

CHAPTER 13:06

INLAND WATERS SHIPPING ACT

Acts 34/1971, 42/1976 (s. 22), 37/1977 (s. 18), 15/1981, 22/2001 (s. 4) 23/2004 (s. 282); S.I. 583/1979.

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Interpretation.
3. Declaration of inland waters.

PART II

REGISTRATION OF VESSELS

4. Application of Part II.
5. Vessels to be registered.
6. Ports of registry and registers of vessels.
7. Registration of vessels.
8. Duration of registration certificates.
9. Change of ownership or address.
10. Destruction of vessels.
11. Registration certificate and registration mark and number to be kept affixed to vessel.
12. Removal of unregistered vessels.
13. Central registry of vessels.

PART III

SURVEY OF VESSELS

14. Application of Part III.
15. Vessels to be surveyed.
16. Survey of vessels.
17. Standards to be applied in survey.
18. Duration of surveyor's certificate.

PART IV

MASTERS AND CREWS OF VESSELS

19. Competency of masters and crews in certain vessels.

PART V

INTERNATIONAL ARRANGEMENTS

20. Agreement with certain other countries.
21. Power to suspend provisions inconsistent with treaties.

PART VI

CONTROL AND INSPECTION OF VESSELS, REMOVAL OF WRECKS AND HOLDING OF INQUIRIES

22. Power of inspection and direction of vessels found to be unsafe.
23. General powers of surveyors, police officers, registrars of vessels and other authorized persons.
24. Power to remove or dispose of wreck.
25. Inquiries as to shipping casualties.

PART VII

INLAND WATERS SHIPPING SERVICES

26. Interpretation in Part VII.
27. No services except under permit.
28. Establishment of Board and appointment of assessors and secretary.

29. Terms of office of members who are not civil servants.
30. Disqualification for appointment as member.
31. Vacation of office by member.
32. Meetings and proceedings of Board.
33. Members to declare certain interests.
34. Validity of Board's decisions and acts.
35. Advisory functions of Board.
36. Inquiries by Board.
37. Powers of Board in relation to permits and exemptions.
38. Temporary permits.
39. Publication of applications for ordinary permits.
40. Applications for ordinary permits: objections.
41. Applications for ordinary permits: holding of inquiries.
42. Manner of performance by Board of functions referred to in section 37 (1) (a).
43. Permits open to inspection.
44. Revocation, suspension and variation of permits and exemptions.
45. Notice of inquiry.
46. Board may revoke or vary permit or exemption.
47. No refund of fees.
48. Permits to continue if application made for renewal.
49. Insurance.
50. Emergency powers.
51. Returns.

PART VIII

GENERAL

52. Appointments by Minister.
53. Duty to give information.
- 53A. Use of vessel and interference therewith without owner's consent
- 53B. Power of police to stop and search vessel
54. Damage to navigation marks.
55. Ensign.
56. Designation of harbours.
57. Regulations.
58. Certain provisions as to legal proceedings.
59. Offences.
60. [Repealed].
61. State to be bound.

AN ACT to provide for the registration, survey and safety of vessels used on the inland waters of Zimbabwe; to make provision for the safety of passengers and cargo, the competency of masters and crews and the regulation of services performed on inland waters by means of vessels; and to provide for matters incidental to or connected with the foregoing.

[Date of commencement: 1st October, 1971.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Inland Waters Shipping Act [*Chapter 13:06*].

2 Interpretation

(1) In this Act—

“Board” means the Inland Waters Shipping Services Board established under section *twenty-eight*;

“canoe” means a vessel propelled by paddle or pole;

“chairman” means the chairman of the Board;

“crew” includes any person employed in a vessel other than the master;

“displacement”, in relation to a vessel, means the mass of the vessel represented by the amount of water displaced thereby;

“fishing vessel” means a vessel which is for the time being employed for the purposes of commercial fishing;

“harbour” means a place or area designated as a harbour by the Minister in terms of section *fifty-six*;

“home port”, in relation to a vessel which—

(a) is normally kept on inland waters, means the place at which that vessel is ordinarily kept when not in use;

(b) is not normally kept on inland waters, means the place at which that vessel was or is to be launched when it is used on inland waters;

“hovercraft” means a craft which is designed to be supported when in motion wholly or partly by air expelled from the craft to form a cushion of which the boundaries include the ground, water or other surface beneath the craft;

“inland waters” means such waters as may be declared to be inland waters by the President in terms of section *three*;

“master” means the person having command or charge of a vessel;

“Minister” means the Minister of Transport and Energy or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“navigation mark” includes any beacon, buoy, light or notice and any other mark or aid to navigation provided for the purposes of this Act;

“owner” includes, in the case of a vessel which is the subject of a hire-purchase agreement, the person in possession of the vessel in terms of that agreement;

“passenger” includes every person carried in a vessel other than the master or crew thereof;

“registrar of vessels” means a registrar of vessels appointed by the Minister in terms of section *fifty-two*;

“registration certificate” means a certificate issued by the registrar of vessels in terms of section *seven*;

“rowing boat” means a vessel propelled by oars;

“Secretary” means the Secretary of the Ministry for which the Minister is responsible;

“surveyor” means any person appointed by the Minister as a surveyor of vessels in terms of section *fifty-two*;

“surveyor’s certificate” means a certificate issued by a surveyor in terms of section *sixteen*;

“ton” means the unit of measurement of the tonnage of a vessel ascertained in the manner prescribed;

“vessel” includes every description of water craft, including a hovercraft, used or capable of being used as a means of transportation on water.

(2) For the purposes of this Act, a vessel shall be deemed to be used or a service performed for hire or reward if the vessel is used or the service performed, as the case may be, in return for payment or material advantage on one or more occasions, whether or not the vessel is supplied without the services of a master or crew.

3 Declaration of inland waters

The President may, by statutory instrument, declare any dam, lake or river or part of a dam, lake or river to be inland waters for the purposes of this Act.

PART II

REGISTRATION OF VESSELS

4 Application of Part II

(1) Subject to subsection (2), this Part shall apply to every vessel which is used on inland waters.

(2) There shall be exempted from this Part such vessels or classes of vessels as may be prescribed.

5 Vessels to be registered

From and after a date to be notified by the Minister by statutory instrument in respect of any inland waters which he may specify, no person shall use or permit to be used on any inland waters so specified a vessel to which this Part apply, unless—

(a) it is registered in accordance with this Part; and

(b) a valid registration certificate issued in respect of that vessel is affixed to and the registration mark and number assigned thereto are affixed to or painted on the vessel in accordance with section *eleven*.

6 Ports of registry and registers of vessels

(1) For the purposes of this Part, the Minister shall, by statutory instrument—

(a) appoint ports of registry and shall specify in such notice the areas of inland waters for which each such port shall be the port of registry;

(b) specify the registrar of vessels for each port of registry.

(2) A registrar of vessels shall, in respect of the port of registry for which he is appointed, maintain in the form and manner prescribed a register of vessels registered by him.

7 Registration of vessels

(1) Every person who is or becomes the owner of a vessel which is required to be registered in terms of this Part and which has not already been registered under this Part shall register that vessel with the registrar of vessels for the port of registry appointed for the area of inland waters on which the home port of that vessel is situated.

(2) An application for the registration of a vessel shall be made in the form and manner prescribed and, in the case of a vessel for which a surveyor's certificate is required in terms of Part III, shall be accompanied by a valid surveyor's certificate.

(3) On receipt of an application in terms of subsection (2) the registrar of vessels shall, if satisfied that the requirements of this Act preliminary to registration have been complied with, register the vessel and—

- (a) issue to the owner of the vessel a registration certificate in the form prescribed; and
- (b) assign to that vessel the distinctive mark of the port of registry and a number which shall remain as the registration mark and number of that vessel whilst it is used on inland waters.

(4) A registrar of vessels shall not assign the same number in his register to more than one vessel unless he is satisfied that the vessel to which the number was assigned has been broken up, destroyed or lost by sinking.

(5) The Minister shall assign to each port of registry a letter or combination of letters or other mark as a distinctive mark under this Act.

8 Duration of registration certificates

Unless otherwise provided by or in terms of this Act, a registration certificate shall remain in force and be deemed to be a valid registration certificate for such period as may be prescribed.

9 Change of ownership or address

(1) On the sale or other change of ownership of a vessel registered in terms of this Part, within thirty days of such change of ownership—

- (a) the person who was the owner shall—
 - (i) notify the registrar of vessels for the port of registry at which that vessel was registered that he has ceased to be the owner thereof and of the name and address of the person who has become the owner thereof; and
 - (ii) deliver to the registrar of vessels the registration certificate issued in respect of that vessel; and
- (b) the person who becomes the owner shall—
 - (i) notify the registrar of vessels for the port of registry at which the vessel is registered that he has become the owner of that vessel; and
 - (ii) make application for a new registration certificate for that vessel in the form and manner prescribed.

(2) Where any permanent change occurs in the residential address of the owner of any vessel registered in terms of this Part, such owner shall, within thirty days of such change of address, notify the registrar of vessels for the port of registry at which the vessel is registered of his new residential address.

(3) On receipt of any notification in terms of this section the registrar of vessels shall make the necessary amendment or insertion in the register of vessels maintained in terms of subsection (2) of section *six*.

10 Destruction of vessels

Where any vessel registered in terms of this Part is broken up, destroyed or lost by sinking, the owner shall, within thirty days—

- (a) notify the registrar of vessels for the port of registry at which the vessel is registered thereof; and
- (b) deliver to the registrar of vessels with such notification the registration certificate issued in respect of that vessel unless he satisfies the registrar of vessels that in the circumstances, it is not possible for him to deliver the registration certificate.

11 Registration certificate and registration mark and number to be kept affixed to vessel

(1) The owner of a vessel registered in terms of this Part shall—

- (a) cause to be affixed to and shall keep affixed to the vessel the registration certificate issued in respect of that vessel; and
- (b) cause to be affixed to or painted on and shall keep affixed to or painted on the vessel the registration mark and number assigned to that vessel on registration.

(2) The registration certificate affixed to a vessel in terms of subsection (1) shall be placed in such position in the vessel as may be prescribed.

(3) The registration mark and number affixed to or painted on a vessel in terms of subsection (1) shall be of such size, form and colour and placed in such position or positions on the vessel as may be prescribed.

12 Removal of unregistered vessels

A police officer may remove from inland waters, in accordance with regulations made in terms of section *fifty-seven* any vessel which he believes, on reasonable grounds, is required to be registered in terms of this Part and—

- (a) which has not been registered; or
- (b) to or on which a valid registration certificate issued in respect of that vessel and the registration mark and number assigned thereto are not affixed or painted in accordance with section *eleven*.

13 Central registry of vessels

- (1) There shall be established at the Ministry responsible for transport a central registry of vessels.
- (2) The officer in charge of the central registry of vessels shall be the Secretary.
- (3) The functions of the central registry of vessels shall be to—
 - (a) maintain a register of all vessels registered in terms of this Part; and
 - (b) perform such other functions as may be prescribed.

PART III

SURVEY OF VESSELS

14 Application of Part III

- (1) For the purposes of this section—

“statutory body” means an authority, board, council, commission or other like body having corporate personality established by or in terms of any law in force in Zimbabwe.
- (2) Subject to subsection (3), this Part shall apply to every vessel used on inland waters which is—
 - (a) used for hire or reward; or
 - (b) owned by the State, the trustee of the District Development Fund, the Kariba Fisheries Research Institute or any statutory body; or
 - (c) a fishing vessel.
- (3) There shall be exempted from this Part—
 - (a) a rowing boat or canoe;
 - (b) such other vessels or classes of vessels as may be prescribed.

15 Vessels to be surveyed

From and after a date to be notified by the Minister by statutory instrument in respect of any inland waters which he may specify, no person shall use or permit to be used on any inland waters so specified a vessel to which this Part apply—

- (a) unless there is in force in respect of such vessel a valid surveyor’s certificate; or
- (b) in contravention of any condition specified in such surveyor’s certificate relating to a matter referred to in paragraph (d), (e) or (f) of subsection (3) of section *sixteen*.

16 Survey of vessels

- (1) A vessel for which a surveyor’s certificate is required in terms of section *fifteen* shall be surveyed in accordance with this Part.
- (2) Application for the survey of a vessel shall be made by the owner of the vessel in the form and manner prescribed to a surveyor of vessels.
- (3) After receipt of an application in terms of subsection (2) the surveyor shall survey the vessel for the purpose of determining—
 - (a) whether the vessel is seaworthy;
 - (b) whether the vessel is equipped in accordance with this Act;
 - (c) the description, displacement, dimensions and method of propulsion thereof;
 - (d) the areas of inland waters outside which the vessel may not be used, having regard to its construction, suitability for navigation and safe operation;
 - (e) the maximum number of passengers and the maximum quantity of cargo to be carried therein;
 - (f) the crew to be carried therein and standards of competency to be attained by members of such crew;
 - (g) such further matters as may be prescribed.
- (4) On completion of his survey in terms of subsection (3) the surveyor shall, if he is satisfied that the vessel is seaworthy and is equipped in accordance with this Act, issue a certificate in such form as may be prescribed, setting out the information required by subsection (3) and appropriate conditions relating to the matters referred to in paragraphs (d), (e) and (f) of subsection (3).
- (5) Where a surveyor, in the course of a survey in terms of subsection (3), finds a vessel to be unseaworthy or to lack equipment required in terms of this Act, he shall make a full list in writing of all such defects and shall give a copy thereof to the owner of the vessel and shall notify him of the date by which the vessel may be produced for further examination, and after all such defects are subsequently remedied to the satisfaction of the surveyor concerned, he shall issue a certificate in accordance with the provisions of subsection (4).

17 Standards to be applied in survey

In surveying a vessel for the purposes of this Act a surveyor shall, in relation to matters not otherwise prescribed, apply such standards and ensure compliance with such requirements as may, in his opinion, be necessary

for the seaworthiness of the vessel, its proper equipment and the safety of passengers and cargo carried aboard the vessel on the inland waters on which it is to be used.

18 Duration of surveyor's certificate

Unless otherwise provided by or in terms of this Act, a surveyor's certificate shall remain in force and be deemed to be a valid surveyor's certificate for such period as may be prescribed.

PART IV

MASTERS AND CREWS OF VESSELS

19 Competency of masters and crews in certain vessels

(1) The Minister may prescribe classes of vessels which shall not be used on inland waters unless under the command of a competent master and may prescribe the numbers and standards of competency of persons to be carried as crew.

(2) For the purposes of subsection (1), a master or member of a crew shall be deemed to be competent when he has attained such standard of competency as may be prescribed or the Minister is otherwise satisfied as to his competency.

PART V

INTERNATIONAL ARRANGEMENTS

20 Agreement with certain other countries

(1) The President may, under such conditions as he may deem necessary, conclude agreements with the government of any country which borders on any dam, lake or river of which a part has been declared to be inland waters and in any such agreement may make arrangements—

- (a) for the recognition and effect in such country of documents issued for the purposes of this Act and for the recognition and effect in Zimbabwe of documents issued in such country in relation to vessels, masters or crews;
- (b) for the use on inland waters of vessels registered in such country and the use on the waters of such country of vessels registered in terms of this Act;
- (c) generally for the safety of passengers and crews in, and the navigation of, vessels used on inland waters and on the waters of such country.

(2) Every agreement concluded in terms of subsection (1) shall be published in the *Gazette*.

21 Power to suspend provisions inconsistent with treaties

Where the President is satisfied that the enforcement of any provision of this Act in regard to vessels of any country would be inconsistent with the obligations of Zimbabwe under any—

- (a) treaty, convention or agreement entered into by that country and the State; or
- (b) convention or agreement with that country the rights and obligations under which have devolved upon the State in terms of paragraph 13 of the Fourth Schedule to the Constitution;

he may, by statutory instrument, suspend the operation of that provision with regard to vessels of that country so far as he may deem necessary to enable the aforementioned obligations to be fulfilled.

PART VI

CONTROL AND INSPECTION OF VESSELS, REMOVAL OF WRECKS AND HOLDING OF INQUIRIES

22 Power of inspection and direction of vessels found to be unsafe

(1) A surveyor or any other person or member of a class of persons generally or specially authorized thereto by the Minister may at any time stop and go on board and inspect any vessel used on inland waters and if such surveyor or person certifies in writing that the vessel is unsafe he may, if in his opinion the case so requires, direct the master of such vessel forthwith to putting to the nearest suitable berth or anchorage or, if it is berthed or at anchor, to remain berthed or at anchor, and if he so directs no person shall, other than for the purpose of so putting in to a berth or anchorage, use such vessel in navigation upon inland waters until a surveyor has certified in writing that such vessel is no longer unsafe or unless it is so used in accordance with such other directions as the surveyor or authorized person may deem necessary for the purposes of safety.

(2) For the purposes of subsection (1), a vessel shall be unsafe if the surveyor or other person authorized in terms of subsection (1) is satisfied that the vessel, by reason of its defective condition or equipment or lack of equipment or by reason of undermanning, which expression includes the incompetence of the master or crew, or of overloading or improper loading, is unfit to navigate upon that part of the inland waters where it is found without danger to human life, having regard to the nature of the service for which such vessel is intended to be employed.

23 General powers of surveyors, police officers, registrars of vessels and other authorized persons

(1) In this section—

“authorized person” means a police officer, surveyor, registrar of vessels or other person authorized by or in terms of this section to examine a document, log or record referred to in this section.

(2) Any police officer and any surveyor exercising the powers conferred or carrying out the duties imposed upon him in terms of this Act may—

- (a) stop and go on board any vessel and inspect the vessel or any part thereof or any of the machinery, boats, equipment or articles on board or any certificates of competency of the master or any member of the crew;
- (b) subject to subsection (8), enter any dock, boathouse or other premises where a vessel or any machinery, boats, equipment or part of a vessel may be;
- (c) examine and make extracts from and copies of—
 - (i) any document issued in terms of or recognized for the purposes of this Act; or
 - (ii) any log, record or other document relating to the construction or operation of a vessel;
- (d) require from any person an explanation of any entry in any log, record or document referred to in paragraph (c) and seize any such log, record or document as in his opinion may afford evidence of an offence under this Act;
- (e) in the exercise of the powers conferred by paragraph (a) or (b) take with him one or more assistants or police officers.

(3) The powers conferred in terms of subsection (2) may be exercised also by a person appointed to make inquiries or as a member of a board of inquiry in terms of subsection (3) or (5) of section *twenty-five*.

(4) Any registrar of vessels and any other person authorized by the Minister may examine and make entries from and copies of—

- (a) any document issued in terms of or recognized for the purposes of this Act; or
- (b) any log, record or other document relating to the construction or operation of a vessel;

and for that purpose may go on board any vessel or, subject to subsection (8), enter any place in which the document, log or record may be.

(5) A person who, on being required to do so, fails or refuses to produce to an authorized person or does not make available for examination by an authorized person a document, log or record referred to in this section which he has in his possession or control or of which he is the holder or, as the case may be, which is required to be displayed or kept in a vessel in terms of this Act shall, subject to subsection (6), be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act 22 of 2001]

(6) The holder of a certificate of competency or like document recognized for the purposes of this Act who fails to produce the certificate or document when required to do so by an authorized person shall not be guilty of an offence if, within twenty-one days of the date he was required to produce the certificate or document—

- (a) he produces the certificate or document to the authorized person; or
- (b) he produces or sends the certificate or document to the Secretary together with a statement giving the name of the authorized person and describing the circumstances in which he was required to produce the certificate or document.

(7) The Secretary shall, as soon as a certificate or document is produced or sent to him in terms of paragraph (b) of subsection (6)—

- (a) record the particulars of the certificate or document; and
- (b) return the certificate or document to the person by whom it was produced or sent; and
- (c) notify the authorized person by whom the production of the certificate or document was required that the certificate or document has been so produced or sent to him.

(8) An authorized person may not enter or search any dwelling-house unless he believes on reasonable grounds that evidence relating to a contravention of this Act is to be found in that dwelling-house.

24 Power to remove or dispose of wreck

(1) Subject to subsections (2) and (3), where any vessel is sunk, stranded or abandoned on any inland waters in such a manner as in the opinion of the Secretary to be or to be likely to become an obstruction or danger to navigation, the Secretary may—

- (a) take possession of and raise, remove or destroy the whole or any part of the vessel, or its equipment, stores, fuel, cargo or ballast; and
- (b) light or buoy any such vessel or part until the raising, removal or destruction thereof; and
- (c) with the consent of the Minister and in such manner as the Minister may direct, sell the vessel, its equipment, stores, fuel, cargo, ballast or part so raised or removed together with any other property re-

covered in the exercise of his powers under this section and out of the proceeds of the sale recover the expenses incurred in relation thereto and the Secretary shall hold the surplus, if any, of the proceeds for the persons entitled thereto:

Provided that—

- (i) except where, in the opinion of the Secretary, immediate action on his part is required, the Secretary shall not exercise his powers in terms of paragraph (a) until reasonable notice has been given in writing to the owner of the vessel, if his whereabouts are known, or, if his whereabouts are not known, by notice published in the *Gazette* and in a newspaper circulating in the district where the vessel lies of the Secretary's intention to exercise such powers if the vessel is not raised, removed or destroyed to his satisfaction by a date specified in such notice;
- (ii) except in the case of property which is of a perishable nature or which would deteriorate in value by delay, a sale shall not be made in terms of paragraph (c) until at least four weeks' notice of the intended sale has been given by notice published in the *Gazette* and by advertisement in a newspaper circulating in the district where the vessel lies;
- (iii) at any time before any property is sold in terms of paragraph (c) the owner thereof shall be entitled to have it delivered to him on payment to the Secretary of the fair market value thereof, to be ascertained by agreement between the Secretary and such owner or, failing agreement, by some person nominated for the purpose by the Minister and the sum paid to the Secretary as the value of any property under this provision shall, for the purposes of this section, be deemed to be the proceeds of the sale of that property.

(2) Where any vessel, equipment, stores, fuel, cargo, ballast or other property recovered by the Secretary in the exercise of his powers under subsection (1) constitutes uncustomed goods as defined in section 2 of the Customs and Excise Act [*Chapter 23:02*], the Secretary shall deliver such goods to an officer for disposal in accordance with that Act.

(3) If the total proceeds of any sale of the vessel or of its equipment, stores, fuel, cargo, ballast or any other property, whether the goods are sold under the Customs and Excise Act [*Chapter 23:02*] relating to uncustomed goods or by the Secretary in terms of this section, are insufficient to pay the costs of their removal and of any such sale, including the payment of salvage claims, if any, arising out of such removal and of any sums due in terms of that Act, the excess of such costs over and above the amount realized by any such sale shall be a debt due to the Minister from the person who was the owner of such vessel at the time when the vessel was sunk, stranded or abandoned and may be sued for and recovered by action by the Minister in any court of competent jurisdiction.

25 Inquiries as to shipping casualties

(1) For the purposes of this section, a shipping casualty shall be deemed to occur—

- (a) whenever a vessel has been lost, abandoned, stranded or damaged on any inland waters;
- (b) whenever any vessel causes loss or material damage to any other vessel on inland waters;
- (c) whenever any vessel causes loss or material damage to any other vessel and any such vessel is in the course of a voyage to or from a place on inland waters and is found on inland waters;
- (d) whenever loss of life occurs by reason of any casualty happening to or on board any vessel which is on inland waters or is in the course of a voyage to or from a place on inland waters and is found on inland waters;
- (e) whenever any such loss, abandonment, stranding, damage or casualty occurs on waters of which any inland waters form a part and any competent witness thereof arrives or is found at any place in Rhodesia.

(2) The Minister may direct that an investigation shall be made into any shipping casualty in accordance with this section.

(3) When a shipping casualty occurs the Minister may appoint any person to make inquiries as to the causes and circumstances of the shipping casualty and to report thereon to him.

(4) Any person appointed in terms of subsection (3) shall have access to and authority to examine any vessel involved in a shipping casualty, the place where the casualty occurred and any documents, material, equipment or components which may be pertinent to his inquiries.

(5) Where it appears to the Minister that it is expedient to hold a formal inquiry into the competency of a master or member of a crew or into the causes and circumstances of a shipping casualty, he may appoint a board of inquiry consisting of one or more members to conduct such inquiry.

(6) To assist a board of inquiry the Minister may appoint an assessor or assessors possessing navigational, engineering or other special skill or knowledge.

(7) The powers, rights and privileges of a board of inquiry shall be the same as those conferred upon a commissioner by the Commissions of Inquiry Act [*Chapter 10:07*] and sections 10 to 16 of that Act shall apply, *mutatis mutandis*, in relation to an inquiry and to a person summoned to give evidence or giving evidence at an inquiry:

Provided that a board of inquiry shall not have the power to detain any person in custody.

(8) Any person whose conduct is or is likely to become the subject of inquiry by a board of inquiry in terms of this section shall be given not less than fourteen days' notice of the date when the inquiry is due to commence sent by registered post to his last known address.

(9) Any person referred to in subsection (8) and any other person who is in any way implicated or concerned in the matter under inquiry by a board of inquiry may appear at the inquiry in person or be represented and appear by a legal practitioner and any other person who may consider it desirable that he should so appear or be so represented may, by leave of the board of inquiry, appear or be represented in the manner aforesaid.

(10) The Minister may appoint a secretary and such other persons as he may deem necessary to assist with the work of a board of inquiry and there may be paid to its members, secretary and any such persons such remuneration and allowances as the Minister, acting on the advice of the Minister responsible for finance, may determine.

(11) Subject to subsections (12) and (13), the expenses incurred by a board of inquiry in the exercise of its functions and such sums as may be payable in terms of subsection (10) shall be paid by the Minister out of moneys appropriated for the purpose by Act of Parliament.

(12) A board of inquiry may order that the expenses of holding the inquiry and any expenses incidental thereto, or any part of those expenses, shall be paid by any person if it finds that a shipping casualty was caused by the default or negligence of that person or of any person in his employ.

(13) Any sum ordered to be paid by any person in terms of subsection (12) shall be a debt due to the Minister and may be sued for and recovered by action by the Minister in any court of competent jurisdiction.

PART VII

INLAND WATERS SHIPPING SERVICES

26 Interpretation in Part VII

In this Part—

“application” means an application for—

- (a) the issue, renewal, transfer or amendment of a permit; or
- (b) the grant of an exemption;

as the case may be;

“carrier” means a person who operates a service on any inland waters;

“condition”, in relation to a permit or exemption, includes the period of validity thereof;

“exemption” means an exemption granted in terms of section *thirty-seven*;

“inquiry” means an inquiry referred to in section *thirty-six*;

“member” means a member of the Board;

“objection” means an objection to an application for the issue, renewal, transfer or amendment of a permit;

“ordinary permit” means a permit other than a temporary permit;

“permit” means a permit issued under this Part;

“service” means a service for the carriage of passengers or cargo performed by means of a vessel for hire or reward, and includes the letting out on hire of a vessel;

“temporary permit” means a permit issued under section *thirty-eight*.

27 No services except under permit

(1) Subject to subsection (2), from and after a date to be notified by the Minister by statutory instrument in respect of any inland waters which he may specify, no person shall provide a service on any inland waters so specified except in terms of a permit.

(2) Subsection (1) shall not apply in respect of any service performed by—

- (a) the State; or
- (b) a person in respect of whom an exemption in relation to such services is in force.

28 Establishment of Board and appointment of assessors and secretary

(1) There shall be established a board to be known as the Inland Waters Shipping Services Board, which shall consist of a chairman, who shall be the person who is for the time being the Secretary and, subject to the laws governing the Public Service, three members appointed by the Minister of whom one, who shall be a member of the Public Service, shall be designated as deputy chairman by the Minister.

(2) The Minister may appoint a person with expert knowledge to act as an assessor, in an advisory capacity only, in any inquiry in which it appears that expert knowledge is required for the proper consideration of any matter before the Board.

(3) Assessors shall be paid out of moneys appropriated for the purpose by Act of Parliament such allowances as the Minister may determine.

(4) The Minister shall, subject to the laws governing the Public Service, appoint a secretary and such other officers as he may think necessary to assist the Board in the proper exercise of its functions.

29 Terms of office of members who are not civil servants

A member who is not a member of the Public Service shall subject to this Act, not hold office for a period exceeding three years:

Provided that on the expiration of such period he shall be eligible for reappointment.

30 Disqualification for appointment as member

The Minister shall not appoint a person as a member appointment as member and no person shall be qualified to hold office as a member who—

- (a) has in terms of any law in force in any country—
 - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
 - (ii) made an assignment to or arrangement or composition with his creditors which has not been rescinded or set aside; or
- (b) has, or is married to a person who has, a financial interest in any business concerned with the manufacture or sale of vessels or marine engines or the operation of a service or is, or is married to a person who is, engaged in any activity connected with such a business or service which, in the opinion of the Minister, is likely to interfere with the impartial discharge by that person of the duties of the office of member:
Provided that the President may exempt from disqualification a person who has, or is married to a person who has, a financial interest in any business or service if, in the opinion of the President, the nature of such interest is such that it would not be likely to interfere with the impartial discharge by that person of the duties of the office of member; or
- (c) has, within the period of five years immediately preceding the date of his proposed appointment, been convicted—
 - (i) within Zimbabwe of a criminal offence; or
 - (ii) outside Zimbabwe of an offence, by whatever name called, which if committed within Zimbabwe would have been a criminal offence;
and sentenced by a court to imprisonment for a term of six months or more, without the option of a fine, whether or not such sentence has been suspended, and has not received a free pardon; or
- (d) is not a citizen of Zimbabwe permanently resident in Zimbabwe.

31 Vacation of office by member

A member shall vacate his office and his office shall become vacant—

- (a) in the case of a member who is not a member of the Public Service, one month, or such shorter period as he and the Minister may agree, after the date he gives written notice to the Minister of his intention to resign his office; or
- (b) thirty days after the date he is sentenced by a court to imprisonment referred to in paragraph (c) of section *thirty* after conviction of an offence referred to in that paragraph:
Provided that if, during the said period of thirty days, an application for a free pardon is made or an appeal is filed, the question whether the member is to vacate his office shall not be determined until the final disposal of such application or appeal, whereupon the member shall forthwith vacate his office and his office shall become vacant unless he is granted a free pardon, his conviction set aside, his sentence is reduced to a term of imprisonment of less than six months or a punishment other than imprisonment is substituted; or
- (c) if he becomes disqualified in terms of paragraph (a), (b) or (d) of section *thirty* to hold office as a member.

32 Meetings and proceedings of Board

(1) For the purposes of this section—

“meeting” includes an inquiry.

(2) The Board shall, subject to this Part, meet together for the dispatch of business and adjourn, close and otherwise regulate its meetings and proceedings as it thinks fit.

(3) If at a meeting of the Board the chairman is absent or unable to act, the deputy chairman shall preside as chairman of the meeting.

(4) At any meeting of the Board, the person presiding together with one member shall constitute a quorum.

(5) All acts, matters or things authorized or required to be done by the Board may be decided by a majority of the votes of the members present and voting at a meeting at which a quorum is present.

(6) At all meetings of the Board each member present shall have one vote on a question before the Board and in the event of an equality of votes the person presiding shall have a casting vote in addition to his deliberative vote.

33 Members to declare certain interests

If a member or his spouse has or acquires a financial interest, direct or indirect, in a body corporate or firm which provides a service or the business of which is directly concerned with—

- (a) the manufacture, sale or servicing of vessels or marine engines; or
- (b) the operating of vehicles, other than vessels, which are used for or in connection with the provision of a service; or
- (c) the carriage of passengers or cargo in vessels;

the member shall forthwith disclose the facts to the Board and the Minister.

34 Validity of Board's decisions and acts

No decision or act of the Board or act done under the authority of the Board shall be invalid by reason only of the fact that a disqualified person acted as a member at the time the decision was taken or the act was done or authorized, if the decision was taken or the act done or authorized by a majority vote in accordance with subsections (5) and (6) of section *thirty-two* of persons who at the time were entitled to act as members.

35 Advisory functions of Board

The Board shall advise the Minister on any question he may refer to it relating to services.

36 Inquiries by Board

(1) The Board shall have power to hold inquiries for the purposes of sections *forty-one* and *forty-four* and for such other purposes as the Minister may approve.

(2) The powers, rights and privileges of the Board in an inquiry shall be the same as those conferred upon a commissioner by the Commissions of Inquiry Act [*Chapter 10:07*] and sections 10 to 16 of that Act shall apply, *mutatis mutandis*, in relation to any inquiry and to a person summoned to give evidence or giving evidence at the inquiry:

Provided that the Board shall not have the power to detain any person in custody.

(3) No records or proceedings of the Board in any inquiry or report of the Board on the proceedings of any inquiry or advice given or recommendation made by the Board for the purposes of this Part shall be open to inspection by members of the public.

(4) At any inquiry the applicant and any objector or, as the case may be, the holder of the permit or exemption referred to in section *forty-four*—

- (a) may appear in person or be represented and appear by a legal practitioner; and
- (b) shall have the right to make representations in support of his case.

(5) Notwithstanding subsection (4) of section *forty* if during an inquiry into an application for the issue, renewal, transfer or amendment of a permit it appears that an objector has failed to give proper notice of objection, or to give such notice in due time, the Board may, in its discretion, and on such conditions as it may think fit, condone the said failure and hear the objection.

37 Powers of Board in relation to permits and exemptions

(1) Subject to subsection (3), upon application therefor made in the manner prescribed, the Board may, in its discretion—

- (a) issue, renew, transfer or amend an ordinary permit;
- (b) issue a provisional permit valid pending the determination of an application for the issue, renewal, transfer or amendment of an ordinary permit;
- (c) grant any person exemption from the operation of section *thirty seven*;

subject to such conditions as it may think fit, or refuse the application:

Provided that no such permit or exemption shall have a period of validity exceeding five years.

(2) Without derogation from subsection (1), in determining an application for the renewal or amendment of an ordinary permit the Board, if it is satisfied that a service authorized by such permit is not being operated to a substantial extent by the holder thereof and has not been so operated during a period of at least six months immediately preceding the date of such application, may, in its discretion, amend the permit by deleting such service therefrom, whether or not such amendment was requested in the application.

(3) Before exercising the powers conferred upon it by this section in respect of a permit or exemption relating to a service upon any inland waters or portion thereof falling within any national park constituted by or under the Parks and Wildlife Act [*Chapter 20:14*], the Board shall consult the Minister responsible for the control and management of such park in regard thereto.

38 Temporary permits

(1) Notwithstanding anything to the contrary in this Part, upon application therefor made in the manner prescribed, the chairman or any person authorized generally or specially by the Board may, subject to subsection (2), in his discretion and without reference to the Board, issue a permit for casual or temporary purposes, valid for a period not exceeding twenty-one days, or refuse such application.

(2) Before exercising the powers conferred upon him by subsection (1) in respect of a permit relating to a service upon any inland waters or portion thereof falling within any national park constituted by or under the Parks and Wildlife Act [*Chapter 20:14*], the chairman or other authorized person shall consult the Minister responsible for the control and management of such park in regard thereto.

39 Publication of applications for ordinary permits

(1) A person applying for the issue, renewal, transfer or amendment of an ordinary permit shall cause to be published in the *Gazette* at his own expense such particulars of his application as the Board may require.

(2) Any such application and any information supplied in connection with the application, other than information of a confidential nature that has been specifically called for by the Board, shall be open to inspection by persons lawfully providing services at the offices of the Board during the period of twenty-one days beginning on the date of publication of the application.

40 Applications for ordinary permits: objections

(1) Subject to this section, a person may object to an application for the issue, renewal, transfer or amendment of an ordinary permit.

(2) A person shall not be qualified to object to an application unless, at the time he gives notice thereof under subsection (3), such person is lawfully providing a service or is in possession of a valid permit.

(3) An objection shall be made, and notice of the objection given—

- (a) in the manner prescribed; and
- (b) within twenty-eight days after the date of publication of the application.

(4) No objection shall be valid if it—

- (a) does not relate to one or more of the matters specified in paragraphs (a) to (i) of section *forty-two*; or
- (b) is frivolous or vexatious; or
- (c) is not made or notice of the objection is not given in accordance with subsection (3).

41 Applications for ordinary permits: holding of inquiries

(1) As soon as may be after the expiration of twenty-eight days after the date of publication of an application the Board—

- (a) shall, if an objection has been made to the application; or
- (b) may, if an objection has not been made to the application;

hold an inquiry into the application.

(2) Before holding an inquiry, the Board shall give not less than fourteen days' notice to the applicant and any such objector of the date and place at which the inquiry is to be held.

42 Manner of performance by Board of functions referred to in section 37 (1) (a)

In the exercise of its functions referred to in paragraph (a) of subsection (1) of section *thirty-seven*, whether or not an inquiry is held, the Board shall have regard to such of the following as are applicable—

- (a) whether the grant or refusal of the application in question is expedient in the public interest;
- (b) the need for services in the area to be served by the proposed service;
- (c) the existence and efficiency of services serving the routes or the areas in or through which the proposed service is to be provided;
- (d) any uneconomic duplication or uneconomic over-lapping of services which might result from the grant of the application;
- (e) the financial resources of the applicant;
- (f) if the application is for—
 - (i) the issue of a permit, the likelihood of the applicant being able to provide a service which is satisfactory from the point of view of safety, regularity, frequency of operation, reasonableness of charges and general efficiency; or
 - (ii) the renewal or amendment of a permit—
 - A. whether or not the applicant's existing service is satisfactory from the point of view of safety, regularity, frequency of operation, reasonableness of charges and general efficiency;
 - B. whether or not the permit should be amended in terms of subsection (2) of section *thirty-seven*;
- (g) whether or not the vessels proposed to be used and the service proposed to be provided are suited to the harbours and the harbour facilities to be used in conjunction with the proposed service;
- (h) the availability of spare parts and of servicing, maintenance and repair facilities in the area in which the applicant intends to operate the service or at terminal and intermediate points on the route over which the applicant proposes to provide the service;
- (i) any matter which is prescribed;
- (j) any objection to the application;
- (k) any other matter which, in the opinion of the Board, is relevant to the application.

43 Permits open to inspection

Copies of all permits shall be kept at the offices of the Board and shall be open to inspection by any applicant or any person who is lawfully providing a service or who is in possession of a valid permit.

44 Revocation, suspension and variation of permits and exemptions

(1) If at any time the Board believes that—

- (a) the holder of a permit or exemption has contravened or failed to comply with a condition thereof; or
- (b) the holder of a permit or exemption or his servant or agent has been convicted of any offence, wherever committed, which is of such a nature as, in the opinion of the Board, makes him no longer a fit or proper person to carry on the operations or activities to which the permit or exemption relates; or
- (c) it would be expedient in the public interest to revoke or vary a permit or exemption;

the Board shall hold an inquiry into the circumstances.

(2) Subject to subsection (3), if the Board considers it expedient in the public interest the Board may, notwithstanding subsection (1), suspend a permit or exemption pending inquiry.

(3) Before exercising the powers conferred upon it by subsection (2) in respect of a permit or exemption relating to a service upon any inland waters or portion thereof falling within any national park constituted by or under the Parks and Wildlife Act [*Chapter 20:14*], the Board shall consult the Minister responsible for the control and management of such park in regard thereto.

45 Notice of inquiry

Where an inquiry is to be held in terms of subsection (1) of section *forty-four*, the Board shall give not less than twenty-one days' written notice to the holder of the permit or exemption in question stating the date and place at which the inquiry is to be held and the reasons for the inquiry.

46 Board may revoke or vary permit or exemption

(1) Following an inquiry the Board may, subject to the provisions of subsection (2), in its discretion revoke or vary the permit or exemption if it is satisfied, having regard to the matters disclosed in the inquiry and such other information and considerations as in its opinion are relevant, that any of the circumstances mentioned in paragraphs (a) to (c) of subsection (1) of section *forty-four* apply.

(2) Before exercising the powers conferred upon it by subsection (1) in respect of a permit or exemption relating to the provision of a service upon any inland waters or portion thereof falling within any national park constituted by or under the Parks and Wildlife Act [*Chapter 20:14*], the Board shall consult the Minister responsible for the control and management of such park in regard thereto.

47 No refund of fees

The Board shall not be liable to refund to the holder of a permit or exemption which is revoked, suspended or varied in terms of this Part the whole or any part of any fee paid on the issue of the permit or the grant of the exemption.

48 Permits to continue if application made for renewal

If the holder of a permit applies for the renewal of the permit before the lapse of the period of validity thereof, the permit shall be treated as being in force until the holder is notified in writing by the Board that it has refused his application or has renewed the permit.

49 Insurance

Every carrier in possession of a permit shall insure himself and at all times keep himself insured in such sums or to such extent as may be prescribed in relation to the service operated by him, against claims of such nature as may be prescribed, which may arise out of the use of vessels by such carrier in terms of such permit.

50 Emergency powers

Notwithstanding anything to the contrary contained in this Part, the Board shall, in accordance with such directions as the Minister may give, at any time while a declaration in terms of subsection (1) of section 31J of the Constitution is in force—

- (a) with or without notice reject any application whatsoever made in terms of this Part or grant, revoke, suspend, transfer, renew or vary a permit or exemption, whether or not application therefor has been made, subject to such conditions as it thinks necessary or expedient in the circumstances;
- (b) suspend, in relation to the holder of a permit, the application of such provisions of this Part as it may specify.

51 Returns

The Board may, by order in writing, require any carrier to render to it, in such manner and form and at such times as may be required by the Board, such returns as the Board may deem necessary in relation to any service provided by such carrier.

PART VIII

GENERAL

52 Appointments by Minister

(1) There shall be such number of surveyors or registrars of vessels or surveyors and registers of vessels, as may be necessary for the purposes of this Act, whose offices shall be public offices and form part of the Public Service.

(2) The Minister may confer all or any of the powers and impose all or any of the duties conferred or imposed upon any person appointed in terms of subsection (1) upon any person or class of persons in the Public Service or upon any police officer or class of police officers.

53 Duty to give information

(1) Where any surveyor, registrar of vessels or police officer or any other person or member of a class of persons generally or specially authorized by the Minister to exercise the powers conferred by this section has reason to suspect that an offence in terms of this Act has been committed by any person on board a vessel, it shall be lawful for him or for any other surveyor, registrar of vessels, police officer or person so authorized to require the owner of the vessel to give all information in his possession as to the name, address, description and whereabouts of the master or any other person on board the vessel at the time of the alleged offence and if such owner fails to give such information he shall be guilty of an offence unless he shows to the satisfaction of the court that—

- (a) he did not have the information and could not with reasonable diligence have obtained it; or
- (b) in the case of passengers carried for hire or reward, he did not have the information.

(2) It shall also be lawful for a surveyor, registrar of vessels or police officer or other person authorized in terms of subsection (1) to require any other person to give such information as aforesaid, or any other information which it is in his power to give and which may lead to the identification of the master of and any other person on board the vessel, and if the person required to give such information fails to do so he shall be guilty of an offence unless he shows to the satisfaction of the court that—

- (a) he did not have the information and could not with reasonable diligence have obtained it; or
- (b) in the case of passengers carried for hire or reward, he did not have the information.

(3) A person who is guilty of an offence in terms of subsection (1) or (2) shall be liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection inserted by section 4 of Act 22 of 2001]

53A Use of vessel and interference therewith without owner's consent

(1) Any person who—

- (a) without lawful authority or reasonable cause, gets on to any vessel lying on inland waters or in any port or harbour or on any land or interferes with or wilfully injures such vessel or its accessories; or
- (b) without the consent of the owner or person in lawful charge of the vessel, uses or sails such boat on inland waters;

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment:

Provided that nothing in this subsection shall be construed as prohibiting any police officer or any other person empowered thereto under any enactment from performing the duties conferred and imposed upon him by this Act or any other enactment.

(2) If, on the trial of any person on a charge of stealing a vessel, the court is of the opinion that the accused was not guilty of stealing the vessel but was guilty of an offence under subsection (1), the court may find him guilty of an offence under subsection (1), and thereupon he shall be liable to punishment accordingly.

[Section inserted by section 282 of Act 23 of 2004]

53B Power of police to stop and search vessel

(1) Where a police officer has reason to suspect that an offence has been committed by any person on board a vessel on inland waters, it shall be lawful for him to stop, go on board and search such vessel without warrant and to seize any thing which he has reasonable grounds for believing will afford evidence as to the commission of an offence under any law.

(2) Any person who, when called upon to stop a vessel under his control in terms of subsection (1), fails to comply immediately with such request shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Section inserted by section 282 of Act 23 of 2004]

54 Damage to navigation marks

(1) No person shall wilfully or negligently—

- (a) injure any navigation mark; or
- (b) remove, alter or destroy any navigation mark; or

(c) ride by or make fast to a navigation mark.

(2) Paragraphs (b) and (c) of subsection (1) shall not apply to any person authorized by the Minister to maintain, repair or remove a navigation mark.

(3) The Minister may in any court of competent jurisdiction recover from any person who has contravened subsection (1) the expense incurred in repairing or replacing any navigation mark which has been injured, removed, altered or destroyed in contravention of subsection (1).

55 Ensign

The Flag of Zimbabwe may be worn by such vessels, in such manner and for such purposes as may be prescribed.

56 Designation of harbours

The Minister may, by statutory instrument, designate places or areas of inland waters or land as harbours.

57 Regulations

(1) The Minister may make regulations providing for all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations made in terms of subsection (1) may provide for—

- (a) the measurement of the dimensions, tonnage and displacement of vessels and, for this purpose, the supply of information;
- (b) giving effect to any arrangements made under any agreement concluded in terms of section *twenty*;
- (c) a certificate to the same or a similar effect as a surveyor's certificate issued in any country outside Zimbabwe to be deemed to be a surveyor's certificate;
- (d) the allocation of identity marks to vessels and the form and manner in which such marks and other particulars shall be displayed on vessels and on lifesaving appliances carried in vessels;
- (e) the number of passengers and crew and the quantity of cargo to be carried in vessels, including provisions for the stowing of cargo and precautions to be observed in the carriage of such goods as the Minister may deem to be dangerous goods;
- (f) the supply of life-saving appliances in vessels and the quantity, quality, description and method of use of such appliances;
- (g) the specifications and conditions with which vessels and equipment installed or carried in vessels shall comply so as to ensure the safety of persons and cargo carried therein and the supply of information and documents relating to the construction and equipment of vessels;
- (h) the functions of the central registry of vessels and the manner in which information is to be supplied to such central registry by registrars of vessels and by owners of vessels;
- (i) the display of registration certificates in vessels, the keeping of logs, the form and manner in which registration certificates shall be displayed and logs shall be kept, the entries, which shall be evidence of the matters stated therein, to be made in logs, the surrender of logs and the notification of the loss of logs to the Secretary;
- (j) the replacement of certificates which have been lost or destroyed and the renewal of certificates;
- (k) the classification of vessels, whether by reference to displacement, dimensions, the purposes for which they are used or otherwise, the classification of persons to be carried by different classes of vessels as masters and members of the crew, the number of persons of each class to be so carried, the standards of competency of those persons, the certificates of competency to be held by those persons as proof of their competency, the qualifications to be held and the examinations to be passed by persons to whom certificates of competency are granted, the holding of such examinations and the appointment of examiners for those purposes and the suspension and cancellation of certificates of competency;
- (l) the measures to be observed for the prevention of collisions and generally for the safety of navigation, including provisions as to the use of lights and signals by sound, flags or otherwise, and provisions as to aids to safe navigation by way of navigation marks, the conveying of instructions and information and the observance of such instructions;
- (m) the application to aircraft which are designed to manoeuvre on water and which are on the surface of inland waters and to persons in charge of such aircraft of any or all of the regulations relating to matters referred to in paragraph (m);
- (n) the reporting of accidents to vessels on inland waters or to persons on board such vessels;
- (o) the areas of inland waters outside which vessels or classes of vessels may not be used, having regard to their construction, suitability for navigation and safe operation;
- (p) the management and control of harbours and of vessels and persons within them and the powers of persons to effect such control;
- (q) the fees to be paid, and the manner of payment thereof—
 - (i) on application for the issue of a permit or exemption in terms of Part VII;

- (ii) on the issue, amendment, renewal, transfer or replacement of a permit or exemption in terms of Part VII or of any other document in terms of this Act;
 - (iii) for the registration of a vessel;
 - (iv) for the survey of a vessel;
 - (v) for examinations of masters and members of crews;
 - (vi) for services within harbours.
- (r) the prevention and control of the discharge, emission, unloading, release, disposal, emptying of any matter, whether liquid, solid or gaseous, directly or indirectly, by or from any vessel into, on or over inland waters.

(2a) Regulations made in terms of subsection (1) may provide penalties for contraventions thereof, but no such penalty shall exceed a fine of level four or imprisonment for three months or both such fine and such imprisonment.

[Subsection inserted by section 4 of Act 22 of 2001]

(3) In the exercise of the powers conferred by this section the Minister may empower the Secretary to exempt any vessel from any requirement of regulations made in terms of subsection (1) to the extent that the Secretary is satisfied that compliance therewith would be unreasonable or impracticable in the circumstances and that the safety of the vessel or passengers or cargo carried therein would not be endangered by such exemption.

58 Certain provisions as to legal proceedings

(1) In any proceedings for an offence under this Act or for the recovery of damages for injury done by any vessel registered under this Act, entries in a register of vessels relating to the vessel in question shall be *prima facie* evidence that the person registered at any date as the owner of such vessel was at that date the owner thereof.

(2) For the purposes of proceedings in any court or in any investigation conducted in terms of this Act, a copy or extract from any register of vessels or other record of which a registrar of vessels has custody or control shall, if it purports to be certified as a true copy or extract, as the case may be, by that registrar of vessels, be received in evidence on its mere production by any person and without further proof and shall be of like value and effect as the original register of vessels.

(3) A certificate purporting to have been signed by a person describing himself as a registrar of vessels or as a surveyor stating that any provision of this Act as to registration or survey of a vessel or as to the competency of a master or member of a crew has or has not been complied with shall, on its mere production by any person in any court or in the course of any investigation conducted in terms of this Act, be received *as prima facie* evidence of the facts stated therein.

(4) In any proceedings for an offence under this Act—

- (a) the conveyance in a vessel of any person in addition to the normal operating crew or of any goods shall, until the contrary is proved, be presumed to be a conveyance in return for payment or material advantage;
- (b) a document purporting to be a permit issued or exemption granted in terms of Part VII or a copy thereof purporting to have been certified as a true copy by the chairman or secretary of the Board, or a person acting in the capacity of such secretary, shall on its mere production by any person be *prima facie* evidence of the facts stated therein;
- (c) a certificate purporting to have been signed by the chairman or secretary of the Board or a person acting in the capacity of such secretary, stating that a permit or exemption has not been issued or granted by the Board or the chairman, as the case may be, in terms of Part VII, shall on its mere production by any person be *prima facie* evidence of the facts stated therein.

59 Offences

(1) A person who—

- (a) procures for himself or another the issue of a document in terms of this Act by means of fraud, a false representation or the concealment of a material fact; or
- (b) makes in connection with an application for the issue of a document in terms of this Act a false declaration in a document used for the purposes of the applicant, knowing it to be false or not reasonably believing it to be true; or
- (c) makes any false statement, not on oath, in any inquiry, knowing it to be false or not reasonably believing it to be true; or
- (d) forges a document issued or granted in terms of this Act; or
- (e) forges a registration mark or number affixed to or painted on a vessel in terms of Part II; or
- (f) knowing that a document has been forged, uses that document or has it in his possession or lends it to or allows it to be used by any other person; or
- (g) affixes to any vessel a certificate of registration issued in respect of any other vessel; or
- (h) knowing that a registration mark or number affixed to or painted on a vessel has been forged, uses that vessel or lends it to or allows it to be used by any other person; or

- (i) contravenes section *fifteen, twenty-seven or forty-nine* or fails to comply with a direction given in terms of section *twenty-two*; or
- (j) sends or takes a vessel upon inland waters in such an unseaworthy state that the life of any person is likely thereby to be endangered; or
- (k) sends or takes upon inland waters any vessel of a class prescribed in terms of section *nineteen* which is not provided with a competent master or the number of persons as crew or duly competent as crew as prescribed; or
- (l) renders a return in terms of section *fifty-one* which is false, knowing it to be false or not reasonably believing it to be true; or
- (m)
- (n)
- (o)

[Paragraphs repealed by section 4 of Act 22 of 2001]

shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

(1a) A person who—

- (a) refuses or wilfully omits to render a return in accordance with section *fifty-one*; or
- (b) wilfully obstructs, hinders or resists any other person in the exercise of his functions under this Act; or
- (c) contravenes any direction or instruction given in terms of this Act, other than a direction given in terms of section *twenty-two*;

shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

(2) If the master or a member of the crew of a vessel for which a surveyor's certificate is required in terms of Part III by wilful breach of duty or by neglect of duty or by reason of drunkenness—

- (a) does any act tending to the immediate loss or destruction of or serious damage to the vessel or tending immediately to endanger the life or limb of a person belonging to or on board the vessel; or
- (b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the vessel from immediate loss, destruction or serious damage or for preserving any person belonging to or on board the vessel from immediate danger to life or limb;

he shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

(3) For the purposes of subsection (1)—

- (a) the forgery of a document or registration mark or number means the making of a false document, mark or number knowing it to be false with the intention that it shall in any way be used or acted on as genuine;
- (b) making a false document, mark or number includes making any material alteration in a genuine document, mark or number whether by addition, insertion, obliteration, erasure, removal or otherwise.

60

[Section repealed by section 4 of Act 22 of 2001]

61 State to be bound

Save as is otherwise provided in this Act, this Act, other than the provisions requiring the payment of fees, shall apply to the State and to persons in the service of the State in their capacity as such.