



AN BILLE LOINGIS CHEANNAÍOCHTA 2009
MERCHANT SHIPPING BILL 2009

Mar a leasaíodh sa Roghchoiste um Iompar
As amended in the Select Committee on Transport

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[No. 25a of 2009]

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ACTS REFERRED TO

Disability Act 2005	2005, No. 14
Employment Equality Act 1998	1998, No. 21
Maritime Safety Act 2005	2005, No. 11
Mercantile Marine Act 1955	1955, No. 29
Merchant Shipping (Certification of Seamen) Act 1979	1979, No. 37
Merchant Shipping (Investigation of Marine Casualties) Act 2000	2000, No. 14
Merchant Shipping (Miscellaneous Provisions) Act 1998	1998, No. 20
Merchant Shipping (Safety Convention) Act 1952	1952, No. 29
Merchant Shipping (Salvage and Wreck) Act 1993	1993, No. 34
Merchant Shipping Act 1894	1894, c. 60
Merchant Shipping Act 1906	1906, c. 48
Merchant Shipping Act 1966	1966, No. 20
Merchant Shipping Act 1981	1981, No. 33
Merchant Shipping Act 1992	1992, No. 2
Merchant Shipping Acts 1894 to 2000	
Merchant Shipping Acts 1894 to 2005	
Sea Pollution (Hazardous Substances) (Compensation) Act 2005	2005, No. 9



AN BILLE LOINGIS CHEANNAÍOCHTA 2009
MERCHANT SHIPPING BILL 2009

BILL

entitled

5 AN ACT TO MAKE PROVISION IN RELATION TO GIVING
FURTHER EFFECT TO THE INTERNATIONAL CON-
VENTION FOR THE SAFETY OF LIFE AT SEA SIGNED
IN LONDON ON 1 NOVEMBER 1974 AND ITS PROTO-
10 COLS, PROVIDING ACCESS TO PASSENGER VESSELS
FOR PERSONS WITH REDUCED MOBILITY, TO
ENABLE SUNKEN VESSELS TO BE RAISED, TO GIVE
THE FORCE OF LAW TO THE MARITIME LABOUR
CONVENTION 2006 ADOPTED AT GENEVA ON 23
15 FEBRUARY 2006, TO AMEND THE MERCHANT SHIP-
PING ACTS 1894 TO 2005 AND TO PROVIDE FOR
RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

20 **1.—(1)** This Act may be cited as the Merchant Shipping Act 2010. Short title and
collective citation.

(2) The Merchant Shipping Acts 1894 to 2000, section 28 of the Sea Pollution (Hazardous Substances) (Compensation) Act 2005, the Maritime Safety Act 2005 (other than Parts 5 and 6) and this Act may be cited together as the Merchant Shipping Acts 1894 to 2010.

25 **2.—In this Act—** Definitions.

“Act of 1952” means Merchant Shipping (Safety Convention) Act 1952;

“Act of 1966” means Merchant Shipping Act 1966;

“Act of 1992” means Merchant Shipping Act 1992;

30 “Act of 2000” means Merchant Shipping (Investigation of Marine Casualties) Act 2000;

“Act of 2005” means Maritime Safety Act 2005;

“bulk carrier rules” means rules made under *section 14*;

“cargo ship construction and survey rules” means rules made under section 3 of the Act of 1966;

“collision regulations” means regulations made under section 418 of the Principal Act; 5

“fire protection rules” means rules made under *section 33*;

“Irish ship” means a ship, other than a ship of war, known as such under section 9 of the Mercantile Marine Act 1955;

“master”, in relation to a ship, means the person having, for the time being, the command or charge of the ship; 10

“Merchant Shipping Acts” means Merchant Shipping Acts 1894 to 2010;

“Minister” means Minister for Transport;

“navigation and tracking rules” means rules made under section 18 of the Act of 1952; 15

“owner”, in relation to a ship, means the person registered in the State, as its owner or, if no person is so registered, the person who owns the ship, and includes any part owner, charterer, manager or operator of the ship;

“Principal Act” means Merchant Shipping Act 1894; 20

“radio rules” means rules made under section 15 of the Act of 1952;

“recognised organisation” means an organisation authorised by the Minister under the European Communities (Ship Inspection and Survey Organisations) Regulations 2003 (S.I. No. 301 of 2003) to carry out surveys or inspections; 25

“rules for life-saving appliances” means rules made under *section 31*;

“Safety Convention” has the meaning assigned to it by section 3(1) of the Act of 1952;

“surveyor of ships” means a person appointed under section 724 of the Principal Act to be a surveyor of ships for the purposes of that Act and includes a recognised organisation; 30

“survival craft” means a craft capable of sustaining the lives of persons in distress from the time of abandoning a ship.

Expenses.

3.—The expenses of the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of monies provided by the Oireachtas. 35

Offence by body corporate and summary proceedings.

4.—(1) Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent or connivance of, or to be attributable to, any neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence. 40

(2) The Minister may prosecute summarily an offence under this Act.

5 5.—Every order, regulation and rule made under this Act shall be laid before each House of the Oireachtas as soon as may be after they are made and, if a resolution annulling the order, regulation or rule is passed by either such House within the next 21 days on which that House has sat after the instrument is laid before it, the order, regulation or rule shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Laying of orders, regulations and rules before Houses of Oireachtas.

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PART 2

CONSTRUCTION, RADIO, NAVIGATION AND TRACKING AND BULK CARRIER RULES AND CATEGORISATION OF VESSELS

6.—(1) Section 3(1) (as amended by section 20(4)(a) of the Act of 1966) of the Act of 1952 is amended by—

Definitions — Act of 1952.

15 (a) substituting for the definition of “the Minister” the following:

“ ‘Irish ship’ means a ship, other than a ship of war, known as such under section 9 of the Mercantile Marine Act 1955;

20 ‘master’, in relation to a ship, means the person having, for the time being, the command or charge of the ship;

‘Merchant Shipping Acts’ means Merchant Shipping Acts 1894 to 2010;

‘Minister’ means Minister for Transport;

25 ‘navigation and tracking rules’ means rules made under section 18;

‘owner’, in relation to a ship, means the person registered in the State, as its owner or, if no person is so registered, the person who owns the ship, and includes any part owner, charterer, manager or operator of the ship;”

30 (b) deleting the definition of “rules for direction-finders”, and

(c) substituting for the definition of “the Safety Convention” the following:

35 “ ‘Safety Convention’ means the International Convention for the Safety of Life at Sea signed in London on behalf of the Government on 1 November 1974 together with the Protocol to the International Convention for the Safety of Life at Sea signed in London on behalf of the Government on 17 February 1978 and the Protocol to the International Convention for the Safety of Life at Sea signed in London on behalf of the Government on 11 November 1988 and any amendments made to it up to and including those adopted by the 85th session of the Maritime Safety Committee of the International Maritime Organisation held between 26 November and 5 December 2008 and which have entered into force in respect of the State pursuant to

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(2) Subsection (2) of section 1 and paragraph (a) of section 2 of the Act of 1966 are repealed.

Construction rules. 7.—(1) The Act of 1952 is amended by substituting for section 10 the following: 5

“10.—(1) The Minister may make rules (‘construction rules’) prescribing the—

(a) requirements that the hull, superstructure, subdivision and stability, electrical installations, equipment and machinery of and fuel used in passenger steamers registered in the State, or other passenger steamers while in the territorial seas or elsewhere in the State, must comply with, and 10

(b) requiring such steamers to be surveyed to such extent and in such manner and at such intervals, as may be prescribed. 15

(2) In making construction rules the Minister may categorise passenger steamers into different classes, where appropriate, having regard to one or more of the following: 20

(a) the size, shape, speed or configuration of such steamers;

(b) the service for which such steamers are to be employed;

(c) the nature and duration of voyages to be undertaken; 25

(d) the number of passengers or other persons, or both, that such steamers are designed to carry on board;

(e) such other matter or matters that the Minister considers appropriate to take into account in the circumstances; 30

(f) the type of cargo carried, including dangerous goods,

(g) the age and date of construction of steamers.

(3) Different construction rules may be made in respect of different classes of passenger steamers and in relation to different classes of passenger steamers for different circumstances and for different areas of operation. 35

(4) Construction rules shall include such requirements as appear to the Minister to be necessary to implement the provisions of the Safety Convention prescribing the requirements that the hull, superstructure, subdivision and stability, electrical installations, equipment and machinery of and fuel used in passenger steamers must comply with, except so far as those provisions are implemented by rules for life-saving appliances, radio rules, navigation and tracking rules, collision regulations or fire protection rules. 40 45

(5) Construction rules may require the provision in ships to which this section applies—

5 (a) of plans exhibited as provided by or under the rules, and of other information, relating to the boundaries of watertight compartments, the openings in them, the means of closing such openings and the arrangements for correcting any list due to flooding, and

10 (b) of information necessary for the guidance of the master in maintaining sufficient stability to enable the ship to withstand damage.

(6) Any survey carried out on a steamer to which this section applies in accordance with rules made under subsection (1)(b) is a survey for the purpose of sections 271(1) and 272 of the Principal Act.

15 (7) The powers conferred on the Minister by this section are in addition to the powers conferred by any other enactment enabling him or her to prescribe the requirements that passenger steamers must comply with.

20 (8) In this section, other than subsection (1)(b) ‘passenger steamer’ includes a ‘passenger ship’ within the meaning of section 2(1) of the Act of 1992.”

(2) Section 9 of the Act of 1966 and section 29 of the Act of 1992 are repealed.

25 **8.—(1)** The following section is substituted for section 15 of the Act of 1952: Radiocommunications rules.

“15.—(1) The Minister, after consultation with the Minister for Communications, Energy and Natural Resources, may make rules (‘radio rules’) requiring—

30 (a) ships to which this section applies to be provided with a radio installation, other than a radio navigational aid, of such a nature as may be prescribed by the rules,

35 (b) to maintain such a radio service and to carry such number of persons, of such grades and possessing such qualifications, as may be prescribed, and

(c) such ships to be surveyed to such extent and in such manner and at such intervals, as may be prescribed.

40 (2) Radio rules may contain provisions for preventing so far as practicable electrical interference with the radio installation by other apparatus on board.

45 (3) Any survey carried out on a ship to which this section applies in accordance with rules made under subsection (1)(c) is a survey for the purposes of section 271(1) and 272 (as applied by section 27(2) of the Act of 1952 and section 3(4) of the Act of 1966) of the Principal Act.

(4) This section applies to all ships registered in the State and to other sea-going ships while they are within any port in the State.

(5) In making radio rules the Minister may categorise ships into different classes, where appropriate, having regard to one or more of the following:

- (a) the service for which such ships are to be employed;
- (b) the nature and duration of voyages to be undertaken; 5
- (c) the number of passengers or other persons, or both, that such ships are designed to carry on board;
- (d) such other matter or matters that the Minister considers appropriate to take into account in the circumstances. 10

(6) Different radio rules may be made in respect of different classes of ships and in relation to different classes of ships for different circumstances and different areas of operation.

(7) Radio rules shall include such requirements as appear to the Minister to be necessary to implement the provisions of the Safety Convention relating to radiocommunications. 15

(8) Radio rules may prescribe requirements for such portable radio apparatus as boats, survival craft or life-rafts may be required to carry by the rules for life-saving appliances.

(9) Without prejudice to the generality of the preceding provisions of this section, radio rules may— 20

- (a) prescribe the duties of radio personnel, including the duty of keeping a radio log-book;
- (b) apply to any radio log-book required to be kept under the rules any of the provisions of section 242 of the Principal Act (which provides for the delivery of the official log-book to the superintendent) and of section 256 of that Act (which provides among other things for the custody of the official log-book); 25
- (c) require the master of a ship to cause to be entered in the official log-book such particulars relating to the operation of the radio installation, and the maintenance of the radio service, as may be specified in the rules; 30
- (d) require the notification to the Minister of such details as the Minister may require in relation to radio installations. 35

(10) If the master of a ship fails to cause an entry to be made in the log-book of the ship in contravention of rules made under paragraph (c), or if any person contravenes any rules made under paragraph (a), of subsection (9), he or she commits an offence and is liable on summary conviction to a fine not exceeding €1,000. 40

(11) If radio rules are contravened in any other respect in relation to any ship, the owner or master of the ship commits an offence and is liable— 45

- (a) on summary conviction, to a fine not exceeding €5,000, or

(b) on conviction on indictment, to a fine not exceeding €100,000.

(12) A surveyor of ships may board and inspect—

5 (a) any ship, for the purpose of seeing that it is properly provided with a radio installation and radio personnel, and

(b) any boat or life-raft on board the ship, for the purposes of seeing that it carries the required portable radio apparatus,

10 in conformity with radio rules.

(13) If a surveyor of ships in making an inspection under subsection (12) finds that—

(a) the ship is not provided with radio installation or personnel, or

15 (b) a boat, survival craft or life-raft on board does not carry portable radio apparatus,

in conformity with radio rules he or she shall give to the owner or master notice in writing pointing out the deficiency.

20 (14) A surveyor of ships may board and inspect any ship for the purposes of seeing that a deficiency has been remedied in accordance with a notice under subsection (13).

25 (15) A surveyor of ships may for the purposes of an inspection make such tests (either on the ship or ashore or at dock) ask such questions, inspect such documents or records and have access to such installation or other apparatus as he or she considers appropriate for that purpose.

30 (16) If a ship, in respect of which a notice has been given to its owner or master under subsection (13) which requires the deficiency to be remedied before the ship proceeds to sea, proceeds or attempts to proceed to sea without the deficiency being remedied as required in the notice, then the master or owner (as the case may be) commits an offence and is liable—

(a) on summary conviction, to a fine not exceeding €5,000, or

35 (b) on conviction on indictment, to a fine not exceeding €100,000.”.

(2) The Act of 1952 is amended—

40 (a) in section 16(2), by substituting “Minister for Communications, Energy and Natural Resources” for “Minister for Posts and Telegraphs”,

(b) in section 17(1) by substituting “radiocommunications installation” for “radio telegraph installation”,

45 (c) in sections 23(1), (2)(a) and (3), 26(1)(b)(ii), 27(3) and (4), 30(3) and 31(2)(b), by substituting “radiocommunications” for “radiotelegraphy, radiotelephony”, and

(d) in section 28(3) by substituting for paragraphs (c) and (d) the following:

“(c) except where such certificate states that the ship is wholly exempt from the provisions of the Safety Convention relating to radiocommunications, that the number, grades and qualifications of personnel on board correspond with those shown in the certificate; or

(d) that any conditions on which such a certificate, being the equivalent of an exemption certificate, is issued are complied with.”.

(3) Sections 11 and 12 of the Act of 1966 are repealed.

(4) Section 7 of the Act of 1992 is amended by substituting “radiocommunications” for “radiotelegraph or radiotelephone”.

Navigation and tracking rules.

9.—(1) The following section is substituted for section 18 of the Act of 1952:

“18.—(1) The Minister may make rules (‘navigation and tracking rules’) requiring ships to which this section applies to be provided with navigation and tracking systems and equipment of such a nature as may be prescribed by the rules including requirements relating to their position and method of fitting and to maintain such systems as may be so prescribed.

(2) This section applies to all ships registered in the State and to other ships while they are within any port in the State.

(3) In making navigation and tracking rules the Minister may categorise ships into different classes, where appropriate, having regard to one or more of the following:

- (a) the size, shape, speed or configuration of such ships;
- (b) the service for which such ships are to be employed;
- (c) the nature and duration of voyages to be undertaken;
- (d) the number of passengers or other persons, or both, that such ships are designed to carry on board;
- (e) such other matter or matters that the Minister considers appropriate to take into account in the circumstances.

(4) Different rules may be made in respect of different classes of ships and in relation to different classes of ships for different circumstances and different areas of operation.

(5) Navigation and tracking rules shall include such requirements as appear to the Minister to be necessary to implement the provisions of the Safety Convention relating to navigation and tracking systems and equipment.

(6) Without prejudice to the generality of the preceding provisions of this section, navigation and tracking rules may require notification to the Minister of the identity, the position, the date

and time, and other relevant details regarding a ship on which such systems and equipment are positioned.

5 (7) If navigation and tracking rules are contravened in any respect in relation to any ship, the owner or master of the ship commits an offence and is liable—

(a) on summary conviction, to a fine not exceeding €5,000, or

(b) on conviction on indictment, to a fine not exceeding €100,000.

10 (8) A surveyor of ships may board and inspect—

(a) any ship, for the purpose of seeing that it is properly provided with the required systems, and

15 (b) any boat, survival craft or life-raft on board the ship, for the purposes of seeing that it carries the required systems,

in conformity with navigation and tracking rules.

20 (9) If a surveyor of ships in making an inspection under subsection (8) finds that the ship is not provided with navigation and tracking systems and equipment in conformity with the navigation and tracking rules, he or she shall give to the owner or master notice in writing pointing out the deficiency.

(10) A surveyor of ships may board and inspect any ship for the purposes of seeing that a deficiency is remedied in accordance with a notice under subsection (9).

25 (11) A surveyor of ships may for the purposes of an inspection make such tests (either on the ship or ashore or at dock), ask such questions, inspect such documents or records and have access to such systems or equipment as he or she considers appropriate for that purpose.

30 (12) If a ship, in respect of which a notice has been given to its owner or master under subsection (9), which requires the deficiency to be remedied before the ship proceeds to sea, proceeds or attempts to proceed to sea without the deficiency being remedied as required in the notice, then the master or owner
35 (as the case may be) commits an offence and is liable—

(a) on summary conviction, to a fine not exceeding €5,000, or

(b) on conviction on indictment, to a fine not exceeding €100,000.”.

40 (2) Section 19 of the Act of 1952 is repealed.

(3) The Act of 1952 is amended—

(a) in sections 20(1) and (3), 23(1), (2) and (3), 24, 25(2) and 30(3) by substituting “navigation and tracking rules” for “rules for direction-finders”, and

(b) in sections 23(1), 23(2)(a), 23(3), 26(1)(b)(ii), 27(3) and (4), 30(3) and 31(2)(b) by substituting “navigation and tracking systems and equipment” for “direction-finders”.

(4) Sections 10 and 11 of the Merchant Shipping Act 1981 are repealed. 5

Exemption of certain ships from certain provisions of Act of 1952.

10.—(1) The following section is substituted for section 46 of the Act of 1952:

“46.—(1) Nothing in this Act—

(a) prohibiting or preventing a ship from proceeding to sea unless there are in force in relation to the ship, 10
or are produced, the appropriate certificates issued by the Minister under this Act or the appropriate accepted Safety Convention certificates,

(b) conferring powers on a surveyor of ships for the purpose of verifying the existence, validity or correctness of any Safety Convention certificate or that 15
the conditions on which any such certificate was issued are complied with,

(c) requiring information about a ship’s stability to be carried on board, or 20

(d) imposing a penalty for the contravention of any rules relating to openings in ships’ hulls and watertight bulkheads,

unless in the case of information about a ship’s stability the Minister otherwise orders, applies to any troopship. 25

(2) Nothing in subsection (1) affects the exemption conferred by section 741 of the Principal Act on ships belonging to the State.

(3) Notwithstanding that any provision of this Act is expressed to apply to ships not registered in the State while they 30
are within any port in the State, that provision does not apply to a ship that would not be within any such port but for stress of weather or any other circumstance, that neither the master nor the owner of the ship could have prevented or forestalled.”.

(2) Section 16 of the Act of 1966 is repealed. 35

Increase of fines, etc. (Act of 1952).

11.—The Act of 1952 is amended—

(a) in section 20(1) by inserting “fire protection rules,” after “rules for life-saving appliances,”

(b) in section 21(2), by substituting “€500” for “twenty pounds”, 40

(c) in sections 22(1) and 22(2) by the inclusion of “and fire protection rules” after “life-saving appliances”,

(d) in section 25(3), by substituting, “€1,000” for “fifty pounds”, and

(e) in section 26—

(i) by substituting for subsection (4) the following:

“(4) If any ship proceeds, or attempts to proceed, to sea in contravention of this section—

5 (a) in the case of a passenger steamer—

 (i) the owner or master of the steamer, without prejudice to any other remedy or penalty under the Merchant Shipping Acts, and

10 (ii) the owner or master of any tender by means of which passengers have been taken on board the steamer,

 commits an offence and is liable—

15 (I) on summary conviction, to a fine not exceeding €5,000, or

 (II) on conviction on indictment, to a fine not exceeding €100,000,

 or

20 (b) in the case of a ship not being a passenger steamer, the owner or master of the ship commits an offence and is liable on summary conviction to a fine not exceeding €5,000,”

(ii) by deleting subsection (5), and

25 (iii) in subsection (7), by substituting “€5,000” for “one hundred pounds”.

(f) in section 35—

(i) in subsection (1), by substituting “an Irish ship” for “any ship registered in the State”,

30 (ii) in subsection (3), by substituting “€2,000” for “fifty pounds”, and

35 (iii) in subsection (4), by substituting “Minister for Communications, Energy and Natural Resources” for “Minister for Post and Telegraphs” in each place it occurs,

(g) in section 36(2), by substituting “€2,000” for “fifty pounds”,

(h) in section 37—

40 (i) in subsection (1) and (2), by substituting “an Irish ship” for “a ship registered in the State”,

(ii) by substituting for subsection (5), the following:

“(5) If a master fails to comply with subsection (1) or (2) he or she commits an offence and is liable on summary conviction to a fine not exceeding €5,000.”,

and

(iii) in subsection (6), by substituting— 5

(I) “an Irish ship” for “a ship registered in the State”, and

(II) “€2,000” for “one hundred pounds”,

and

(iv) in subsection (7), by substituting “Irish ship” for “ship 10 registered in the State”,

(i) in section 38—

(i) by substituting for paragraph (a) the following:

“(a) Irish ships, and”,

(ii) by substituting for subsection (3) the following: 15

“(3) If any of the rules made under this section is not complied with in relation to any ship, the owner or master of the ship commits an offence and is liable—

(a) on summary conviction, to a fine not exceeding €5,000, or 20

(b) on conviction on indictment, to a fine not exceeding €100,000,

and the ship is deemed for the purposes of Part V of the Principal Act to be unsafe by reason of improper loading.”, 25

(j) in section 39—

(i) by substituting for subsection (4) the following:

“(4) If any person commits an offence under subsection (1) or (2), the person is liable—

(a) on summary conviction, to a fine not exceeding €5,000, or 30

(b) on conviction on indictment, to a fine not exceeding €100,000.”,

(ii) by deleting subsection (5), and

(iii) by substituting for subsection (6) the following: 35

“(6) A surveyor of ships or a person authorised by the Minister in that behalf may for securing the observance of the requirements of this section—

(a) board a ship and inspect any grain found on it, and 40

(b) (i) ask the master of the ship or any member of the crew such questions or make such requests, and

(ii) inspect such documents,

5 relating to the grain and its storage.”,

(k) in section 40(2), by substituting “€1,000” for “fifty pounds”,

(l) in section 41(2), by substituting “€5,000” for “one hundred pounds”, and

10 (m) in section 42(2), by substituting “€1,000” for “twenty pounds”.

12.—(1) Section 1(1) of the Act of 1966 is amended by substituting for the definition of “the Minister” the following: Cargo ship construction and survey rules.

15 “ ‘Irish ship’ means a ship, other than a ship of war, known as such under section 9 of the Mercantile Marine Act 1955;

‘master’, in relation to a ship, means the person having, for the time being, the command or charge of the ship;

‘Minister’ means Minister for Transport;

20 ‘owner’, in relation to a ship, means the person registered in the State, as its owner or, if no person is so registered, the person who owns the ship, and includes any part owner, charterer, manager or operator of the ship;”.

(2) Section 3 of the Act of 1966 is amended by substituting for subsections (1), (2) and (3) the following:

25 “3.—(1) The Minister may make rules (‘cargo ship construction and survey rules’) prescribing—

30 (a) requirements for the hull, superstructure, subdivision and stability, electrical installations, equipment and machinery, fuel used in and fire protection of ships to which this section applies, and

(b) requiring any such ships which are Irish ships to be surveyed to such extent, in such manner and at intervals as may be prescribed by the rules.

35 (1A) In making cargo ship construction and survey rules the Minister may categorise ships into different classes, where appropriate, having regard to one or more of the following:

(a) the size, shape, speed or configuration of such ships;

(b) the service for which such ships are to be employed;

(c) the nature and duration of voyages to be undertaken;

40 (d) the number of passengers or other persons, or both, that such ships are designed to carry on board;

(e) such other matter or matters that the Minister considers appropriate to take into account in the circumstances;

(f) the type of cargo carried, including dangerous goods,

(g) the age and date of construction of such ships. 5

(1B) Different rules may be made in respect of different classes of ships and in relation to different classes of ships for different circumstances and different areas of operation.

(2) Cargo ship construction and survey rules shall include such requirements as appear to the Minister to be necessary to implement the provisions of the Convention relating to the hull, superstructure, subdivision and stability, electrical installations, equipment and machinery of and fuel used in such ships, except so far as those provisions are implemented by any other rules or regulations made under the Merchant Shipping Acts. 10 15

(3) This section applies to all ships other than passenger steamers, warships, troopships and fishing vessels. It applies to ships not registered in the State only while they are within a port in the State and are not exempted from the cargo ship construction and survey rules under the following provisions of this Act.”. 20

(3) Section 4(1) of the Act of 1966 is amended by inserting “and bulk carrier rules and fire protection rules” after “and survey rules”.

(4) The following section is substituted for section 6 of the Act of 1966:

“Prohibition on proceeding to sea without appropriate certificates. 6.—(1) No ship to which section 3 applies and which is an Irish ship shall proceed to sea unless there is in force in respect of the ship— 25

(a) a cargo ship safety construction certificate,

(b) a qualified cargo ship safety construction certificate and, if the ship is about to proceed on an international voyage, a corresponding exemption certificate, or 30

(c) such certificate or certificates as would be required if it were a passenger steamer, 35

applicable to the ship and to the voyage on which it is about to proceed.

(2) If any ship proceeds, or attempts to proceed, to sea in contravention of this section, the owner or master of the ship commits an offence and is liable on summary conviction to a fine not exceeding €5,000.”. 40

(5) The following section is substituted for section 8 of the Act of 1966: 45

“Penalty for non-compliance with rules and compliance notice.

8.—(1) If cargo ship construction and survey rules are contravened in any respect in relation to a ship, the owner or master of the ship commits an offence and is liable—

- (a) on summary conviction, to a fine not exceeding €5,000, or
- (b) on conviction on indictment, to a fine not exceeding €100,000.

(2) A surveyor of ships may board and inspect any ship for the purpose of seeing that it complies with the provisions of cargo ship construction and survey rules (other than those relating to survey). If he or she finds that the ship fails to comply with those provisions, he or she shall give to the owner or master notice in writing stating in what respect the ship fails to comply with them.

(3) A surveyor of ships may board and inspect any ship for the purposes of seeing that a notice under this section has been complied with.

(4) A surveyor of ships may for the purposes of an inspection make such tests (either on the ship or ashore or at dock) ask such questions, inspect such documents or records and have access to such part of the ship as he or she considers appropriate for that purpose.

(5) If a ship, in respect of which a notice has been given to its owner or master under subsection (2) which requires compliance with the rules in accordance with the notice before the ship proceeds to sea, proceeds or attempts to proceed to sea without such compliance as required in the notice, then the master or owner (as the case may be) commits an offence and is liable—

- (a) on summary conviction, to a fine not exceeding €5,000, or
- (b) on conviction on indictment, to a fine not exceeding €100,000.”.

13.—(1) The Minister may, in any case where following a survey under the Merchant Shipping Acts or under radio rules or cargo ship construction and survey rules a safety equipment certificate, a radio certificate and a cargo ship safety construction certificate each fall to be issued by him or her in respect of a cargo ship (within the meaning of section 3 of the Act of 1966), at the request of the owner of the ship issue a composite certificate (“cargo ship safety certificate”) in respect of the ship in relation to those certificates and in lieu of issuing separate certificates.

Cargo ship safety certificate.

(2) The provisions of the Merchant Shipping Acts relating to the issue, the period of validity, the granting of an extension or the cancellation of a safety equipment certificate, a radio certificate or a cargo ship safety construction certificate apply to a cargo ship safety certificate, in respect of the certificate concerned, as if it were the certificate.

(3) In this section—

“safety equipment certificate” means a certificate issued under section 22(1) of the Act of 1952;

“radio certificate” means a certificate issued under section 23(1) of the Act of 1952; 5

“cargo ship safety construction certificate” means a certificate issued under section 4(1) of the Act of 1966.

Bulk carrier rules.

14.—(1) The Minister may make rules (“bulk carrier rules”) prescribing the requirements that the superstructure, stability and subdivision, hull, arrangement, equipment and machinery of bulk carriers to which this section applies, must comply with. 10

(2) This section applies to bulk carriers which are Irish ships and to any other bulk carrier while it is within any port in the State, unless it would not have been in any such port but for stress of weather or any other circumstance that neither the master nor the owner of the ship could have prevented or forestalled. 15

(3) In making bulk carrier rules the Minister may categorise bulk carriers into different classes having regard to one or more of the following, where appropriate:

(a) the size, shape, speed or configuration of such ships; 20

(b) the service for which such ships are to be employed;

(c) the nature and duration of voyages to be undertaken;

(d) the type and quantity of cargo such ships are designed to carry on board;

(e) the age and date of construction of such ships; 25

(f) such other matter or matters that the Minister considers appropriate to take into account in the circumstances.

(4) Different bulk carrier rules may be made in respect of different classes of bulk carriers for different circumstances and for different areas of operation. 30

(5) Bulk carrier rules shall include such requirements as appear to the Minister to be necessary to implement the provisions of the Safety Convention prescribing the requirements that the superstructure, stability and subdivision, strength, hull, arrangement, equipment and machinery shall comply with, except in so far as those provisions are implemented by cargo ship construction and survey rules, rules for life-saving appliances, fire protection rules, radio rules, navigation and tracking rules or collision regulations. 35

(6) Bulk carrier rules may require the provision in ships to which this section applies of— 40

(a) stability analysis including damage and intact stability,

(b) the structural strength of such ships,

(c) the arrangement of such ships including requirements for bulkheads,

- (d) information necessary for the guidance of the master and others in maintaining sufficient stability and strength during all loading conditions,
- 5 (e) the requirements on cargoes and the requirement to provide to persons information to ensure the safe loading and unloading,
- (f) equipment to provide information on strength on such ships,
- 10 (g) equipment to detect water in the holds and spaces of such ships and to provide pumping systems.

(7) The powers conferred on the Minister by this section are in addition to the powers conferred by any other enactment enabling him or her to prescribe the requirements that ships to which this section applies must comply with.

15 (8) (a) It is the duty of the owner and master of every ship to which this section applies to ensure that all requirements set out in the relevant bulk carrier rules are complied with.

20 (b) If any provision of bulk carrier rules are not complied with, then the owner of the ship (if in fault) and the master of the ship (if in fault) commits an offence and is liable on summary conviction to a fine not exceeding €5,000.

25 (9) A surveyor of ships may board and inspect any ship for the purpose of seeing that it complies with bulk carrier rules.

(10) If a surveyor of ships finds that a ship fails to comply with any bulk carrier rules he or she shall give a notice in writing to the owner or master stating in what respect the ship fails to comply with them.

30 (11) A surveyor of ships may board and inspect any ship for the purposes of seeing that a notice under *subsection (10)* has been complied with.

35 (12) A surveyor of ships may for the purposes of an inspection make such tests (either on the ship or ashore or at dock), ask such questions, inspect such documents or records and have access to such parts of the ship as he or she considers appropriate for that purpose.

40 (13) If a ship, in respect of which a notice has been given to its owner or master under *subsection (10)* which requires compliance with the rules in accordance with the notice before the ship proceeds to sea, proceeds or attempts to proceed to sea, without compliance as required in the notice, then the master or owner (as the case may be) commits an offence and is liable—

(a) on summary conviction, to a fine not exceeding €5,000, or

45 (b) on conviction on indictment, to a fine not exceeding €100,000.

(14) In this section “bulk carrier” means a ship (other than a passenger steamer, troopship or fishing vessel) which is intended primarily to carry dry cargo in bulk.

15.—The Act of 1992 is amended—

- (a) in section 2(1), by substituting for the definition of “the Minister” the following:

“ ‘Minister’ means Minister for Transport;”,

- (b) in section 18 (inserted by section 47 of the Act of 2005) by inserting after subsection (3) the following: 5

“(3A) In making regulations under this section the Minister may categorise passenger boats into different classes, where appropriate, having regard to one or more of the following: 10

- (a) the size, shape, speed or configuration of such boats;
- (b) the service for which such boats are to be employed;
- (c) the nature and duration of voyages to be undertaken; 15
- (d) the number of passengers or other persons, or both, that such boats are designed to carry on board;
- (e) such other matter or matters that the Minister considers appropriate to take into account in the circumstances.”, 20

- (c) in section 19 (inserted by section 47 of the Act of 2005) by inserting after subsection (3) the following:

“(3A) In making regulations under this section the Minister may categorise fishing vessels into different classes having regard to one or more of the following, where appropriate: 25

- (a) the size, shape, speed or configuration of such vessels; 30
- (b) the service for which such vessels are to be employed;
- (c) the nature and duration of voyages to be undertaken;
- (d) the number of persons that such vessels are designed to carry on board; 35
- (e) such other matter or matters that the Minister considers appropriate to take into account in the circumstances.”, 40

and 40

- (d) in section 20 (inserted by section 47 of the Act of 2005) by inserting after subsection (3) the following:

“(3A) In making regulations under this section the Minister may categorise pleasure craft into different

classes having regard to one or more of the following, where appropriate:

- (a) the size, shape, speed or configuration of such craft;
- 5 (b) the service for which such craft are to be employed;
- (c) the nature and duration of voyages to be undertaken;
- 10 (d) the number of persons, that such craft are designed to carry on board;
- (e) such other matter or matters that the Minister considers appropriate to take into account in the circumstances.”.

PART 3

15 ACCESS FOR PERSONS WITH REDUCED MOBILITY TO PASSENGER VESSELS

16.—In this Part—

Definitions (*Part 3*).

“Act of 1998” means Merchant Shipping (Miscellaneous Provisions) Act 1998;

20 “authorised person” means—

- (a) a surveyor of ships, or
- (b) a person or class of persons appointed under *section 20(2)* for the purposes of this Part;

25 “code of practice” means a code of practice prepared and published or approved under *section 18*;

“Department” means Department of Transport;

“reduced mobility regulations” means regulations made under *section 17*;

30 “DSC construction and equipment certificate” means a certificate issued under Regulation 11(3)(a) of the Regulations of 2004;

“DSC permit to operate high speed craft” means a permit issued under Regulation 11(3)(b) of the Regulations of 2004;

“high speed craft safety certificate” means a certificate issued by the Minister under Regulation 11(1)(a) of the Regulations of 2004;

35 “master” has the meaning assigned to it by section 2(1) of the Act of 1992;

“owner” has the meaning assigned to it by section 2(1) of the Act of 1992;

40 “passenger” has the meaning assigned to it by section 2(1) of the Act of 1992;

“passenger boat” has the meaning assigned to it by section 2(1) (as amended by section 4(a) of the Act of 1998 and section 44(1)(b) of the Act of 2000) of the Act of 1992;

“passenger boat licence” means a passenger boat licence granted under section 15 of the Act of 1992; 5

“passenger ship” has the meaning assigned to it by section 2(1) (as amended by section 4(a) of the Act of 1998 and section 44(1)(c) of the Act of 2000) of the Act of 1992;

“passenger ship’s certificate” means a certificate issued under section 8(1) of the Act of 1992; 10

“passenger ship safety certificate” means a certificate issued under section 8(1) of the Act of 1992 as applied by Regulation 10(2)(a) of the Regulations of 2004;

“passenger vessel” means a passenger ship or passenger boat;

“permit to operate high speed craft” means a permit issued under Regulation 11(1)(b) of the Regulations of 2004; 15

“person with reduced mobility” means any person whose mobility when using transport is reduced or impaired as a result of any physical disability (sensory or locomotive) intellectual disability, age or as a result of pregnancy or being accompanied by small children; 20

“prescribed” means prescribed by regulations made by the Minister;

“Regulations of 2004” means European Communities (Passenger Ships) Regulations 2004 (S.I. No. 716 of 2004).

Regulations.

17.—(1) The Minister may make regulations (“reduced mobility regulations”) for the purpose of making passenger vessels accessible to persons with reduced mobility. In making any such regulations the Minister shall have regard to any representations made in accordance with *subsection (13)* including those relating to the costs of different requirements and standards and any information provided with regard to the financial resources generally of owners of vessels of a class to which the regulations apply in complying with the regulations. 25 30

(2) Without prejudice to the generality of *subsection (1)*, reduced mobility regulations may set down requirements or standards or both in relation to: 35

- (a) pre-journey information;
- (b) on-board accommodation and facilities;
- (c) lifts, ramps, steps and stairs;
- (d) information and announcements on board, including those required in emergency situations; 40
- (e) safety announcements and signage;
- (f) management and training of personnel;
- (g) interface with facilities on shore;

(h) information to be furnished to the Minister;

(i) carrying out of accessibility audits.

(3) Reduced mobility regulations may provide for the inspection of passenger vessels.

5 (4) Reduced mobility regulations may provide for powers of authorised persons in addition to those under *section 20*.

10 (5) Reduced mobility regulations may make provision for consequential, incidental, ancillary and supplementary matters (including the enforcement of the regulations and, with the consent of the Minister for Finance, the charging of fees) as the Minister considers necessary or expedient. Fees under this subsection shall be paid into or disposed of for the benefit of the Exchequer.

15 (6) In making reduced mobility regulations the Minister may categorise passenger vessels into different classes having regard to one or more of the following, where appropriate:

(a) the age and date of construction of such vessels;

(b) the size, shape, speed or configuration of such vessels;

(c) the service for which such vessels are to be employed;

(d) the nature and duration of voyages to be undertaken;

20 (e) the number of passengers or other persons, or both, that such vessels are designed to carry on board;

(f) such other matter or matters that the Minister considers appropriate to take into account in the circumstances.

25 (7) Reduced mobility regulations may apply either generally or to a specified class or classes of passenger vessel and different provision may be made for different classes of passenger vessel.

30 (8) Reduced mobility regulations may set different and separate requirements and standards in relation to different classes of passenger vessel for different circumstances and for different areas of operation.

(9) Reduced mobility regulations may apply to owners of passenger vessels, masters, crew or other persons with responsibility for services provided by a passenger vessel.

35 (10) Reduced mobility regulations made may incorporate, adopt, apply or make prescriptions by reference to, with or without modification, any code of practice.

40 (11) The power to make reduced mobility regulations includes the power to make provision by regulations to give effect to any provision of the treaties of the European Communities or any act adopted by an institution of the European Communities which regulates any of the matters set out in this section.

(12) The Minister may exempt from all or any of the provisions of reduced mobility regulations, on such terms and conditions as he

or she sees fit, any passenger vessel or any class or classes of passenger vessel, having regard to the nature of the vessel and the use to which it is put.

(13) Before making reduced mobility regulations, the Minister—

(a) shall publish on the Department's website and in such other manner as he or she considers appropriate a draft of the proposed regulations and shall give interested persons one month from the date of publication of the draft within which to make written representations to the Minister in relation to it, or for such further period, not exceeding 2 months the Minister in his or her absolute discretion thinks fit, and

(b) having considered any representations, may make the regulations with or without amendment.

(14) Where the Minister is satisfied that reduced mobility regulations are not being complied with, the Minister may refuse to grant or may suspend—

(a) a passenger ship certificate,

(b) a passenger ship safety certificate,

(c) a high speed craft safety certificate,

(d) a permit to operate high speed craft,

(e) a DSC construction and equipment certificate,

(f) a DSC permit to operate high speed craft, or

(g) a passenger boat licence,

issued by the Minister in respect of a passenger vessel, until the regulations are complied with.

(15) If, in respect of a passenger vessel, there is a contravention of any reduced mobility regulation, the owner or master of the vessel each commits an offence and each is liable on summary conviction to a fine not exceeding €5,000.

Codes of practice.

18.—(1) For the purpose of giving practical guidance to the owners, masters, crew or other persons with responsibility for services provided by a passenger vessel with respect to—

(a) making passenger vessels accessible for persons with reduced mobility,

(b) the implementation of the Department's sectoral plan under the Disability Act 2005, or

(c) the requirements or prohibitions under reduced mobility regulations,

the Minister may, following consultations with such persons as he or she considers relevant—

(i) prepare and publish codes of practice, and

(ii) approve of a code of practice or any part of a code of practice published by another person.

(2) Before publishing or approving a code of practice or any part of a code of practice, the Minister—

5 (a) shall publish on the Department's website and in such other manner as he or she considers appropriate a draft of a code of practice or sections of a draft code of practice and shall give persons one month from the date of publication of the draft code or sections of the draft code within which to make written representations to the Minister in relation to the draft code or sections of the draft code, or for such further period, not exceeding 2 months, as the Minister in his or her absolute discretion thinks fit,

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15 (b) may, following consultation and, where relevant, having considered the representations, if any, publish the draft code or the sections of the draft code with or without modification as the Minister in his or her absolute discretion thinks fit, and

20 (c) where he or she publishes or approves of a code of practice or approves of any part of a code of practice, he or she shall publish a notice of such publication or approval in the *Iris Oifigiúil* and that notice shall—

(i) identify the code,

25 (ii) specify the matters concerned or the relevant statutory provisions in respect of which the code is published or approved of, and

(iii) specify the date on which the code comes into operation.

30 (3) The Minister may, following consultation with any person he or she considers relevant—

(a) amend or revoke any code of practice or part of any code of practice prepared and published by him or her under this section, or

35 (b) withdraw his or her approval of any code of practice or part of any code of practice approved by him or her under this section.

(4) Where the Minister amends or revokes, or withdraws his or her approval of a code of practice or any part of a code of practice published or approved under this section, he or she shall publish notice of the amendment, revocation or withdrawal, as the case may be, in the *Iris Oifigiúil*.

45 (5) The Minister shall make available for public inspection, without charge, on the Department's website on the internet and at the principal maritime office of the Department, during normal working hours—

(a) a copy of each code of practice, and

(b) where a code of practice has been amended, a copy of the code as so amended.

(6) It is the duty of a passenger vessel's owner, master, crew or other persons with responsibility for services provided by the vessel to be aware of and follow any code of practice published or approved.

Use of codes of practice in criminal proceedings.

19.—(1) Where in proceedings for an offence under *section 17(15)* relating to any alleged contravention of any requirement or prohibition imposed under reduced mobility regulations, being a provision for which there is a code of practice published at the time of the alleged contravention, *subsection (2)* has effect with respect to that code of practice in relation to those proceedings. 5
10

(2) (a) Where a code of practice referred to in *subsection (1)* appears to the court to give practical guidance as to the observance of the requirement or prohibition alleged to have been contravened, the code of practice is admissible in evidence. 15

(b) Where it is proved that any act or omission of the defendant alleged to constitute the contravention—

(i) is a failure to observe a code of practice referred to in *subsection (1)*, or

(ii) is a compliance with that code of practice, 20

then such failure or compliance is admissible in evidence.

(3) A copy of a code of practice, which has endorsed on it a certificate purporting to be signed by an officer of the Department (authorised in that behalf by the Secretary General) stating that the copy is a true copy of the code may, without proof of signature of that officer, be produced in every court and in all legal proceedings and is evidence, unless the contrary is shown, of the code. 25

Authorised persons.

20.—(1) A surveyor of ships is an authorised person for the purposes of this Part.

(2) The Minister may appoint in writing other persons or persons of such classes as he or she sees fit to be authorised persons for the purposes or specified purposes of this Part. 30

(3) The Minister may revoke an appointment under *subsection (2)*.

(4) An authorised person may be assisted in the exercise of his or her functions under this Part by such persons as he or she considers necessary. 35

(5) An authorised person appointed under *subsection (2)* shall be furnished with a warrant of his or her appointment as an authorised person and when exercising any power conferred on an authorised person under this Part shall, if requested by a person affected, produce the warrant or a copy of it to that person for inspection. 40

Powers of authorised persons.

21.—(1) An authorised person may for the purpose of ensuring that reduced mobility regulations are being complied with—

- (a) board any passenger vessel or enter any premises or place where any activity connected with the provision of services provided by a passenger vessel takes place,
- (b) inspect and examine the vessel, premises or place,
- 5 (c) inspect and take copies of, or extracts of, records or documents, and
- 10 (d) request any member of crew of the vessel or employee of the premises or place to furnish him or her with such information and to produce to him or her such records and documents in his or her possession or within his or her procurement, as the authorised person may reasonably require for the purpose of ensuring such compliance.

(2) An authorised person may take photographs or make any record or visual recording of any activity on the vessel or the premises or place.

(3) A person who obstructs or interferes with an authorised person in the exercise of his or her functions under this section or reduced mobility regulations, or who fails or refuses to comply with a request of an authorised person under this section or reduced mobility regulations, commits an offence and is liable on summary conviction to a fine not exceeding €5,000.

22.—(1) Where an authorised person has reasonable grounds for believing that a person is committing or has committed an offence under *section 17(15)* in relation to a contravention of a reduced mobility regulation, he or she may serve that person with a notice in the prescribed form or in a form to the like effect stating:

Fixed payment notice (*Part 3*).

- (a) that the person is alleged to have committed the offence in respect of the contravention;
- 30 (b) that the person may, during the period of 21 days beginning on the date of the notice, make to the Minister at the address specified in the notice a payment of €500 or such other amount prescribed under *subsection (4)*, accompanied by the notice;
- 35 (c) that a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where notice is given under *subsection (1)*:

- 40 (a) a person to whom the notice applies, may during the period specified in the notice, make to the Minister at the address specified in the notice the payment specified in the notice, accompanied by the notice;
- 45 (b) the Minister may receive the payment, issue a receipt for it and retain the money so paid for disposal in such manner as may be prescribed and no payment so received shall in any circumstances be recoverable by the person who made it;

(c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice and, if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

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(3) In a prosecution for an offence referred to in *subsection (1)*, the onus of showing that a payment pursuant to a notice under this section has been made shall lie on the defendant.

(4) The Minister may prescribe another amount, or different amounts in respect of different contraventions or different classes of passenger vessels, in lieu of the amount specified in *subsection (1)(b)*.

PART 4

RAISING OF SUNKEN VESSELS

Definitions (*Part 4*). **23.**—In this Part—

“Act of 1993” means Merchant Shipping (Salvage and Wreck) Act 1993;

“Board” means Marine Casualty Investigation Board;

“investigator” means a person appointed under section 26(2) of the Act of 2000;

“relevant party” means an investigator, a tribunal or the Minister, as the case may be, who is causing a vessel to be raised;

“marine casualty” has the meaning assigned to it by section 2 of the Act of 2000;

“tribunal” means a person or persons appointed under section 38(2)(a) of the Act of 2000 to hold an inquiry;

“vessel” has the meaning assigned to it in section 2 of the Act of 2000, and includes—

(a) a vessel which is sunk, partially sunk, wrecked, grounded, stranded or abandoned,

(b) any part of such a vessel, and

(c) any article, thing or collection of things being or forming part of the tackle, equipment, cargo, stores, bunkers, oils or ballast of a wrecked vessel.

Power to raise sunken vessel.

24.—(1) Where—

(a) an investigator considers it necessary for the purposes of an investigation into a marine casualty in accordance with Part 3 of the Act of 2000,

(b) a tribunal considers it necessary for the purposes of an inquiry under section 38 of the Act of 2000, or

(c) the Minister considers it necessary for the purposes set out in *subsection (2)*,

the investigator, the tribunal or the Minister, as the case may be (“the relevant party”) may cause any sunken vessel which has been involved in the marine casualty to be raised and brought ashore for the purposes of examining it, and may make any necessary arrangements for the inspection, storage and, if necessary, disposal in due course of the vessel.

(2) Subject to *subsection (3)*, the Minister may cause a vessel to be raised under *subsection (1)* where he or she considers it necessary for—

- 10 (a) ensuring the safety of vessels or their crews,
- (b) formulating, promoting or improving specified standards of seaworthiness, construction or maintenance of vessels, or determining specified life-saving, fire-fighting, radio installations, navigation and tracking systems and equipment to be carried on board vessels or used by their crews,
- 15 (c) determining the adequacy of existing standards or specifications in relation to the above matters or the extent to which such standards are being complied with, or
- 20 (d) a possible prosecution under the Merchant Shipping Acts,

and where in the view of the Minister there is no other reasonable and practical alternative source of information available to him or her.

(3) Any decision by the Minister under *subsection (2)* is subject to—

- 25 (a) prior consultation with the Board and, if a tribunal has been established by the Minister to inquire into the particular marine casualty, with the tribunal, and
- 30 (b) confirmation by the Board and the tribunal that neither proposes to raise the vessel in question as part of any investigation.

(4) Where the relevant party proposes to raise such a vessel, that party shall notify the owner of the vessel of such intention, of the date which it is proposed to raise the vessel, and in due course of the location where the raised vessel will be kept.

25.—When a vessel raised under this Part is no longer required for the purposes referred to in *section 24* for which it was raised— Disposal of a raised vessel.

- 40 (a) the relevant party shall notify the owner of the vessel of the location of the vessel and allow a period of 28 days in which the owner may reclaim and collect the vessel, and
- (b) where the owner does not wish to reclaim and collect the vessel, or in the absence of a response within the specified time period, the relevant party may dispose of the vessel by sale or otherwise.

45 **26.**—(1) Any costs relating to the raising of a vessel under this Part, its transport, storage, disposal or sale shall be borne by the relevant party. Costs.

(2) The proceeds of any sale under *section 25* shall be set against any costs incurred by the relevant party as outlined in *subsection (1)* and the net proceeds, if any, shall be paid to the owner of the vessel.

Immunities from claims.

27.—(1) The Board, an investigator, and the Minister are immune from claims for damages in respect of any thing done in good faith and in the course of the raising, removal, inspection, storage or disposal of a vessel under this Part. 5

(2) A tribunal is immune from claims for damages in respect of any thing done in good faith and in the course of the raising, removal, inspection, storage or disposal of a vessel under this Part. 10

Obstruction.

28.—(1) A person who obstructs or impedes a relevant party in the raising of a vessel under this Part (including actions taken to raise the vessel) commits an offence and is liable on summary conviction to a fine not exceeding €5,000.

(2) The Minister may prosecute summarily an offence under this section. 15

Notification to receiver of wreck.

29.—(1) A relevant party who has taken possession of a vessel raised under this Part shall give notice to the receiver of wreck for the district concerned in which the vessel is brought ashore stating that it has been found, taken possession of and brought ashore and describing the marks that distinguish it. 20

(2) Section 44 of the Act of 1993 does not apply to a vessel raised under this Part.

(3) In this section—

“district” has the meaning assigned to it by section 41(1) of the Act of 1993; 25

“receiver of wreck” means a person appointed as a receiver of wreck under section 41 of the Act of 1993.

Foreign vessels raised under *Part 4*.

30.—(1) Where a vessel raised under this Part is not an Irish ship, a diplomatic agent of the state or any consular officer of that state authorised in that behalf by any treaty arrangement with that state, in which— 30

(a) the vessel was registered when it sank, or

(b) the owners of the vessel resided,

shall, in the absence of the owners and of the master or other agent of the owners, be deemed to be the agent of the owners, as far as relates to the custody and disposal of the vessel. 35

(2) In this section “consular officer” and “diplomatic agent” have the meanings assigned to them, respectively, by section 46(3) of the Act of 1993. 40

PART 5

SAFETY MEASURES

5 **31.**—(1) The Minister may, in relation to any ships to which this section applies, make rules (“rules for life-saving appliances”) prescribing the requirements for life-saving appliances and arrangements for those ships. Rules for life-saving appliances and arrangements.

(2) Without prejudice to *subsection (1)* may provide for all or any of the following matters:

- 10 (a) the number, description and mode of construction of the survival craft, boats, life-rafts, line-throwing appliances, life-jackets and lifebuoys and other life-saving appliances to be carried by ships according to the classes in which the ships are arranged,
- 15 (b) the equipment to be carried by any such survival craft, boats and rafts and the methods to be provided to get into the water the survival crafts, boats and other life-saving appliances,
- 20 (c) the provision in ships of a proper supply of lights inextinguishable in water, and fitted for attachment to lifebuoys,
- (d) the quantity, quality and description of buoyant apparatus to be carried on board ships, either in addition to or in substitution for survival craft, boats, life-rafts, life-jackets and lifebuoys,
- 25 (e) the position and means of securing the survival craft, boats, life-rafts, life-jackets and lifebuoys,
- (f) the marking of the boats, survival craft, life-rafts and buoyant apparatus so as to show their dimensions and the number of persons authorised to be carried on them,
- 30 (g) the manning of the lifeboats and the qualifications and certificates of lifeboat personnel,
- (h) the provision to be made for mustering the persons on board, and for embarking them in the boats (including provision for the lighting of, and the means of egress to and ingress from, different parts of the ship),
- 35 (i) the provision of suitable means situated outside the engine-room whereby any discharge of water into the boats can be prevented,
- (j) the assignment of specific duties to each member of the crew in the event of emergency,
- 40 (k) the practice in ships of boat-drills and fire-drills,
- (l) the provision in ships of means of making effective distress signals by day and by night,
- 45 (m) the provision in ships engaged in voyages in which pilots are likely to be embarked, of suitable pilot ladders or

hoists and of ropes, lights and other appliances designed to make the use of such ladders or hoists safe,

(n) the examination and maintenance at intervals to be prescribed by the rules of any appliances or equipment required by the rules to be carried, 5

(o) the methods to be adopted and the appliances to be carried in ships for the prevention, detection and extinction of fire, and

(p) the provision in ships of plans or other information relating to the means of preventing, detecting, controlling and extinguishing outbreaks of fire. 10

(3) In making rules for life-saving appliances the Minister may categorise ships into different classes, where appropriate, having regard to one or more of the following:

(a) the service for which such ships are to be employed; 15

(b) the nature and duration of voyages to be undertaken;

(c) the number of passengers, ships crew or other persons, or all of them, that such ships are designed to carry on board;

(d) such other matter or matters that the Minister considers appropriate to take into account in the circumstances. 20

(4) Different rules for life-saving appliances may be made in respect of different classes of ships and in relation to different classes of ships for different circumstances and different areas of operation.

(5) This section applies to Irish ships and to any other ship while it is within any port in the State, unless it would not have been in any such port but for stress of weather or any other circumstance that neither the master nor the owner of the ship could have prevented or forestalled. 25

(6) Rules for life-saving appliances shall include such requirements as appear to the Minister to be necessary to implement the provisions of the Safety Convention relating to life-saving appliances and arrangements. 30

(7) It is the duty of the owner and master of every ship to which this section applies to see that the ship is provided, in accordance with rules for life-saving appliances, with such of those appliances as, having regard to the nature of the service on which the ship is employed, and the avoidance of undue encumbrance of the ship's deck, are best adapted for securing the safety of the ship's crew and passengers. 35
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(8) In the case of any ship to which this section applies—

(a) if the ship is required by the rules for life-saving appliances to be provided with such appliances and proceeds on any voyage or excursion without being so provided in accordance with the rules applicable to the ship, 45

(b) if any of the appliances with which the ship is so provided are lost or rendered unfit for service in the course of the

voyage or excursion through the wilful fault or negligence of the owner or master,

5 (c) if the master wilfully neglects to replace or repair on the first opportunity any such appliances lost or injured in the course of the voyage or excursion,

(d) if such appliances are not kept so as to be at all times fit and ready for use, or

(e) if any provision of rules for life-saving appliances is not complied with,

10 then the owner of the ship (if in fault) and the master of the ship (if in fault) commits an offence and is liable on summary conviction to a fine not exceeding €5,000.

15 (9) (a) A surveyor of ships may board and inspect any ship for the purpose of seeing that the rules for life-saving appliances have been complied with in every case.

(b) If the surveyor finds that the rules for life-saving appliances have not been complied with, he or she shall give written notice to the owner or master stating in what respect the rules have not been complied with.

20 (c) A surveyor of ships may board and inspect any ship for the purposes of seeing that a notice under this subsection has been complied with.

25 (d) A surveyor of ships may for the purposes of an inspection make such tests (either on the ship or ashore or at dock), ask such questions, inspect such documents or records and have access to such appliances as he or she considers appropriate for that purpose.

30 (e) If a ship, in respect of which a notice has been given to its owner or master under this subsection which requires compliance with the rules in accordance with the notice before the ship proceeds to sea, proceeds or attempts to proceed to sea without such compliance as required in the notice, then the master or owner (as the case may be) commits an offence and is liable—

35 (i) on summary conviction, to a fine not exceeding €5,000, or

(ii) on conviction on indictment, to a fine not exceeding €100,000.

(10) The following are repealed—

40 (a) sections 427 to 431 of the Principal Act, and

(b) sections 11, 12 and 13 of the Act of 1952,

(c) section 10 of the Act of 1966,

(d) section 6 of the Merchant Shipping Act 1981.

45 **32.—(1)** The Minister may make regulations to provide for the inspection and approval of service stations for inflatable life-saving stations.

appliances and launching and embarkation appliances and for the setting and enforcement of service standards for servicing such appliances.

(2) Regulations under this section shall include such requirements as appear to the Minister to be necessary to implement the Safety Convention in this regard. 5

(3) In making regulations under this section the Minister, with the consent of the Minister for Finance, may prescribe the fees to be charged for the inspection of service stations and the issuing of certificates of approval under regulations made under this section. Fees under this subsection shall be paid into or disposed of for the benefit of the Exchequer. 10

(4) A surveyor of ships may inspect a service station and any inflatable life-saving appliances found in it to ensure that any requirements under regulations made or a notice given, under this section are complied with. 15

(5) If the surveyor of ships finds that requirements under regulations under this section are not being complied with he or she shall give to the person in charge of the station a notice stating in what respect the regulations have not been complied with. 20

(6) A person who operates a service station in contravention of this section or fails to comply with a notice under this section commits an offence and is liable on summary conviction to a fine not exceeding €5,000.

Fire protection rules.

33.—(1) The Minister may make rules (“fire protection rules”) prescribing the requirements that the hull, superstructure, equipment, arrangement, escapes, fire protection, fire detection and fire extinction equipment and machinery used in ships must comply with. 25

(2) This section applies to Irish ships and to any other ship while it is within any port in the State, unless it would not have been in any such port but for stress of weather or any other circumstance that neither the master nor the owner of the ship could have prevented or forestalled. 30

(3) In making fire protection rules the Minister may categorise ships into different classes having regard to one or more of the following, where appropriate: 35

- (a) the size, shape, speed or configuration of such ships;
- (b) the service for which such ships are to be employed;
- (c) the nature and duration of voyages to be undertaken;
- (d) the number of passengers or other persons, or both, that such ships are designed to carry on board; 40
- (e) the type and amount of cargo that such ships are designed to carry on board;
- (f) the age and date of construction of such ships;
- (g) such other matter or matters that the Minister considers appropriate to take into account in the circumstances. 45

(4) Different rules may be made in respect of different classes of ships for different circumstances and for different areas of operation.

5 (5) Fire protection rules shall include such requirements as appear to the Minister to be necessary to implement the provisions of the Safety Convention prescribing the requirements that the hull, super-structure, equipment, arrangement, escapes, fire protection, fire
10 detection and fire extinction equipment and machinery used in ships shall comply with, except so far as those provisions are implemented by rules for construction, life-saving appliances, radio rules, navigation and tracking rules, bulk carrier rules or collision regulations.

(6) Fire protection rules in relation to a ship to which this section applies—

(a) may require the provision of—

15 (i) plans exhibited as provided by or under the rules, and of other information, relating to the boundaries of compartments, the openings in them, the means of closing such openings and the arrangements for protection of such spaces,

20 (ii) information necessary for the guidance of the master in maintaining sufficient stability to enable the ship to withstand damage,

(iii) means of escape and of notifications to the crew and other persons on board,

25 (iv) means for the prevention of fire and explosion including specifying the arrangements and materials to be used in the ship,

30 (v) means of suppression of fires including detection systems and equipment, methods for controlling the spread of smoke, for the containment of fire, for fire fighting,

(vi) means to provide for structural integrity of the ship, or

(vii) helicopter facilities on board,

and

35 (b) may provide for—

(i) operational readiness and maintenance of the ship, including instructions or on-board training and drills,

(ii) the manner of carrying dangerous cargoes on board, or

40 (iii) the protection of vehicle decks on the ship.

(7) The powers conferred on the Minister by this section are in addition to the powers conferred by any other enactment enabling him or her to prescribe the requirements that ships to which this section applies must comply with.

(8) It is the duty of the owner and master of every ship to which this section applies to ensure that all requirements set out in the relevant fire protection rules are complied with.

(9) In the case of any ship to which this section applies—

- (a) if the ship is required by the rules for fire protection rules to be provided with such appliances and proceeds on any voyage or excursion without being so provided in accordance with the rules applicable to the ship, 5
- (b) if any of the appliances with which the ship is so provided are lost or rendered unfit for service in the course of the voyage or excursion through the wilful fault or negligence of the owner or master, 10
- (c) if the master wilfully neglects to replace or repair on the first opportunity any such appliances lost or injured in the course of the voyage or excursion, 15
- (d) if such appliances are not kept so as to be at all times fit and ready for use,
- (e) if the master wilfully neglects to provide any plan or other information relating to the means of preventing, detecting, controlling and extinguishing outbreaks of fire as may be required by fire protection rules, or 20
- (f) if any provision of fire protection rules is not complied with,

then the owner of the ship (if in fault) and the master of the ship (if in fault) commits an offence and is liable on summary conviction to a fine not exceeding €5,000. 25

(10) A surveyor of ships may board and inspect any ship for the purpose of seeing that the fire protection rules have been complied with in every case. If the surveyor finds that the fire protection rules have not been complied with, he or she shall give a notice in writing to the owner or master stating in what respect the rules have not been complied with. 30

(11) A surveyor of ships may board and inspect any ship for the purposes of seeing that a notice under *subsection (10)* has been complied with. 35

(12) A surveyor of ships may for the purposes of an inspection make such tests (either on the ship or ashore or at dock), ask such questions, inspect such documents or records and have access to such appliances as he or she considers appropriate for that purpose.

(13) If a ship, in respect of which a notice has been given to its owner or master under *subsection (10)* which requires compliance with the rules in accordance with the notice before the ship proceeds to sea, proceeds or attempts to proceed to sea without such compliance as required in the notice, then the master or owner (as the case may be) commits an offence and is liable— 40
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- (a) on summary conviction, to a fine not exceeding €5,000, or
- (b) on conviction on indictment, to a fine not exceeding €100,000.

5 **34.—(1)** The master of every Irish ship shall cause to be entered in the ship's official log-book a statement, or if there is no official log-book, cause other record to be kept, of every occasion on which boat-drill or fire-drill is practised on board the ship or on which the appliances and equipment required by rules for life-saving appliances or fire protection rules to be carried are examined to see whether they are fit and ready for use and of the result of any such examination.

Entry into log-book of boat-drill, etc.

10 (2) If in the case of any ship boat-drill or fire-drill is not practiced as required, or appliances and equipment are not examined in any such period as is prescribed by rules referred to in *subsection (1)*, the master shall cause a statement to be entered in the official log-book or other record to be kept of the reasons why the drill was not practised or the appliances and equipment were not examined in such
15 period as may be prescribed by those rules.

(3) The master shall, if and when required by a surveyor of ships, produce for inspection any record kept by him or her for the purposes of this section.

20 (4) If the master of a ship fails to comply with any requirement of this section he or she commits an offence and is liable on summary conviction to a fine not exceeding €500.

(5) The following are repealed:

(a) section 9 of the Merchant Shipping Act 1906, and

(b) section 14 of the Act of 1952.

25 **35.—(1)** A ship of over 150 tons gross tonnage which is an Irish ship shall not proceed to sea on an international voyage unless the ship is provided with a signalling lamp or device of a type approved of by the Minister.

Prohibition on proceeding to sea on international voyage without approved signalling lamp or device.

30 (2) If any ship proceeds, or attempts to proceed, to sea in contravention of this section, the owner or master of the ship commits an offence and is liable on summary conviction to a fine not exceeding €5,000.

(3) Section 18 of the Act of 1966 is repealed.

PART 6

35 MARITIME LABOUR CONVENTION 2006

36.—(1) In this section “Convention” means Maritime Labour Convention 2006 adopted at Geneva on 23 February 2006.

Maritime Labour Convention 2006.

40 (2) (a) The Regulations, and the Standards of the Code, of the Convention have the force of law in the State and judicial notice shall be taken of them.

(b) A copy of the Convention or the Regulations, or the Standards of the Code, of the Convention purporting to be published by the International Labour Organisation may be produced in every court and in all legal proceedings

and is evidence, unless the contrary is shown, of the Convention, the Regulations, or Code of the Convention, as the case may be.

(3) The Minister may, following consultation with any other Minister of the Government who in the opinion of the Minister is concerned, make regulations to fulfil the State's commitments under the Convention in accordance with its terms and to give full force to the Regulations, and the Standards of the Code, of the Convention with respect to ships (within the meaning of Article II(1)(i) of the Convention) which are Irish ships and seafarers sailing on those ships. In making such regulations the Minister shall give due consideration to the relevant guidelines of the Code of the Convention.

(4) Without prejudice to the generality of *subsection (3)*, regulations made under this section shall—

(a) establish a system for ensuring compliance with the Convention, including surveys, certification, inspections, reporting and monitoring, and

(b) ensure that ships referred to in *subsection (3)* carry maritime labour certificates and a declaration of maritime labour compliance as required by the Convention.

(5) (a) An authorised person may inspect any ship, for the purpose of seeing that it is properly certified and is compliant with the Convention.

(b) If an authorised person in making an inspection under this subsection finds that the ship is not in compliance with the Convention, he or she shall give to the owner or master notice in writing pointing out the violation.

(c) An authorised person may board and inspect any ship to see that a notice under this section has been complied with.

(d) An authorised person may make such tests (either on the ship or ashore or at dock), ask such questions and inspect such documents as he or she considers appropriate for the purposes of this subsection.

(e) The Minister may appoint in writing other persons or persons of such classes as he or she sees fit to be authorised persons for the purposes of or a specified purpose of this subsection.

(f) An authorised person appointed under *paragraph (e)* shall be furnished with a warrant of his or her appointment as an authorised person and when exercising any power conferred on an authorised person under this Part shall, if requested by a person affected, produce the warrant or a copy of it to that person for inspection.

(g) An authorised person may be assisted in the exercise of his or her functions under this subsection by such persons as he or she considers necessary.

(6) Regulations under this section may, with the consent of the Minister for Finance, prescribe the fees (if any) for the granting of or to accompany an application for the granting of maritime labour certificates or declarations of maritime labour compliance or matters

relating to surveys, certification, inspections, reporting or monitoring as required by the Convention. Fees under this subsection shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the Minister for Finance.

5 (7) Regulations made under this section shall prohibit violations of the requirements of the Convention and shall—

(a) provide for offences for such violations, or

(b) require the adoption of corrective measures (including prohibitions on operating ships),

10 or do both.

(8) A person who commits an offence under regulations made under this section is liable on summary conviction to a fine not exceeding €5,000 or to such lesser amount as specified in the regulations in respect of the offence.

15 (9) Where a person fails to comply with regulations made under this section or take any corrective measures adopted under those regulations, the Minister may make an application to a court of competent jurisdiction, or to the High Court in any case, for an order
20 requiring compliance with the regulations or the taking of the corrective measures. The Court may make such order in this regard as it sees fit.

(10) In relation to discrimination on the age or disability ground nothing in the Employment Equality Act 1998 renders unlawful any
25 act done in compliance with this section or any regulation made under this section.

(11) In this section “authorised person” means—

(a) a surveyor of ships, or

(b) a person appointed under *subsection (5)(e)*.

(12) This section comes into operation on such day as the Minister
30 may appoint by order.

PART 7

MISCELLANEOUS

35 **37.**—A person who obstructs or impedes or, without reasonable excuse, fails to comply with a request of a surveyor of ships in exercising a power conferred on the surveyor under section 15 or 18 of the Act of 1952, section 8 of the Act of 1966 or *section 14, 31* or 33 or authorised person under *section 36* commits an offence and is liable on summary conviction to a fine not exceeding €5,000. Prohibition on obstruction of surveyor of ships.

40 **38.**—(1) A surveyor of ships may, where a notice is not being complied with— Application to Circuit Court — compliance order and appeals.

(a) under section 15(13) or 18(9) of the Act of 1952, section 8(2) of the Act of 1966 or *section 14(10), 31(9)(b), 33(10)* or *36(5)(b)*, in respect of a ship or vessel, make an application to the judge of the Circuit Court in whose Circuit

the port in which the ship or vessel is berthed or docked is located, or

- (b) under *section 32(5)*, in respect of a service station, make an application to the judge of the Circuit Court in whose circuit the service station is situated, 5

for an order to comply with the notice.

(2) The judge, on hearing an application under *subsection (1)*, may make such order as he or she considers appropriate (including, where the application relates to a ship or vessel, the detention of the ship or vessel until the notice is complied with) or dismiss the application. 10

(3) (a) The owner or master of a ship who has been given a notice under any provision referred to in *subsection (1)(a)*, may appeal the requirements or any of them contained in the notice to the judge of the Circuit Court in whose Circuit the port in which the ship or vessel is berthed or docked is located. 15

(b) The person who operates a service station who has been given a notice under *section 32(5)* may appeal the requirements or any of them contained in the notice to the judge of the Circuit Court in whose Circuit the service station is situated. 20

(c) The lodging of an appeal does not cause the notice to be suspended.

(d) The appeal shall be made within 7 working days of being given the notice, unless the Court considers that there is good and sufficient reason for extending that period. 25

(e) The Court may confirm or vary the notice or allow or dismiss the appeal.

(4) A decision of the Circuit Court under this section is final, save that by leave of the Court, an appeal from its decision lies to the High Court on a specified point of law. 30

(5) In *subsection (1)* the reference to a surveyor of ships includes, in relation to a notice given under *section 36(5)(b)*, a reference to a person appointed under *section 36(5)(e)*. 35

Fees — Certificates and inspections under Act and surveys under Act of 1952.

39.—(1) The Minister may, with the consent of the Minister for Finance, prescribe by order (“fees order”) the fees to be charged for—

(a) inspections made under *sections 14, 31 and 33* and certificates issued under *section 13*, and 40

(b) surveys carried out in accordance with regulations made under *sections 10(1)(b) and 15(1)(c)* of the Act of 1952.

(2) Section 6 of the Act of 1952 applies to fees payable under a fees order.

(3) A fees order does not apply in respect of inspections made or surveys carried out by a recognised organisation. 45

40.—The Merchant Shipping (Certification of Seamen) Act 1979 is amended—

Fees — Merchant Shipping (Certification of Seamen) Act 1979.

(a) in section 3(2) by substituting for paragraph (c) the following:

“(c) provide for—

- (i) the issue, form and recording of certificates and other documents, and
- (ii) with the consent of the Minister for Finance, the fees to be charged for the issue, recording and administration of such,”

and

(b) in section 8(1) by substituting for paragraph (b) the following:

“(b) in relation to a standard certified under this section, make regulations—

- (i) corresponding to those provided under section 3(2)(b), and
- (ii) prescribing, with the consent of the Minister for Finance, the fees to be charged for the issue, recording and administration of documents under paragraph (a).”.

41.—Any acts done or purported to have been done by the Marine Casualty Investigation Board or any consultant, adviser or investigator engaged by it or purported to be engaged by it between 5 June 2002 and 29 June 2007 for the purposes of the Board’s functions under the Act of 2000 are not invalidated on the grounds—

Confirmation of acts of Marine Casualty Investigation Board.

(a) of the invalidity of the Marine Casualty Investigation Board (Establishment Day) Order 2002 (S.I. No. 290 of 2002), or

(b) that the Board did not have a quorum between 25 March 2003 and 29 June 2007.