

Zambia

Inland Waters Shipping Act, 1960

Chapter 466

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Zambia

Inland Waters Shipping Act, 1960

Chapter 466

Commenced on 3 November 1961

[This is the version of this document at 31 December 1996.]

*This Act has been confirmed by an Order made under section 735 of the Merchant Shipping Act, 1894, of the United Kingdom. (S.I. 1961 No. 1509 of the United Kingdom.)

[Federal Acts 34 of 1960; 13 of 1961; Government Notices 249 of 1964; 497 of 1964; Statutory Instrument 155 of 1965; Act No. 13 of 1994]

An Act to make provision for the survey, registration and safety of certain vessels used on inland waters of Zambia, for the safety of passengers and cargo, for the competency of masters and crews and for matters incidental thereto.

Part I – Preliminary

1. Short title

This Act may be cited as the Inland Waters Shipping Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"**appointed date**" means the 1st January, 1964;

"**certificate of registration**" means a certificate of registration issued in terms of section seven;

"**crew**" includes any person employed in a vessel other than the master;

"**fishing vessel**" means a vessel whose measurement is less than five tons, in whatever way propelled, which is for the time being employed for the purposes of fishing for profit and which does not carry persons other than the master and crew necessary for such purposes;

"**harbour**" means a place or area designated as a harbour by the Minister in terms of section twenty-four;

"**home port**" means the place at which a vessel is habitually kept when not on voyage;

"**inland waters**" means such waters as may be declared to be inland waters by the President in terms of section ten;

"**master**" means the person having command or charge of a vessel;

"**navigation mark**" includes any beacon, buoy, light, 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 six;

"**surveyor**" means any person appointed by the Minister as a surveyor of vessels in terms of section five;

"**surveyor's certificate**" means a certificate issued by a surveyor in terms of section five;

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

"vessel" includes every description of water craft used or capable of being used as a means of transportation on water.

[As amended by G.N. No. 249 of 1964]

Part II – Survey and registration of vessels

3. Application of Part II

- (1) Subject to the provisions of subsection (3), the provisions of this Part shall apply to every vessel used on inland waters which is used for hire or reward or whose measurement exceeds such tonnage, being not less than five tons, as may be prescribed.
- (2) For the purposes of subsection (1), a vessel shall be deemed to be used for hire or reward if she is used in return for payment or material advantage on one or more occasions, whether or not the vessel is used without the services of a master or crew.
- (3) There shall be exempted from the provisions of this Part—
 - (a) a vessel operated by the Government which is not ordinarily used for the carriage of members of the public or their goods;
 - (b) a vessel used for hire or reward which is less than twenty-five feet in length overall and which is not propelled by machinery or sails;
 - (c) a fishing vessel;
 - (d) such other vessels or classes of vessels as may be prescribed.

[As amended by G.N. No. 249 of 1964]

4. Vessels to be surveyed and registered

From and after a date to be notified by the Minister by statutory notice 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 the provisions of this Part apply unless—

- (a) she has been surveyed and registered in accordance with the provisions of this Act; and
- (b) there is in force in respect of such vessel a valid certificate of registration.

[As amended by G.N. No. 249 of 1964]

5. Survey of vessels

- (1) Before an application for registration of any vessel is made, she shall be surveyed in accordance with the provisions of this Act.
- (2) For the purposes of this Act, the Minister shall by *Gazette* notice appoint a surveyor for each port of registry, and an 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 at a port of registry on the inland waters on which the home port of the vessel is situated.
- (3) After receipt of an application in terms of subsection (2), the surveyor concerned shall survey the vessel for the purpose of determining—
 - (a) whether the vessel is seaworthy;
 - (b) whether she is equipped in accordance with the provisions of this Act;

- (c) her description, tonnage, dimensions, name and method of propulsion;
 - (d) the geographical limits or areas of inland waters outside which the vessel may not be used having regard to her 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 the provisions of this Act, issue a certificate in such form as may be prescribed, setting out the information and his opinion relating to the matters referred to in 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).
- (6) A surveyor's certificate shall be valid for such period as may be prescribed.
- [As amended by G.N. No. 249 of 1964]*

6. Ports of registry

- (1) For the purposes of this Act the Minister shall, by *Gazette* notice, appoint ports of registry and shall appoint a registrar of vessels for each such port.
- (2) Every 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 at that port.
- [As amended by G.N. No. 249 of 1964]*

7. Registration of vessels

- (1) An application for registration of a vessel shall be made by the owner in the form and manner prescribed to a registrar of vessels at a port of registry on the inland waters on which the home port of the vessel is situated and, unless otherwise prescribed, such application shall be accompanied by a valid surveyor's certificate.
- (2) No person shall be registered as the owner of a vessel until he has made a declaration as to his ownership of the vessel in question and, in respect of vessels of such class as may be prescribed, has included in such declaration a statement of the name and address of any person or persons who will have command or charge of such vessel as master.
- (3) As soon as the requirements of this Act preliminary to registration have been complied with, the registrar of vessels to whom application for registration has been made shall enter in the register of vessels for his port—
- (a) where applicable, the details comprised in the surveyor's certificate;
 - (b) the name and address of the registered owner;

- (c) where applicable, the name and address of the master;

and shall issue to the owner a certificate of registration setting out the particulars respecting the vessel in the register of vessels and such other particulars as may be prescribed.

- (4) A registrar of vessels shall not register a vessel which has been brought to inland waters from outside Zambia unless he is satisfied by such proof as he may require that the provisions of the Customs and Excise Act applicable to the vessel have been complied with.

[Cap. 322]

[As amended by G.N. No. 249 of 1964]

8. Duration and renewal of certificates of registration

- (1) Unless otherwise provided in terms of this Act, every certificate of registration shall remain in force and be deemed to be a valid certificate of registration for such period as may be prescribed.
- (2) Application for renewal of a certificate of registration shall be made by the owner of the vessel in the form and manner prescribed at any time not earlier than one month before such certificate expires, and shall in all cases be accompanied by a valid surveyor's certificate.
- (3) Where the owner of a vessel has made application for renewal of a certificate of registration in accordance with the provisions of subsection (2), the certificate of registration shall be treated as remaining in force and be deemed to be a valid certificate of registration until the owner is notified in writing of the result of his application.

9. Amendments in certificates of registration and register

- (1) Subject to the provisions of subsection (2), when any particular concerning a vessel in respect of which a certificate of registration is in force is so altered as not to correspond with the particulars concerning her contained in the register of vessels in terms of subsection (3) of section seven, the owner shall, not later than twenty-one days after such alteration, submit the certificate of registration to the registrar of vessels by whom it was issued and notify him of the reasons for such submission and such registrar shall make all necessary amendments in the certificate and in the register of vessels. A registrar in his discretion may issue a new certificate of registration instead of amending a certificate in terms of this subsection and may cancel a certificate and delete the relevant entries in the register when he is satisfied that a vessel is permanently removed from or is permanently incapacitated for use on inland waters.
- (2) Where an amendment in a certificate of registration or a register is required by reason of—
- (a) an alteration in the dimensions, superstructure or tonnage or a permanent alteration in the method of propulsion of the vessel or the addition of a superstructure to the vessel; or
- (b) the use for hire or reward of a vessel which was not used for that purpose when the certificate of registration was last issued or renewed;

the registrar of vessels concerned shall not make any such amendment unless the certificate of registration submitted to him in terms of subsection (1) is accompanied by a valid surveyor's certificate issued, as the case may be, after the completion of the alteration described in paragraph (a) or within such period as may be prescribed before the use of the vessel for hire or reward.

- (3) When an owner fails to comply with the provisions of subsection (1) the certificate of registration in question shall, unless the registrar of vessels concerned otherwise directs, be no longer deemed to be a valid certificate of registration.
- (4) Subject to the provisions of this section, the registration of a vessel may be transferred from one port of registry to another on written application by the owner to the registrar of vessels at the existing port of registry. Every such application shall be accompanied by the certificate of registration for the vessel in question.

- (5) Upon receiving an application in terms of subsection (4), the registrar concerned shall transmit notice thereof to the registrar of vessels at the intended port of registry together with the certificate of registration and a copy of all particulars relating to the vessel as noted in the register under his control. On the receipt of such documents, the registrar of vessels at the intended port of registry shall, subject to the provisions of subsection (6), enter in his register of vessels all the particulars relevant to the vessel in question and shall issue a new certificate of registration and thereafter the vessel shall be considered for the purposes of this Act as being registered at the new port of registry.
- (6) Where, in the case of an application to transfer the registration of a vessel in terms of subsections (4) and (5), the intended port of registry is not on the same inland waters as the existing port of registry, the registrar of vessels at the intended port of registry may, before complying with the provisions of subsection (5), have regard to the suitability of the vessel for safe navigation on the inland waters on which the intended port of registry is situated and may require a surveyor to survey the vessel and report to him as to such suitability. If a surveyor so required reports that any alteration in the construction, condition or equipment of the vessel is necessary to make her safe for navigation on the inland waters on which the intended port of registry is situated, the registrar of vessels at such port shall not register a vessel in terms of subsection (5) until a surveyor is satisfied that such alteration has been made.
- (7) Where the registration of a vessel is transferred to a new port of registry in terms of subsections (4) and (5), the new certificate of registration issued in terms of subsection (5) shall, unless otherwise provided in terms of this Act, remain in force and be deemed to be a valid certificate of registration until the date of expiry of the certificate which it replaces, so, however, that if it has been issued after a survey required in terms of subsection (6), its period of validity shall commence on the date on which it is issued.

[As amended by No. 13 of 1961]

Part III – Inland waters and international arrangements

10. Declaration of inland waters

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

[As amended by G.N. No. 249 of 1964]

11. 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 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 Zambia 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 aboard 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*.

[As amended by G.N. No. 249 of 1964]

12. 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 the Republic under any treaty, convention or agreement entered into by that country and the Republic, he may, by statutory order, 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.

[As amended by G.N. No. 249 of 1964 and S.I. No. 155 of 1965]

Part IV – Surveyors and inquires

13. Powers of inspection and unsafe vessels

- (1) A surveyor or any other person or member of a class of persons generally or specially authorised thereto by the Minister may at any time 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 put in to the nearest suitable berth or anchorage or, if she is berthed or at anchor, to remain berthed or at anchor, and if he so directs a person shall not, 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 she is so used in accordance with such other directions as the surveyor or authorised person may deem necessary for the purposes of safety.
- (2) For the purposes of this section, a vessel shall be unsafe if the surveyor or other person authorised in terms of subsection (1) is satisfied that the vessel, by reason of her 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 she is found without danger to human life, having regard to the nature of the service for which such vessel is intended to be employed.

14. General powers of surveyors and police officers

- (1) 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) go on board any vessel at all reasonable times 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) 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 recognised 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.

- (2) The powers conferred in terms of subsection (1) may be exercised also by a person appointed to make inquiries or as a member of a board of inquiry in terms of subsection (2) or (3) of section seventeen.
- (3) Any registrar of vessels and any other person authorised by the Minister may examine and make entries from and copies of—
 - (a) any document issued in terms of or recognised 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 at all reasonable times go on board any vessel or enter any place in which the document, log or record may be.
- (4) A person who, on being required to do so, fails or refuses to produce to an authorised person or does not make available for examination by an authorised 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 the provisions of subsection (5), be guilty of an offence.
- (5) The holder of a certificate of competency or like document recognised for the purposes of this Act who fails to produce the certificate or document when required to do so by an authorised 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 authorised person; or
 - (b) he produces or sends the certificate or document to the officer in charge of the central registry of vessels established in terms of this Act together with a statement giving the name of the authorised person and describing the circumstances in which he was required to produce the certificate or document.
- (6) The officer in charge of the central registry of vessels referred to in paragraph (b) of subsection (5) shall, as soon as a certificate or document is produced or sent to him in terms of that paragraph—
 - (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 authorised 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.
- (7) In this section, "authorised person" means a police officer, surveyor, registrar of vessels or other person authorised by or in terms of this section to examine a document, log or record referred to in this section.

[As amended by No. 13 of 1961]

15. Removal of wreck by surveyor

- (1) Subject to the provisions of 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 a surveyor to be or to be likely to become an obstruction or danger to navigation, it shall be lawful but not obligatory for a surveyor—
 - (a) to take possession of and raise, remove or destroy the whole or any part of the vessel, her equipment, stores, fuel, cargo or ballast; and
 - (b) to 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, to sell the vessel, her equipment, stores, fuel, cargo, ballast or part so raised or removed together with any other property recovered in the exercise of his powers under this section and out of

the proceeds of the sale to reimburse himself for the expenses incurred by him in relation thereto and the surveyor shall hold the surplus, if any, of the proceeds for the persons entitled thereto:

Provided that—

- (i) 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 this section 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 Zambia;
 - (ii) at any time before any property is sold in terms of this section, the owner thereof shall be entitled to have it delivered to him on payment to the surveyor of the fair market value thereof, to be ascertained by agreement between the surveyor and such owner or failing agreement by some person nominated for the purpose by the Minister, and the sum paid to the surveyor 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 a surveyor in the exercise of his powers under subsection (1) constitutes uncustomed goods as defined in section two of the Customs and Excise Act, the surveyor concerned shall deliver such goods to an officer for disposal in accordance with the provisions of that Act.

[Cap. 322]

- (3) If the total proceeds of any sale of the vessel or of her equipment, stores, fuel, cargo, ballast or any other property, whether the goods are sold under the provisions of the Customs and Excise Act relating to uncustomed goods or by the surveyor 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 realised by any such sale shall be a debt due to the Government 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.

[As amended by G.N. No. 249 of 1964]

16. Duties of surveyors in relation to surveys

In surveying a vessel for the purposes of this Act a surveyor shall have regard, as may be appropriate to the vessel being surveyed, to the standards and requirements relating to the survey of passenger ships, fire appliances and life-saving appliances laid down from time to time in instructions issued to surveyors of ships by the authority which issues such instructions in the United Kingdom and shall, in relation to matters not otherwise prescribed, apply such of those standards and ensure compliance with such of those requirements as may in his opinion be necessary for the seaworthiness of the vessel, her proper equipment and the safety of passengers and cargo carried aboard the vessel on the inland waters on which she is to be used.

17. Inquiries as to shipping casualties

- (1) The Minister may direct that an investigation shall be made into any shipping casualty in accordance with the provisions of this section and for the purposes of this Act 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 Zambia.
- (2) When a shipping casualty occurs, the Minister may appoint a surveyor or any other person to make inquiries as to the causes and circumstances of the shipping casualty and to report thereon to him. Any person so appointed 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.
- (3) 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 to conduct such inquiry. The board of inquiry shall consist of—
- (a) a president who—
 - (i) is or has been a Judge of a court having unlimited jurisdiction in civil and criminal matters in some part of Her Britannic Majesty's dominions; or
 - (ii) is and has for not less than ten years been qualified to practice as an advocate or barrister in any court or courts having such jurisdiction; and
 - (b) one or more members having knowledge and experience of navigation or engineering or such other special knowledge or experience as the Minister may deem relevant to the circumstances to be investigated.
- (4) The powers, rights and privileges of a board of inquiry shall be the same as Cap. 41 those conferred upon a commissioner by the Inquiries Act and the provisions of that Act shall, *mutatis mutandis*, apply in relation to an inquiry and to a person summoned to give evidence or giving evidence at an inquiry.

[Cap. 41]

- (5) Any person whose conduct is or is likely to become the subject of inquiry in terms of this Act 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. Any such person and any other person who is in any way implicated or concerned in the matter under inquiry may appear at the inquiry in person or be represented 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.
- (6) 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 president, 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.
- (7) Subject to the provisions of subsections (8) and (9), 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 (6) shall be paid by the Minister out of moneys appropriated for the purpose by Parliament.
- (8) 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.
- (9) Any sum ordered to be paid by any person in terms of subsection (8) shall be a debt due to the Minister and may be recovered by the Minister by civil action in a competent court.

[As amended by G.N. No. 249 of 1964 and S.I. No. 155 of 1965]

Part V – General provisions

18. Appointments by the Minister

- (1) Subject to the law governing the public service, the Minister may, for the purposes of this Act, appoint persons as surveyors or registrars of vessels or as surveyors and registrars of vessels and for such other purposes as he may deem necessary for the administration of this Act.
- (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 in the Zambia Police Force.

[As amended by G.N. No. 249 of 1964 and S.I. No. 155 of 1965]

19. Duty to give information

- (1) Where any surveyor, registrar of vessels, police officer, or any other person or member of a class of persons generally or specially authorised 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 authorised 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. Any owner failing to give such information 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, police officer or other person authorised 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.

20. Damage to navigation marks

- (1) A person shall not wilfully or negligently—
 - (a) injure any navigation mark; or
 - (b) remove, alter or destroy any navigation mark; or
 - (c) ride by, make fast to or run foul of a navigation mark.
- (2) The provisions of paragraphs (b) and (c) of subsection (1) shall not apply to any person authorised 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 the provisions of 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).

21. Certain provisions as to legal proceedings

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

Provided that—

- (i) the provisions of this subsection shall not have effect so as to prevent any proceedings or action being taken or instituted against any person not registered as the owner of such vessel who is beneficially interested therein;
 - (ii) the provisions of this subsection shall not affect the rights of any person registered under the provisions of this Act as the owner of a vessel against any person not so registered who is beneficially interested in such vessel;
 - (iii) the registration of any vessel shall not confer, take away or affect any title to or interest in such vessel.
- (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 is in charge, duly certified as true by the registrar of vessels concerned, shall be receivable in evidence on its mere production by any person 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 stating that any provision of this Act as to registration 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 therein stated.

22. Ensign to be prescribed

The Minister may prescribe an ensign of such colours and design as he may direct which may be worn by such vessels, in such manner and for such purposes as may be prescribed.

23. Offences and penalties

- (1) A person who—
- (a) for the purpose of obtaining, whether for himself or for any other person, the issue of a document in terms of this Act makes a declaration or statement which he knows to be false in any particular or does not know or believe to be true, or knowingly makes use of a declaration, statement or document containing the same;
 - (b) fraudulently imitates, alters, mutilates, destroys or uses, or fraudulently sells, supplies, lends or allows to be used by any other persons any document issued for the purposes of this Act or deemed to have been issued thereunder;
 - (c) wilfully obstructs, hinders or resists any other person in the exercise of his powers or the carrying out of his duties under the provisions of this Act;
 - (d) sends or takes or is a party to sending or taking a vessel upon inland waters in such an unseaworthy state that the life of any person is likely thereby to be endangered;
 - (e) contravenes or fails to comply with any provision of this Act or any direction or instruction given in terms of this Act;

shall be guilty of an offence.

- (2) If the master or a member of the crew of a vessel which is registered or should be registered in terms of this Act by wilful breach of duty or by neglect of duty or by reason of drunkenness—
- (a) does any act tending to the immediate loss, destruction or serious damage of 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.
- (3) Any person found guilty of an offence in terms of this Act shall be liable—
- (a) for a contravention of paragraph (d) of subsection (1) or of subsection (2) or for a failure to comply with any direction given in terms of section thirteen—
 - (i) on first conviction, to a fine not exceeding three thousand penalty units or, in default of payment, to imprisonment for a period not exceeding one year, or to such imprisonment without the option of a fine, or to both; and
 - (ii) on the second or a subsequent conviction, to a fine not exceeding six thousand penalty units or, in default of payment, to imprisonment for a period not exceeding two years, or to such imprisonment without the option of a fine, or to both;
 - (b) for an offence not referred to in paragraph (a)—
 - (i) on first conviction, to a fine not exceeding seven hundred and fifty penalty units or, in default of payment, to imprisonment for a period not exceeding one month, or to such imprisonment without the option of a fine, or to both; and
 - (ii) on the second or a subsequent conviction, to a fine not exceeding one thousand five hundred penalty units or, in default of payment, to imprisonment for a period not exceeding two months, or to such imprisonment without the option of a fine, or to both.

[As amended by No. 13 of 1961, G.N. No. 249 of 1964 and Act [No. 13 of 1994](#)]

24. Regulations

- (1) The Minister may by regulation prescribe all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.
- (2) Without derogation from the generality of the provisions of subsection (1), the Minister may, in the exercise of the powers conferred upon him by that subsection and in relation to inland waters and vessels used thereon, provide for—
- (a) the measurement of the dimensions and tonnage 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 eleven;
 - (c) the acceptance by a registrar of vessels in lieu of a surveyor's certificate of any certificate to the same or a similar effect issued in any country outside Zambia;
 - (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 life-saving 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 establishment and functions of a 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 certificates of registration and the keeping of logs in vessels, the form and manner in which certificates of registration 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 officer in charge of the central registry of vessels;
 - (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 tonnage, 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 observation 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 made in terms of paragraph (l);
 - (n) the reporting of accidents to vessels on inland waters or to persons on board such vessels;
 - (o) the geographical limits or 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 fees to be paid and the manner of payment of fees for—
 - (i) the issue, amendment, renewal or replacement of any document issued for the purposes of this Act;
 - (ii) the survey of a vessel;
 - (iii) examinations for masters and members of crews.
- (3) The Minister may, by statutory notice, designate places or areas of inland waters or land as harbours in respect of which the Minister may, by statutory instrument, make regulations for the management and control of such harbours and of vessels and persons within them, the powers of persons to effect such control and the payment of fees for services within such harbours and the Minister may make regulations accordingly.

- (4) In exercise of the powers conferred by this section the Minister may—
- (a) make different provisions with respect to—
 - (i) different classes of vessel
 - (ii) different inland waters;
 - (iii) different harbours;
 - (b) empower a surveyor to exempt any vessel from any requirement of regulations made in terms of this section to the extent that the surveyor 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.

[As amended by No. 13 of 1961 and G.N. No. 249 of 1964]

25. Savings

A vessel which, before the appointed date, was used on any waters in the former Protectorate of Northern Rhodesia declared to be inland waters in terms of this Act, shall, on and after that date, be exempted from the requirements of this Act as to survey and registration until the expiry of any certificate issued in respect of such vessel in terms of this Act.

[G.N. No. 249 of 1964]

26. Repeal of certain provisions of the Merchant Shipping Act, 1894, of the United Kingdom

All the provisions of the British Act known as the Merchant Shipping Act, 1894 (other than those of Part III and Part XIII thereof) are hereby repealed in so far as they relate to vessels registered in terms of this Act.

[As amended by S.I. No. 155 of 1965]