

International Maritime Act Consolidated Edition, 2002



**Commonwealth of Dominica
Maritime Administration**

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Introduction

This Publication, printed as of January 19, 2001, contains the full text of the International Maritime Act, 2000 (Act 9), enacted by the Parliament of the Commonwealth of Dominica and passed in the House of Assembly on September 5, 2000.

The Chapters in this Title have been codified and numbered and conform to the style of the Act. No substantive changes were made in this recodification. Information on vessel registration and the recordation of mortgages and related instruments may be found in Commonwealth of Dominica Vessel Registration and Mortgage Recording Procedures, document No. CDP-200, published by Dominica Maritime Registry, Inc. This document, together with additional copies of the International Maritime Act, 2000, and further information on the maritime and corporate programs of the Commonwealth of Dominica, may be obtained from:

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International Maritime (Amendment) Act, 2002 [A2]

An act to provide for the establishment of the Commonwealth of Dominica Maritime Administration for the purpose of operating an international ship registry for the Commonwealth of Dominica and the creation of a Dominica Maritime Program for ships on that registry.

1

Maritime Administration

Part I General

1. This Act may be cited as the INTERNATIONAL MARITIME (AMENDMENT) ACT, 2002. [A2]
2. (1) This Act is intended, and shall be construed, to encourage and foster the growth and development of the foreign commerce of the Commonwealth of Dominica in a manner that is consistent with the national defense and security as well as the ecological well-being of the Commonwealth of Dominica.
(2) Vessels eligible to be documented or re-documented under the provisions of this Chapter include yachts, fishing vessels, and vessels built anywhere and operated under the flag of the Commonwealth of Dominica having to comply with: [A2]
 - (a) the International Convention on Load Lines, 1966; or [A2]
 - (b) any Regulations made by the Minister [A2](3) All matters affecting the internal order and economy of vessels registered under this Act, including labor relations, shall be governed by this Act.
3. (1) There is hereby established the Commonwealth of Dominica Maritime Administration (MARAD) which shall be subject to the direction of the Minister with responsibility for Economic Planning. [A1]
(2) The Minister shall appoint a Maritime Administrator to carry out the following functions:
 - (a) administer all matters pertaining to vessels of Dominica engaged in foreign trade and which are subject to this Act;
 - (b) ensure the seaworthiness of ships of the Commonwealth of Dominica; and
 - (c) establish proper manning conditions on board.(3) The Maritime Administrator may, by Instrument in writing, delegate to the persons mentioned in Section 4, any of the functions conferred on him by this Act. [A1]
(4) The Minister may make rules and regulations for the better carrying out of the provisions of this Act.

4. (1) The Maritime Administrator may, with the approval of the Minister, appoint such Deputy Administrators and Assistant Administrators as may be necessary for carrying out the purpose of the Act. [A1]
(2) A Deputy Administrator and Assistant Administrator appointed under subsection (1) shall have such authority as may be conferred on them by the Maritime Administrator. [A1]
5. REPEALED [A1]
6. REPEALED [A1]
7. REPEALED [A1]
8. The Maritime Administrator, may from time to time appoint one or more Agents (“the Special Agents”) to act on his behalf in connection with the registration and documentation of vessels and the recording of instruments in relation thereto.
9. There shall be maintained at an office in the United States of America designated by the Maritime Administrator a public register consisting of appropriate indexes where there shall be recorded or filed, in properly allocated and accessible form, all documents of the following nature:
 - (a) bills of sale and other instruments of conveyance of vessels;
 - (b) mortgages of vessels;
 - (c) assignments of mortgages;
 - (d) certificates of permanent and provisional registration;
 - (e) licenses and certificates of officers and members of ship’s crew;
 - (f) all other documents relating to vessels and which are entitled to be recorded.
10. The Maritime Administrator, Deputy Administrator of Maritime Affairs, each Assistant Administrator and each Special Agent may administer all oaths, take all acknowledgments and make all proofs of due execution required by this Act either in or outside of Dominica.
11. (1) The Maritime Administrator, is authorized to issue, in accordance with subsection (2), all such licenses, certificates, or other documents for officers and ship’s personnel on vessels of Dominica necessary or proper for carrying out the purposes of this and any Rule or Regulation made in furtherance hereof or of any International Convention or Agreement to which Dominica is or may become a party.
(2) In aid of licensing, certificating and upgrading of ship’s officers and personnel, the Minister shall, from time to time, establish such standards, Rules and Regulations as shall be deemed by

him to be necessary and appropriate to carry out such purposes and maintain the high standards of the Merchant Marine of Dominica. [A2]

(3) Failure of an owner of a vessel of Dominica to file any required report relating to officers and other ship's personnel employed on the vessel shall result in an automatic fine of five thousand five hundred dollars (US \$5,500) for each offense, and until paid each such fine shall constitute a maritime lien on the vessel.

(4) (a) Failure of an owner of a vessel of Dominica to ensure that each officer employed on the vessel is the holder of a valid license of competence of Dominica to fill the position held by him shall subject the owner to a fine of seven hundred fifty dollars (US \$750) for each officer so employed who is not the holder of such license of Dominica.

(b) Where such failure is admitted or is established by any required report, the fine shall be automatic.

(c) If, a proper license for each such officer is obtained within thirty (30) days of notice from the Maritime Administrator, the fine with respect thereto shall be remitted.

(c) Until paid or remitted, each fine shall constitute a maritime lien on the vessel.

12. The Maritime Administrator may suspend or revoke any license, certificate, permit or document issued under the provisions of this Chapter, and the Minister may from time to time make such Rules and Regulations as are deemed necessary and appropriate to the conduct of suspension and revocation proceedings.
13. The Minister may prescribe by Regulation all necessary and proper fees, except in cases where the fee is already provided for in this Act.
14. The words “document” and “enroll” or any of their derivatives, as used throughout this Act, have the same meaning as the word “register” or its derivatives.
15. If any provision of this Act, or the application of any provision to any circumstance or person, shall be held invalid, the validity of the remainder of this part and the applicability of those provisions to other circumstances, or to persons, shall not be affected thereby.
16. Any person who is convicted by a court of competent jurisdiction of a violation of any of the provisions of Sections 28, 42, 44, 50, 52, of this Act or of any Rules and Regulations made in accordance with this Act shall, upon conviction, be liable to a fine not exceeding twenty-five thousand dollars (US \$25,000) or imprisonment for a term not exceeding ten (10) years, or both.
- 16A. Notwithstanding anything in this Act or any other law, Regulations made under this Act may empower the Maritime Administrator to impose a fine up to EC 150,000 dollars and such fines shall be a lien on the ship or vessel as the case may be. [A2]
17. All causes of action arising out of, or under, this Act are hereby declared to and shall be cognizable before the High Court of Dominica, sitting in Admiralty; but, except as otherwise specifically provided in this Act, the provisions of this Section shall not be deemed to deprive other Courts, of Dominica or elsewhere, of jurisdiction to enforce such causes of action.
18. (1) Appeal from any decision of a Deputy Administrator or any Assistant Administrator or any Special Agent pursuant to any Section of this Act or any Rules and Regulations thereunder, may be taken to the Maritime Administrator.
(2) Upon exhaustion of administrative remedy, appeal may be taken to the High Court of Dominica, sitting in Admiralty.
19. (1) In the performance of their duties, the Maritime Administrator, Deputy Maritime Administrators, any Assistant Administrator, Special Agent, and/or any agent appointed, authorized, recognized, and/or designated by the Maritime Administrator or by any person acting on their behalf for the administration of the provisions of this Act or any Regulation made thereunder or for the performance of statutory certification or classification services, together with any affiliate of any

such person, their stockholders, members, directors, officers and employees, wherever located, shall have full immunity from liability from suit with respect to any act or omission or thing done by any of them in good faith in the exercise or performance, or in the purported exercise or performance, of any power, authority or duty conferred or imposed upon any of them under or in connection with this Act or any Regulation, as amended, or any other law or rule applicable to the performance of any of their said duties.

(2) The immunity provided by subsection (1) shall only apply to those acts or omissions of agents and/or employees of the Maritime Administrator, Deputy Maritime Administrators, any Assistant Administrator, or Special Agent done by them in the course of and in connection with the administration of the Commonwealth of Dominica Maritime Program created by this Act.

20. (1) The Maritime Administrator, may issue ship radio station licenses in respect of radio transmitting apparatus located on board vessels registered under the laws of Dominica, and the Minister may, from time to time, make such Rules and Regulations, as are deemed by him necessary and appropriate to implement this provision.

(2) Ship radio station licenses issued under subsection (1) shall be for the purpose of engaging in shipping communications only.

21. The Minister may, from time to time, make such Rules and Regulations, as may be deemed by him necessary and appropriate to the efficient administration of maritime mobile radio stations.

Part III Vessel Inspection

22. In order to promote the safety of life and property at sea, vessels registered under this Act shall be required to undergo inspection and shall at all times carry on board such proof of inspection as may be required by Law.
23. The Minister shall, from time to time, make such Rules and Regulations, as may be deemed by him necessary and appropriate to the efficient administration of vessel inspections.

Part IV Rules of Navigation

24. The International Regulations for Preventing Collisions at Sea, 1972, as amended, and such changes therein as in the future may be made by any International Convention to which the Commonwealth of Dominica becomes a State Party, shall be followed by all vessels and seaplanes navigating all harbors, rivers, and inland waters of Dominica; and shall be followed by all vessels of Dominica and seaplanes upon the high seas and in all waters connected therewith navigable by seagoing vessels except as provided in Rule 1 of the foregoing Regulations; and the foregoing Regulations shall have effect as if specifically enacted by statute and fully set out herein.
25. The term "vessel under oars" as set out in Rule 25 of the foregoing Regulations includes canoes and various nondescript local craft.
26. (1) A Pilot, Engineer, Mate, Master or other person in charge of any vessel, boat, canoe, or nondescript local craft who neglects or refuses to observe the provisions of this Part is liable on conviction to a penalty of five hundred dollars (US \$500), and for all damages sustained by any passenger in his person or baggage resulting from that neglect or refusal;
(2) Nothing in subsection (1) shall relieve any vessel, owner, corporation, or other person from any other liability incurred by reason of that neglect or refusal.

27. Every vessel which is navigated without complying with the provisions of this Part is liable to a penalty of five hundred dollars (US \$500), for which sum the vessel so navigated is liable and may be seized and proceeded against before a Court of competent jurisdiction in Dominica.
28. (1) In every case of collision between two vessels, the Master or person in charge of each vessel shall, if and insofar as he can do so without serious danger to his own vessel, crew, and passengers (if any),
- (a) stand by the other vessel until he has ascertained that it needs no further assistance;
 - (b) render to the other vessel, and to its Master, crew, or passengers (if any), such assistance as may be practicable and necessary to save them from any danger caused by the collision;
 - (c) report to the Master or person in charge of the other vessel the name of his own vessel, its port of registry or the port to which it belongs, and the names of the ports from which and to which it is bound.
- (2) If he fails, without reasonable cause, to comply with subsection (1), the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect, or default.

2

Documentation and Identification of Vessels

Part I Vessel Registration

29. (1) No vessel subject to Chapter 1 shall be documented or re-documented under the laws of Dominica or be accorded the rights and privileges of a vessel of Dominica unless that vessel is registered in accordance with the provisions of this Part. [A1]
- (2) The home port of every vessel so registered shall be Roseau or Portsmouth, and the name of the home port shall be shown on the Certificate of Registry.
30. (1) A yacht, fishing vessel, or vessel required to comply with the International Convention on Load Lines 1966 or with any Regulations made by the Minister, built anywhere and owned by a:
- [A2]
 - (a) citizen or national of the Commonwealth of Dominica; [A1]
 - (b) body corporate established under the laws of the Commonwealth of Dominica; [A1]
 - (c) citizen of CARICOM residing in a member State; or [A1]
 - (d) foreign maritime entity as defined in section 209 is eligible to be documented under the provisions of this Chapter. [A1]

(2) A vessel referred to subsection (1) is not eligible for initial documentation or re-documentation if, on January 1 of the year in which initial documentation or re-documentation is sought, that vessel is over twenty (20) years of age, computed from completion of first construction.

(3) The ownership requirement referred to in subsection (1) may be waived by the Maritime Administrator where:

- (i) the vessel meets all other requirements for registration;
- (ii) it has been satisfactorily demonstrated that there is an absolute and genuine need for that waiver; and
- (iii) the owner of the vessel qualifies for, secures and maintains registration on the Maritime Corporate Registry and either maintains at all times an operating office in Dominica or appoints a qualified resident agent in the manner prescribed by law.

(4) The 20-year maximum age limitation in subsection (2) may be waived at the discretion of the Maritime Administrator and a vessel of over twenty (20) years of age may be documented or re-documented if:

- (i) the vessel meets all other applicable requirements; and
- (ii) it has been satisfactorily demonstrated that there is a genuine need for such waiver.

31. (1) For a vessel entering the registry or flag of Dominica, the Maritime Administrator may in cases of international civil, political or military crisis temporarily suspend or modify the requirements of this Chapter with respect to Permissions for Transfer and Certificates of Deletion, as well as related documentation, and for good cause shown, permit that vessel to be documented under this Chapter.

(2) A vessel owned by citizens of countries other than Dominica, entering the registry or flag of Dominica, may have its registry temporarily changed to the flag of the owner's natural citizenship if that nation so requests in times of national emergencies.

32. REPEALED [A1]

33. With respect to vessels registered under this Chapter, the Minister shall establish by Regulations, all necessary and proper registration fees.

34. The ship's document shall be called the "Certificate of Registry."

35. Upon receipt of the written application of an owner of a vessel eligible for documentation for the issuance of a Certificate of Registry for the vessel, accompanied by the oath required by Section 36, the Maritime Administrator may, upon payment of the prescribed fees, issue a Permanent Certificate of Registry for the vessel if the owner furnishes proof satisfactory to the issuing officer:

- (a) as to his ownership of the vessel;

- (b) that any foreign marine document for the vessel has been surrendered with the consent of the government that had issued it, or has been legally canceled;
- (c) that the vessel is in a seaworthy condition;
- (d) that the owner has paid to the Maritime Administrator or his agent a sum equal to the initial registration fee;
- (e) that the markings of name, official number, home port and draft required by Section 50 have actually been made;
- (f) that a Certificate of Measurement as required by Section 60 has been issued.

36. (1) In order to document a vessel, the owner, managing owner, part owner, or his agent, authorized by Power of Attorney where that vessel is owned by individuals, or in the case of a corporate-owned vessel, by the President, Vice President, Secretary or Assistant Secretary of the corporation or other officer or agent as authorized in writing, or, under proper authority by any other form of ownership, shall take an oath declaring the name of the vessel, its net tonnage, the place where built, the date when built, the name and residence of any other owner and his citizenship, each owner's proportion, and the name of the applicant and his citizenship.
- (2) The oath may be taken before the Maritime Administrator, Deputy Administrator or an Assistant Administrator or a Special Agent or before a Notary Public or other officer authorized to administer oaths by the laws of the place where the oath is administered.
- (3) The names of the persons owning shares in an incorporated company owning that vessel need not be stated and the oath of any other person interested and concerned in the vessel is not required.
- (4) An agent or attorney who purchases a vessel shall take an oath as to the ownership of the vessel and that he is the agent or attorney for the owner and in such capacity has made such purchase in good faith.
- (5) Whenever the document of a vessel is lost or destroyed, the Master, or other person in command, may take the following oath before the Maritime Administrator, Deputy Administrator or a Assistant Administrator or an Agent or before a Notary Public or other officer authorized to administer oaths by the laws of the place where the oath is administered. at or nearest to the port where the vessel is first located after such loss or destruction:
- "I [insert the name of the person swearing] being Master or in command of the [insert type of vessel] or vessel called the [insert the name of the vessel], Official No. [insert No.] owned by [insert the name of the owner] of [insert domicile of the owner] do swear [or affirm] that the said vessel has been, as I verily believe, registered according to the law of the Commonwealth of Dominica by the name of [insert again name of vessel], and that a Permanent [or Provisional] Certificate of Registry bearing No. [insert No. of lost Certificate] was issued for such vessel pursuant to the laws of the Commonwealth of Dominica at [insert place of issuance of lost

Certificate] on [insert date of issuance of lost Certificate], which Certificate has been lost [or destroyed]; and that the same, if found, and within my power, will be delivered up to the Maritime Administrator.”

(6) When an oath is taken in the foregoing form, the officer or person administering the oath shall grant to the vessel a temporary Provisional Certificate of Registry and insert therein that it is issued in lieu of the one lost or destroyed

and the officer or person shall immediately send to the Maritime Administrator a written notice, accompanied by a copy of the oath, advising that the oath has been taken and a temporary Provisional Certificate issued.

(7) Upon receipt of a notice the Maritime Administrator, upon being satisfied that the vessel is entitled to a Certificate of Registry, may grant a new Certificate of Registry, identical with that which was lost or destroyed.

(8) As soon as practicable after the issuance of a Certificate of Registry, the temporary Provisional Certificate herein before referred to must be surrendered to the Maritime Administrator for cancellation.

37. (1) The Maritime Administrator or its duly authorized agent shall furnish forms of Provisional and Permanent Certificates of Registry. [A2]

(2) A vessel's documents shall be in the form obtainable from the Maritime Administrator.

(3) The Maritime Administrator may prescribe endorsements that may be made on vessel documents from time to time, with or without issuance of a new document or surrender of the old document.

38. (1) The Maritime Administrator or its duly authorized agent shall progressively number the Registry Certificates granted by it, beginning anew at the commencement of each year, and shall make a record thereof in a book kept for that purpose.

(2) Copies of all documents referred to in subsection (1) issued by or surrendered to the Maritime Administrator shall be retained permanently.

39. (1) Upon compliance with the requirements of Sections 40, 65, or 72, a Provisional Certificate of Registry may be issued by the Maritime Administrator, to vessels abroad which are to be documented under this Chapter.

(2) Unless sooner revoked or suspended, a Provisional Certificate of Registry shall entitle the vessel to the privileges of a vessel of Dominica in the foreign trade for a period not exceeding two (2) years, as endorsed thereon.

(3) The Maritime Administrator shall prescribe the conditions in accordance with which Provisional Certificates of Registry shall be issued and renewed and the manner in which they shall be surrendered in exchange for Permanent

Certificates of Registry.

40. (1) Upon receipt by the office of the Maritime Administrator of the written application of an owner of a vessel eligible for documentation under the laws of Dominica and requesting the issuance of a Certificate of Registry for the vessel, accompanied by the oath or oaths required by Section 36, and upon payment of the prescribed fees to the officer receiving the said application, the Maritime Administrator may issue a Provisional Certificate of Registry for the vessel, if the owner furnishes proof satisfactory to the officer receiving the application:
- (a) as to his ownership of the vessel;
 - (b) that if there is an outstanding foreign marine document for the vessel the government that had issued it has consented to its surrender and that either the marine document has been surrendered for cancellation or that the owner has issued orders to the Master of the vessel to surrender the foreign marine document for cancellation immediately upon receipt of the Provisional Certificate of Registry of Dominica on board the vessel; or that the outstanding document has been legally canceled;
 - (c) that the vessel is in a seaworthy condition;
 - (d) that the owner has paid to the Maritime Administrator a sum equal to the initial registration fee, and
 - (e) that either the markings of names, official number, home port, and draft required by Section 50 have either actually been made or that the owner has issued orders to the Master of the vessel to have the markings made immediately upon receipt of the Provisional Certificate of Registry of Dominica on board the vessel.
- (2) Unless the owner within thirty (30) days after issuance of the Provisional Certificate of Registry furnishes satisfactory proof to the officer to whom the application for documentation has been presented, showing that the vessel's outstanding foreign marine document has actually been surrendered for cancellation and that the markings required by Section 50, have actually been made, or if before the thirty (30) day period it is established that any of the obligations hereunder will not or cannot be complied with the officer may declare the Provisional Certificate of Registry to be null and void.
- (3) As soon as reasonably practicable after a measurement of the vessel and the surrender for cancellation or legal cancellation of any outstanding foreign marine document of the vessel and the making of the markings required by Section 50, a Permanent Certificate of Registry shall be issued in place of any Provisional Certificate issued, and that Provisional Certificate shall be surrendered as promptly as circumstances permit to the Maritime Administrator.

(4) When the Permanent Certificate is issued after the issuance of a Provisional Certificate, the charges originally paid shall be adjusted in accordance with the tonnage established by the Certificate of Measurement.

(5) For good cause shown, the Maritime Administrator may, from time to time, renew a Provisional Certificate of Registry for a period not exceeding two (2) years.

41. No documents may be granted or papers issued to any vessel until all applicable provisions of this Part have been complied with.
42. A document shall be used solely on the vessel to which it is granted, and it shall not be sold, lent, or otherwise disposed of to any person.
43. A registered vessel sold or transferred in whole or in part while outside Dominica, but without change of Flag, shall comply with the provisions of this Part relating to the documentation of vessels and a new document shall be obtained.
44. (1) The owner of a documented vessel which desires to transfer the vessel to foreign registry may do so provided that there are no unfulfilled obligations to Dominica in respect of the vessel.
(2) Before a transfer is accomplished the registered owner shall surrender the ship's document to the Maritime Administrator.
45. Before a Certificate of Registry is accepted for surrender, the registered owner shall submit to the Maritime Administrator a written application specifying the name of the vessel, the reasons for the proposed surrenders the name and nationality of the proposed new owner, if any, and, if a transfer to foreign registry is contemplated, the name of the country to whose registry transfer is desired.
46. (1) If a registered vessel is lost, taken by an enemy, burned, broken up, or otherwise prevented from returning to the port to which she belongs, the Certificate of Registry, if preserved, shall be delivered up within eight (8) days after the arrival of the Master or person in command, to the Maritime Administrator.
(2) When the application is made for new registry of a vessel, its former Certificate of Registry shall be delivered up to the Maritime Administrator.
(3) Where a Certificate of Registry is granted in lieu of one lost, the lost Certificate, if found, shall be delivered up to the Maritime Administrator, who shall thereupon cancel it.

47. The Certificate of Registry of a vessel subject to a Preferred Mortgage shall not be accepted for surrender without the consent of the mortgagee, except in the case of a Provisional Certificate surrendered for the purpose of issuance of a Permanent Certificate.
48. (1) (a) Whenever a documented vessel is sold or transferred wholly or partly without change of flag, or is altered in form or burden, by being lengthened or built upon, or from one denomination to another, by the mode or method of rigging or fitting, she shall be documented anew, by her former name.
(b) Every such sale or transfer shall be evidenced by a written instrument in the nature of a bill of sale to which is attached a true copy of the vessel's latest Certificate of Registry and otherwise the vessel shall not be documented anew.
(c) In cases of a combination vessel that can be used either for the carriage of liquid cargo in bulk or dry cargo in bulk, if the Certificate of Registry shows the vessel in the condition or use providing the greater net and gross tonnage and has attached thereto an appendix showing the vessel in the other or use with the lesser gross and net tonnage, then a change of a vessel from one condition or use to the other would not require the vessel to be documented anew.
- (2) When the Maritime Administrator determines that a vessel has been sold or transferred by process of law, and that her document is retained by the former owner, he may grant a new document under the sale upon the owner complying with the requirements of this Part, excepting only the delivering up of the former document.
- (3) Subsection (2) does not remove the liability of any person to any penalty for not surrendering the papers belonging to any vessel on a transfer or sale of the same.
- (4) A vessel required by this Part to be documented anew, which is not so documented, shall not be deemed a vessel of Dominica.
- (5) If a former document has not been delivered up, except where it has been lost or destroyed and the oath thereto has been taken, the owner of the vessel is liable to a penalty of not more than five hundred dollars (US \$500).
49. To register a vessel newly built and previously undocumented under any flag, for the first time, the builder, by whom or under whose direction the vessel has been built, shall certify as follows:
- (a) that it was built by him or under his direction;
 - (b) the place where built;
 - (c) the time when built;
 - (d) the person for whom built;
 - (e) the build;
 - (f) the number of decks and masts;
 - (g) the length;

- (h) the breadth;
- (i) the depth;
- (j) the tonnage or tonnages; and
- (k) any other circumstances as are usually descriptive of the identity of a vessel.

50. (1) Every documented vessel shall have her name marked upon each bow and upon the stem and the home port of Roseau or Portsmouth shall also be marked upon the stem.
- (2) These names shall be painted or gilded upon banded or cast Roman letters in light color on a dark background, or in a dark color on a light background, permanently affixed and distinctly visible and the smallest letters used shall not be less than four (4) inches in size.
- (3) Each vessel of Dominica, in addition to having her name painted on her stem, shall have the same conspicuously placed in distinct, plain letters of not less than six inches in length, on each side of the hull.
- (4) The Maritime Administrator may prescribe a system of numbering documented vessels, and the designated number of each vessel shall be marked permanently on her main beam.
- (5) The draft of every registered vessel shall be marked upon the stem and stem post, in English feet or in decimeters, in Arabic numerals, and the bottom of each numeral shall indicate the draft to that line.
51. Upon the initial registration (either permanent or provisional) of a vessel, the Maritime Administrator shall assign to the vessel an official number.
52. (1) The Maritime Administrator may change the name of a vessel of Dominica on application by the owner.
- (2) The Minister may make necessary Rules and Regulations, and procure necessary evidence as to age, condition, where built, and pecuniary liability of the vessel so as to prevent injury to public or private interests.
- (3) Upon granting permission the Maritime Administrator shall cause the order for a change of name to be published in at least four (4) issues of a newspaper at the place of documentation.
- (4) The person desiring the change of name shall pay the cost of procuring evidence and advertising.
- (5) The following fees shall be paid by the owners of vessels for securing such changes of name:
- (a) for vessels ninety net tons and under, fifty dollars (US \$50);
 - (b) for vessels over ninety (90) and under five hundred (500) net tons, one hundred dollars (US \$100);
 - (c) for vessels over five hundred (500) and under one thousand (1,000) net tons, one hundred fifty dollars (US \$150);

(d) for vessels over one thousand (1,000) and under five thousand (5,000) net tons, two hundred dollars (US \$200);

(e) for vessels five thousand (5,000) net tons and over, two hundred fifty dollars (US \$250).

(6) Whenever the name of a vessel of Dominica is changed, or any device, advertisement or contrivance is used with intent to deceive as to its true name or character that vessel shall be forfeited and will result in a fine of twenty-five thousand dollars (US \$25,000), and until paid each fine shall constitute a maritime lien on the vessel.

53. (1) An officer designated by the Maritime Administrator, or who within Dominica is concerned in the collection of government revenue, may at all times inspect the Certificate of Registry and tonnage tax receipt of a vessel of Dominica.
- (2) A Master who fails to exhibit the documents referred to in subsection (1) when required by an officer, is liable to a penalty of five hundred dollars (U.S. \$500), and if his failure is willful is liable to a penalty not exceeding five thousand dollars (U.S. \$5,000) and imprisonment for a period not exceeding two (2) years.
54. (1) Upon arrival during customary business hours of a documented vessel at any foreign port where there is a representative appointed by the Maritime Administrator, the Master, ship's agent or other authorized person shall, upon request thereof, display to him on board, without payment of any fee, the vessel's Certificate of Registry and Annual Tonnage Tax Receipt.
- (2) Only the Certificate of Registry and Annual Tonnage Tax Receipt shall be required to be so displayed, and this requirement shall be waived when the vessel's papers have been so displayed in the same port within ninety (90) days previously.
- (3) Where a request has been made and the ship's papers have not been properly displayed, the representative appointed by the Maritime Administrator making the request shall immediately notify the Maritime Administrator of such non-compliance.
- (4) Whether local port regulations do or do not require clearance of a vessel from a representative appointed by the Maritime Administrator, it shall not be required in relation to the clearance that the signing on or off of crew or the execution of any ship's papers or documents be done before a representative appointed by the Maritime Administrator, or that any ship's papers or documents be witnessed, stamped or otherwise legalized by a representative appointed by the Maritime Administrator.
55. (1) An owner, agent, attorney or other party (except for the Master) who willfully commits perjury in an oath or affirmation taken to obtain documentation of a vessel, is liable to an automatic fine of twenty-five thousand dollars (US \$25,000) or imprisonment for not more than ten years, and

the vessel, her tackle, apparel and furniture shall be forfeited, (or the value thereof recovered from that person).

(2) A Master who willfully commits perjury in taking an oath or affirmation is liable to a penalty of ten thousand dollars (US \$10,000) or imprisonment for not more than five years; but the vessel shall not be forfeited.

56. The Minister may, in keeping with the provisions of Section 3, make such Rules and Regulations for the registration, identification and regulation of transfers of vessels as it may deem in the best interests of the merchant marine and Maritime Program of Dominica.

57. (1) The Minister may from time to time establish, by Regulations, standards of seaworthiness required for the registration of vessels and may appoint Classification Societies or others to determine any questions involved.

(2) The Minister may from time to time prescribe by Regulations safety standards for small vessels.

(3) For the purpose of this section "small vessels" include:

(a) commercial vessels under 500 tons and over 24 meters in length;

(b) commercial vessels under 24 meters; and

(c) pleasure vessels under 24 meters.

58. (1) Except as otherwise provided herein, registration fees, while payable in advance and due on the first day of January in each year, may be paid without penalty in installments as follows:

(a) fifty percent (50%) on or before January 1; and

(b) the second fifty percent (50%) on or before July 1 of the year in respect of which these fees are due.

(2) There shall be no rebate for fees that are due in respect of a vessel which remains on the Register of Dominica for any portion of a calendar year.

(3) Any annual fees payable under the Regulations made pursuant to Section 56 shall be paid in advance by January 1 of the year in respect of which these fees are due.

(4) A penalty at a rate established by Regulations shall be imposed for late payment of fees; Regulation shall be made before November 1 to take effect as of January 1 of the succeeding year, and the penalty rate thereby established shall be effective until altered by subsequent Regulations.

(5) If payment is delayed beyond July 1 of the year in respect of which the fees are due, the Certificate of Registry of the vessel in question may be suspended until all out-standing fees and penalties are paid.

(6) The Maritime Administrator shall issue official receipts for annual fees, and any penalties relating thereto.

- (7) All unpaid fees, penalties and other charges arising under this Act or Regulations made thereunder shall constitute a maritime lien on the vessel in respect of which such amounts are due, and notwithstanding Section 88, such lien shall have priority over all others save those for wages and salvage.
- (8) No Certificate of Registry shall be returned to the Master of a vessel by an officer of the Maritime Administrator with whom it may have been deposited until proof is furnished that the annual fees for the then current year have been paid.
59. (1) From the time of issuance of a Certificate of Registry and until its expiration, termination, revocation or cancellation, whichever first occurs, the vessel shall be granted and shall enjoy the right to fly the Flag of Dominica exclusively, unless its Certificate of Registry is specifically endorsed so as to withdraw that right.
- (2) At all times during the period that a vessel has the right to fly the Flag of Dominica, the vessel shall be subject to the exclusive jurisdiction and control of Dominica as the Flag State, in accordance with the applicable International Conventions and Agreements and with the provisions of this Act and any Regulations or Rules made thereunder.
60. A vessel shall not be permanently registered until measured by a person appointed by the Maritime Administrator.
61. The person or agent appointed under Section 60 to measure a vessel shall certify, specifying the building of the vessel, number of decks and masts, length, breadth, depth, tonnage or tonnages, and such other particulars usually descriptive of the identity of a vessel, and that the markings required by Section 50 have actually been made.
62. The Minister shall, by Regulations, prescribe the method of measurement for all vessels registered under this Chapter.
63. (1) Each ship's permanent document shall state the gross and net tonnage or tonnages determined in accordance with such rules and regulations as the Minister may prescribe.
- (2) Upon application by the owner or Master of a vessel of Dominica in foreign trade, the Maritime Administrator or its duly authorized agent may attach to the document an appendix stating separately, for use in foreign ports, the measurement of such space or spaces as are there permitted to be deducted from gross tonnage or tonnages.

Part III Bareboat Charter

Commonwealth of Dominica Registration

64. (1) A citizen or national of Dominica or a Foreign Maritime Company registered on the Maritime Corporate Register who obtains a waiver pursuant to Section 30 (3), desiring to obtain provisional registration under this Act of a vessel which such citizen or national or Foreign Maritime Company possesses by bareboat charter, and which in all respects other than ownership complies with the requirements of Part I of this Chapter, must cause the charter party to be duly recorded in books to be kept for that purpose and indexed to show:
- (a) the name of the vessel;
 - (b) the names of the bareboat charterer, the ship-owner and the holders of any registered mortgages, hypothecations or similar charges;
 - (c) the time and date of recording of the charter party;
 - (d) the period of duration of the charter party; and
 - (e) the foreign State of registration of the vessel.
- (2) The following documents must be filed with the Office of the Maritime Administrator:
- (a) an official certificate from the foreign State of registration setting out the ownership of the vessel and any recorded encumbrances;
 - (b) the written consents of the shipowner and of the mortgagee(s), if any, to the provisional registration of the vessel in Dominica under this Part; and
 - (c) satisfactory evidence that the foreign State of registration will withdraw from the vessel the right to fly the flag of that State while the vessel is subject to the bareboat charter recorded under subsection (1).
- (3) Any subsequent amendments or addenda to the charter party recorded under subsection (1) and any and all present or subsequent bareboat subcharter parties shall be submitted for recording within thirty (30) days of execution.

65. The bareboat charterer shall execute under oath or affirmation an undertaking that while the vessel is granted the right to fly the Flag of Dominica she will not fly any other flag nor show any home port other than Roseau or Portsmouth, and that the bareboat charterer will without delay notify the Office of the Maritime Administrator if any foreign State shall Accord the vessel the right to fly its flag.
66. (1) When the charter party has been recorded and an application for registration of the vessel has been executed and filed by the bareboat charterer together with all necessary documents and payment of all taxes and fees, the Maritime Administrator shall issue to the vessel a Provisional Certificate of Registry, valid for a period not exceeding two (2) years or until the date of termination of the bareboat charter, whichever first occurs.
- (2) Prior to the expiration of the current Provisional Certificate of Registry, the bareboat charterer may obtain a reissued Provisional Certificate of Registry, valid for a period not exceeding two (2) years.
- (3) In no case may a Provisional Certificate of Registry reissued under this subsection (2) bear an expiration date later than or remain valid beyond the date of termination of the bareboat charter.
67. (1) If the bareboat charterer breaches the under-taking given under Section 65, or if a vessel while registered under any provisions of this Chapter is found flying or pretending entitlement to fly the flag of a foreign State without first complying with Sections 69 and 70, the owner and/or bareboat charterer is liable to pay an administrative penalty not exceeding one hundred fifty thousand dollars (US \$150,000), which shall until paid constitute a maritime lien upon the vessel and that penalty may be imposed without regard to any other penalties for per-jury or fraud.
- (2) The bona-fide grant by a foreign State of the right to fly the flag of that State shall, from the time of such grant, terminate provisional registration of a vessel in Dominica under Section 66, but shall not terminate registration of a vessel of Dominica under any other Section of this Chapter.
68. (1) Without prejudice to the continuing foreign legal status of a ship mortgage, hypothecation or similar charge made and registered in accordance with the laws of a foreign State, a notice may be recorded in the central office of the Maritime Administrator in the United States of America, that that mortgage exists.
- (2) No notice in respect of a ship mortgage, hypothecation or similar charge, or any other instrument related thereto shall be accepted for recording under this Section unless it has first been duly and validly executed and registered in the foreign State of registration of the vessel.
- (3) If there is more than one mortgage, hypothecation or similar charge, then notices in respect of all those instruments may be recorded under the provisions of this Section in the same order as they are registered in the foreign State of registration.

(4) If notice in respect of a foreign mortgage, hypothecation or similar charge has been recorded pursuant to subsection (1), then any subsequent mortgage, hypothecation or similar charge and any other instrument related thereto which is subsequently registered in accordance with the laws of the foreign State of registration of the vessel may also be recorded forthwith in accordance with the provisions of Chapter 3.

Part IV Bareboat Charter

Foreign Registration

69. No vessel registered under the provisions of this Chapter may obtain valid bareboat charter registration in a foreign State unless the owner first applies for and receives the permission of the Maritime Administrator.
70. In the event that the vessel is subject to one or more Preferred Ship Mortgages of Dominica, the written consent of each mortgagee to the foreign bareboat charter registration shall be duly filed prior to issuance of a Certificate of Permission under Section 71.
71. Upon granting permission under Section 69 for a vessel of Dominica to obtain bareboat charter registration in a foreign State, the Maritime Administrator shall issue a Certificate of Permission to obtain such registration.
72. (1) The Certificate of Permission for Bareboat Charter Registration in a Foreign State shall declare that the right to fly the Flag of Dominica and to show the home port of Roseau or Portsmouth is withdrawn while the vessel is subject to the bareboat charter identified in the Certificate.
- (2) The Certificate shall also state that Dominica recognizes the named foreign State as the competent authority to exercise exclusive jurisdiction and control over the vessel in accordance with the applicable International Conventions and Agreements.
- (3) Notwithstanding that the right to fly the Flag of Dominica was withdrawn during the period of bareboat charter registration in the foreign State, in the event that the vessel remains subject to one or more Preferred Ship Mortgages recorded under this Act, the mortgage shall, unless satisfied, released or discharged of record, remain in full force and effect and be governed solely and exclusively by the laws of Dominica.

73. (1) Once a Certificate of Permission has been issued under Section 71, the owner of the vessel shall surrender her current Certificate of Registry, and a new Provisional Certificate of Registry shall be issued to the vessel, boldly endorsed to show that the right to fly the Flag of Dominica has been withdrawn.
- (2) The endorsed Provisional Certificate of Registry, together with all other documents and certificates issued by Dominica to the vessel, shall be surrendered to and retained by the Maritime Administrator.
- (3) Prior to the expiration of the current Provisional Certificate of Registry, the owner may obtain a reissued Provisional Certificate of Registry valid for a further period not exceeding two (2) years.
- (4) In no case may a Provisional Certificate of Registry reissued under this subsection (3) bear an expiration date later than or remain valid beyond the date of termination of the bareboat charter.

3

Preferred Ship Mortgages and Maritime Liens

74. (1) A sale, conveyance, hypothecation, mortgage or assignment of mortgage of any vessel shall not be valid in respect of that vessel, against any person other than the grantor or mortgagor, his heirs or devisees and persons having actual notice thereof until the instrument evidencing the transaction is recorded in the central office of the Maritime Administrator.
- (2) Each duly appointed representative of the Maritime Administrator, wherever located, has full authority to accept for filing such instrument or instruments.
- (3) A mortgage recording fee of twelve hundred fifty dollars (US \$1,250) shall be paid by the owner of the vessel.
- (4) The central office of the Maritime Administrator in the United States of America, or its duly appointed representative elsewhere, shall record such instruments in the order of their reception in appropriate indexes to be kept for that purpose, showing:
- (a) the name of the vessel;
 - (b) the names of the parties;
 - (c) the time and date of reception of the instrument affected;
 - (d) the interest in the vessel transferred or affected; and
 - (e) the amount or amounts of the direct or contingent obligations, including those provided for in Section 81, that are or may become secured by the mortgage.
- (5) An instrument referred to in this chapter shall be submitted for recording on such form as may be prescribed or approved by the Maritime Administrator. [A1]

- (6) The Maritime Administrator may reject any instrument submitted for recording otherwise than in conformity with forms prescribed or approved under subsection (5). [A1]
- (7) No action by the Maritime Administrator under the subsection (6) shall affect the validity or enforceability of an otherwise valid contract, deed of covenants or other obligations related to the instrument being recorded. [A1]
75. (1) A valid mortgage, whenever made, which at the time it is made includes the whole of any vessel, shall have a preferred status in respect of that vessel as of the date of its recording if the mortgage is recorded as provided herein.
- (2) The preferred status of a mortgage under this Chapter shall not be prejudiced or impaired by reason of the fact that such instrument secures the payment, pledge or assignment of monies or rights, due or to become due to the owner or other party, such as but not limited to guarantee fees, insurance, options, charter hire, freight revenues, or any other fees, costs, or charges, direct or contingent, incidental to the sale, purchase or operation of a vessel of the Commonwealth of Dominica; or by reason of any provision of section 81, or by reason of the fact that no advance of monies is or has been made at the time of its recording. [A1]
- (3) Notwithstanding subsection (1) a valid mortgage whenever made which: [A1]
- (a) includes the whole of any vessel; [A1]
 - (b) is recorded as provided herein; and [A1]
 - (c) is granted in continuation of a prior recorded mortgage, hypothecation or similar charge on such vessel, whether granted under the Laws of Dominica or the laws of another country under which the vessel was documented at the time that prior mortgage was recorded, shall have preferred status in respect of such vessel as of the date of recordation of that prior mortgage. [A1]
- (4) For the purposes of this section, a mortgage “granted in continuation of a prior recorded mortgage, hypothecation or similar charge” means a mortgage on a vessel of Dominica where, [A1]
- (a) the vessel covered by such mortgage is a vessel covered by the prior mortgage, hypothecation or similar charge; [A1]
 - (b) the obligations secured by such mortgage are obligations secured by a prior mortgage, hypothecation or similar charge; [A1]
 - (c) such mortgage is granted by the current vessel owner whether or not the owner is the vessel owner who granted the prior mortgage, hypothecation or similar charge; and [A1]
 - (d) for a vessel entering the Registry of the Commonwealth of Dominica, such mortgage is recorded during the period prescribed. [A1]

- (5) Nothing in this section shall be construed to preempt any law, which would recognize the preferred status of a mortgage of a vessel of Dominica prior to the date of recordation thereof. [A1]
- (6) For a vessel entering the Registry of Dominica, the preferred status of a mortgage, hypothecation or similar charge on such vessel shall continue for a period of thirty (30) days following registration of the vessel if the information with respect to such mortgage required by the Maritime Administrator is furnished to the Administrator in connection with the registration of the vessel under the laws of Dominica. [A1]
- (7) The preferred status of a mortgage, hypothecation or similar charge shall not be adversely affected by the deletion or release of the mortgage as a matter of record from the vessel's prior register in connection with, or as a condition to, deletion of the vessel from the register. [A1]
- (8) In the interpretation and application of this section: [A1]
 - (a) a certified extract of the Preferred Mortgage Index of the public register maintained by the Maritime Administrator; [A1]
 - (b) a Certificate of Ownership and Encumbrance issued by the Maritime Administrator; or [A1]
 - (c) in the case of a mortgage, hypothecation or similar charge recorded in another country similar documentation, including a transcript of registry, certified or issued by the appropriate governmental agency in that country, shall be accepted as evidence of the granting and recordation of a mortgage, hypothecation or similar charge, including the date of recordation thereof. [A1]

76. (1) The interest of a mortgagee in a vessel registered under this Act shall not be terminated by a forfeiture of the vessel for a violation of any law of Dominica, unless the mortgagee authorized, consented, or conspired to effect the illegal act, failure, or omission which constituted the violation.

(2) A vessel which is the subject of a Preferred Mortgage may not be canceled from the Register for so long as the indebtedness secured by the Preferred Mortgage remains unsatisfied or the Mortgage is not otherwise discharged; provided however, that the Maritime Administrator may, not less than sixty (60) days following the mailing of notice to all mortgagees of record at their last known mailing addresses of its intent to do so, strike a vessel from the Registry and Flag of Dominica as a result of receipt by it of evidence satisfactory to it that the vessel has been lost, destroyed, or transferred to another registry following sale by order of an Admiralty Court in a civil action in rem; such administrative action by the Maritime Administrator shall not impair or affect the lien or status of any Preferred Mortgage recorded under this Chapter, nor shall it terminate the interest of a mortgagee in such a vessel.

77. (1) A mortgage shall not be recordable unless it states the interest of the mortgagor in the vessel, and the interest so mortgaged.
- (2) A mortgage or certificate of discharge thereof shall not be recorded unless it bears an apostille issued by a competent authority of a State Party to the Hague Convention of 5 October 1961, as amended, or has been acknowledged or is submitted with such other proof of due execution as may be required by Regulation.
78. The office of the Maritime Administrator that is located in the United States of America or its duly appointed representative elsewhere may accept for recording any bill of sale or other conveyance of a vessel or a facsimile thereof, the original of which has been received by a Deputy Administrator, any Assistant Administrator or any Special Agent, which recites the interest of the seller in the vessel and the interests sold or conveyed, provided it has previously been acknowledged or is submitted with such other proof of due execution as may be required by Regulation, and provided further that any bill of sale of a vessel already documented under the laws Dominica must have attached thereto a true copy of its latest Certificate of Registry.
79. (1) The office of the Maritime Administrator which is based in the United States of America, or its duly appointed representative elsewhere, may accept for recording any mortgage on a vessel, whenever made, which recites the interest of the mortgagor in the vessel and the interest so mortgaged, provided it bears the Hague Convention apostille or has been acknowledged or is submitted with such other proof of due execution as may be required by Regulation, and provided further that written proof is furnished to it of the amounts and dates of any documents or evidence of debts in support thereof.
- (2) The central office of the Maritime Administrator or its duly appointed representative elsewhere shall record a mortgage or related instrument submitted to it in proper form, and shall thereupon, upon request, issue a Certified Extract of the Preferred Mortgage Index of the public register maintained by the Maritime Administrator, as evidence of recording of a Preferred Ship Mortgage under this Chapter.
- (3) A Certificate of Ownership and Encumbrance shall, upon timely request, be issued by the central office of the Maritime Administrator or its duly appointed representative elsewhere, setting out all recorded mortgages, encumbrances and related instruments with respect to a vessel registered under this Act as of the time and date of its issuance.
80. (1) A mortgage which complies with the conditions enumerated in this Chapter is a Preferred Mortgage.
- (2) A mortgage which secures more than one vessel may, at the option of the parties, provide for separate discharge of that vessel.

(2) If a vessel covered by a Preferred Mortgage under this Chapter, that includes more than one vessel, or property that is not a vessel, is to be sold on the order of an Admiralty Court in a civil action in rem and the mortgage does not provide for separate discharge as provided in subsection (2), that Preferred Mortgage shall constitute a lien on that vessel in the full amount of the out-standing mortgage indebtedness and an allocation of mortgage indebtedness for purposes of separate discharge may not be made by the Court among the vessel.

81. (1) Advances or other value given pursuant to commitment:

(a) A Preferred Mortgage may secure future advances including contingent obligations and shall not be extinguished or lose its priority because all previously outstanding obligations secured thereby have been fully repaid or otherwise performed, provided that an advance or other value is to be given at a later time pursuant to commitment existing at the time the Mortgage is recorded.

(b) For the purpose of paragraph (a) an advance or other value is given "pursuant to commitment" if the mortgagee or other person entitled to the benefit of the security of the mortgage has bound himself to give it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation.

(c) When a Preferred Mortgage secures an obligation in respect of which one or more advances or repayments may be made from time to time in the future and the maximum amount outstanding under the obligation at any one time is limited to a certain amount, the amount to be recorded with respect to the obligation may be either:

- (i) the maximum amount that may be outstanding at any one time, or
- (ii) the aggregate of all possible advances that may be made.

(d) A Preferred Mortgage made pursuant to commitment shall clearly indicate whether the amount is the maximum amount that may be outstanding at any one time or is the aggregate of all possible advances.

(2) Advances or other value given pursuant to agreement:

(a) Notwithstanding any other provision of this Chapter, a Preferred Mortgage may secure an agreed-upon maximum amount representing all debts or obligations arising or that may arise between the debtor and the creditor within a specified period.

(b) The maximum amount may exceed the value of the vessel or vessels, which may themselves represent only a part of all of the assets that are subject to the Preferred Mortgage.

(c) Only indebtedness incurred on or prior to the maturity date or date of termination of a Preferred Mortgage made "pursuant to agreement" shall retain its status and ranking as a preferred maritime lien under this Chapter and the indebtedness secured thereby shall include all expenses and interest associated with such indebtedness prior to maturity.

(d) A Preferred Mortgage made “pursuant to agreement” under this subsection shall not be required to represent a commitment to lend on the part of the mortgagee, but secures all debts or obligations arising or that may arise

between the parties as a result of transactions the nature of which are subject to the provisions of the mortgage deed, whether present or future, actual or contingent, and shall set out in addition to other terms and conditions the maximum amount and the maturity date, or a statement of the date of termination if it is other than the maturity date thereof.

(e) Nothing contained in this subsection shall be construed to impair the lien status, recordability, validity or enforceability with respect to a vessel registered under this Chapter of a Preferred Mortgage granted by its owner that:

(i) secures obligations, in whole or in part, arising out of specific successive business contracts or other transactions, whether or not those contracts or transactions are related to or arise from the construction, purchase, sale or chartering of a vessel registered under this Act, or

(ii) secures all debts or obligations owed or to be owed thereunder, so long as the aggregate amount of those debts or obligations does not exceed at any one time the stated maximum amount of the Mortgage.

(f) The preferred status of a mortgage made “pursuant to agreement” in accordance with this subsection which may be secured by property that is not a vessel, or more than one vessel, shall not be impaired by reason of the fact that the mortgage does not provide for separate discharge thereof.

82. (1) The obligations secured by a Preferred Mortgage may be expressed in any unit or units of account to which the parties may agree, including but not limited to currency of Dominica, currency or currencies of any foreign State or States, or in equivalents of any other unit or units of account established by intergovernmental organizations.

(2) If a Preferred Mortgage secures an obligation in one or more specified units of account and there is an option to have a unit of account altered from time to time, the principal amount of the mortgage to be recorded shall be denominated in one or more of the said specified units of account.

(3) The recording may include as additional words “or an equivalent amount in any alternate unit of account, “ or similar language, and if these additional words are recorded, no change in the recorded amount shall be required to reflect the fact that the obligation or any portion thereof is subsequently denominated in a different unit or units of account, unless the parties otherwise agree.

(4) When a Preferred Mortgage secures an obligation in respect of which there is an option to have the obligation amount denominated from time to time in alternate units of account but which continues to be payable in, or by reference to, a specified unit of account:

(a) the amount of the obligation to be recorded shall be expressed in the specified unit of account; and

(b) notwithstanding any exercise of the option, no change in the recorded amount shall be required.

(5) A Preferred Mortgage as described in subsections (2) or (4) may additionally secure any loss up to a specified amount arising out of fluctuations between a specified unit of account and any alternate unit of account in which the obligation amount may be denominated from time to time, and such specified amount shall also be recorded.

83. (1) A Preferred Mortgage shall constitute a maritime lien upon the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by the vessel.

(2) The lien of a Preferred Mortgage shall not be in any way impaired or affected because the vessel's document, following recording of the mortgage, has expired, or has been restrictively endorsed, suspended, revoked or canceled.

84. Notwithstanding any other law to the contrary, a Preferred Mortgage may secure such interest, including interest on interest, on an obligation secured by the mortgage as the parties may agree, which interest may be at fixed rates, variable rates, rates based upon formulas, or by adding margins to the mortgagee's cost from time to time of funding an obligation secured by the mortgage, or by any other method to which the parties may agree.

85. (1) The mortgagor, before executing a Preferred Mortgage, shall disclose to the mortgagee in writing the existence of any maritime lien, prior mortgage, or other obligation or liability upon the vessel to be mortgaged.

(2) After the execution of the Mortgage and before the mortgagee has had a reasonable time in which to record it, the mortgagor, without the consent of the mortgagee, shall not incur any contractual obligation creating a lien upon the vessel, other than liens for wages of stevedores when employed directly by the owner, operator, Master, ship's husband, or agent of the vessel, for wages of the crew of the vessel, for general average or for salvage, including contract salvage, or for tonnage taxes and other charges of the Maritime Administrator in respect of the vessel.

(3) A person who, being a mortgagor or the president or principal officer of a corporate mortgagor, violates this Section with intent to hinder, delay or defraud any existing or future creditor of the mortgagor or any lien or of the

mortgaged vessel, is liable to a fine not exceeding twenty-five thousand dollars (US \$25,000) and imprisonment for a period of not more than ten (10) years and the mortgage indebtedness shall thereupon become immediately due and payable at the election of the mortgagee.

86. (1) Upon recording a Preferred Mortgage, two (2) certified copies thereof shall be delivered to the mortgagor who shall place and use due diligence to retain one copy on board the mortgaged vessel, and cause that copy and Certificate of Registry of the vessel to be exhibited by the Master on request of any person having business which may give rise to a maritime lien or to the sale, conveyance, or mortgage of the vessel.
- (2) The license of a Master who willfully fails to exhibit such documents may be suspended or revoked and is liable to a fine of two thousand dollars (US \$2,000).
87. The mortgagor upon a complete discharge of the mortgage indebtedness shall immediately file a certificate of discharge duly executed by the mortgagee, his successors or assigns, with the central office of the Maritime Administrator in the United States of America, or its duly appointed representative elsewhere, which shall thereupon record the certificate; and the mortgagor may similarly file a certificate of partial discharge duly executed by the mortgagee, his successor or assigns, which shall be similarly recorded.
88. (1) The lien of a Preferred Mortgage may be enforced in Dominica by a suit in rem in the High Court of Dominica, sitting in Admiralty, upon default of any term or condition.
- (2) In addition to any notice by publication, actual notice of the commencement of suit shall be given by the plaintiff, in such manner as the Court directs, to the Master, other ranking officer, or caretaker of the vessel, and to any person who has recorded a notice of claim of an undischarged lien upon the vessel, unless after search by the plaintiff satisfactory to the Court such person is not found within Dominica.
- (3) Failure to give notice under subsection (2) shall not constitute a jurisdictional defect, but the plaintiff shall be liable to the person for damages in the amount of his interest in the vessel terminated by the suit.
- (4) The lien of a Preferred Mortgage may also be enforced by a suit in rem in Admiralty or otherwise in any foreign country in which the vessel is found, pursuant to the procedure of that country for the enforcement of ship mortgages constituting maritime liens on vessels documented under the laws of that country.
- (5) Notwithstanding anything in this Chapter, the mortgagee may, in addition to all other remedies granted by this Chapter, bring suit in person against the mortgagor, maker, co-maker, or guarantor in any court of competent jurisdiction for the amount of the outstanding mortgage indebtedness or for any deficiency in the full payment thereof.

- (6) The enforcement by suit in rem in Admiralty of the rights of the mortgagee with respect to a vessel or vessels covered by a Preferred Mortgage is not precluded or impaired, notwithstanding the enforcement of any rights that the mortgagee may have under the mortgage to property that is not a vessel.
89. (1) As used in Sections 82, 88, 90 and 92 “Preferred Mortgage” includes, in addition to a Preferred Mortgage made pursuant to the provisions of this part, any mortgage, hypothecation or similar charge created as security upon any documented foreign vessel if that mortgage, hypothecation or similar charge has been duly and validly executed and registered in accordance with the laws of the nation where the vessel is documented.
- (2) “Preferred Mortgage lien” includes the lien of that mortgage, hypothecation or similar charge.
90. Upon the sale of any vessel in a suit in rem in the High Court of Dominica, sitting in Admiralty for the enforcement of a Preferred Mortgage lien, all preexisting claims in the vessel, including any possessory common law lien, shall terminate and shall thereafter attach in like amount and in accordance with their respective priorities to the proceeds of sale; except that the Preferred Mortgage lien shall have priority over all claims against the vessel, except liens arising prior in time to the recording of the Preferred Mortgage as provided in this Part, liens for damages arising out of tort, liens arising under Section 58, liens for crew’s wages, for general average, and for salvage (including contract salvage) and expenses and fees allowed and costs taxed by the Court.
91. (1) A person who furnishes, repairs, supplies towage, use of dry dock or marine railway, or other necessaries, to any foreign or domestic vessel upon the order of the owner or a person authorized by the owner, shall have a maritime lien on the vessel.
- (2) The managing owner, ship’s husband, Master, or any person to whom the management of the vessel at the port of supply is entrusted, including any such appointed by a charterer, owner pro hac vice or agreed purchaser in possession, shall be presumed to have authority from the owner to procure such necessaries; but a person tortuously or unlawfully in possession or charge of the vessel shall not have authority to bind it.
- (3) This Section does not confer a lien when the furnisher knew, or by exercise of reasonable diligence could have ascertained, that because of the terms of a charter party, agreement for sale of the vessel, or for any other reason, the person ordering necessaries was without authority to bind the vessel therefor.
92. This Chapter does not prevent the furnisher of repairs, supplies, towage, use of dry dock or marine railway or other necessaries, or the mortgagee, from waiving his right to a lien or, in the

case of a Preferred Mortgage lien, to the preferred status of that lien, at any time by agreement or otherwise.

93. (1) Nothing contained in any other provision of law, shall require, permit or be construed as requiring or permitting, endorsements upon any vessel's document in connection with the validity, recording, designation as a Preferred Mortgage, or preferred status of any mortgage in respect of any vessel, or the clearance to be given to that vessel following the recording of any such mortgage.
- (2) Notwithstanding the provisions of subsection (1), any vessel's document issued or reissued prior to the effective date of this Act and any instrument made, recorded and endorsed prior to the effective date of this Act shall remain subject to the endorsement requirements previously contained, until such time as the vessel's document is surrendered or reissued or a new document is issued, as the case may be.

4

Carriage by Sea

Part I Carriage of Goods

94. In this Part:

“**carrier**” includes the owner or the charterer who enters into a contract of carriage with a shipper;

“**carriage of goods**” means the period from the time when the goods are loaded on, to the time when they are discharged from the ship; and

“**contract of carriage**” applies only to contracts of carriage covered by a bill of lading or any similar document of title, in so far as the document relates to the carriage of goods by sea, including any bill of lading or any similar document issued under or pursuant to a charter-party from the moment at which the bill of lading or similar document of title regulates the relations between a carrier and a holder of the same;

“**foreign trade**” means the transportation of goods between the ports of Dominica and, or between, ports of foreign countries.

“**goods**” includes wares, merchandise, and articles of every kind, except live animals, and cargo which by the contract of carriage is stated as being carried on deck and is so carried;

“**ship**” means a vessel used for the carriage of goods by sea.

95. Subject to the provisions of Section 100, under every contract of carriage of goods by sea, the carrier in relation to the loading, handling, stowage, carriage, custody, care and discharge of those goods is subject to the responsibilities and liabilities and entitled to the rights and immunities hereinafter set out.
96. (1) The carrier is bound, before and at the beginning of the voyage to exercise due diligence to:
- (a) make the ship seaworthy;
 - (b) properly man, equip, and supply the ship; and
 - (c) make the holds, refrigerating and cooling chambers, and all other parts of the ship in which goods are carried fit and safe for their reception, carriage and preservation.
- (2) The carrier shall properly and carefully load, handle, stow, carry, keep, care for, and discharge the goods carried.
- (3) After receiving the goods into his charge the carrier, or the Master or agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things:
- (a) the leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of the goods starts, provided, the marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which the goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage;
 - (b) either the number of packages or pieces, or the quantity or weight as the case may be, as furnished in writing by the shipper; and
 - (c) the apparent order and condition of the goods; however no carrier, Master, or agent of the carrier, is bound to state or show in the bill of lading any marks, number, quantity, or weight, which he has reasonable ground for suspecting not accurately to represent the goods actually received, or which he has had no reasonable means of checking.
- (4) The bill of lading shall be prima facie evidence of the receipt by the carrier of the goods as therein described in accordance with subsection (3) and, proof to the contrary shall not be admissible when the bill of lading has been transferred to a third party acting in good faith.
- (5) Nothing in this Part shall be construed as limiting the application of any part of the law governing bills of lading.
- (6) The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of the shipment of the marks, number, quantity, and weight, as furnished by him, and the shipper shall indemnify the carrier against all loss, damages and expenses arising or resulting from inaccuracies in those particulars.
- (7) The right of the carrier to indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.

(8) Unless notice of loss or damage and the general nature of the loss or damage is given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into custody of the person entitled to delivery thereof under the contract of carriage, removal shall be prima facie evidence of the delivery by the carrier of the goods as described in the bill of lading.

(9) If the loss or damage is not apparent, the notice must be given within three (3) days of the delivery and the notice of loss or damage may be endorsed upon the receipt for the goods given by the person taking delivery thereof.

(10) The notice in writing need not be given if the state of the goods has at the time of their receipt been the subject of joint survey or inspection.

(11) Subject to subsection (13), the carrier and the ship shall in any event be discharged from all liability in respect of the goods, unless suit is brought within one (1) year of their delivery or of the date when they should have been delivered but that period may, however, be extended if the parties so agree after the cause of action has arisen.

(12) In the case of any actual or apprehended loss or damage the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods.

(13) An action for indemnity against a third person may be brought even after the expiration of the year provided for in subsection (11), if brought within the time allowed for suit on causes of action in contract, but, the time allowed shall be not less than three (3) months, commencing from the day when the person bringing the action of indemnity has settled the claim or has been served with process in the action against himself.

(14) After the goods are loaded the bill of lading to be issued by the carrier, Master, or agent of the carrier to the shipper shall, if the shipper so demands, be a "shipped bill of lading; provided that if the shipper had previously taken up a document of title to the goods, he shall surrender the same as against the issue of the "shipped" bill of lading, but at the option of the carrier the document of title may be noted at the port of shipment by the carrier, Master, or agent with the name or names of the ship or ships upon which the goods have been shipped and the date or dates of shipment, and when so noted the same shall for the purpose of this Section be deemed to constitute a "shipped" bill of lading.

(15) Any clause, covenant, or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to or in connection with the goods, arising from negligence, fault, or failure in the duties and obligations provided in this Section, or lessening the liability otherwise than as provided in this Chapter, is null and void.

(16) A benefit of insurance in favor of the carrier, or similar clause, shall be deemed to be a clause relieving the carrier from liability.

97. (1) Neither the carrier nor the ship is liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy, and to ensure that the ship is properly manned, equipped, and supplied, and to make holds, refrigerating and cooling chambers, and all other parts of the ship in which the goods are carried, fit and safe for their reception, carriage, and preservation in accordance with the provisions of Section 96 (1).
- (2) Whenever loss or damage has resulted from unseaworthiness, the burden of proving the exercise of due diligence is on the carrier or other persons claiming exemption under this Section.
- (3) Neither the carrier nor the ship is responsible for loss or damage arising or resulting from:
- (a) act, neglect, or default of the Master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship;
 - (b) fire, unless caused by the actual fault or privity of the carrier;
 - (c) perils, dangers, and accidents of the sea or other navigable waters;
 - (d) act of God;
 - (e) act of war;
 - (f) act of public enemies;
 - (g) arrest or restraint of princes, rulers, or people, or seizure under legal process;
 - (h) quarantine restrictions;
 - (i) act or omission of the shipper or owner of the goods, his agent or representative;
 - (j) strikes, lockouts, stoppage or restraint of labor from whatever cause, whether partial or general; however nothing herein contained shall be construed to relieve a carrier from responsibility for the carrier's own acts;
 - (k) riots and civil commotions;
 - (l) saving or attempting to save life or property at sea;
 - (m) wastage in bulk or weight or any other loss or damage arising from inherent defect, quality, or price of the goods
 - (n) insufficiency of packing;
 - (o) insufficiency or inadequacy of marks;
 - (p) latent defects not discoverable by due diligence; and
 - (q) any other cause arising without the actual fault and privity of the carrier and without the fault or neglect of the agents or servants of the carrier, but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage.
- (4) The shipper is not responsible for loss or damage sustained by the carrier or the ship arising or resulting from any cause without the act, fault, or neglect of the shipper, his agents, or his servants.

(5) Any deviation in saving or attempting to save life or property at sea, or any reasonable deviation shall not be deemed to be an infringement or breach of this Chapter or the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom; but if the deviation is for the purpose of loading or unloading cargo or passengers it shall, prima facie, be regarded as unreasonable.

(6) Unless the nature and value of the goods have been declared by the shipper before shipment and inserted in the bill of lading, neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with the goods in an amount exceeding 666.67 units of account per package or unit or two (2) units of account per kilogram of gross weight of the goods lost or damaged, whichever is the higher

(a) The total amount recoverable shall be calculated by reference to the value of the goods at the place and time at which the goods are discharged from the ship in accordance with the contract, or should have been so discharged.

(b) The value of the goods shall be fixed according to the commodity exchange price, or, if there be no such price, according to the current market price, or if there be no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality.

(c) Where a container, pallet or similar article of transport issued to consolidate goods, the number of packages or units enumerated in the bill of lading as packed in the article of transport shall be deemed the number of packages or units for the purpose of this subsection as far as these packages or units are concerned, otherwise the article of transport shall be considered the package or unit.

(d) The unit of account mentioned in this Section is the Special Drawing Right as defined by the International Monetary Fund and the dollar value in terms of the Special Drawing Right shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions.

(e) Neither the carrier nor the ship is entitled to the benefit of the limitation of liability provided for in this subsection if it is proved that the damage resulted from an act or omission of the carrier done with intent to cause damage, or recklessly and with knowledge that damage would probably result.

(f) The declaration mentioned in this subsection if embodied in the bill of lading, is prima facie evidence, but is not binding or conclusive on the carrier.

(g) By agreement between the carrier, Master or agent of the carrier, and the shipper, other maximum amounts than those mentioned in this subsection may be fixed, provided,

that no maximum amount so fixed shall be less than the appropriate maximum mentioned herein.

(h) Neither the carrier nor the ship is responsible in any event for loss or damage to, or in connection with goods, if the nature or value thereof has been knowingly misstated by the shipper in the bill of lading.

(7) Goods of an inflammable, explosive, or dangerous nature, the shipment of which the carrier, Master or agent of the carrier has not consented to with knowledge of their nature and character, may at any time before discharge be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the shipper of those goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from the shipment.

(8) If any such goods shipped with such knowledge and consent becomes a danger to the ship or cargo, they may in like manner be landed at any place, or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any

98. (1) The defenses and limits of liability provided for in this Part apply in any action against the carrier in respect of loss or damage to goods covered by a contract of carriage whether the action be founded in contract or in tort.

(2) If such an action is brought against a servant or agent of the carrier (that servant or agent not being an independent contractor) that servant or agent is entitled to avail himself of the defenses and limits of liability which the carrier is entitled to invoke under this Part.

(3) The aggregate of the amounts recoverable from the carrier, and the servants and agents, shall in no case exceed the limit provided for in this Part.

(4) A servant or agent of the carrier is not entitled to avail himself of the provisions of this Section, if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

99. (1) A carrier is at liberty to surrender in whole or in part all or any of his rights and immunities or to increase any of his responsibilities and liabilities under this Part, provided that the surrender or increase is embodied in the bill of lading issued to the shipper.

(2) The provisions of this Part do not apply to charter-parties, but if bills of lading are issued in the case of a ship under a charter-party they shall comply with the terms of this Part.

(3) Nothing in this Part shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average.

100. (1) Notwithstanding the provisions of the preceding “, a carrier, Master or agent of the carrier, and a shipper are, in regard to any particular goods, at liberty to enter into any agreement in any

terms as to the responsibility and liability of the carrier for those goods, and as to the rights and immunities of the carrier in respect of those goods, or his obligation as to seaworthiness (so far as the stipulation regarding seaworthiness is not contrary to public policy), or the care or diligence of his servants or agents in regard to the loading, handling, stowage, carriage, custody, care and discharge of the goods carried by sea; provided that in this case no bill of lading has been or shall be issued and that the terms agreed are embodied in a receipt which is a nonnegotiable document and is marked as such.

(2) Any agreement so entered into shall have full legal effect; except that this Section does not apply to ordinary commercial shipments made in the ordinary course of trade but only to other shipments where the character or condition of the property to be carried or the circumstances, terms and conditions under which the carriage is to be performed are such as to reasonably justify a special agreement.

101. Nothing contained in this Part shall prevent a carrier or a shipper from entering into any agreement, stipulation, condition, reservation, or exemption as to the responsibility and liability of the carrier or the ship for the loss or damage to or in connection with the custody and care and handling of goods prior to the loading on, and subsequent to the discharge from, the ship on which the goods are carried by sea.
102. (1) The provisions of this Part do not affect the rights and obligations of the carrier under the provisions of Chapter 5 of this Act, or under the provisions of any statute for the time being in force, relating to the limitation of the liability of the owners of sea-going vessel.
- (2) This Part does not affect the provisions of any International Convention or national law governing liability for nuclear damage.
103. Nothing contained in this Part shall be construed as permitting a common carrier by water to discriminate between competing shippers similarly placed in time and circumstances, either:
- (a) with respect to their right to demand and receive bills of lading subject to the provisions of this Part; or
 - (b) when issuing bills of lading, either in the surrender of any of the carrier's rights and immunities or in the increase of any of the carrier's responsibilities.
104. Where under the customs of any trade the weight of any bulk cargo inserted in the bill of lading is a weight ascertained or accepted by a third party other than the carrier or the shipper, and the fact that the weight is so ascertained or accepted is stated in the bill of lading, then, notwithstanding anything in this Chapter, the bill of lading shall not be deemed, to be prima facie evidence against the carrier on the receipt of goods of the weight so inserted in the bill of lading,

and the accuracy thereof at the time of shipment shall not be deemed to have been guaranteed by the shipper.

105. This Part applies to all contracts for carriage of goods by sea:
- (a) on board vessels of Dominica in foreign trade; or
 - (b) to or from ports of Dominica in foreign trade, whatever may be the nationality of the ship, the carrier, the shipper, the consignee, or any other interested person.
106. Notwithstanding any other provision of this Part, no owner of any vessel shall be liable to answer for, or make good to any person, any loss or damage which may happen to any merchandise, which is shipped, taken in, or put on board that vessel, by reason or by means of any fire happening to or on board the vessel, unless the fire is caused by the actual fault or privity of the owner.

Part II Carriage of Passengers and Luggage

107. In this Part

“cabin luggage” means luggage which the passenger has in his cabin or is otherwise in his possession, custody or control and luggage which the passenger has in or on his vehicle;

“carriage” means the following periods:

- (i) with regard to the passenger and his cabin luggage, the period during which the passenger and/or his cabin luggage are on board the ship or in the course of embarkation or disembarkation, and the period during which the passenger and his cabin luggage are transported by water from land to the ship or vice versa, if the cost of that transport is included in the fare or if the vessel used for this purpose of auxiliary transport has been put at the disposal of the passenger by the carrier, but, with regard to the passenger, carriage does not include the period during which he is in a marine terminal or station or on a quay or in or on any other port installation;
- (ii) with regard to cabin luggage, also the period during which the passenger is in a marine terminal or station or on a quay or in or on any other port installation if that luggage has been taken over by the carrier or its servant or agent and has not been redelivered to the passenger;
- (iii) with regard to other luggage which is not cabin luggage, the period from the time of its taking over by the carrier or his servant or agent on shore or on board until the time of its re-delivery by the carrier or his servant or agent;

“carrier” includes the owner or the charterer who enters into a contract of carriage with a shipper;

“contract of carriage” means a contract made by or on behalf of a carrier for the carriage by sea of a passenger or of a passenger and his luggage, as the case may be;

“international carriage” means any carriage in which, according to the contract of carriage, the place of departure and the place of destination are situated in two different States, or in a single State if, according to the contract of carriage or the scheduled itinerary, there is an intermediate port of call in another State.

“loss of or damage to luggage” includes pecuniary loss resulting from the luggage not having been re-delivered to the passenger within a reasonable time after the arrival of the ship on which the luggage has been or should have been carried, but does not include delays resulting from labor disputes;.

“luggage” means any article or vehicle carried by the carrier under a contract of carriage, excluding:

- (i) articles and vehicles carried under a charterparty, bill of lading or other contract primarily concerned with the carriage of goods; and
- (ii) live animals;

“passenger” means any person carried in a ship,

- (i) under a contract of carriage; or
- (ii) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods not governed by this Part;

“Performing carrier” means a person other than the carrier, being the owner, charterer or operator of a ship, who actually performs the whole or a part of the carriage;

“ship” means a seagoing vessel, and does not include an air-cushion vehicle/

108. (1) This Part applies to an international carriage if
- (a) the ship is flying the flag of or is registered in Dominica;
 - (b) the contract of carriage has been made in a State Party to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974, as amended; or
 - (c) the place of departure or destination, according to the contract of carriage, is in a State Party to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974, as amended.
- (2) Notwithstanding subsection (1), this Part does not apply when the carriage is subject, under any international convention concerning the carriage of passengers or luggage by another mode of transport, to a civil liability regime under the provisions of that convention, in so far as those provisions have mandatory application to carriage by sea.
- (3) This Part applies to commercial carriage undertaken by States or Public Authorities under contracts of carriage within the meaning of Section 107.
109. (1) The carrier is liable for the damage suffered as a result of the death of or personal injury to a passenger and the loss of or damage to luggage if the incident which caused the damage so

suffered occurred in the course of the carriage and was due to the fault or neglect of the carrier or of his servants or agents acting within the scope of their employment.

(2) The burden of proving that the incident which caused the loss or damage occurred in the course of the carriage, and the extent of the loss or damage, lies with the claimant.

(3) Fault or neglect of the carrier or of his servants or agents acting within the scope of their employment shall be presumed, unless the contrary is proved, if the death of or personal injury to the passenger or the loss of or damage to cabin luggage arose from or in connection with the shipwreck, collision, stranding, explosion or fire, or defect in the ship.

(4) In respect of loss of or damage to other luggage, fault or neglect shall be presumed, unless the contrary is proved, irrespective of the nature of the incident which caused the loss or damage and in all other cases the burden of proving fault or neglect lies with the claimant.

110. (1) If the performance of the carriage or part thereof has been entrusted to a performing carrier, the carrier shall nevertheless remain liable for the entire carriage according to the provisions of this Part and in addition, the performing carrier shall be subject and entitled to the provisions of this Part for the part of the carriage performed by him.

(2) The carrier is, in relation to the carriage performed by the performing carrier, liable for the acts and omissions of the performing carrier and of his servants and agents acting within the scope of their employment.

(3) Any special agreement under which the carrier assumes obligations not imposed by this Part or any waiver of rights conferred by this Part shall affect the performing carrier only if agreed by him expressly and in writing.

(4) Where and to the extent that both the carrier and the performing carrier are liable, their liability shall be joint and several.

(5) Nothing in this Section shall prejudice any right of recourse as between the carrier and the performing carrier.

111. The carrier is not liable for the loss of or damage to monies, negotiable securities, gold, silverware, jewelry, ornaments, works of art, or other valuables, except where those valuables have been deposited with the carrier for the agreed purpose of safe-keeping in which case the carrier is liable up to the limit provided for in Section 114(3), unless a higher limit is agreed upon in accordance with Section 116 (1).
112. If the carrier proves that the death of or personal injury to a passenger or the loss of or damage to his luggage was caused or contributed to by the fault or neglect of the passenger, the court seized of the case may exonerate the carrier wholly or partly from his liability in accordance with the provisions of the law of that court.
113. (1) The liability of the carrier for the death of or personal injury to a passenger shall in no case exceed 46,666 units of account per carriage.
- (2) Where in accordance with the law of the court seized of the case damages are awarded in the form of periodic income payments, the equivalent capital value of those payments shall not exceed the said limit.
114. (1) The liability of the carrier for the loss of or damage to cabin luggage shall in no case exceed 833 units of account per passenger, per carriage.
- (2) The liability of the carrier for the loss of or damage to vehicles including all luggage carried in or on the vehicle shall in no case exceed 3,333 units of account per vehicle, per carriage.
- (3) The liability of the carrier for the loss of or damage to luggage other than that mentioned in subsections (1) and (2) shall in no case exceed 1,200 units of account per passenger, per carriage.
- (4) The carrier and the passenger may agree that the liability of the carrier shall be subject to a deductible not exceeding 117 units of account in the case of damage to a vehicle and not exceeding 13 units of account per passenger in the case of loss of or damage to other luggage, this sum to be deducted from the loss or damage.
115. (1) The Unit of Account mentioned in this Part is the Special Drawing Right as Fund.
- (2) The amounts mentioned in Sections 113 and 114 shall be converted into the U.S. Dollar on the basis of the value of the U.S. Dollar on the date of the judgment or the date agreed upon by the Parties.
- (3) The value of the U.S. Dollar, in terms of the Special Drawing Right, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions.

116. (1) The carrier and the passenger may agree, expressly and in writing, to higher limits of liability than those prescribed in Sections 113 and 114.
- (2) Interest on damages and legal costs shall not be included in the limits of liability prescribed in Sections 113 and 114.
117. If an action is brought against a servant or agent of the carrier or of the performing carrier arising out of damage covered by this Part, that servant or agent, if he proves that he acted within the scope of his employment, is entitled to avail himself of the defenses and limits of liability which the carrier or the performing carrier is entitled to invoke under this Part.
118. (1) Where the limits of liability prescribed in Sections 113 and 114 take effect, they apply to the aggregate of the amounts recoverable in all claims arising out of the death of or personal injury to any one passenger or the loss of or damage to his luggage.
- (2) In relation to the carriage performed by a performing carrier, the aggregate of the amounts recoverable from the carrier and the performing carrier and from their servants and agents acting within the scope of their employment shall not exceed the highest amount which could be awarded against either the carrier or the performing carrier under this Part, but none of the persons mentioned is liable for a sum in excess of the limit applicable to him.
- (3) In any case where a servant or agent of the carrier or of the performing carrier is entitled under Section 117 to avail himself of the limits of liability prescribed in Sections 113 and 114, the aggregate of the amounts recoverable from the carrier, or the performing carrier as the case may be, and from that servant or agent, shall not exceed those limits.
119. (1) The carrier is not entitled to the benefit of the limits of liability prescribed in Sections 113, 114 and 116(1), if it is proved that the damage resulted from an act or omission of the carrier done with the intent to cause the damage, or recklessly and with knowledge that the damage would probably result.
- (2) The servant or agent of the carrier or of the performing carrier is not entitled to the benefit of those limits if it is proved that the damage resulted from an act or omission of that servant or agent done with the intent to cause the damage, or recklessly and with knowledge that the damage would probably result.

120. No action for damages for the death of or personal injury to a passenger, or for the loss of or damage to luggage, shall be brought against a carrier or performing carrier otherwise than in accordance with this Part.
121. (1) The passenger shall give written notice to the carrier or his agent:
- (a) in the case of apparent damage to luggage:
 - (i) for cabin luggage, before or at the time of disembarkation of the passenger;
 - (ii) for all other luggage, before or at the time of its redelivery;
 - (b) in the case of damage to luggage which is not apparent, or loss of luggage, within fifteen (15) days from the date of disembarkation or redelivery or from the time when the redelivery should have taken place.
- (2) If the passenger fails to comply with this Section, he shall be presumed, unless the contrary is proved, to have received the luggage undamaged.
- (3) The notice in writing need not be given if the condition of the luggage has at the time of its receipt been the subject of joint survey or inspection.
122. (1) Any action for damages arising out of the death of or personal injury to a passenger or for the loss of or damage to luggage shall be time-barred after a period of three (3) years.
- (2) The limitation period shall be calculated as follows:
- (a) in the case of personal injury, from the date of disembarkation of the passenger;
 - (b) in the case of death occurring during carriage, from the date when the passenger should have disembarked, and in the case of personal injury occurring during carriage and resulting in the death of the passenger after disembarkation, from the date of death, provided that this period shall not exceed three (3) years from the date of disembarkation;
 - (c) in the case of loss of or damage to luggage, from the date of disembarkation or from the date when disembarkation should have taken place, whichever is later.
- (3) The law of the court seized of the case shall govern the grounds of suspension and interruption of limitation periods, but in no case shall an action under this Part be brought after the expiration of a period of three (3) years from the date of disembarkation of the passenger or from the date when disembarkation should have taken place, whichever is later.
- (4) Notwithstanding subsections (1), (2) and (3), the period of limitation may be extended by a declaration of the carrier or by agreement of the parties after the cause of action has arisen.
- (5) The declaration or agreement referred to in subsection (4) shall be in writing.

123. (1) An action arising under this Part shall, at the option of the claimant, be brought before one of the courts listed below, provided that the court is located in a State Party to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974, as amended:
- (a) the court of the place of permanent residence or principal place of business of the defendant; or
 - (b) the court of the place of departure or that of the destination according to the contract of carriage, or
 - (c) a court of the State of the domicile or permanent residence of the claimant, if the defendant has a place of business and is subject to jurisdiction in that State; or
 - (d) a court of the State where the contract of carriage was made, if the defendant has a place of business and is subject to jurisdiction in that State.
- (2) After the occurrence of the incident which has caused the damage, the parties may agree that the claim for damages shall be submitted to any jurisdiction or to arbitration.
124. Any contractual provision concluded before the occurrence of the incident which has caused the death of or personal injury to a passenger or the loss of or damage to his luggage, purporting to relieve the carrier of his liability towards the passenger or to prescribe a lower limit of liability than that fixed in this Part except as provided in Section 114(4), and any provision purporting to shift the burden of proof which rests on the carrier, or having the effect of restricting the option specified in Section 123(l), is null and void, but the nullity of that provision does not render void the contract of carriage which remains subject to the provisions of this Part.
125. This Part does not modify the rights or duties of the carrier, the performing carrier, and their servants or agents provided for in Part I of this Chapter, or in international conventions relating to the limitation of liability of owners of seagoing ships.
126. No liability arises under this Part for damage caused by a nuclear incident:
- (a) if the operator of a nuclear installation is liable for the damage under either the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy as amended by its Additional Protocol of 28 January 1964, or the Vienna Convention of 21 May 1963 on Civil Liability for Nuclear Damage; or
 - (b) if the operator of a nuclear installation is liable for the damage by virtue of a national law governing the liability for that damage, provided that the law is in all respects as favorable to persons who may suffer damage as either the Paris or the Vienna Conventions.

5

Limitation of Liability for Maritime Claims

Part I The Right of Limitation

127. In this Part:

“**court**” means, in Dominica, the High Court sitting in Admiralty, and outside of Dominica, a court of competent maritime jurisdiction;

“**salvage operations**” includes operations referred to in Sections 129(1)(d), (e) and (f);

“**salvor**” means a person who renders services in direct connection with salvage operations;

“**shipowner**” means the owner, charterer, manager or operator of a seagoing ship;

128. (1) A shipowner or salvor, may limit his liability in accordance with the rules of this Chapter for claims set out in Section 129.

(2) If any claims set out in Section 129 are made against any person for whose act, neglect or default the shipowner or salvor is responsible, that person shall be entitled to avail himself of the limitation of liability provided for in this Chapter.

(3) In this Chapter the liability of a shipowner includes liability in an action brought against the vessel herself.

(4) An insurer of liability for claims subject to limitation in accordance with the rules of this Chapter is entitled to the benefits of this Chapter to the same extent as the assured himself.

(5) The act of invoking limitation of liability does not constitute an admission of liability.

129. Subject to sections 130 and 131, the following claims, whatever the basis of liability may be, are subject to limitation of liability:

(a) claims in respect of loss of life or personal injury or loss or damage to property (including damage to harbor works, basins and waterways and aids to navigation), occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;

(b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;

(c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;

(d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board the ship;

(e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;

(f) claims of a person other than the person liable in respect of measures taken in order to avert or minimize loss for which the person liable may limit his liability in accordance with this Chapter, and further loss caused by such measures.

(2) Claims set out in subsection (1), are subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise, except that, claims set out under subsection 1(d), (e) and (f), are not subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable

130. The rules of this Chapter do not apply to:

(a) claims for salvage or contribution in general average;

(b) claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage, dated 29 November 1969 or of any amendment or Protocol thereto which is in force;

(c) claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;

(d) claims against the shipowner of a nuclear ship for nuclear damage;

(e) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependents or other persons entitled to make such claims, if under the law governing the contract of service between the shipowner or salvor and those servants the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is by law only permitted to limit his liability to an amount greater than that provided for in Section 133.

131. A person liable is not entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause the loss, or recklessly and with knowledge that the loss would probably result.
132. Where a person entitled to limitation of liability under the rules of this Chapter has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Chapter shall only apply to the balance, if any.

Part II Limits of Liability

133. (1) The limits of liability for claims other than those mentioned in Section 134, arising on any distinct occasion, shall be calculated as follows:
- (a) in respect of claims for loss of life or personal injury,
 - (i) 333,000 Units of Account for a ship with a tonnage not exceeding 500 tons;
 - (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in clause(i):
 - (A) for each ton from 501 to 3,000 tons, 500 Units of Account;
 - (B) for each ton from 3,001 to 30,000 tons, 333 Units of Account;
 - (C) for each ton from 30,001 to 70,000 tons, 250 Units of Account; and
 - (D) for each ton in excess of 70,000 tons, 167 Units of Account;
 - (b) in respect of any other claims,
 - (i) 167,000 Units of Account for a ship with a tonnage not exceeding 500 tons;
 - (ii) for a ship with a tonnage in excess thereof the following amount in addition to that mentioned in clause (i) of this Paragraph:
 - (A) for each ton from 501 to 30,000 tons, 167 Units of Account;
 - (B) for each ton from 30,001 to 70,000 tons, 125 Units of Account; and
 - (C) for each ton in excess of 70,000 tons, 83 Units of Account.
- (2) Where the amount calculated in accordance with subsection (1)(a), is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with subsection (1)(b), shall be available for payment of the unpaid balance of claims under subsection (1)(a), and the unpaid balance shall rank rateably with claims mentioned under subsection (1)(b).
- (3) The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of which he is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.
- (4) For the purpose of this Chapter the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement rules contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969, as amended.

134. (1) In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner shall be an amount of 46,666 Units of Account multiplied by the number of passengers which the ship is authorized to carry according to the ship's certificate, but not exceeding 25 million Units of Account.
- (2) For the purpose of this Section "claims for loss of life or personal injury to passengers of a ship" means any such claims brought by or on behalf of any person carried in that ship:
- (a) under a contract of passenger carriage; or
 - (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.
135. (1) The Unit of Account referred to in Sections 133 and 134, is the Special Drawing Right as defined by the International Monetary Fund.
- (2) The amounts mentioned in Sections 133 and 134 shall be converted into the U.S. Dollar according to the value of the U.S. Dollar at the date the limitation fund shall have been constituted, payment is made, or security is given which the Court deems equivalent to such payment.
- (3) The value of the U.S. Dollar in terms of the Special Drawing Right shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions.
136. (1) The limits of liability determined in accordance with Section 133, applies to the aggregate of all claims which arise on any distinct occasion:
- (a) against the person or persons mentioned in Section 127, and any person for whose act, neglect or default he or they are responsible;
 - (b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors operating from that ship and any person for whose act, neglect or default he or they are responsible; or
 - (c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible.
- (2) The limits of liability determined in accordance with Section 133, apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the person or persons mentioned in Section 127 in respect of the ship referred to in Section 134, and any person for whose act, neglect or default he or they are responsible.

Part III The Limitation Fund

137. (1) Limitation of liability may be invoked in the defense of an action notwithstanding that a limitation fund as mentioned in Section 138, has not been constituted.
- (2) If limitation of liability is invoked without the constitution of a limitation fund, the provisions of Section 139, shall apply correspondingly.
- (3) Questions of procedure shall be resolved in accordance with the *lex fori*.
138. (1) A person alleged to be liable may constitute a fund with the Court in respect of claims subject to limitation and the fund shall be constituted in the sum of such of the amounts set out in Sections 133 and 134, as are applicable to claims for which that person may be liable, together with interest thereon from the date of the occurrence giving rise to the liability until the date of the constitution of the fund.
- (2) Any fund constituted under subsection (1) shall be available only for the payment of claims in respect of which limitation of liability can be invoked.
- (3) A fund may be constituted, either by depositing the sum, or by producing a guarantee considered to be adequate by the Court.
- (4) A fund constituted by one of the persons mentioned in Section 136 (1), or his insurer shall be deemed constituted by all persons mentioned in that Section respectively.
139. (1) Subject to the provisions of Section 133 (1), (2) and (3) and Section 134, the fund shall be distributed among the claimants in proportion to their established claims against the fund.
- (2) If, before the fund is distributed, the person liable, or his insurer, has settled a claim against the fund that person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Chapter.
- (3) The right of subrogation provided for in subsection (2) may also be exercised by persons other than those therein mentioned in respect of any amount of compensation which they may have paid.
- (4) Where the person liable or any other person establishes that he may be compelled to pay, at a later date, in whole or in part any amount of compensation with regard to which that person would have enjoyed a right of subrogation pursuant to subsections (2) and (3) had the compensation been paid before the fund was distributed, the Court may order that a sufficient sum be provisionally set aside to enable that person at a later date to enforce his claim against the fund.

140. (1) Where a limitation fund has been constituted in accordance with Section 138, any person having made a claim against the fund is barred from exercising any right in respect of that claim against any other assets of a person by or on behalf of whom the fund has been constituted.
- (2) After a limitation fund has been constituted in accordance with Section 138, any ship or other property, belonging to a person on behalf of whom the fund has been constituted, which has been arrested or attached in Dominica for a claim which may be raised against the fund, or any security given, may be released by order of the Court.
- (3) A release under subsection (2) shall always be ordered if the limitation fund has been constituted:
- (a) at the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter;
 - (b) at the port of disembarkation in respect of claims for loss of life or personal injury;
 - (c) at the port of discharge in respect of damage to cargo; or
 - (d) in the State where the arrest is made.
- (4) The rules of subsections (1), (2) and (3) apply only if the claimant may bring a claim against the limitation fund before the Court administering that fund and the fund is actually available and freely transferable in respect of that claim.
141. Subject to the provisions of Section 15 and of this Chapter, the rules relating to the constitution and distribution of a limitation fund, and all rules of procedure in connection therewith, shall be governed by the civil procedure law of Dominica.
142. (1) This Chapter applies whenever any person referred to in Section 127, seeks to limit his liability before a Court of Dominica or seeks to procure the release of a ship or other property or the discharge of any security given within the jurisdiction of Dominica.
- (2) This Chapter does not apply to:
- (a) air-cushion vehicles;
 - (b) floating platforms constructed for the purpose of exploring or exploiting the natural resources of the sea-bed or the subsoil.

6

Civil Liability for Oil Pollution Damage

143. For the purpose of this Chapter:
- “**1992 Fund Convention**” means the International Convention of 1971 on the Establishment of an International Fund for Compensation for Oil Pollution Damage, adopted in Brussels on 18 December 1971, as amended by the Protocol of 1992, adopted in London on 27 November 1992;
- “**1992 Civil Liability Convention**” means the International Convention of 1969 on Civil Liability for Oil Pollution Damage, adopted at Brussels on 29 November 1969, as amended by the Protocol of 1992, adopted in London on 27 November 1992;
- “**1992 Fund**” means the International Oil Pollution Compensation Fund 1992 established under the provisions of the 1992 Fund Convention.
144. Subject to the provisions of Sections 145–148 below Articles I-XI of the 1992 Civil Liability Convention shall form part of the law of Dominica.
145. An action for compensation under this Chapter may be brought before the High Court of Dominica if pollution damage resulting from the incident has been sustained in Dominica, including its Territorial Sea or Exclusive Economic Zone of Dominica or an area beyond and adjacent to the Territorial Sea of Dominica and extending two hundred (200) nautical miles from the baselines from which the breadth of its territorial seas is measured, or if measures have been taken to prevent or minimize such damage.
146. The Limitation Fund referred to in Article V.3 of the 1992 Civil Liability Convention shall be constituted with the High Court.
147. (1) The High Court shall determine the procedure for the presentation of claims and for the distribution of the Limitation Fund.
- (2) If the limitation amount is insufficient to satisfy the claims of those who are entitled to compensation, the amount of compensation of each claimant shall be reduced pro rata.

148. (1) With respect to vessels registered in Dominica under the provisions of this Act, certificates of insurance referred to in Article VII.2 of the 1992 Civil Liability Convention, shall be issued by the Maritime Administrator in the form prescribed in relevant regulations.
- (2) Subsection (1) applies to ships flying the flag of a State not Party to the Convention that enter or leave a port in the territory of Dominica.
- (3) The Maritime Administration shall determine the procedure for the issue of certificates and their validity.
149. (1) The Maritime Administrator shall ensure the compliance with Article VII.11 of the 1992 Civil Liability Convention.
- (2) If a ship, as defined in Article 11 of the 1992 Civil Liability Convention, enters or leaves a port or terminal installation within the territory of Dominica without carrying a valid certificate of insurance under the Convention, the amount not to exceed ten thousand dollars (US \$10,000).

7

Investigation – Wrecks and Salvage

Part I Wrecks and Salvage

150. The Government of Dominica may enter into international agreements with governments interested for the reporting, marking and removing of dangerous wrecks, derelicts and other menaces to navigation in the Eastern Caribbean Region outside the coastal waters bordering Dominica.
151. (1) The Government of Dominica may conclude agreements with interested maritime nations for the:
- (a) service of assistance to vessels and crews requiring aid within the limits of a patrol to be defined in the agreement concluded; and
 - (b) service for the destruction or removal of derelicts in the Central Pacific Region, the area in which the service is to be maintained to be determined in the agreements by appropriate latitudinal and longitudinal boundaries.
- (2) The Government may include in the agreements a provision for payment to the Government of Dominica by the countries concerned of a proportionate share of the expense for the maintenance of the services named and all the agreements shall be subject to ratification by the Parliament.

152. (1) The Maritime Administrator or other authorized official in countries on whose shores vessels of Dominica are stranded shall take proper measures for saving the vessels, their cargoes and appurtenances, storing and securing the effects and merchandise saved, and taking inventories thereof; and the merchandise and effects with inventories thereof shall, after payment of the expenses, be delivered to the owners.
- (2) The Maritime administrator or any authorized official shall not take possession of any such merchandise, or other property, when the Master, owner or consignee thereof is present or capable of taking possession of the same.
- (3) The Minister is hereby authorized to conclude agreements with countries in which Dominica is neither represented by the Deputy Administrator, any Assistant Administrator or any Special Agent, for the purpose of securing the service herein imposed upon the Deputy Administrator, any Assistant Administrator or any Special Agent in countries to which they are assigned.
- (4) The Minister may, by Instrument in writing, delegate to the Maritime Administrator, the power conferred on him in subsection (3).
153. The right to remuneration for assistance or salvage services shall not be affected by common ownership of the vessels rendering and receiving that assistance or salvage services.
154. Salvors of human life or cargo who have taken part in the services rendered in connection with the incident giving rise to salvage are entitled to a fair share of the remuneration awarded to the salvors of the vessel, her cargo and accessories.
155. A suit for the recovery of remuneration for rendering assistance of salvage services shall not be maintainable if brought later than three (3) years from the date when such assistance or salvage was rendered, unless during that period there has not been reasonable opportunity for securing jurisdiction of the vessel, person or corporation
to be charged, in which case the right of action shall not lapse until ninety (90) days after there has been a reasonable opportunity to secure jurisdiction.
156. (1) The Maritime Administrator or its agent and the crew of any vessel owned or operated by Dominica or its representatives, may collect and sue for salvage services rendered by that vessel and crew.
- (2) Any salvage monies recovered by the Maritime Administrator, or its agent and not for the benefit of the crew, shall be held for the credit of the government agency having possession or control of the vessel rendering the service.

Part II Investigations

157. (1) In the event of any casualty involving a vessel of Dominica where there is loss of life or loss or damage of property estimated to be in excess of fifty thousand dollars (US \$50,000), the Master shall immediately forward a report thereon to the Maritime Administrator in accordance with such Regulations as the Minister may make from time to time.
- (2) Where there is a failure to execute and file a report as required, the Master and vessel shall each be liable to a fine of five thousand dollars (US \$5,000) upon notice from the Maritime Administrator.
158. The Minister may, from time to time, make such Rules and Regulations, as are deemed by him necessary and appropriate to the investigation of marine casualties involving vessels registered under the laws of Dominica or otherwise occurring in the jurisdiction of Dominica.

8

Merchant Seamen [A1]

Part I General

- 155A. In this chapter:
- “**Master**” means any person having command of a vessel;
- “**Seaman**” means any member of the crew and an officer, other than the Master and pilot, employed or engaged in any capacity on board a vessel;
- “**crew**” means collectively the persons, other than officers and the Master, serving in any capacity on board a vessel;
- “**shipowner**” includes the charterer of a vessel where he mans, victuals and navigates such vessel at his own expense or by his own procurement;
- “**vessel**” means a vessel registered under this Act;
- “**fishing vessel**” means a vessel used for catching fish and other living creatures at sea; and
- “**foreign trade**” means trade between foreign countries or between Dominica and foreign countries.
- 156A. (1) The rights and obligations of every person employed on an ocean-going merchant vessel registered under this Act, and any person employing such person shall, with respect to terms and

conditions of employment and other matters relating to employment and the internal order of such vessel, be governed by this Chapter.

(2) The provisions of this Chapter shall not apply to:

- (a) persons employed on vessels of less than 15 net tons;
- (b) persons employed solely in ports in repairing, cleaning, stevedoring, and loading or unloading the vessels; and
- (c) pilots. [A2]

157A. (1) A vessel of Dominica shall not be navigated unless it has in its service and on board such complement of officers and crew as is necessary for safe navigation.

(2) The Minister may, from time to time, make such Rules and Regulations as are deemed by him necessary and appropriate to ensure compliance with this requirement. [A2]

158A. Except when prevented by force majeure, all officers of vessels of Dominica shall obtain licenses from the Maritime Administration to fill their relative positions.

159. A person who:

- (a) receives or has in his possession any Dominican license, certificate, or document issued to officers or crew by the Maritime Administrator to which he is not lawfully entitled, or any false license, certificate or document, with intent to use the same unlawfully;
- (b) without lawful authority alters or changes a genuine license, certificate or document or in any manner transfers or arranges for the transfer of any such license, certificate or document;
- (c) aids or abets the commission of any of the foregoing acts; is liable to a fine not exceeding ten thousand United States dollars (US \$10,000), and imprisonment for a period not exceeding five years.

160. Notwithstanding any contractual provision to the contrary, the shipowner may at any time, with good cause, terminate the employment of the Master.

161. The Master has the following duties:

- (a) to enter into Shipping Articles with seamen as hereinafter provided;
- (b) to maintain discipline on board the vessel and to take all steps as are necessary and appropriate in connection therewith;
- (c) to assume responsibility for the receipt of cargo by the vessel, stowage of cargo on board the vessel insofar as such stowage affects the safety or navigability of the vessel, and for the discharge of cargo from the vessel;

- (d) to assume full responsibility for the safety of the members of the crew and passengers, if any, and to take all necessary and appropriate steps in connection therewith;
- (e) to assume full responsibility for the navigation of the vessel at all times;
- (f) to assume full responsibility for the vessel's funds and the disbursement thereof;
- (g) to see that the vessel's log books are properly and accurately kept;
- (h) to keep in his custody all of the vessel's documents;
- (i) to make all reports required by laws of Dominica or by the regulations of any ports at which the vessel may call; and
- (j) to render assistance in the saving of life and property at sea.

162. When a vessel is at sea, the Master is authorized to:

- (a) legally marry passengers or other persons aboard;
- (b) issue birth certificates for children born at sea; and
- (c) bury persons who have died on board the vessel while at sea

163. Except as otherwise provided, the Master of a vessel of Dominica shall enjoy the same rights and shall have the same liens upon the vessel in respect to wages, maintenance and cure and repatriation as are provided for seamen.

164. The personal representative of the Master of a vessel of Dominica shall enjoy the same rights and shall have the same liens upon the vessel in case of the Master's wrongful death as are provided in respect of seamen.

Part II Rights and Duties of Seamen

165. (1) Before the Master of any vessel of Dominica of 15 net tons or more sails from any port, there shall be in force Shipping Articles with every seaman on board his vessel, except with persons who are apprenticed to, or servants of, himself or the vessel's owner.

(2) The Shipping Articles shall:

- (a) be written or printed;
- (b) be subscribed by every seaman shipping on the vessel; and
- (c) state the period of engagement or voyage and the term for which each seaman shall be shipped, and the rate of pay for each, and such other items as may be required by Regulations.

166. A person who fraudulently alters or makes false entry in any Shipping Articles, or aids or procures the commission of any such offense, is liable to a fine not exceeding one thousand five hundred United States dollars (US \$1,500).
167. (1) Where a person is carried to sea as an officer or one of the crew on board any vessel making a voyage as hereinbefore specified, without entering into Shipping Articles with the Master of that vessel in the form and manner and at the place and times required in such cases, the shipowner is liable to a fine not exceeding five hundred United States dollars (US \$500).
- (2) Notwithstanding subsection (1), a shipowner is not liable for any person carried to sea, who secretly stows himself away without the knowledge of the Master, mate, or of any of the officers of the vessel, or who falsely impersonates himself to be the Master or officers of the vessel, for the purpose of being carried to sea.
168. (1) Shipping Articles for the duration of a single voyage terminate as soon as unloading of the cargo is completed at the last port of destination, or, if the vessel carries ballast only, upon the arrival at the last port of destination.
- (2) Shipping Articles for the duration of a round voyage terminate as soon as unloading of any cargo is completed at the port where the seamen were engaged.
- (3) If the voyage is extended to a port other than that port designated in the Shipping Articles as the end of the voyage, the Articles shall be extended and the wages shall be continued accordingly and if the voyage be shortened, the wages shall be paid on the date of termination of the voyage.
- (4) Where Shipping Articles are not for a stated period they shall be deemed to be for a period of not less than six months and shall terminate at the expiration of the six month period, provided that at least five (5) days prior notice is given.
- (5) In the absence of such notice the agreement shall continue but shall be terminable thereafter upon at least five (5) days notice by either party.
- (6) Nothing in subsection (5) shall apply to or preclude Shipping Articles for a stated period of time.
- (7) When Shipping Articles expire while the voyage is still incomplete, they shall be extended until the vessel arrives at the port of her destination, and the wages shall be continued accordingly.
169. Where the Shipping Articles have terminated because o:
- (a) transfer of registry;
 - (b) transfer of ownership;
 - (c) abandonment of vessel; or
 - (d) loss of vessel,

the seaman shall be entitled to compensation equal to fifteen (15) days base wages, or the base wages until the expiration of the period for which he was engaged, whichever shall be least; provided however that the seaman is not employed as a seaman during such period and provided further that during that period the seaman has not refused substantially equivalent seagoing employment.

170. (1) The Minister may, by Regulations, require identification books, sea service records, medical fitness certificates, certificates of proficiency or competence, or other official certification and documentation to be obtained and carried on board vessels of Dominica.
- (2) A seafarer who forges or fraudulently alters or procures the forgery or fraudulent alteration of any official document is liable to a fine of five thousand United States dollars (US \$5, 000), and imprisonment for a period not exceeding five years.
171. (1) Notwithstanding any other provision of this Chapter, a person under the age of fifteen years shall not be employed or work on vessels of Dominica registered under this Act, except on vessels upon which only members of the same family are employed, schoolships or training ships.
- (2) The Master shall keep a register of all persons under the age of fifteen years employed on board his vessels, as required by Regulations.
- (3) A person under the age of fifteen years may occasionally take part in the activities on board such vessels during school holidays, subject to the conditions that the activities in which he engages:
- (a) are not harmful to his health or normal development;
 - (b) are not such as to prejudice his attendance at school; and
 - (c) are not intended for commercial profit.
172. (1) Wages shall commence on the day specified and agreed to in the Shipping Articles or at the time of presence on board the vessel for the purpose of commencing work, whichever occurs first, and shall terminate on the day of discharge or termination of Articles.
- (2) In the absence of an agreement to the contrary, the shipowner or the Master of the vessel shall pay to every seaman his wages within two days after the termination of the Articles, or at the time when the seaman is discharged, whichever is first.
- (3) A seaman is entitled to receive in local currency, on demand, from the Master one-half of his wages actually earned and payable at every intermediate port where the vessel loads or delivers cargo before the voyage is ended, but not more than once in any ten day period.
- (4) In case of wrongful failure to pay a seaman wages on demand, the seaman becomes entitled to a payment of full wages earned.

- (5) Every Master shall deliver to the seaman, before paying off, a full and true account of his wages and all deductions to be made therefrom on any account whatsoever, and in default is liable to penalty of not more than two hundred United States dollars (US \$200).
173. A seaman who has signed Shipping Articles and is thereafter discharged before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying such discharge and without consent, shall be entitled to receive in addition to his earned wages a sum equal to three month's wages as compensation.
174. (1) A stowaway signing the vessel's Articles is entitled to wages, but not to maintenance and cure as herein provided.
- (2) The Master shall discharge a stowaway referred to in subsection (1) at the first convenient port of call.
- (3) Nothing in this Section shall require a stowaway to be signed on Shipping Articles.
175. The Master may discharge a seaman for justifiable cause, including any of the following grounds:
- (a) unjustified failure to report on board at such times and dates as may be specified by the Master;
 - (b) incompetence to perform duties of which the seaman has represented himself as qualified;
 - (c) theft, embezzlement or willful destruction of any part of the vessel, its cargo or stores;
 - (d) serious insubordination, willful disobedience, or willful refusal to perform assigned duties;
 - (e) mutiny or desertion;
 - (f) habitual intoxication, quarreling, or fighting;
 - (g) possession of dangerous weapons, narcotics or contraband articles;
 - (h) intentional concealment from the shipowner or Master at or prior to engagement under the Shipping Articles of a condition which resulted in sickness or injury;
 - (i) assistance to stowaways; and
 - (j) willful violation of the laws of Dominica.
176. (1) It shall be unlawful to pay any seaman wages in advance of the time when they are actually earned, or to pay such advance wages or make any order or note or other evidence of the indebtedness therefore to any other person, or to pay to any person for the shipment of any seaman when payment is deducted or to be deducted from a seaman's wages.
- (2) Any person violating any of the provisions of this section is liable to a fine of not more than fifty United States dollars (US \$50).

- (3) A Master and any seaman may agree that an allotment of a portion of that seaman's earnings may be payable to a spouse, children, grandchildren, parents, grandparents, brothers or sisters, or to a bank account in the name of the seaman.
- (4) The provisions of this section do not apply to, or render unlawful:
- (a) deductions from the wages of a seaman pursuant to the laws of the country at whose port the seaman signed on or of which he is a national;
 - (b) deductions which represent dues or other obligations to a labor organization of which the seaman is a member and which are remitted to such organization; or
 - (c) deductions which are paid with the consent of the seaman into a fund established for the exclusive benefit to seamen and their families and dependents for the purpose of providing medical or hospital care, pensions on retirement or death of the seaman, life insurance, unemployment benefits or compensation for illness or injuries.
177. The wages and clothing of a seaman shall not be subject to attachment or distress; and any assignment of wages or of salvage made prior to the accruing thereof shall not bind the seaman, except for allotments.
178. (1) Every Master and seaman is entitled, after 12 months of continuous service on a vessel or for the same employer, to receive an annual vacation allowance equivalent to:
- (a) not less than 12 days base wages, in the case of Masters and officers; and
 - (b) not less than 8 days base wages, in the case of other members of the crew.
- (2) Every seaman is entitled to a minimum of five days paid holidays per year.
179. A seaman shall not, by any agreement, forfeit his lien upon the ship or be deprived of any remedy for recovery of his wages to which he would otherwise have been entitled; and every stipulation by which any seaman consents to abandon his right to his wages in the case of the loss of the ship or to abandon any right which he may have obtained in the nature of salvage, shall be wholly void.
180. No right to wages on the part of any seaman shall be dependent on the earning of freight by the vessel.
181. (1) In the event of disabling sickness or injury, while a seaman is on board a vessel under signed Shipping Articles, or off the vessel pursuant to an actual mission assigned to him by, or by the authority of the Master, the seaman shall be entitled to:
- (a) full wages, as long as he is sick or injured and remains on board the vessel;

(b) medical and surgical treatment and supply of proper and sufficient medicines and therepeutical appliances, until medically declared to have reached a maximum cure or to be incurable, but in no event more than thirty weeks from the day of the injury or commencement of the sickness;

(c) an amount equal to board and lodging up to a maximum period of thirty weeks, and one third of his base wages during any portion of such period subsequent to his landing from the vessel but not to exceed a maximum period of sixteen weeks commencing from the day of injury or commencement of the sickness; and

(d) repatriation as provided in section 188 including all charges for his transportation, accommodation and food during the journey and maintenance up to the time fixed for his departure.

(2) The seaman shall not be entitled to any of the benefits set out in subsection (1):

(a) if the sickness or injury resulted from his willful act, default or misconduct;

(b) if the sickness or injury developed from a condition which was intentionally concealed prior to his engagement under the Articles;

(c) if he refuses medical treatment for such sickness or injury or is denied treatment because of misconduct or default; or

(d) if at the time of his engagement he refused to be medically examined.

(3) The shipowner or his representative shall take adequate measures for safeguarding a sick, injured or deceased seaman on board.

(4) The seaman shall have a maritime lien against the vessel for any wages due to him under this section.

182. (1) In addition to wages, maintenance and cure under section 181, and in addition to any liability for wrongful death under section 183, a seaman on board a vessel under singed Shipping Articles or off the vessel pursuant to an actual mission assigned to him by, or by the authority of the Master, is entitled as provided by Regulations to the benefit of a direct compensation for loss of life, payable to his designated beneficiary or beneficiaries.

(2) The shipowner shall provide such benefit free of any charge to the seaman.

183. Notwithstanding any provision of law to the contrary, whenever the death of a seaman, resulting from an injury is caused by a wrongful act, omission, neglect or default occurring on board a vessel, the personal representative of the deceased seaman may maintain a suit for damages, for the exclusive benefit of the deceased's wife, husband, parent child or dependent relative, against the vessel, person or corporation which would have been liable if death had not ensued.

184. (1) In the event of a death on board a vessel the Master shall:

(a) report the death to the authorities at the first port of arrival;

- (b) make an entry of the death in the vessel's logbook; and
 - (c) submit a statement signed by him to the Maritime Administrator.
- (2) The entry and statement referred to in subsection (1) shall contain the following information in respect of the de-ceased-
- (a) full name;
 - (b) sex;
 - (c) nationality;
 - (d) date of birth
 - (e) cause of death;
 - (f) place of death (longitude and latitude);
 - (g) date and time of death;
 - (h) next of kin, if known;
 - (i) name of vessel; and
 - (j) where the deceased is a seaman
 - (i) his rank and rating;
 - (ii) his place of residence; and
 - (iii) the number and date of issuance of his license.
- (3) The statement submitted pursuant to subsection (1) (c) shall be :
- (a) countersigned by an attending physician aboard the vessel or by one of the ship's physicians; and
 - (b) accompanied by a list of personal effects and amounts of money left on board the vessel by the deceased.

185. (1) Upon the request of anyone having a legal interest, and where a death has been reported in accordance with the requirements of section 184, the Maritime Administrator shall issue a death certificate containing the particulars set out in section 184 (2).

(2) Where the deceased was a citizen or a resident of Dominica the certificate shall be recorded in Dominica as required by law.

186. In the case of death of a seaman occurring on board the vessel or in case of his death occurring on shore, if at the time he was entitled to medical care and maintenance at the shipowner's expense, the shipowner shall be liable to defray reasonable local funeral expenses and make payment of the base wages of the deceased seaman up to the end of the month in which the death occurs.

187. (1) In relation to members of the crew on a vessel engaged in foreign trade:

- (a) the normal hours of work in port and at sea shall be eight hours per day;

(b) work performed over and above the eight-hour period shall be considered as overtime and shall be compensated for at overtime rates;

(c) a sufficient number of men shall be employed to promote safety of life at sea and to avoid excessive overtime;

(2) A Master of any vessel who fails to comply with this section, is liable to a fine not exceeding five hundred United States dollars (US \$500).

188. (1) A seaman who is put ashore at a port other than the one where he signed the Shipping Articles and who is put ashore for reasons for which he is not responsible, shall be returned as a crew member or otherwise, but without expense to him,

(a) at the shipowner's option, to the port at which he was engaged or where the voyage commenced or to a port of the seaman's own country; or

(b) to another port, agreed upon between the seaman and the shipowner or the Master.

(2) Where a seaman's contract period of service has not expired, the shipowner may transfer him to another of the shipowner's vessels to serve thereon for the balance of the contract period of service.

(3) A seaman whose period of employment terminates by reason of completion of the voyage for which he was engaged or by expiration of his contract period of employment is entitled to repatriation, at no expense to him, to the port at which he was engaged or to such other port as may be agreed upon.

189. A seaman shall forfeit his right of repatriation in case of:

(a) desertion;

(b) entering into a new agreement with the same shipowner after his discharge;

(c) entering into a new agreement with another shipowner within one week after his discharge;

(d) criminal offenses under sections 192, 194, and 195;

(e) unjustifiable repudiation of the Shipping Articles; or

(f) failure to request repatriation within one week from the time he is in condition to be repatriated.

190. (1) A seaman on a vessel of Dominica who commits any of the following offenses may, in addition to any criminal penalties provided herein, be punished by the Master as herein provided:

(a) for neglecting or refusing without reasonable cause to join his vessel or to proceed to sea in his vessel, for absence without leave at any time within 24 hours of the vessel's sailing from any port, either at the commencement or

during the progress of the voyage, or for absence at any time, without leave and without sufficient reason from his vessel and from his duty, not amounting to desertion, by forfeiture of not more than two days wages or the amount sufficient to defray any expenses properly incurred in hiring a substitute;

(b) for quitting the vessel without leave before he is placed in security, by forfeiture of not more than one month's wages;

(c) for intoxication or willful disobedience to any lawful command by being placed in restraint until such intoxication or disobedience ceases, and by forfeiture of not more than four days wages;

(d) for continued intoxication or willful disobedience of any lawful command or continued willful neglect of duty being placed in restraint until such intoxication, disobedience or neglect ceases, and by forfeiture, for every 24 hours' continuance of such intoxication, disobedience or neglect, of a sum of not more than twelve days wages;

(e) for willfully damaging the vessel or embezzling or willfully damaging any part of the stores or cargo, whether on board the vessel, in boats or ashore, by forfeiture from his wages of a sum equal to the loss thereby sustained;

(f) for any act of smuggling, whereby loss or shipowner, by payment to the Master or shipowner of such a sum as is sufficient to reimburse the Master or shipowner for the loss or damage, and the whole or any part of his wages may be retained in satisfaction or on account of such liability;

(g) for assaulting a Master, pilot or officer, by forfeiture from his wages of not more than three months pay; or

(h) for mutiny or desertion, by forfeiture of all accrued wages.

(2) All earnings forfeited as a result of penalties imposed by the Master pursuant to subsection (1) shall be applied to reimburse the Master or shipowner for any loss or damage resulting from the act for which the forfeiture was imposed; and any balance, with an accounting thereof, shall be forwarded to the Maritime Administrator.

191. Flogging and all other forms of corporal punishment are hereby prohibited on board any vessel.

192. A Master, seaman, or other person on a vessel who:

(a) by willful breach of duty or by reason of drunkenness or drug use, does any act which causes loss, destruction of or serious damage to such vessel or cargo, or tending immediately to endanger the life or limb of any person belonging to or on board such vessel; or

(b) by willful breach of duty or by neglect of duty or by reason of drunkenness refuses or omits to do any lawful act to be done by him for preserving such vessel and her cargo from immediate loss, destruction or serious damage or for preserving any person on such vessel from immediate danger to life or limb, commits an offence and is liable to a fine not exceeding two thousand five hundred United States dollars (US\$2500) and to imprisonment for a period not exceeding one year.

193. (1) A seaman who deserts his vessel with the intention of not returning to duty and who remains unlawfully in a foreign country commits desertion and is liable to answer for any

damages or loss suffered by the shipowner as a consequence of such desertion.

(2) When a desertion occurs, the Master shall :

(a) make an entry of the desertion in the logbook;

(b) file a report with the Maritime Administrator; and

(d) notify the local authorities of the port and request the apprehension and delivery of the deserter.

194. A crew member of a vessel who:

a) endeavors to make a revolt or mutiny on board such vessel;

(b) combines, conspires or confederates with any other person on board to make such revolt or mutiny;

(c) solicits or incites any other of the crew to disobey or resist the lawful orders of the Master or other officers of such vessel, or to refuse in a tumultuous and mutinous manner;

(d) makes a riot on board of the vessel; or

(e) unlawfully confines the Master or other commanding officer of the vessel;

commits an offence and is liable to a fine not exceeding ten thousand United States dollars (US\$10,000) and to imprisonment for a period not exceeding ten years.

195. A crew member of a vessel who:

(a) unlawfully and with force, or by fraud or intimidation, usurps the command of such vessel from the Master or other lawful officer in command thereof;

(b) deprives the Master or officer in command of authority and command on board;

(c) resists or prevents the Master or officer in command in the free and lawful exercise of authority; or

(d) transfers such authority and command to another not lawfully entitled thereto,

commits the revolt and mutiny and is liable to a fine not exceeding ten thousand United States dollars (US \$10,000) , and imprisonment for a period not exceeding ten years.

196. (1) Where a crew member has committed an offence under this Act, the Master shall:
- (a) make an entry in the log book of the day on which the offence was committed and the penalty or fine imposed;
 - (b) furnish the offender, if he is still on the vessel before her next arrival at any port or if she is in port before her departure therefrom, with a copy of the entry; and
 - (c) read the entry over distinctly and audibly to the offender.
- (2) The Master and the Mate or another crew member shall sign the entry made pursuant to subsection (1) (a).
- (3) Upon the entry being read over to him, the offender may make such reply as he thinks fit.
- (4) The Master shall enter in the log book a statement that a copy of the entry has been furnished to the offender and read over to him and the offender's reply, if any.
- (5) The Master and the Mate or another crew member shall sign the statement made pursuant to subsection (4).
197. (1) A Master or other person in charge of a vessel who:
- (a) maliciously and without justifiable cause forces any member of the crew of such vessel on shore in order to leave him behind in any foreign port or place; or
 - (b) refuses to bring to such place as is required under the Articles any member of the crew of such vessel, in condition and willing to proceed when the Master is ready to proceed, commits an offence and is liable to a fine not exceeding five thousand United States dollars (US\$5000) and imprisonment for a period not exceeding five years.
- (2) The abandoned seaman shall retain his right to repatriation and shall be granted 30 days of base wages.
198. (1) The following clause shall appear, or be by force of law included, in all the contracts for seafaring labor on board vessels of Dominica:
- “The parties to this contract hereby stipulate that the terms and conditions laid down herein shall be subject to the applicable provisions of the International Maritime Act. Any dispute as to the terms and conditions of this contract shall be resolved in accordance with the International Maritime Act of Dominica.”

(2) All contracts relating to service aboard a vessel registered under this Act shall be interpreted and applied in accordance with the laws of Dominica.

199. Seamen and their employers, without distinction whatsoever, may establish and become members of organizations or associations of their choosing, in accordance with the Constitution of the Commonwealth of Dominica.
200. (1) An employer or employer organization and any labor organization representing seamen may bargain and enter into a labor contract concerning wages and other terms and conditions of employment; provided, that no labor contract provision may be contrary to the laws of Dominica or deprive Dominica of jurisdiction over labor relations.
(2) A copy of any labor contract between the employer and an organization representing seamen employed on a vessel shall be placed on board the vessel and shall be made available to maritime or judicial authorities when requested.
201. An employer or employer organization and any labor organization may be bound by any provisions in a labor contract, provided that the provisions are not prohibited by the Laws of Dominica.
202. An employer or employer organization or employee or labor organization shall not attempt to bargain for, or to enter into, any labor contract containing any provision which :
- (a) attempts to set aside the application of or is inconsistent with or is violation of the laws of Dominica;
 - (b) prescribes terms or conditions of employment less favorable to seamen than those set out in this Chapter; or
 - (c) discriminates as to terms and conditions of employment on the basis of race, color or creed.
203. Whenever an employer or employer organization and a labor organization have entered into a labor contract providing that a crewing agency shall be sole bargaining representative of seamen pursuant to section 200:
- (a) the employer or employer organization shall not bargain with or enter into a crewing contract pertaining to such seamen with any other labor organization ; or
 - (b) another labor organization shall not attempt to bargain with or enter into a labor contract pertaining to such seamen with the employer or employer organization; prior to thirty days before the termination of such agreement or before the expiration of three years from the effective date of such agreement, whichever event shall first occur.

204. A person or labor organization shall not promote or engage in any strike or picketing, or any boycott or like interference with the internal order or operation of a vessel.
205. (1) It is declared to be the policy of the Commonwealth of Dominica to place upon employers and employer organizations and employees and labor organizations the primary responsibility for avoidance of any interruption in foreign or domestic maritime commerce.
- (2) In the event that an agreed settlement between the parties to any dispute, difference or grievance is not effected, the following conciliation, mediation and arbitration procedures shall, subject to Regulations, apply:
- (a) if the dispute is not resolved, crew members shall present their case to the employer through the Master or his appointee, or, if the matter is to the prejudice of the Master, then directly to the employer;
 - (b) crew members may be represented in the matter by a labor organization which is a party to a labor contract entered into pursuant to section 200 and which covers the crew members;
 - (c) efforts shall be made to conciliate the matter and to find an agreeable solution thereto;
 - (d) if a conciliation acceptable to both parties cannot be made at this stage, either party may call upon the Maritime Administrator, or a representative appointed by the Maritime Administrator, to act as mediator to endeavor to find a solution to the matter satisfactory to the parties; and
 - (e) in the event that the dispute cannot be resolved by conciliation or mediation, either party may submit the matter to an independent arbitrator or arbitrators for a final determination, in accordance with the Arbitration Act.
- (3) Any arbitration award may be enforced, if necessary, by any Court of competent jurisdiction.
206. (1) No claim arising out of the Shipping Articles shall be brought after the expiration of one year.
- (2) The following rights of action are subject to a two year limitation period;
- (a) the right of action for death of a seaman caused by wrongful act, neglect or default on the high seas;
 - (b) claims of the shipowner against the Master for acts committed during the performance of his duties; and
 - (c) all other tort claims.
- (3) All other claims are subject to a three year limitation period.
- (4) The limitation periods set out in subsections (1) to (3) run from the time when the right of action accrues.

207. The Minister may make Regulations relating to conditions and terms of employment, wages, vacations and leave, hours of work, repatriation, minimum age, compensation for sickness, injury or death of masters, seamen, and seagoing laborers employed on vessels documented under this Act.

9

Registry for Foreign Maritime Entities [A1]

Part I General

208. (1) There is hereby established a Commonwealth of Dominica Maritime Corporate Registry for the registration of foreign maritime entities as defined under this Chapter.
- (2) The Maritime Corporate Registrar shall be the Maritime Administrator or whomever he may assign under the provisions of this Act.
209. A "Foreign Maritime Entity" is a business entity established under the Laws of a jurisdiction other than the Commonwealth of Dominica, eligible to own vessels when registered under this Chapter.
210. A foreign corporation shall not engage in the registration of vessels of Dominica unless registered as a foreign maritime entity under the provisions of this Act.
211. (1) A foreign corporation whose indenture or instrument of trust, charter or articles of incorporation, agreement of partnership or other document recognized by the foreign State of its creation as the basis of its existence, which document directly or by force of law of the State of creation comprehends the power to own or operate vessels, and which confers or recognizes the capacity under the law of the State of creation to sue and be sued in the name of the entity or its lawful fiduciary or legal representative, may apply to the Minister to be registered as a Foreign Maritime Entity.
- (2) The burden of establishing the capacity to sue and be sued shall be upon the applicant for such registration.

212. (1) The application shall be authorized in writing by appropriate action of the trustee, board of directors or other person in whom, under the law of the State of creation, management of the entity is vested, and shall bear their signature and title or the signature of a duly constituted Notary Public.
- (2) The application shall be dated and shall state the following:
- (a) the name of the entity;
 - (b) the legal character or nature of the entity;
 - (c) the jurisdiction and date of its creation;
 - (d) whether the entity has the power to own or operate vessel;
 - (e) whether the entity has the capacity to sue and be sued in its own name or, if not, in the name of its lawful fiduciary or legal representative;
 - (f) the address of the principal place of business of the entity and, if such place is not in the jurisdiction of the creation of the entity, either the address of its place of business or the name and address of its lawful fiduciary or legal representative within the jurisdiction of the creation of the entity; and
 - (g) the full names and addresses of the persons currently vested under law with management of the entity.
- (3) Each application shall be accompanied by a copy of the indenture or instrument of trust or charter or articles of incorporation or agreement of partnership or other documents upon which the existence of the entity is based.
- (4) If any document specified herein to be included in the application is in a foreign language, there shall be included in the application a translation under oath of the translator.
- (5) Each application, with attachments, shall be filed with the Minister.
213. A registered foreign maritime entity shall have the following powers to own and operate vessels registered under the Laws of Dominica provided all requirements of this Act are met.
214. (1) A foreign corporation which has been registered as a foreign maritime entity under the provisions of this Act, may have its authority amended to effect any of the following changes:
- (a) to change its corporate name if such change has been effected under the laws of the jurisdiction of incorporation;
 - (b) to enlarge, limit or otherwise change the business which it proposes to do in the Commonwealth of Dominica;
 - (c) to change the location of its offices in the Commonwealth of Dominica; or
 - (d) to specify or change the post office address to which the Minister of Planning shall mail a copy of any process against it served upon him.
- (2) Every Foreign Maritime Entity registered under this Act which amends its articles of incorporation or is a party to a merger or consolidation shall, within thirty days after the

amendment or merger or consolidation becomes effective, file with the Minister a copy of the amendment or a copy of the articles of merger or consolidation, duly certified by the proper officer of the jurisdiction in which the corporation was incorporated or of which the merger or consolidation was effected, together with a translation of the amendment or articles under oath of the translator, if necessary.

(3) An application to have its registration amended shall be made to the Maritime Administrator in his capacity as Registrar of foreign maritime entities.

(4) The requirements in respect to the form and contents of such application, the manner of execution and the filing of duplicate originals thereof with the Minister for Planning shall be the same as in the case of an original application to be registered as a foreign maritime entity.

(5) All documents required in the application for change of registration, which are in a foreign language, shall be accompanied by a translation under oath of the translator.

215. (1) A foreign maritime entity registered under this Act may withdraw from Dominica upon filing with the Minister an application for withdrawal, setting out:

- (a) the name of the entity and the jurisdiction in which it is incorporated;
- (b) the date it was registered to do business in the Commonwealth of Dominica;
- (c) that the entity surrenders its authority to conduct business in Dominica as a foreign maritime entity; and
- (d) a post office address to which the Minister may mail a copy of any process against the corporation that may be served on him.

(2) The application for withdrawal shall be made on forms prescribed by the Minister and shall be executed by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing the application, or if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee and verified by him.

(3) The application for withdrawal shall be filed with the Minister in such manner prescribed by him.

(4) The Authority of the corporation to do business in Dominica shall terminate upon the filing of a withdrawal under subsection (3).

(5) When a registered foreign maritime entity is dissolved or its authority or existence is otherwise terminated or cancelled in the jurisdiction of its incorporation or when such foreign maritime entity is merged into or consolidated with another foreign corporation, a certificate of the official in charge of corporate records in the jurisdiction of incorporation of such foreign corporation, which certificate attests to the occurrence of any such event, or a certified copy of an order or decree of a court or jurisdiction directing the dissolution

of such\ foreign corporation or the termination of its existence shall be delivered to the Minister or his assigns who shall file such documents and the authority of the corporation to transact business in the Commonwealth of Dominica shall cease.

(6) Service of process in any action, suit or proceeding based upon any cause if action which arose in the Commonwealth of Dominica during the time the corporation was registered in Dominica as a foreign maritime entity may thereafter be made on such corporation by service on the Minister.

216. (1) The registration of a foreign maritime entity may be revoked by the Minister upon failure of the entity to pay the annual registration for a period of two years, or where the foreign maritime entity conducts business in contravention of this Act.

(2) On failure of a corporation to pay the annual registration fee for a period of two years, the Minister on or about such date as shall be determined by regulation, shall cause a notice to be sent to the corporation that its registration will be revoked unless within ninety days of the date of the notice, payment of the annual registration fee is made.

(3) On the expiration of the ninety day period, the Minister, in the event the corporation has not remedied its default, shall issue a notice declaring that the registration has been revoked as of the date stated in the notice.

217. (1) An unregistered foreign maritime entity doing business in Dominica shall not maintain any action or proceedings in Dominica unless it is registered under this Act and it has paid to the Government all fees, penalties and taxes for the years or parts thereof during which it did business in Dominica without authority.

(2) Subsection (1) applies to any successor in interest of such foreign maritime entity.

(3) The failure of a foreign maritime entity to be registered under this Act shall not impair the validity of any contract or act of the foreign corporation or the right if any other party to the contract to maintain any action or special proceeding thereon, and shall not prevent the foreign maritime entity from defending any action or proceeding in Dominica.

218. (1) An action or special proceeding against a foreign corporation registered under this Act as a foreign maritime entity may be maintained by a resident of the Commonwealth of Dominica or by a domestic corporation.

(2) Except as otherwise provided in this Chapter, an action or proceeding against a foreign corporation may be maintained in Dominica by another foreign corporation or by a nonresident in the following cases only:

(a) where the action is brought to recover damages for the breach of a contract made or to be performed in Dominica, or relating to property situated in Dominica at the time of the making of the contract;

(b) where the cause of action arose in Dominica, except where the object of the action or special proceeding is to affect the title of real property situated outside of Dominica;

(c) where the subject matter of the litigation is situated in Dominica;

(d) where the action or proceeding is based on a liability for acts done in Dominica by a foreign maritime entity;

(e) where the defendant is a foreign corporation doing business in Dominica as a foreign maritime entity, subject to the provisions of subsection (3).

(3) Any action not arising out of business transacted or activities performed in Dominica brought against a foreign maritime entity by a non-resident of Dominica or a foreign corporation may in the discretion of the Court be dismissed if it appears that the convenience of the parties would be better served by an action brought in some other jurisdiction.

219. (1) Any resident of Dominica who has been a shareholder of a foreign maritime entity for at least six months preceding his demand, upon at least ten days written notice may require that foreign maritime entity to produce a record of its registered shareholders containing the names and addresses of such shareholders, the number and class of shares held by each and the date when they respectively became the owners of record thereof, and if such corporation issues bearer shares, a record of all certificates issued in bearer form, including the number, class and dates of issuance of such certificates.

(2) The shareholder requiring production of such records shall have the right to examine in person or by agent or attorney at the office of the foreign maritime entity in Dominica or at such other place in Dominica as may be designated by the foreign maritime entity, the record of shareholders or an exact copy thereof certified as correct by the corporate officer or agent for keeping or producing such record, and to make extracts there from.

(3) Any inspection authorized by this section may be denied to such shareholder or other person upon his refusal to furnish to the corporation an affidavit that such inspection is not desired for a purpose which is in the interest of a business or object other than the business of the foreign corporation and that such shareholder or other person has not within five years sold or offered for sale any list of shareholders of any domestic or foreign corporation or aided or abetted any person in procuring any such record of shareholders for any such purpose.

220. It shall be the duty of the Maritime Administrator to assist the Minister to perform regulatory, investigatory, and enforcement functions in relation to the activities of Foreign Maritime Entities in Dominica.
221. (1) There shall be paid to the Maritime Corporate Registrar fees with regard to the registration and other activities undertaken under this Chapter.
- (2) The Minister may, by Order published in the Gazette, set the fees payable under subsection (1).
- (3) If a Foreign Maritime Entity fails to pay the fees due under subsections (1) and (2) by the due dates set by the Minister the license fee thereafter is increased by 10% monthly.
222. (1) Notwithstanding the provisions of any other written law, a foreign maritime entity shall, subject to subsection (3), be exempt from the payment of taxes, duties and similar charges on income earned from its operations as a Foreign Maritime Entity in Dominica.
- (2) The Exchange Control Ordinance does not apply to a Foreign Maritime Entity registered under this Act.
- (3) The Maritime Corporate Registrar shall, on payment of the prescribed fee, issue a certificate of exemption for the purpose of subsection (1) to a company entitled to the exemption.”

Passed in the House of Assembly this 5th day of September, 2000.

ALEX F. PHILLIP (MRS.) Clerk of the House of Assembly