discharging any of the duties of such employment.

(3) The Director General may appoint competent persons for the purpose of assessing the qualifications of persons desirous of practicing the profession of Independent Ship Surveyor at any port or in territorial waters of Bangladesh and may, with the approval of the Government make regulations-

(a) determining the qualification and experience or training required;
(b) for the conduct of assessment of the required qualifications and experience or training;
(c) for defining the medical fitness and age limit;
(d) for the duration, issue and renewal of certificate to qualified persons;
(e) determining the various surveys that may be conducted with such certificates;
(f) for the fees to be paid for assessment, issue and renewal of certificates;
(g) for holding inquiries into charges of incompetency and misconduct on the part of holders of such certificates; and
(h) for the suspension and cancellation of such certificates.

(4) Any person practicing the profession of Independent Ship Surveyor in contravention of the provisions of this section shall, for each offence, be punishable with a fine not exceeding one hundred thousand penalty units, and shall not be entitled to maintain any suit for any fee or reward for anything done by him.

466. Penalty for hindering or obstructing execution of duties, etc.

If any person hinders or obstructs any Judge, assessor, officer or other person who is empowered by this Act to make any inquiry or investigation or to board, survey, inspect or detain a ship, or otherwise impedes him in the execution of his duties or the exercise of his powers under this Act, that person shall, if no other punishment is provided in this Act for the offence, for each offence, be punishable with a fine not exceeding fifty thousand penalty units.

467. General power to make regulations

Without prejudice to any power to make rules or regulations contained elsewhere in this Act, the Government may, by notification in the official Gazette, make such regulations as it may deem expedient generally to carry out the purposes of this Act and to give effect to the provisions of maritime related international Conventions adopted by the International Maritime Organization or International Labour Organization or any other organization and accepted by the Government and all regulations duly made to give effect to such Conventions shall be deemed to form part of this Act and shall have effect accordingly.

468. Communication of Information

The Government shall communicate to IMO the text of this Act and the rules, regulations and Orders made under this Act to implement the requirements of various maritime Conventions signed by Bangladesh and such communication shall be made as soon as possible after promulgation.

469. International Audit

Governments shall facilitate necessary measures to comply with international audits, in accordance with the Framework and Procedure of IMO member state audit scheme, to achieve effective implementation of the IMO mandatory instruments signed by Bangladesh and provide necessary resources for continual compliance with audit findings.

470. Penalty and procedure for breach of rules and regulations

In making a rule or regulation under this Act, the Government may direct that a contravention of the provisions thereof shall, unless a penalty for such contravention
has been expressly provided for in this Act, be punishable with a fine not exceeding one hundred thousand penalty units and, if the contravention is a continuing one, with a further fine not exceeding five thousand penalty units for everyday after the first during which the contravention continues.

471. Power to appoint officers to try certain offences, etc.

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), or in any other law for the time being in force, the Government may, by notification in the official Gazette, appoint one or more officers to try, within such local areas as may be specified therein, an offence of any breach of, or failure to comply with, any rule for the safety of ship or of crew, passengers, goods, mails and other things carried thereon or for preventing ships from endangering other ships, persons or property; and any such officer trying an offence shall, for the purpose of the trial, be deemed to be a Magistrate appointed under that Code and any proceedings before and any sentence passed by him shall have effect accordingly.

(2) An officer appointed under sub section (1) may try an offence triable by him in a summary way in accordance with the provisions of sections 262 to 265 of the Code of Criminal Procedure, 1898 (Act V of 1898).

(3) Where an officer has been appointed under sub section (1) to try an offence specified therein, no Court other than such officer shall try that offence.

472. Power to appoint Committees on rules and scales

(1) For the purpose of advising it when considering the making or alteration of any rules, regulations or scales under this Act, the Government may appoint such Committee or Committees as it may deem fit consisting of such persons as it may appoint representing the interests principally affected, or having special knowledge of the subject matter.

(2) There shall be paid to the members of any such Committee such travelling and other allowances as the Government may fix.

473. Power to exempt ships, persons and entities from the provisions of the Act

The Government may, upon such conditions, if any, as it may think fit to impose but not inconsistent with this Act or with any provisions of any applicable maritime Convention, exempt any ship, person or entity from any specified requirement contained in, or prescribed in pursuance of, this Act or dispense with the observance of any such requirement in the case of any ship, person or entity if it is satisfied that requirement has been substantially complied with or that compliance with the requirement is unnecessary in the circumstances of the case.

474. Publication of text translated in English:

After coming into force of this Act, the Government shall, by notification in the Official Gazette, publish an authentic text of this Act in English, which shall be referred to as the Authentic English Text of this Act.

475. Indemnity

No suit or other legal proceedings shall lie against any person for anything said or done
in good faith or intended to be done under this Act.

476. Authority to Amend Annexure

(1) The title of various instrument in the Schedule is attached for the information of all.

(2) The Government may amend the Schedule by notification in the official gazette.

CHAPTER 68
REPEALS SAVINGS AND TRANSITION

477. Repeals

(1) Subject to the provisions of sub section (2), the Bangladesh laws specified in the Schedule 1, in so far as they apply to, and operate as part of the laws of Bangladesh or any part thereof, shall stand repealed upon the coming into force of all the provisions of this Act.

(2) Where different provisions of this Act are brought into force on different dates, only so much of the aforesaid Bangladesh law as may correspond to the provisions so brought into force shall stand repealed upon the coming into force of such provisions.

478. Savings

Notwithstanding the repeal of any law by section 477, and without prejudice to section 24 of the General Clauses Act, 1897 (Act X of 1897),-

(a) any notification, rule, regulation, bye law, order or exemption issued, made or granted under any such law shall have effect as if it had been issued, made or granted under the corresponding provision of this Act;

(b) any officer appointed and anybody elected or constituted under any such law shall continue and shall be deemed to have been appointed, elected or constituted, as the case may be, under the corresponding provision of this Act;

(c) any document referring to any such law shall be, construed as referring, as far as may be, to this Act or to the corresponding provision of this Act;

(d) mortgages of ships recorded in any Register Book maintained at any port in Bangladesh under any such law shall be deemed to have been recorded in the Register Book maintained under the corresponding provision of this Act; and

(e) any licence, certificate or document issued, granted or made under any such law and in force on the coming into force of this Act, or of any specified provision thereof, shall continue in force and be deemed to have been issued, granted or made under the corresponding provision of this Act.

479. Transition

The Director General may, with the approval of the Government, make regulations with provisions seems necessary or desirable for a smooth transition from arrangements with respect to shipping existing before the commencement of this Act to arrangements under this Act.
BANGLADESH MERCHANT SHIPPING ACT 2020

Schedule 1
(Vide section 477)

The Bangladesh Law:-
The Bangladesh Merchant Shipping Ordinance, 1983 (XXVI of 1983)

Schedule 2
(Vide section 435(1))

List of UN, IMO and ILO Conventions to which Bangladesh is a party:-
2. International Convention for the Safety of Life at Sea (SOLAS), 1974
7. The Convention on the International Regulations for Prevention Collisions at Sea, 1972
10. The Special Trade Passenger Ships Agreement, 1971
11. The Protocol on Space Requirements for Special Trade Passenger Ships, 1973
13. Operating Agreement on the International Maritime Satellite Organization (INMARSAT OA), 1976
15. The International Convention for the Preventing of Pollution from the Ships, 1973, as modified by the Protocol of 1978 relating thereto ((MARPOL 73/78)-Annex I-II
17. The International Convention for the Preventing of Pollution from the Ships, 1973, as modified by the Protocol of 1978 relating thereto ((MARPOL 73/78)-Annex IV
18. The International Convention for the Preventing of Pollution from the Ships, 1973, as modified by the Protocol of 1978 relating thereto ((MARPOL 73/78)-Annex V
19. The International Convention for the Preventing of Pollution from the Ships, 1973, as modified by the Protocol of 1978 relating thereto ((MARPOL 73/78)-Annex VI
20. The International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969

MARINECARE Consultants Bangladesh Ltd.

23. International Convention on Oil Pollution Preparedness, Response and Co-operation 1990 (ORPC) 90


Schedule 3

(Vide section 435(5))

List of IMO Convention to which Bangladesh is not a party:

1. Protocol Relating to Intervention on the High Seas In Cases of Pollution by Substances Other than Oil, 1973, As Amended (Intervention Prot 1973)


3. Convention Relating to Civil Liability In the Field of Maritime Carriage of Nuclear Material, 1971 (Nuclear 1971)


18. The International Cospas-Sarsat Programme Agreement (Cos-Sar 1988)


27. Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (Hong Kong Convention)
