STATUTORY INSTRUMENTS

1973 No. 1315

MERCHANT SHIPPING

The Merchant Shipping (Safety Convention) (Bermuda) Order 1973

Made - - - -	*27th July* 1973
Laid before Parliament	*2nd August* 1973
Coming into Operation	*23rd August* 1973

At the Court at Buckingham Palace, the 27th day of July 1973

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 36 of the Merchant Shipping (Safety and Load Line Conventions) Act 1932(**a**) as amended by section 30 of the Merchant Shipping (Safety Convention) Act 1949(**b**) and by section 1 of the Merchant Shipping Act 1964(**c**) and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Merchant Shipping (Safety Convention) (Bermuda) Order 1973 and shall come into effect on the 23rd day of August 1973.

2. The Interpretation Act 1889(**d**) shall apply for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting, and in relation to, Acts of Parliament.

3. The provisions of sections 12, 24, 27 and 30 of Part I of the Merchant Shipping (Safety and Load Line Conventions) Act 1932, adapted and modified as set out in Schedule I hereto, shall extend to Bermuda.

4. The provisions of the Merchant Shipping (Safety Convention) Act 1949 except sections 2, 4, 13(1), 18, 20, 21(1) and (2), 25, 30, 31, 34, 35(1), (3), (4), (5) and (6) and 37(1) and (5), adapted and modified as set out in Schedule II hereto, shall extend to Bermuda.

5. The provisions of the Merchant Shipping Act 1964 except sections 2(5), 9, 11, 14, 17, 18(3) and 19(1), (3) and (4), adapted and modified as set out in Schedule III hereto, shall extend to Bermuda.

W. G. Agnew.

(a) 1932 c. 9. (b) 1949 c. 43. (c) 1964 c. 47. (d) 1889 c. 63.

SCHEDULE I

THE MERCHANT SHIPPING (SAFETY AND LOAD LINE CONVENTIONS) ACT 1932

Modification of safety certificates as respects life-saving appliances.

12.—(1) If, on any international voyage, a British passenger ship registered in Bermuda in respect of which a safety certificate is in force has on board a total number of persons less than the number stated in that certificate to be the number for which the life-saving appliances on the ship provide, the Minister of Marine and Air Services or any person authorised by him for the purpose may, at the request of the master of the ship, issue a memorandum stating the total number of persons carried on the ship on that voyage, and the consequent modifications which may be made for the purpose of that voyage in the particulars with respect to life-saving appliances stated in the certificate, and that memorandum shall be annexed to the certificate.

(2) Every such memorandum shall be returned to the said Minister at the end of the voyage to which it relates, and, if it is not so returned, the master of the ship shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding one hundred dollars.

Report of dangers to navigation.

24.—(1) The master of any British ship registered in Bermuda, on meeting with dangerous ice, a dangerous derelict, a tropical storm or any other direct danger to navigation, shall send information accordingly, by all means of communication at his disposal and in accordance with rules made for the purposes of this section, to ships in the vicinity and to such authorities on shore as may be prescribed by those rules.

(2) The Minister of Marine and Air Services may make rules for the purposes of this section and without prejudice to the generality of the powers therein contained rules made under section 24 of the Merchant Shipping (Safety and Load Line Conventions) Act 1932 and having effect in the United Kingdom shall, unless varied by or repugnant to rules made under this section, be deemed to be rules so made.

(3) If the master of a ship fails to comply with this section, he shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding four hundred dollars.

(4) Every person in charge of a wireless telegraph station which is under the control of the Minister responsible for wireless telegraphy services (hereinafter called " the Minister "), or which is established or installed under licence granted under any enactment, shall, on receiving the signal prescribed by the said rules for indicating that a message is about to be sent under this section, refrain from sending messages for a time sufficient to allow other stations to receive the message, and, if so required by the Minister, shall transmit the message in such manner as may be required by the Minister, and compliance with this subsection shall be deemed to be a condition of every such licence.

(5) For the purposes of this section, the expression " tropical storm " means a hurricane, typhoon, cyclone, or other storm of a similar nature, and the master of a ship shall be deemed to have met with a tropical storm if he has reason to believe that there is such a storm in his vicinity.

Signalling lamps.

27. No British ship registered in Bermuda, being a ship of more than one hundred and fifty tons gross tonnage, shall proceed to sea on an international voyage unless the ship is provided with an efficient signalling lamp, and if any ship proceeds or attempts to proceed to sea in contravention of this section the owner or master thereof shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding one hundred dollars.

Careful navigation near ice.

30.—(1) The master of a British ship registered in Bermuda, when ice is reported on or near his course, shall at night either proceed at a moderate speed or change his course so as to keep amply clear of the ice reported and of the area of danger.

(2) If the master of any ship fails to comply with this section he shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding five hundred dollars.

SCHEDULE II

THE MERCHANT SHIPPING (SAFETY CONVENTION) ACT 1949

Construction and Equipment

Construction rules.

1.—(1) The Minister may make rules (in this Act called "construction rules") prescribing the requirements that the hull, equipment and machinery of British passenger ships registered in Bermuda shall comply with; and the rules shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention prescribing the requirements that the hull, equipment and machinery of passenger ships shall comply with, except so far as those provisions are implemented by the rules for life-saving appliances, the radio rules, the rules for direction-finders or the collision regulations.

(2) The powers conferred on the Minister by this section shall be in addition to the powers conferred by any other enactment enabling him to prescribe the requirements with which passenger ships shall comply.

(3) For the purposes of this section and without prejudice to the generality of the powers therein contained, the construction rules" made under the Merchant Shipping (Safety Convention) Act 1949 and having effect in the United Kingdom shall, unless varied by or repugnant to the construction rules made under this section, be deemed to be construction rules made under this section.

Radio rules.

3.—(1) The Minister may make rules (in this Act called "radio rules") requiring ships to which this section applies to be provided with radio equipment, other than a radio navigational aid, of such a nature as may be prescribed by the rules and to maintain such a radio service, and to carry such number of radio officers or operators of such grades and possessing such qualifications, as may be so prescribed; and the rules may contain provisions for preventing so far as practicable electrical interference with the radio installation by other apparatus on board.

(2) This section applies to—

(*a*) sea-going British ships registered in Bermuda;

(*b*) other sea-going ships while they are in Bermuda or the territorial waters thereof.

(3) The said rules shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention relating to radiotelegraphy and radiotelephony.

(4) Without prejudice to the generality of the preceding provisions of this section, rules under this section may—

(*a*) prescribe the duties of radio officers and operators, including the duty of keeping a radio log-book;

(*b*) include provision for the delivery of any radio log-book required to be kept under the rules to the Registrar and for the custody of the official log-book;

(*c*) require the master of a ship to cause to be entered in the official log-book such particulars relating to the operation of the radio installation, and the maintenance of the radio service, as may be specified in the rules.

(5) If the master of a ship fails to cause an entry to be made in the official log-book in accordance with rules made in pursuance of subsection (5)(*c*) of this section, or if any radio officer or operator contravenes

any rules made in pursuance of subsection (5)(*a*) thereof, he shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding two hundred dollars; and if the rules made under this section are contravened in any other respect in relation to any ship, the owner or master of the ship shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding two thousand dollars.

(6) Any Government surveyor or United Kingdom surveyor may inspect any ship for the purpose of seeing that she is properly provided with a radio installation and radio officers or operators in accordance with the said rules, and for that purpose shall have all the powers which an inspector appointed under section 728 of the principal Act has in the United Kingdom; and if he finds that the ship is not provided with a radio installation or radio officers or operators in accordance with the said rules he shall give to the owner or master notice in writing of the deficiency, and also stating what in his opinion is requisite to remedy the deficiency.

(7) Every notice given under the last preceding subsection shall be reported to the Registrar and the ship shall be detained until a certificate under the hand of a Government surveyor or United Kingdom surveyor is produced to the effect that the ship is properly provided with a radio installation and radio officers or operators in accordance with the said rules.

(8) For the purposes of this section and without prejudice to the generality of the powers therein contained, the "radio rules" made under the Merchant Shipping (Safety Convention) Act 1949 and having effect on the United Kingdom shall, unless varied by or repugnant to the radio rules made under this section, be deemed to be radio rules made under this section.

Rules for direction-finders.

5.—(1) The Minister may make rules (in this Act called "rules for direction-finders") requiring ships to which this section applies to be provided with a direction-finder of such a nature as may be prescribed by the rules.

(2) This section applies to—

(*a*) British ships registered in Bermuda;

(*b*) other ships while they are within any port in Bermuda,

being ships of or above sixteen hundred tons gross tonnage.

(3) The said rules shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention relating to direction-finders.

(4) Without prejudice to the generality of the preceding provisions of this section, rules under this section may provide for the position of the direction-finder in the ship, for the communication between the direction-finder and the bridge, for testing direction-finders at intervals and as occasion may require and for recording the result of the tests.

(5) If any of the said rules is not complied with in relation to any ship, the owner or master of the ship shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding one thousand dollars.

(6) For the purposes of this section and without prejudice to the generality of the powers therein contained, the "rules for direction-finders" made under the Merchant Shipping (Safety Convention) Act 1949 having effect in the United Kingdom shall, unless varied by or repugnant to the rules for direction-finders made under this section, be deemed to be rules made under this section.

Further provisions as to radio navigational aids.

6.—(1) The Minister may make rules prescribing—

(*a*) the requirements that radio navigational aids, other than direction-finders, shall comply with if they are carried on board British ships registered in Bermuda, including requirements relating to their position and method of fitting;

(*b*) the requirements that apparatus designed for the purpose of transmitting or reflecting signals to or from radio navigational aids shall comply with, being apparatus in Bermuda or off the shores of Bermuda and maintained from Bermuda.

(2) If any British ship registered in Bermuda proceeds or attempts to proceed to sea carrying radio navigational aids not complying with the rules made under this section, the owner or master of the ship shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding one thousand dollars.

(3) If any person establishes or operates any such apparatus as is mentioned in subsection (1)(*b*) of this section, being apparatus that does not comply with the said rules, he shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding one thousand dollars.

(4) For the purposes of this section and without prejudice to the generality of the powers therein contained, the rules relating to radio navigational aids made under the Merchant Shipping (Safety Convention) Act 1949 and having effect in the United Kingdom shall, unless varied by or repugnant to the rules made under this section, be deemed to be rules made under this section.

Certificates

Issue for passenger ships of safety certificates and exemption certificates.

7.—(1) If the Minister or the appropriate United Kingdom authority on receipt of declarations of survey in respect of a British passenger ship registered in Bermuda is satisfied that the ship complies with the construction rules, rules for life-saving appliances, radio rules and rules for direction-finders applicable to the ship and to such international voyages as she is to be engaged on, and that she is properly provided with the lights, shapes and means of making fog-signals required by the Collision Regulations, the Minister, or at his request that authority, shall, on the application of the owner, issue in respect of the ship a certificate showing that the ship complies with the requirements of the Safety Convention applicable as aforesaid; and any certificate issued under this subsection is hereafter in this Act referred to as a "general safety certificate":

Provided that if the voyages on which the ship is to be engaged are short international voyages and she complies only with such of those rules as are applicable to those voyages, the certificate shall show that the ship complies with the requirements of the Safety Convention applicable to her as a ship plying on short international voyages; and any such certificate is hereafter in this Act referred to as a "short voyage safety certificate".

(2) If the Minister or the appropriate United Kingdom authority on receipt of declarations of survey in respect of any such passenger ship as aforesaid is satisfied that the ship is exempt, by virtue of any exercise by the Minister, or that authority, of a power in that behalf conferred by this Act or by the rules in question, from any of the requirements of the construction rules, rules for life-saving appliances, radio rules or rules for direction-finders applicable to the ship and to such international voyages as she is to be engaged on, whether short voyages or otherwise, that she complies with the rest of those requirements and that she is properly provided with the lights, shapes and means of making fog-signals required by the collision regulations, the Minister, or at his request that authority, shall, on the application of the owner, issue in respect of the ship—

(*a*) an exemption certificate stating which of the requirements of the Safety Convention applicable as aforesaid the ship is exempt from and that the exemption is conditional on the ship's plying only on the voyages and being engaged only in the trades and complying with the other conditions (if any) specified in the certificate; and

(*b*) a certificate showing that the ship complies with the rest of those requirements,

and any certificate issued under paragraph (*b*) of this subsection is hereafter in this Act referred to as a "qualified safety certificate" or a "qualified short-voyage safety certificate", as the case may be.

Issue for cargo ships of safety equipment certificates and exemption certificates.

8.—(1) If the Minister or the appropriate United Kingdom authority on receipt of declarations of survey in respect of a British ship registered in Bermuda, not being a passenger ship, is satisfied that the ship complies with the rules for life-saving appliances applicable to the ship and to such international voyages as she is to be engaged on, and that she is properly provided with the lights, shapes and means of making fog-signals required by the collision regulations, the Minister, or at his request that authority, shall on the application of the owner, issue in respect of the ship a certificate showing that the ship complies with such of the requirements of the Safety Convention relating to those matters as are applicable as aforesaid, and any certificate issued under this subsection is hereafter in this Act referred to as a "safety-equipment certificate".

(2) If the Minister or the appropriate United Kingdom authority on receipt of declarations of survey in respect of any such ship as aforesaid is satisfied that the ship is exempt, by virtue of any exercise of a power in that behalf conferred by this Act or by the rules for life-saving appliances, from any of the requirements of those rules applicable to the ship and to such international voyages as she is to be engaged on, and that she complies with the rest of those requirements and is properly provided with the lights, shapes and means of making fog-signals required by the collision regulations, the Minister, or at his request that authority, shall, on the application of the owner, issue in respect of the ship—

(*a*) an exemption certificate stating which of the requirements of the Safety Convention, being requirements the subject of the rules for life-saving appliances and applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship's plying only on the voyages and complying with the other conditions (if any) specified in the certificate; and

(*b*) a certificate showing that the ship complies with the rest of those requirements,

and any certificate issued under paragraph (*b*) of this subsection is hereafter in this Act referred to as a "qualified safety-equipment certificate".

Issue for cargo ships of radio certificates and exemption certificates.

9.—(1) If the Minister on receipt of declarations of survey in respect of a British ship registered in Bermuda, not being a passenger ship, is satisfied that the ship complies with the radio rules and rules for direction-finders applicable to the ship and to such international voyages as she is to be engaged on, he shall, on the application of the owner, issue in respect of the ship a certificate showing that the ship complies with such of the requirements of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders as are applicable as aforesaid; and any certificate issued under this subsection is hereafter in this Act referred to as a "radio certificate".

(2) If the Minister on receipt of declarations of survey in respect of any such ship as aforesaid is satisfied that the ship is exempt, by virtue of any exercise of a power in that behalf conferred by this Act or by the rules in question, from any of the requirements of the radio rules or rules for direction-finders applicable to the ship and to such international voyages as she is to be engaged on, and that she complies with the rest of the

requirements of the radio rules and rules for direction-finders, he shall, on the application of the owner issue in respect of the ship—

(*a*) an exemption certificate stating which of the requirements of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders, being requirements applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship's plying only on the voyages and complying with the other conditions (if any) specified in the certificate ; and

(*b*) a certificate showing that the ship complies with the rest of those requirements,

and any certificate issued under paragraph (*b*) of this subsection is hereafter in this Act referred to as a " qualified radio certificate ".

(3) Where any British ship registered in Bermuda is wholly exempt from the requirements of the radio rules and the rules for direction-finders, the Minister shall on the application of the owner issue an exemption certificate stating that the ship is wholly exempt from the requirements of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders and specifying the voyages on which and conditions (if any) on which the ship is so exempt.

Issue of general safety certificates, etc., on partial compliance with rules.

10. Where a ship complies with all the requirements of the construction rules, rules for life-saving appliances, radio rules or rules for direction-finders applicable to the ship and to the voyages on which she is to be engaged, so far as those requirements are requirements of the Safety Convention applicable as aforesaid, the Minister or the appropriate United Kingdom authority may issue in respect of the ship a general safety certificate, short-voyage safety certificate, safety equipment certificate or radio certificate, as the case may be, notwithstanding that she is exempt from or for some other reason does not comply with, any requirements of those rules that are not applicable requirements of the Safety Convention.

Notice of alterations and additional surveys.

11.—(1) The owner or master of a passenger ship in respect of which any passenger ship's certificate issued under the Act of 1973, or any certificate issued under this Act, is in force shall, as soon as possible after any alteration is made in the ship's hull, equipment or machinery affecting the efficiency thereof or the seaworthiness of the ship, give written notice to the Minister containing full particulars of the alteration.

(2) The owner or master of a ship in respect of which any certificate issued under this Act is in force, other than a passenger ship, shall, as soon as possible after any alteration is made in the appliances or equipment required by the rules for life-saving appliances, the radio rules, the rules for direction-finders or the collision regulations to be carried by the ship, being an alteration affecting the efficiency or completeness of those appliances or equipment, give written notice to the Minister containing full particulars of the alteration.

(3) If notice of any alteration is not given as required by this section, the owner or master of the ship shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding five hundred dollars.

(4) If the Minister has reason to believe that since the making of the last declaration of survey in respect of any such ship as aforesaid—

(*a*) any such alteration has been made as is mentioned in subsection (1) or, as the case may be, in subsection (2) of this section ; or

(*b*) the hull, equipment or machinery of the ship (being a passenger ship) have sustained any injury or are otherwise insufficient ; or

(*c*) the appliances or equipment of the ship (not being a passenger ship) mentioned in subsection (2) of this section have sustained any injury or are otherwise insufficient,

the Minister may, without prejudice to his powers under section 9 of the Act of 1973 (which relates to the cancellation of certificates and additional surveys) require the ship to be again surveyed to such extent as he thinks fit, and, if such requirement is not complied with, may cancel any passenger ship's certificate issued in respect of the ship under the Act of 1973 or any certificate issued in respect of the ship under this Act.

(5) For the purpose of this section, the expression "alteration" in relation to any thing includes the renewal of any part of it.

Prohibition on proceeding to sea without appropriate certificates.

12.—(1) No British ship registered in Bermuda shall proceed to sea on an international voyage from a port in Bermuda unless there is in force in respect of the ship—

(*a*) if she is a passenger ship, a general safety certificate, a short-voyage safety certificate, a qualified safety certificate or a qualified short-voyage safety certificate which (subject to the provisions of this section relating to short-voyage safety certificates) is applicable to the voyage on which the ship is about to proceed and to the trade in which she is for the time being engaged ;

(*b*) if she is not a passenger ship, both—

(i) a safety-equipment certificate or a qualified safety-equipment certificate ; and

(ii) a radio certificate or a qualified radio certificate, or an exemption certificate stating that she is wholly exempt from the requirements of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders:

Provided that this subsection shall not prohibit a ship, not being a passenger ship, from proceeding to sea as aforesaid if there is in force in respect of the ship such certificate or certificates as would be required if she were a passenger ship.

(2) For the purposes of this section, a qualified certificate shall not be deemed to be in force in respect of a ship unless there is also in force in respect of the ship the corresponding exemption certificate ; and an exemption certificate shall be of no effect unless it is by its terms applicable to the voyage on which the ship is about to proceed.

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

(*a*) in the case of a passenger ship, the owner or master of the ship shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding two thousand dollars, and the owner or master of any tender by means of which passengers have been taken on board the ship shall be guilty of an offence and shall be liable on such conviction to a like fine ; and

(*b*) in the case of a ship not being a passenger ship the owner or master of the ship shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding one thousand dollars.

(4) The master of every British ship registered in Bermuda shall produce to the Registrar at the time a clearance for the ship is demanded for an international voyage the certificate or certificates required by the foregoing provisions of this section to be in force when the ship proceeds to sea ; and a clearance shall not be granted, and the ship may be detained, until the said certificate or certificates are so produced.

(5) Where the Minister permits any passenger ship in respect of which there is in force a short-voyage safety certificate, whether qualified or not, to proceed to sea on an international voyage from a port in Bermuda not exceeding twelve hundred nautical miles in length between the last port of call in Bermuda and the final port of destination, the certificate shall for the purposes of this section be deemed to be applicable to the voyage on

which the ship is about to proceed notwithstanding that the voyage exceeds six hundred nautical miles between the said ports.

(6) Where an exemption certificate issued in respect of any British ship registered in Bermuda specifies any conditions on which the certificate is issued and any of those conditions is not complied with, the owner or master of the ship shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding one thousand dollars.

Miscellaneous provisions as to surveys and certificates.

13.—(2) Section 7(2) of the Act of 1973 (which requires a surveyor to deliver declarations of survey to the Minister or the appropriate United Kingdom authority), and section 10 of the said Act (which relates to appeals to the court of survey) shall apply to surveys for the purpose of the issue of any certificate in respect of a ship under this Act as they apply to surveys for the purpose of the issue of passenger ships' certificates.

(3) A safety certificate or radio certificate or an exemption certificate stating that a ship is wholly exempt from the provisions of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders shall be in force for one year, and a safety-equipment certificate shall be in force for twenty-four months, from the date of its issue, or for such shorter period as may be specified in the certificate:

Provided that no such certificate shall remain in force after notice is given by the Minister to the owner or master of the ship in respect of which it has been issued that the Minister has cancelled the certificate.

(4) An exemption certificate, other than a certificate stating that a ship is wholly exempt from the provisions of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders, shall be in force for the same period as the corresponding qualified certificate.

(5) The Minister or any person authorised by him for the purpose may grant an extension of any certificate issued under this Act in respect of a British ship registered in Bermuda for a period not exceeding one month from the date when the certificate would, but for the extension, have expired, or, if the ship is absent from Bermuda on that date, for a period not exceeding five months from that date.

(6) Any general safety certificate or short-voyage safety certificate, whether qualified or not, may be combined in one document with a passenger ship's certificate.

(7) Any certificate issued by the Minister or the appropriate United Kingdom authority under this Act, and any passenger ship's certificate, whether or not combined in one document with a safety certificate under the last preceding subsection, shall be admissible in evidence.

(8) The following provisions of the Act of 1973 shall apply to and in relation to certificates issued by the Minister or the appropriate United Kingdom authority under this Act, and to and in relation to ships certified under this Act, in the same manner as they apply to and in relation to passenger ships' certificates and passenger ships, namely section 7(5) and (6) (which relate to delivery of a certificate to the owner, charterer, master or agent and the posting up of such certificate on board), section 9 (which relates to the cancellation of certificates and the surrender of certificates no longer in force) and section 12(1) (which relates to the forging and falsification of certificates).

(9) The Minister may request the government of a country to which the Safety Convention applies to issue in respect of a British ship registered in Bermuda any certificate the issue of which is authorised under this Act; and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes

of this Act as if it had been issued by the Minister and not by the government of that country.

Safety Convention Ships not Registered in Bermuda

Certificates of Convention ships not registered in Bermuda.

14.—(1) The Minister may, at the request of the government of a country to which the Safety Convention applies, issue in respect of a ship registered in that country any certificate the issue of which in respect of British ships registered in Bermuda is authorised under this Act if he is satisfied that it is proper for him to do so; and a certificate issued in pursuance of such a request and containing a statement that it has been so issued shall have effect for the purposes of this Act as if it had been issued by the said government and not by the Minister.

(2) For the purpose of the provisions hereafter contained in this Act relating to Safety Convention ships not registered in Bermuda, the expression "accepted Safety Convention certificate" means a certificate which complies with such of the regulations made under section 14(2) of the Merchant Shipping (Safety Convention) Act 1949 and having effect in the United Kingdom as would, if it were produced in the United Kingdom, apply to it in the circumstances and also means a certificate in force under that Act in relation to a British ship registered in the United Kingdom or in force under that Act as extended to any British colony in relation to a British ship registered in that colony, and such certificates shall be accepted as having the same force as corresponding certificates issued by the Minister.

(3) A Government surveyor, for the purpose of verifying—

(*a*) that there is in force in respect of a Safety Convention ship not registered in Bermuda an accepted Safety Convention certificate; or

(*b*) that the condition of the hull, equipment and machinery of any such Safety Convention ship corresponds substantially with the particulars shown in such a certificate; or

(*c*) except where such a certificate states that the ship is wholly exempt from the provisions of the Safety Convention relating to radiotelegraphy and radiotelephony, that the number, grades and qualifications of radio officers or operators on board correspond with those shown in the certificate; or

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

shall have all the powers which an inspector appointed under section 728 of the principal Act has in the United Kingdom.

(4) Where there is attached to an accepted Safety Convention certificate in respect of a Safety Convention passenger ship not registered in Bermuda a memorandum which—

(*a*) has been issued by or under the authority of the government of the country in which the ship is registered; and

(*b*) modifies for the purpose of any particular voyage, in view of the number of persons carried on that voyage, the particulars stated in the certificate with respect to life-saving appliances,

the certificate shall have effect for the purpose of that voyage as if it were modified in accordance with the memorandum.

Modified survey of passenger ships holding Convention certificates.

15.—(1) Where an accepted Safety Convention certificate is produced in respect of a Safety Convention passenger ship not registered in Bermuda—

(*a*) the ship shall not be required to be surveyed under the Act of 1973 except for the purpose of determining the number of passengers that she is fit to carry; and

(*b*) on receipt of any declaration of survey for the purpose aforesaid, the Minister shall issue a certificate under section 7(4) of the Act of 1973 containing only a statement of the particulars, relating to the number of passengers the ship is fit to carry, referred to in the said section 7(4), and a certificate so issued shall have effect as a passenger ship's certificate.

(2) Where there is produced in respect of any such passenger ship as aforesaid an accepted Safety Convention certificate, and also a certificate issued by or under the authority of the government of the country in which the ship is registered showing the number of passengers that the ship is fit to carry, and the Minister is satisfied that that number has been determined substantially in the same manner as in the case of a passenger ship registered in Bermuda, he may if he thinks fit dispense with any survey of the ship for the purpose of determining the number of passengers that she is fit to carry and direct that the last-mentioned certificate shall have effect as a passenger ship's certificate.

Miscellaneous privileges of ships holding Convention certificates.

16.—(1) Where an accepted Safety Convention certificate is produced in respect of a Safety Convention passenger ship not registered in Bermuda, the ship shall be exempt from section 420 of the principal Act (which relates to lights and fog-signals) and from the rules for life-saving appliances.

(2) Where an accepted Safety Convention certificate, being the equivalent of a safety-equipment certificate, is produced in respect of a Safety Convention ship (other than a passenger ship) not registered in Bermuda, the ship shall be exempt from section 420 of the principal Act (which relates to lights and fog-signals) and from the rules for life-saving appliances.

(3) Where an accepted Safety Convention certificate is produced in respect of a Safety Convention ship not registered in Bermuda and the certificate shows that the ship complies with the requirements of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders, or that she is exempt from some of those requirements and complies with the rest or that she is wholly exempt from those requirements, the ship shall be exempt from the provisions of the radio rules and the rules for direction-finders.

Further provisions as to the production of Convention certificates.

17.—(1) The master of every Safety Convention ship not registered in Bermuda shall produce to the Registrar, at the time a clearance for the ship is demanded in respect of an international voyage from a port in Bermuda, accepted Safety Convention certificates that are the equivalent of the certificates issued by the Minister under this Act that would be required to be in force in respect of the ship if she were a British ship registered in Bermuda ; and a clearance shall not be granted, and the ship may be detained, until such certificates are so produced.

(2) The production of an accepted Safety Convention certificate being the equivalent of—

(*a*) a qualified certificate ; or

(*b*) an exemption certificate, other than a certificate stating that a ship is wholly exempt from the provisions of the Safety Convention relating to radiotelegraphy, radiotelephony and direction-finders,

shall not avail for the purposes of either of the last two preceding sections unless there is also produced the corresponding exemption certificate or qualified certificate as the case may be.

Miscellaneous Provisions for Furthering Safety of Life at Sea

Openings in passenger ships' hulls and watertight bulkheads.

19.—(1) The Minister may in relation to British passenger ships registered in Bermuda make rules for any of the following matters—

(*a*) for closing and keeping closed the openings in ships' hulls and in watertight bulkheads ;

(*b*) for securing, keeping in place and inspecting contrivances for closing any such openings as aforesaid ;

(*c*) for operating the mechanisms of contrivances for closing any such openings as aforesaid and for drills in connection with the operation thereof.

(2) If any of the rules made under this section is not complied with in relation to any such ship as aforesaid, the master of the ship shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding five hundred dollars.

(3) For the purposes of this section and without prejudice to the generality of the powers therein contained, the rules made under the Merchant Shipping (Safety Convention) Act 1949 and having effect in the United Kingdom relating to openings in passenger ships' hulls and watertight bulkheads shall, unless varied by or repugnant to rules made under this section, be deemed to be rules made under this section.

Signals of distress.

21.—(3) If the master of a ship uses or displays or causes or permits any person under his authority to use or display—

(*a*) any signal prescribed by Her Majesty in Council under section 21(1) of the Merchant Shipping (Safety Convention) Act 1949 as a signal of distress except in the circumstances and for the purposes prescribed by the rules made under subsection (2) of that section with respect to distress signals ; or

(*b*) any private signal, whether registered or not, that is liable to be mistaken for any signal so prescribed by Her Majesty in Council,

he shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding five hundered dollars and shall further be liable to pay compensation for any labour undertaken, risk incurred or loss sustained in consequence of the signal's having been supposed to be a signal of distress ; and that compensation may, without prejudice to any other remedy, be recovered in the same manner as salvage.

(4) Nothing in section 24(4) of the Merchant Shipping (Safety and Load Line Conventions) Act 1932 as extended to Bermuda (which subsection requires persons in charge of wireless stations to give facilities for the reception of reports relating to dangers to navigation) shall interfere with the transmission of signals of distress prescribed as aforesaid.

Obligation to assist ships, etc., in distress.

22.—(1) The master of a British ship registered in Bermuda on receiving at sea a signal of distress, or information from any source that a ship or aircraft is in distress, shall proceed with all speed to the assistance of the persons in distress (informing them if possible that he is doing so) unless he is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to do so or unless he is released under the provisions of subsection (3) or subsection (4) of this section.

(2) Where the master of any ship in distress has requisitioned any British ship registered in Bermuda that has answered his call, it shall be the duty of the master of the requisitioned ship to comply with the requisition by continuing to proceed with all speed to the assistance of the persons in distress.

(3) A master shall be released from the obligation imposed by subsection (1) of this section as soon as he is informed of the requisition of one or more ships other than his own and that the requisition is being complied with by the ship or ships requisitioned.

(4) A master shall be released from the obligation imposed by subsection (1) of this section, and, if his ship has been requisitioned, from the obligation imposed by subsection (2) of this section, if he is informed by the persons in distress, or by the master of any ship that has reached the persons in distress, that assistance is no longer required.

(5) If the master of a British ship registered in Bermuda fails to comply with subsection (1) or subsection (2) of this section, he shall be guilty of an offence and shall be liable—

(*a*) on conviction on indictment, to a fine not exceeding five thousand dollars and to imprisonment for a period not exceeding two years ;

(*b*) on conviction by a court of summary jurisdiction, to a fine not exceeding one thousand dollars.

(6) If the master of a British ship registered in Bermuda, on receiving at sea a signal of distress or information from any source that a vessel or aircraft is in distress, is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to go to the assistance of the persons in distress, he shall forthwith cause a statement to be entered in the official log-book, or if there is no official log-book cause other record to be kept, of his reasons for not going to the assistance of those persons, and if he fails to do so he shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding five hundred dollars.

(7) The master of every British ship registered in Bermuda for which an official log is required shall enter or cause to be entered in the official log-book every signal of distress or message that a vessel, aircraft or person is in distress at sea.

(8) Nothing in this section shall affect the provisions of section 6 of the Maritime Conventions Act 1911(**a**), and compliance by the master of a ship with this section shall not affect his right, or the right of any other person, to salvage.

Carriage of dangerous goods.

23.—(1) The rules made under section 23 of the Merchant Shipping (Safety Convention) Act 1949 and having effect in the United Kingdom for regulating in the interests of safety the carriage of dangerous goods in ships shall apply to—

(*a*) British ships registered in Bermuda ;

(*b*) other ships while they are within any port in Bermuda, or are embarking or disembarking passengers within the territorial waters of Bermuda, or are loading or discharging cargo or fuel within those waters.

(2) If any of such rules is not complied with in relation to any such ship, the owner or master of the ship shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding one thousand dollars, and the ship shall be deemed for the purposes of sections 27 and 31 of the Act of 1973 to be unsafe by reason of improper loading.

Carriage of grain.

24.—(1) Where grain is loaded on board any British ship registered in Bermuda, or is loaded within any port in Bermuda on board any ship, all necessary and reasonable precautions shall be taken to prevent the grain from shifting ; and if such precautions as aforesaid are not taken, the owner or the master of the ship, or any agent of the owner who was charged with the loading or with sending the ship to sea laden with the

(**a**) 1911 c. 57.

grain, shall be guilty of an offence under this subsection, and the ship shall be deemed for the purposes of sections 27 and 31 of the Act of 1973 to be unsafe by reason of improper loading.

(2) Where any ship, having been loaded with grain outside Bermuda without the taking of all necessary and reasonable precautions to prevent the grain from shifting, enters any port in Bermuda so laden, the owner or master of the ship shall be guilty of an offence under this subsection, and the ship shall be deemed for the purposes of sections 27 and 31 of the Act of 1973 to be unsafe by reason of improper loading:

Provided that this subsection shall not have effect if the ship would not have entered any such port but for stress of weather or any other circumstances that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(3) Without prejudice to the generality of the two preceding subsections, any particular precaution prescribed by rules made under section 24 of the Merchant Shipping (Safety Convention) Act 1949 and having effect in the United Kingdom in relation to the loading of ships generally or of ships of any class, as being a precaution to be treated for the purposes of those subsections as a necessary or reasonable precaution to prevent grain from shifting, shall be so treated in the case of ships generally, or of ships of that class, as the case may be:

Provided that this subsection shall not apply where a ship is loaded in accordance in all respects with any provisions approved by the Minister as respects the loading in question other than rules made under this subsection.

(4) If any person commits an offence under subsection (1) or subsection (2) of this section, he shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding one thousand dollars.

(5) On the arrival at a port in Bermuda from a port outside Bermuda of any ship carrying a cargo of grain, the master shall cause to be delivered to the Registrar, together with the report required of every ship entering the port from a foreign country, a notice stating—

(*a*) the draught of water and freeboard, as defined by Part V of the principal Act, of the said ship after the loading of her cargo was completed at the final port of loading ; and

(*b*) the following particulars of the grain carried, namely—

(i) the kind of grain and the quantity thereof, stated in cubic feet, quarters, bushels, or tons weight ;

(ii) the mode in which the grain is stowed ; and

(iii) the precautions taken to prevent the grain from shifting,

and if the master fails to deliver any notice required by this subsection, or if in any such notice he makes any statement that he knows to be false in a material particular or recklessly makes any statement that is false in a material particular, he shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding five hundred dollars.

(6) Any person having a general or special authority in that behalf from the Minister may, for securing the observance of the provisions of this section, inspect any grain, and the mode in which it is stowed, and for that purpose shall have all the powers which an inspector appointed under section 728 of the principal Act has in the United Kingdom.

(7) In this section, the expression " grain " includes wheat, maize, oats, rye, barley, rice, pulses and seeds, and the expression " ship carrying a cargo of grain " means a ship carrying a quantity of grain exceeding one-third of the ship's registered tonnage, reckoning one hundred cubic feet, or two tons weight, of grain as equivalent to one ton of registered tonnage.

Supplemental

Definition of "passenger" and "passenger ship"

26.—(1) In the Merchant Shipping (Safety and Load Line Conventions) Act 1932 as extended to Bermuda, and in this Act, the expression "passenger" means any person carried in a ship, except—

(*a*) a person employed or engaged in any capacity on board the ship on the business of the ship;

(*b*) a person on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstances that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled; and

(*c*) a child under one year of age.

(2) In the said Act of 1932 as so extended, and in this Act, the expression "passenger ship" means a ship carrying more than twelve passengers.

Removing persons in case of danger.

27. Where the Minister for the purpose of enabling persons to be moved from any place in consequence of a threat to their lives has permitted more persons to be carried on board a ship than are permitted under this Act apart from this section or under the Act of 1973, the carriage of that excess of persons shall not be an offence under this Act or the Act of 1973.

Power of the Minister to exempt from safety requirements.

28.—(1) The Minister, after consultation with the appropriate United Kingdom authority, may exempt any ships or classes of ships from any of the rules for life-saving appliances or any rules or regulations made under this Act, either absolutely or subject to such conditions as he thinks fit.

(2) Without prejudice to the preceding provisions of this section, where a ship not normally engaged on international voyages is required to undertake a single international voyage, the Minister, after consultation as aforesaid, may, if he is of opinion that the ship complies with safety requirements that are adequate for that voyage, exempt the ship from any of the safety requirements imposed by or under this Act or the Act of 1973.

Exemption of certain ships from certain provisions of this Act.

29.—(1) Nothing in this Act—

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

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

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

shall apply to any troopship, pleasure yacht or fishing vessel, or to any ship of less than five hundred tons gross tonnage other than a passenger ship, or to any ship not propelled by mechanical means.

(2) Nothing in the preceding subsection shall affect the exemption conferred by section 741 of the principal Act on ships belonging to Her Majesty.

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

Transition provisions.

32. Nothing in section 12 of this Act shall prohibit a ship which is registered in Bermuda from proceeding to sea without such certificates as are

required under that section until the expiry of six months from the commencement of the Order of Her Majesty in Council extending this Act to Bermuda.

Fees.

33.—(1) Subject to subsection (4), the Minister may make regulations prescribing the fees to be paid in respect of:—

(*a*) any certificate issued under this Act, including a certificate issued under section 14(1) thereof, by the Minister or the appropriate United Kingdom authority ;

(*b*) any survey or inspection carried out, or other thing done, under or for the purposes of this Act by a Government surveyor or a United Kingdom surveyor.

(2) Nothing in subsection (1)(*b*) of this section shall prevent the prescribing of a fee in respect of the issue of any certificate referred to in subsection (1)(*a*) which includes a charge in respect of any survey or inspection required in connection with the issue of that certificate.

(3) Any fee payable in accordance with regulations made under subsection (1) of this section in respect of: —

(*a*) any certificate issued by the Minister ; or

(*b*) any survey or inspection carried out, or other thing done, under or for the purposes of this Act by a Government surveyor who is not a public officer,

shall be paid to the Government of Bermuda.

(4) Regulations shall not be made by the Minister under subsection (1) of this section except with the approval of the Minister of Finance and, in the case of regulations prescribing fees to be paid in respect of any certificate issued by the appropriate United Kingdom authority or in respect of any survey or inspection carried out, or other thing done, by a United Kingdom surveyor, except with the approval also of a Secretary of State.

Application of Act of 1973 to ship detained under this Act.

35. (2) Where a ship is detained under any provision of this Act authorising the detention of a ship until the production of a certificate, section 28(2) of the Act of 1973 (which makes the owner of a ship liable to pay to the Government the costs in connection with her detention and survey) shall apply as if she had been finally detained within the meaning of that subsection.

Interpretation.

36. —(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say —

" Act of 1973 " means the Merchant Shipping Act 1973 of Bermuda ;

" appropriate United Kingdom authority " means, in relation to any appointment or certificate under this Act, the authority responsible in the United Kingdom for such appointments or for the issue of such certificates in respect of ships registered in the United Kingdom ;

" collision regulations " means regulations made under section 418 of the principal Act ;

" construction rules " means rules made under section 1 of this Act;

" country to which the Safety Convention applies " means —

(*a*) a country the government of which has been declared by Her Majesty in Council to have accepted the Safety Convention, and has not been so declared to have denounced that Convention ;

(*b*) a territory to which it has been so declared that the Safety Convention extends, not being a territory to which it has been so declared that that Convention has ceased to extend ;

" declaration of survey " means a declaration made under section 7(2) of the Act of 1973 by a Government surveyor or a United Kingdom surveyor ;

" Government surveyor " means a person designated under section 5 of the Act of 1973 ;

" international voyage " means a voyage from a port in one country to a port in another country, either of those countries being a country to which the Safety Convention applies, and " short international voyage " means an international voyage—

(*a*) in the course of which a ship is not more than two hundred nautical miles from a port or place in which the passengers and crew could be placed in safety ; and

(*b*) which does not exceed six hundred nautical miles in length between the last port of call in the country in which the voyage begins and the final port of destination ;

so however that for the purpose of the definitions contained in this paragraph—

(i) no account shall be taken of any deviation by a ship from her intended voyage due solely to stress of weather or any other circumstance that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled ; and

(ii) every colony, overseas territory, protectorate or other territory for whose international relations a government that has accepted the Safety Convention is responsible, or for which the United Nations are the administering authority, shall be deemed to be a separate country ;

" the Minister " means the Minister of Marine and Air Services ;

" the principal Act " means the Merchant Shipping Act 1894 ;

" radio navigational aid " means radio apparatus on board a ship being apparatus designed for the purpose of determining the position or direction of ships or other objects ;

" radio rules " means rules made under section 3 of this Act ;

" Registrar " means the Registrar of Shipping ;

" rules for direction-finders " means rules made under section 5 of this Act ;

" rules for life-saving appliances " means rules made under section 13 of the Act of 1973 ;

" Safety Convention " means the International Convention for the Safety of Life at Sea signed in London on 17th June 1960(**a**) ;

" Safety Convention ship " means a ship registered in a country to which the Safety Convention applies ; and the expression " Safety Convention passenger ship " shall be construed accordingly ;

" United Kingdom surveyor " means a person appointed a surveyor of ships under section 724 of the principal Act.

(2) If any amendment of the Safety Convention comes into force, references in this Act to the Safety Convention shall, unless the context otherwise requires, be construed as references to the Safety Convention as amended.

Construction.

37.—(2) Except so far as the context otherwise requires, any reference in this Act to any other enactment shall be construed as a reference to that enactment, and any substituted enactment, as amended, extended or applied by or under any other enactment including this Act.

(3) Except so far as the context otherwise requires, this Act shall be construed as one with the Merchant Shipping Acts 1894 to 1948 as in force

(**a**) Cmnd. 2812.

in Bermuda and, without prejudice to the generality of this provision, references in those Acts as so in force to the Merchant Shipping Acts shall be construed as including references to this Act.

(4) Where any rules made under the Merchant Shipping Acts and having effect in the United Kingdom are, by virtue of any provision of this Act, to have effect in Bermuda, those rules shall be read with such formal alterations as to names, localities, courts, officers, persons and otherwise as may be necessary to make the rules applicable to the circumstances of Bermuda.

SCHEDULE III

THE MERCHANT SHIPPING ACT 1964

Application of the Act of 1949 *to this Act*

Application of Act of 1949 to this Act. 12, 13 & 14 Geo. 6 c. 43.

1. The Merchant Shipping (Safety Convention) Act 1949 as in force in Bermuda (in this Act referred to as "the Act of 1949") shall have effect as if reference therein to that Act included references to this Act.

Requirements for Cargo Ships

Cargo ship construction and survey rules.

2.—(1) The Minister of Marine and Air Services (in this Act referred to as "the Minister") may make rules (in this Act referred to as "cargo ship construction and survey rules") prescribing requirements for the hull, equipment and machinery of ships to which this section applies and requiring any such ships which are registered in Bermuda to be surveyed to such extent, in such manner and at such intervals as may be prescribed by the rules.

(2) The said rules shall include such requirements as appear to the Minister to implement the provisions of the Safety Convention relating to the hull, equipment and machinery of such ships, except so far as those provisions are implemented by any other rules or regulations made under the Act of 1949.

(3) This section applies to—

(*a*) sea-going ships of not less than five hundred tons gross tonnage ; and

(*b*) sea-going ships of not less than such lower tonnage and of such descriptions as the Minister may by order specify,

other than passenger ships, troopships, pleasures yachts, fishing vessels and ships not propelled by mechanical means ; except that it applies to ships not registered in Bermuda only while they are within a port in Bermuda and are not exempted from the cargo ship construction and survey rules under the following provisions of this Act.

(4) The matters with regard to which fees may be prescribed by regulations under section 33 of the Act of 1949 shall include surveys required by the cargo ship construction and survey rules, and the provisions applied by section 13(2) of that Act (which relate to the delivery of declarations of survey and appeals to the court of survey) shall apply to such surveys whether or not they are made for the purpose of the issue of any certificate.

(6) An order under subsection (3)(b) of this section may be varied or revoked by a subsequent order.

(7) For the purposes of this section and without prejudice to the generality of the powers therein contained, the cargo ship construction and survey rules made under the Merchant Shipping Act 1964 and having effect in the United Kingdom shall, unless varied by or repugnant to the cargo ship construction and survey rules made under this section, be deemed to be cargo ship construction and survey rules made under this section.

Cargo ship safety construction certificates and exemption certificates.

3.—(1) If the Minister or such organisation as he, after consultation with the appropriate United Kingdom authority, may authorise for the purpose is satisfied, on receipt of declarations of survey in respect of a ship to which section 2 of this Act applies and which is registered in Bermuda, that the ship complies with the cargo ship construction and survey rules applicable to the ship and to such voyages as she is to be engaged on, the Minister or such organisation, as the case may be, shall on the application of the owner, issue in respect of the ship—

(*a*) if the ship is of not less than five hundred tons gross tonnage and is to be engaged on international voyages, a certificate in the form prescribed by the Safety Convention ;

(*b*) in any other case, a certificate showing that she complies with the said rules,

and any such certificate is in this Act referred to as a cargo ship safety construction certificate.

(2) If the Minister, on receipt of declarations of survey in respect of such a ship, is satisfied that the ship is exempt, by virtue of any exercise of a power conferred by section 28 of the Act of 1949 or the cargo ship construction and survey rules, from any of the requirements of those rules applicable to the ship and to such voyages as she is to be engaged on, and that she complies with the rest of those requirements, he shall, on the application of the owner, issue in respect of the ship—

(*a*) if she is of not less than five hundred tons gross tonnage and is to be engaged on international voyages—

(i) an exemption certificate stating which of the requirements of the Safety Convention, being requirements implemented by the rules and applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship's plying on the voyages and complying with the other conditions (if any) specified in the certificate ; and

(ii) a certificate showing that the ship complies with the rest of those requirements ;

(*b*) in any other case, a certificate showing that the ship complies with such of the requirements of the cargo-ship construction and survey rules applicable to the ship and to the voyages she is to engaged on as she is not exempt from,

and any certificate issued under paragraph (a)(ii) or paragraph (*b*) of this subsection in this Act referred to as a qualified cargo ship safety construction certificate.

(3) A certificate issued under this section, other than an exemption certificate, shall remain in force for five years or such shorter period as may be specified in it, but without prejudice to the Minister's power to cancel it ; and an exemption certificate issued under this section shall remain in force for the same period as the corresponding qualified certificate.

(4) The Minister, after consultation with the appropriate United Kingdom authority, may by order extend the period for which a certificate under this section may be issued to a period not exceeding six years.

(5) Without prejudice to the power of extension conferred by section 13(5) of the Act of 1949, where a certificate under this section is in force in respect of a ship and the certificate was issued for a shorter period than is allowed under the foregoing provisions of this section, the Minister or any organisation authorised by him for the purpose may, if satisfied on receipt of declarations of survey in respect of the ship that it is proper to do so, grant an extension of the certificate for a period not exceeding one year, and not exceeding, together with the period for which it was issued and any period by which it has been previously extended under this subsection, the longest period for which it could have been issued under this section.

(6) In relation to a certificate issued or extended under this section by an organisation authorised as aforesaid—

(*a*) the provisions applied by section 13(8) of the Act of 1949 (which relate to the delivery, cancellation, surrender, posting-up and falsification of certificates issued by the Minister) ; and

(*b*) section 33 of the Act of 1949 (fees),

shall apply as they apply in relation to certificates issued by the Minister, except that so much of the said section 33 as requires fees to be paid to the Government of Burmuda shall not apply.

(7) An order under subsection (4) of this section may be varied or revoked by a subsequent order.

Notice of alterations and additional surveys.

4.—(1) The duty of the owner or master of a ship under section 11(2) of the Act of 1949 to notify alterations and renewals shall extend, in relation to any ship in respect of which a certificate under section 3 of this Act is in force, to the hull, machinery and any equipment other than that mentioned in that subsection, but may, if the certificate was issued otherwise than by the Minister be discharged by notifying the issuing organisation instead of the Minister.

(2) Section 11(4) of the Act of 1949 (additional survey and cancellation of certificates) shall have effect, in relation to any such ship, as if—

(*a*) paragraph (*a*) thereof extended to any alteration or renewal which is notifiable by virtue of this section ; and

(*b*) paragraph (*b*) and not paragraph (*c*) thereof were applicable, notwithstanding that the ship is not a passenger ship,

and the power of the Minister under that subsection to cancel such a certificate shall be exercisable also where the ship has not been submitted for survey as required by the cargo ship construction and survey rules.

Prohibition on proceeding to sea without appropriate certificates.

5.—(1) No ship to which section 2 of this Act applies and which is registered in Bermuda shall proceed to sea unless there is in force in respect of the ship either—

(*a*) a cargo ship safety construction certificate ; or

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

(*c*) such certificate or certificates as would be required if she were a passenger ship,

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

(2) If any ship proceeds or attempts to proceed to sea in contravention of this section, the owner or master of the ship shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding one thousand dollars.

(3) The master of every ship to which section 2 of this Act applies and which is registered in Bermuda shall produce to the Registrar from whom a clearance for the ship is demanded the certificate or certificates required by the foregoing provisions of this section ; and the clearance shall not be granted, and the ship may be detained, until the said certificate or certificates are so produced.

Exemption of ships holding appropriate certificates.

6. Where there is produced in respect of a ship not registered in Bermuda—

(*a*) an accepted Safety Convention certificate equivalent to a cargo ship safety construction certificate ; or

(*b*) accepted Safety Convention certificates equivalent respectively to a qualified cargo ship safety construction certificate and to a corresponding exemption certificate,

the ship shall be exempt from the cargo ship construction and survey rules.

Penalty for non-compliance with rules and power to detain.

7.—(1) If the cargo ship construction and survey rules are contravened in any respect in relation to a ship, the owner or master of the ship shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding one thousand dollars.

(2) A Government surveyor may inspect any ship for the purpose of seeing that she complies with the cargo ship construction and survey rules (other than those relating to survey) and for that purpose shall have all the powers which an inspector appointed under section 728 of the principal Act has in the United Kingdom; and if he finds that the ship fails to comply with any of those rules he shall give to the owner or master notice in writing stating in what repect she fails to comply with them and what in his opinion is requisite to remedy the failure.

(3) Every notice under subsection (2) of this section shall be communicated to the Registrar; and the ship shall be detained until a certificate under the hand of a Government surveyor is produced to the effect that the failure has been remedied.

Damage Control and Life-Saving Appliances

Damage control plans and stability information for passenger ships.

8. Construction rules (that is to say, rules made under section 1 of the Act of 1949 relating to the hull, equipment and machinery of British passenger ships registered in Bermuda) may require the provision in such ships—

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

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

Radio Installations and Certificates

Requirements for portable radio apparatus carried in survival craft.

10.—(1) Radio rules may prescribe requirements for such portable radio apparatus as boats or life rafts may be required to carry by the rules for life-saving appliances.

(2) The provisions of section 3(7) and (8) of the Act of 1949 (which relate to the inspection and detention of ships to ensure conformity with the radio rules) shall apply in relation to the portable radio apparatus so required to be carried by the boats or life rafts on any ship as they apply in relation to the radio installation of the ship.

Renewal of radio certificates for small cargo ships.

12. Where a radio certificate or qualified radio certificate is in force in respect of a ship or less than five hundred tons gross tonnage, other than a passenger ship, and the ship is surveyed by a Government surveyor at a time not earlier than two months before the end of the period for which the certificate is in force, then, if on receipt of the declaration of survey a new certificate is issued before the end of that period—

(*a*) the current certificate may be cancelled; and

(*b*) the new certificate may, notwithstanding anything in section 13(3) of the Act of 1949, be issued for a period ending not later than twelve months after the end of the first mentioned period.

Miscellaneous

Issue of exemption certificates where Convention country issues corresponding qualified certificates.

13. Where the Minister, under section 13(9) of the Act of 1949, requests the government of a country to which the Convention applies to issue in respect of a ship such certificates as he is authorised to issue under section 7(2), section 8(2) or section 9(2) of that Act or under section 3(2)(*a*) of this Act, and that government is willing to issue, in pursuance of that request, a qualified certificate thereunder but is not willing to issue the corresponding exemption certificate, the Minister may issue that exemption certificate in respect of the ship.

Modification of s. 29 of Act of 1949.

15. Section 29(1) of the Act of 1949 (which exempts certain ships from certain provisions) shall not prevent the application—

(*a*) to any ship of three hundred tons gross tonnage or upwards, of so much of the provisions mentioned in paragraphs (*a*) and (*b*) of that subsection as relates to certificates issued under section 9 of that Act or equivalent accepted Safety Convention certificates;

(*b*) to any ship to which section 2 of this Act applies and which is registered in Bermuda, of so much of the provisions mentioned in paragraph (*a*) of that subsection as relates to certificates issued under section 3 of this Act,

by reason only that she is of less than five hundred tons gross tonnage.

Extension of duty to report dangers to navigation.

16. The matters of which information is to be sent by the master of a ship in accordance with rules under section 24 of the Merchant Shipping (Safety and Load Line Conventions) Act 1932 as in force in Bermuda shall include—

(*a*) air temperatures below freezing point associated with gale force winds causing severe ice accretion on the superstructure of ships; and

(*b*) winds of force 10 or above on the Beaufort Scale for which no storm warning has been received.

Supplementary

Transitional provisions.

18.—(1) Nothing in section 5 of this Act shall prohibit a ship which is registered in Bermuda from proceeding to sea without such a certificate as is required, or is equivalent to one required, under the said section 5, until the expiry of six months from the commencement of the Order of Her Majesty in Council extending this Act to Bermuda.

(2) Nothing in section 15(*a*) of this Act, or section 12(1)(*b*)(ii) or section 17(1) of the Act of 1949, shall prohibit a ship of less than five hundred tons gross tonnage from proceeding to sea without such a certificate as is required, or is equivalent to one required, under the said section 12(1)(*b*)(ii) until the expiry of six months from the commencement of the said Order.

Construction.

19.—(2) Except so far as the context otherwise requires, this Act shall be construed as one with the Merchant Shipping Acts 1894 to 1958 as in force in Bermuda, and, without prejudice to the generality of this provision, references in those Acts as so in force to the Merchant Shipping Acts shall be construed as including references to this Act.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order extends to Bermuda the provisions of the Merchant Shipping (Safety and Load Line Conventions) Act 1932, the Merchant Shipping (Safety Convention) Act 1949 and the Merchant Shipping Act 1964, subject in each case to a number of modifications and exceptions, enabling effect to be given to the International Convention for the Safety of Life at Sea 1960 (Cmnd. 2812). In particular these include provisions which empower the making of certain rules in connexion with cargo ship construction and survey, radio and navigation equipment and to require such ships to have appropriate safety construction and radio equipment certificates. The Acts, as extended to Bermuda are set out in Schedules I, II and III respectively to this Order.

SI 1973/1315
ISBN 0-11-031315-1

