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# Merchant Shipping Act, 1992



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*Number 2 of 1992*

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## MERCHANT SHIPPING ACT, 1992

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1946, No. 9

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Merchant Shipping Act, 1894	1894, c. 60
Merchant Shipping Act, 1906	1906, c. 48
<a href="#">Merchant Shipping Act, 1947</a>	1947, No. 46
<a href="#">Merchant Shipping (Safety Convention) Act, 1952</a>	1952, No. 4
<a href="#">Merchant Shipping Act, 1966</a>	1966, No. 29
<a href="#">Merchant Shipping (Certification of Seamen) Act, 1979</a>	1979, No. 37
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Public Health Acts Amendment Act, 1907	1907, c. 53
Public Offices Fees Act, 1879	1879, c. 58



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*Number 2 of 1992*

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## **MERCHANT SHIPPING ACT, 1992**

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AN ACT TO MAKE FURTHER PROVISION IN RELATION TO THE SAFETY OF PASSENGER SHIPS, PASSENGER BOATS, FISHING VESSELS AND PLEASURE CRAFT, TO AMEND THE MERCHANT SHIPPING ACTS, 1894 TO 1983, AND TO PROVIDE FOR RELATED MATTERS. [11th March, 1992]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

### **PART I**

#### **Preliminary and General**

Short title,  
commencement,  
construction and  
collective citation.

1.—(1) This Act may be cited as the Merchant Shipping Act, 1992.

(2) This Act shall come into operation on such day or days as, by order or orders made by the Minister under this section, may be fixed therefor either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions.

(3) This Act shall be construed as one with the Merchant Shipping Acts, 1894 to 1983, and may be cited together therewith as the Merchant Shipping Acts, 1894 to 1992.

Interpretation.

2.—(1) In this Act, save where the context otherwise requires—

“*authorised officer*” means—

- (a) any person authorised in writing by the Minister to exercise the powers conferred on an authorised officer by this Act,
- (b) a person holding commissioned naval rank in the Permanent Defence Forces, while in uniform,
- (c) a member of the Garda Síochána, while in uniform, or
- (d) as respects the harbour of which he is the harbour master, a person appointed to be a harbour master by one of the following, that is to say:
  - (i) a harbour authority within the meaning of the [Harbours Act, 1946](#) ,
  - (ii) the Commissioners of Public Works in Ireland,
  - (iii) the Minister for the Marine,
  - (iv) a local authority, and
  - (v) Iarnród Éireann—Irish Rail;

“*authorised person*” means a surveyor or a person authorised in writing by the Minister to carry out inspections of vessels for the purposes of [Part III](#) ;

“*certificate*” means a passenger ship's certificate issued under [section 8](#) and in force and cognate

words shall be construed accordingly;

“*fishing vessel*” means a vessel (other than a vessel registered outside the State) used for sea-fishing or for angling in the sea or in fresh water other than such a vessel so used otherwise than for profit;

“*licence*” means a passenger boat licence granted under [section 15](#) and in force and cognate words shall be construed accordingly;

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

“*the Minister*” means the Minister for the Marine;

“*owner*”, in relation to a vessel, means the person registered under the [Mercantile Marine Act, 1955](#), as its owner or, if no person is so registered, the person who owns the vessel, and includes any part owner, charterer, manager or operator of the vessel;

“*passenger*” means any person carried on a vessel other than—

- (a) the owner or a person to whom the vessel is on hire or a person employed or engaged in any capacity on board the vessel on the business of the vessel, or
- (b) a person on board the vessel either in pursuance of the obligation laid upon the master of the vessel to carry shipwrecked, distressed or other persons or by reason of any circumstances that could not have been prevented or forestalled by the master or the owner of the vessel;

“*passenger boat*” means—

- (a) a vessel carrying not more than 12 passengers for reward or having on board for the purposes of carriage for reward not more than 12 passengers, or
- (b) a vessel that is carrying not more than 12 passengers, or has on board for the purposes of carriage not more than 12 passengers, and is on hire pursuant to a contract or other arrangement under which a crew or part of a crew is provided for the vessel by its owner,

and includes a vessel carrying not more than 12 persons to or from their place of work, or having on board not more than 12 persons for the purposes of such carriage, and owned by or on hire to their employer and a vessel registered outside the State and carrying not more than 12 passengers between places in the State, or having on board not more than 12 passengers for the purposes of such carriage, but does not include such a vessel carrying passengers to or from the State or having on board passengers for the purposes of such carriage, a fishing vessel, a ferry boat working in chains or a vessel in respect of which a certificate is in force;

“*passenger ship*” means a vessel carrying more than 12 passengers or having on board more than 12 passengers for the purposes of carriage and includes a vessel carrying more than 12 persons to or from their place of work, or having on board more than 12 persons for the purposes of such carriage, and owned by or on hire to their employer and a vessel registered outside the State and carrying more than 12 passengers between places in the State, or having on board more than 12 passengers for the purposes of such carriage, but does not include such a vessel carrying passengers to or from the State or having passengers on board for the purposes of such carriage, a fishing vessel or a ferry boat working in chains;

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

“*the Principal Act*” means the Merchant Shipping Act, 1894;

“*radio surveyor*” means a radio surveyor within the meaning of [section 16](#) of the [Merchant Shipping \(Safety Convention\) Act, 1952](#) ;

“*registered*” means registered under the Merchant Shipping Acts, 1894 to 1983;

“*skipper*”, in relation to a fishing vessel, means the person having for the time being the command or charge of the vessel;

“*surveyor*” means a person appointed under section 724 of the Principal Act to be a surveyor of ships for the purposes of that Act;

“*vessel*” includes any ship or boat and any other vessel used in navigation.

(2) In this Act—

(a) a reference to a Part or section is a reference to a Part or section of this Act, unless it is indicated that reference to some other enactment is intended,

(b) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended, and

(c) a reference to an enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment including this Act.

Laying of regulations  
before Houses of  
Oireachtas.

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

Repeals. 4.—(1) Each enactment mentioned in *column (2)* of the *Schedule* to this Act is hereby repealed to the extent specified in *column (3)* of that Schedule.

(2) All instruments or documents (other than licences under section 94 of the Public Health Acts Amendment Act, 1907, for pleasure boats or pleasure vessels to be used for carrying passengers for hire) made, issued or granted under a provision of the enactments repealed by this section and in force immediately before the commencement of the corresponding provision of this Act shall continue in force after such commencement as if made or issued under the said corresponding provision and may be amended or revoked accordingly.

Expenses. 5.—The expenses of the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of monies provided by the Oireachtas.

## PART II

### Passenger Ships

Annual survey. 6.—(1) A vessel being used as a passenger ship shall be surveyed at least once in each year in accordance with this Part.

(2) If, in respect of a vessel, there is a failure or refusal to comply with *subsection (1)*, the owner of the vessel shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both, or

(b) on conviction on indictment, to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 2 years or to both.

Mode of survey and declaration of survey for purposes of issue of passenger ship's certificate. 7.—The survey of a vessel for the purposes of this Part shall be carried out by a surveyor and, if the vessel is required to be provided with a radiotelegraph or radiotelephone installation, by a radio surveyor, and the surveyor or each surveyor, if satisfied on the survey that it is proper to do so, shall deliver to the owner a declaration (in this Part referred to as “*a declaration of survey*”) in such form, and containing statements in relation to such matters concerning the vessel and disclosed by the survey as may be prescribed.

Issue of passenger ship's certificate. 8.—(1) On the receipt of a declaration of survey in relation to a survey carried out not more than 2 months before the date of such receipt, the Minister, if he is satisfied that this Part has been complied with, shall, subject to *subsection (4)*, issue to the owner of the vessel concerned a certificate in relation to the vessel (which shall be known as a passenger ship's certificate and is referred to in this Act as “*a certificate*”) stating such compliance and containing requirements, in accordance with the declarations in the declaration of survey delivered by the surveyor concerned, as to—

(a) the limits (if any) beyond which the vessel shall not ply,



(b) the maximum number of passengers that the vessel shall carry (specifying, if necessary, the numbers to be carried in different parts of the vessel) and any conditions and variations to which the number is subject.

(2) A certificate shall be subject to such conditions and restrictions (if any) as the Minister may impose, at the time of the grant of the certificate or subsequently, and any such conditions or restrictions shall be specified in the certificate or in another document given or sent to the holder of the certificate by the Minister.

(3) A certificate shall, unless previously revoked or suspended, remain in force for one year or for such period, being less than one year, as may be specified in the certificate and shall then expire.

(4) Subject to the provisions of this section, a certificate shall be in such form as the Minister may determine.

(5) Notwithstanding anything contained in a declaration of survey, if the owner of the vessel concerned has been convicted of—

(a) an offence under *subsection (6) (c)*, or

(b) any other offence that, in the opinion of the Minister, is of such a nature that, in the interests of safety, the person should not be the holder of a certificate in relation to the vessel,

the Minister may refuse to grant a certificate in relation to the vessel to the person.

(6) If in respect of a vessel there is a failure or refusal to comply with a condition, restriction or requirement specified in the certificate relating to it, the owner (or, if the vessel is on hire, the person to whom it is on hire) and the master shall each be guilty of an offence and shall each be liable—

(a) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both, or

(b) on conviction on indictment of an offence consisting of a failure or refusal to comply with a condition or restriction specified in the certificate, to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 2 years or to both, or

(c) on conviction on indictment of an offence consisting of a failure or refusal to comply with a requirement specified in the certificate, to a fine not exceeding £100,000 or to imprisonment for a term not exceeding 2 years or to both.

- (a) a declaration of survey on which a certificate was founded was in any material particular made erroneously,
- (b) information furnished to the Minister in relation to the issue of a certificate was false or misleading in a material particular, or
- (c) since the making of such a declaration as aforesaid, the hull, equipment or machinery of the vessel concerned has suffered any damage or the vessel has become unsuitable for the carriage of passengers or for the carriage of the maximum number of passengers specified in the certificate or for plying to the limits so specified,

he may, if he considers it appropriate to do so, revoke the certificate.

(2) The Minister may, if he considers it appropriate to do so, revoke or suspend a certificate if there is a failure or refusal to comply with a condition, restriction or requirement specified in the certificate.

(3) If a certificate is suspended, the Minister may, if he so thinks fit, refuse to remove the suspension unless the vessel concerned has been surveyed and a declaration of survey in respect of it has been delivered to its owner since the suspension.

Display of  
certificate.

**10.**—(1) Whenever a certificate is in force in relation to a vessel, the certificate or a copy thereof, shall be displayed in the vessel in a position in which it is visible to and legible by all persons on board.

(2) (a) If, without reasonable cause, there is a contravention of *subsection (1)* in respect of a vessel, the owner of the vessel shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500.

(b) If a vessel is being used as a passenger ship and there is, without reasonable cause, a contravention of *subsection (1)* in respect of the vessel, the owner and the master of the vessel shall each be guilty of an offence and shall each be liable on summary conviction to a fine not exceeding £1,000.

False declaration of  
survey or certificate.

**11.**—(1) A person shall not knowingly and wilfully make or assist in making, or procure the making of, a false or fraudulent declaration of survey or certificate or a fraudulent alteration of a declaration of survey or certificate.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both, or

(b) on conviction on indictment, to a fine not exceeding £10,000 or to imprisonment for a term not exceeding 2 years or to both.

Uncertificated  
passenger ship.

**12.**—(1) A vessel shall not be used as a passenger ship unless a certificate is in force in relation to it.

(2) If in respect of a vessel there is a contravention of *subsection (1)*, the owner and the master of the vessel shall each be guilty of an offence and shall each be liable—

(a) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both, or

(b) on conviction on indictment, to a fine not exceeding £100,000 or to imprisonment for a term not exceeding 2 years or to both.

Insurance of  
passenger ships.

**13.**—(1) A vessel shall not be used as a passenger ship unless there is in force a policy of insurance under which the owner of the vessel or, if the vessel is on hire, the person to whom it is on hire is insured against any sum which he or his personal representative may become liable to pay by way of compensation, damages or costs in respect of injury, loss or damage to a passenger or property on the vessel, or to a person or property not on the vessel, caused by or arising out of the operation of the vessel.

(2) Whenever a person enters into a contract of insurance for the purposes of *subsection (1)* with the owner or the hirer of a vessel, the person shall give to the owner or the hirer, as the case may be, a certificate in relation to the policy in such form and containing such particulars as may be prescribed and—

(a) the owner or the hirer, as the case may be, shall cause a copy of the certificate to be given or sent by registered post to the Minister, and

(b) the certificate or a copy thereof shall be displayed on the vessel while the vessel is in use as a passenger ship so as to be visible to and legible by all persons on board.

(3) (a) If in respect of a vessel there is a contravention of *subsection (1)*, the owner of the vessel or, if the vessel is on hire, the person to whom it is on hire shall be guilty of an offence and shall be liable—

(i) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both, or

(ii) on conviction on indictment, to a fine not exceeding £100,000 or to imprisonment for a term not exceeding 2 years or to both.

(b) If in respect of a vessel there is, without reasonable cause, a contravention of *subsection (2)* (a), the owner or, if the vessel is on hire, the person to whom it is on hire shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500.

- (c) If in respect of a vessel there is, without reasonable cause, a contravention of *subsection (2) (b)*, the owner (or, if the vessel is on hire, the person to whom it is on hire) and the master of the vessel shall each be guilty of an offence and shall each be liable on summary conviction to a fine not exceeding £1,000.

### PART III

#### Passenger Boats

Prohibition of  
unlicensed  
passenger boats.

**14.—(1)** A vessel shall not be used as a passenger boat unless a licence is in force in relation to it.

(2) If in respect of a vessel there is a contravention of *subsection (1)*, the owner and the master of the vessel shall each be guilty of an offence and shall each be liable—

(a) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both, or

(b) on conviction on indictment, to a fine not exceeding £5,000 or to imprisonment for a term not exceeding 2 years or to both.

Passenger boat  
licences.

**15.—(1)** On application to the Minister in that behalf by the owner of a vessel, the Minister shall, subject to *subsection (5)*, grant a licence to the owner in relation to the vessel (which shall be known as a passenger boat licence and is referred to in this Act as “*a licence*”) if, but only if, an authorised person has inspected the vessel not more than 2 months before the date of the application and has stated in a report of the inspection to the Minister in writing that, in his opinion—

(a) the vessel is suitable, subject to such conditions and restrictions (if any) as he may specify, for use as a passenger boat, and

(b) if regulations under [section 18](#) are in force, that it complies with the regulations.

(2) A licence shall contain requirements as to—

(a) the limits (if any) beyond which the vessel shall not ply, and

(b) the maximum number of persons that the vessel concerned is fit to carry.

(3) A licence shall be subject to such conditions and restrictions (if any) as the Minister may impose, at the time of the grant of the licence or subsequently, and any such conditions or restrictions shall be specified in the licence or in another document given or sent to the holder of the licence by the Minister.

(4) Subject to the provisions of this section, a licence shall be in such form as the Minister may determine.

(5) A licence shall, unless previously revoked or suspended, remain in force for such period not exceeding 2 years as the Minister may determine and specify in the licence.

(6) Notwithstanding anything contained in a report for the purposes of *subsection (1)*, if the owner of the vessel concerned has been convicted of—

(a) an offence under *subsection (7) (c)*, or

(b) any other offence that, in the opinion of the Minister, is of such a nature that, in the interests of safety, the person should not be the holder of a licence in relation to the vessel,

the Minister may refuse to grant a licence in relation to the vessel to the person.

(7) If in respect of a vessel there is a failure or refusal to comply with a condition, restriction or requirement specified in the licence relating to it, the owner (or, if the vessel is on hire, the person to whom it is on hire) and the master shall each be guilty of an offence and shall be liable—

(a) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both, or

(b) on conviction on indictment of an offence consisting of a failure or refusal to comply with a condition or restriction specified in the licence, to a fine not exceeding £5,000 or to imprisonment for a term not exceeding 2 years or to both, or

(c) on conviction on indictment of an offence consisting of a failure or refusal to comply with a requirement specified in the licence, to a fine not exceeding £50,000 or to imprisonment for a term not exceeding 2 years or to both.

Revocation and  
suspension of  
licences.

**16.—(1)** If the Minister is satisfied that—

(a) the report of an authorised person furnished to the Minister for the purpose of the grant of a licence was in any material particular made erroneously,

(b) information furnished to the Minister in relation to the grant of a licence was false or misleading in a material particular, or

(c) since the furnishing of such a report as aforesaid to the Minister, the hull, equipment or machinery of the vessel concerned has suffered any damage or the vessel has become

unsuitable for the carriage of passengers or for the carriage of the maximum number of passengers specified in the licence or for plying to the limits so specified,

he may, if he considers it appropriate to do so, revoke the licence.

(2) The Minister may, if he considers it appropriate to do so, revoke or suspend a licence if there is a failure or refusal to comply with a condition, restriction or requirement specified in the licence.

(3) If a licence is suspended, the Minister may, if he so thinks fit, refuse to remove the suspension unless an authorised person has inspected the vessel concerned since the suspension and has stated in a report of the inspection to the Minister in writing that, in his opinion—

- (a) the vessel is suitable, subject to such conditions and restrictions (if any) as he may specify, for use for hiring or for the carriage of passengers, and
- (b) if regulations under [section 18](#) are in force, it complies with the regulations.

Production of  
licences and marking  
of passenger boats.

**17.—(1)** (a) An authorised officer may request the master of a passenger boat to produce—

- (i) the licence in respect of the boat or a copy thereof, or
  - (ii) proof of compliance in relation to the boat with any regulations under [section 18](#) (2) (d), or both and, if the master fails or refuses to do so forthwith, he shall be guilty of an offence unless, within 10 days after the date of the request, he produces the licence or copy or, as the case may be, the proof in person to an authorised officer at a place specified by the authorised officer at the time of the request or to a member of the Garda Síochána at a Garda Síochána station so specified.
- (b) In a prosecution for an offence under this subsection, it shall be presumed, unless the contrary is shown by the defendant, that he did not within 10 days after the date of the request concerned produce a licence or copy, or, as the case may be, the proof referred to in *paragraph (a)*, in accordance with that paragraph.
- (c) A person who, when the production of a licence or a copy of a licence or the proof aforesaid is requested of him under this section, does not produce the licence or copy or, as the case may be, the proof aforesaid because a licence was not in force at the time of the request in respect of the passenger boat concerned or does not produce such proof because of non-compliance in respect of the passenger boat concerned with regulations under [section 18](#) (2) (d) shall be deemed, for the purposes of *paragraph (a)*, to fail to produce the licence or a copy thereof or, as the case may be, the proof aforesaid.

(2) A vessel shall not be used as a passenger boat unless there is painted on the outside of each side of the vessel above the waterline, in a colour contrasting with that of the outside of the vessel and in

letters and figures that are not less than 3 centimetres in height and are formed by lines that are not less than one-half centimetre in width—

- (a) the first name and the surname of the owner of the vessel, the serial number of the licence in relation to the vessel, and
  - (b) an indication, in the form “licensed to carry.....passengers” or in the form “ceadúnaithe chun.....paisinéirí a iompar”, that the vessel is the subject of a licence and of the maximum number of passengers whose carriage in the vessel is authorised by the licence.
- (3) (a) A person guilty of an offence under *subsection (1) (a)* shall be liable, on summary conviction, to a fine not exceeding £200.
- (b) If in relation to a vessel there is a contravention of *subsection (2)*, the owner and the master of the vessel shall each be guilty of an offence and shall each be liable on summary conviction to a fine not exceeding £500.

Safety of passenger boats and their passengers and crews.

**18.**—(1) The Minister may by regulations make such provision as he considers necessary or expedient for the purpose of ensuring the safety of passenger boats and their passengers and crews.

- (2) Without prejudice to the generality of *subsection (1)*, regulations under *subsection (1)* may—
- (a) require passenger boats to comply with specified standards of seaworthiness (including stability),
  - (b) require passenger boats to comply with specified standards of construction and maintenance,
  - (c) require specified classes of passenger boats to carry one or more of the following, that is to say, specified life-saving, fire-fighting, radio and navigation equipment,
  - (d) prohibit the having on board or the carriage of passengers by vessels, or specified classes of vessels, the subject of licences unless there are in force policies of insurance under which the owners of the vessels or, if the vessels are on hire, the persons to whom they are on hire are insured to a specified extent against specified risks, and
  - (e) make provision for ascertaining and testing the standards of competence of masters and of any other members of the crews of vessels the subject of licences, whether by examination, interview or otherwise, and the prohibition of those who do not reach such standards of competence as the Minister considers appropriate from working as masters or, as the case may be, other members of the crews of such vessels and the prohibition of owners of such vessels from employing as captains or other members of the crews of the vessels those who do not reach such standards as aforesaid.

(3) Regulations under this section may make provision for such consequential, incidental, ancillary and supplementary matters (including, with the consent of the Minister for Finance, the charging of fees) as the Minister considers necessary or expedient.

(4) Different provision may be made in regulations under this section for different classes of passenger boats.

(5) (a) If in respect of a vessel there is a contravention of a regulation under this section (other than *subsection (2) (d)*), the owner and the master of the vessel shall each be guilty of an offence and shall each be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both.

(b) If, in respect of a vessel, there is a contravention of a regulation under *subsection (2) (d)*, the owner of the vessel (or, if the vessel is on hire, the person to whom it is on hire) and the master of the vessel shall each be guilty of an offence and shall each be liable—

(i) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both, or

(ii) on conviction on indictment, to a fine not exceeding £50,000 or to imprisonment for a term not exceeding 2 years or to both.

#### PART IV

##### Miscellaneous

Safety of fishing vessels and their crews.

**19.**—(1) The Minister may by regulations make such provision as he considers necessary or expedient for the purpose of ensuring the safety of fishing vessels and their crews.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may—

(a) require fishing vessels or specified classes of fishing vessels to comply with specified standards of seaworthiness (including stability),

(b) require fishing vessels or specified classes of fishing vessels to comply with specified standards of construction and maintenance,

(c) require fishing vessels or specified classes of fishing vessels to carry one or more of the following, that is to say, specified life-saving, fire-fighting, radio and navigation equipment,

(d) make provision for periodic surveys of fishing vessels or specified classes of fishing vessels and their equipment and the prohibition of the use for fishing of fishing vessels that have not been surveyed in accordance with the regulations or that, following such a survey, are



declared by the person who carried it out to be unsafe for use for fishing, angling in the sea or angling in fresh water, and for appeals against such declarations and against other findings of such surveys, and

- (e) make provision for ascertaining and testing the standards of competence of skippers and of any other members of the crews of fishing vessels or specified classes of fishing vessels, whether by examination, interview or otherwise, and the prohibition of those who do not reach such standards of competence as the Minister considers appropriate from working as skippers or, as the case may be, other members of the crews of such vessels and the prohibition of owners of such vessels from employing as skippers or other members of the crews of such vessels those who do not reach such standards as aforesaid.

(3) Regulations under this section may make provision for such consequential, incidental, ancillary and supplementary matters (including the enforcement of the regulations and, with the consent of the Minister for Finance, the charging of fees by the Minister) as the Minister considers necessary or expedient.

(4) Different provision may be made in regulations under this section for different classes of fishing vessels.

(5) If in respect of a fishing vessel there is a contravention of a regulation under this section, the owner and, if the vessel is in use for fishing, the skipper of the vessel shall each be guilty of an offence and shall each be liable—

- (a) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both, or
- (b) on conviction on indictment, to a fine not exceeding £5,000 or to imprisonment for a term not exceeding 2 years or to both.

Safety of pleasure craft and their occupants.

**20.**—(1) The Minister may by regulations make such provision as he considers necessary or expedient for the purpose of ensuring the safety of pleasure craft and their occupants.

(2) Without prejudice to the generality of *subsection (1)*, regulations under *subsection (1)* may—

- (a) require pleasure craft or specified classes of pleasure craft to comply with specified standards of seaworthiness (including stability),
- (b) require pleasure craft or specified classes of pleasure craft to comply with specified standards of construction and maintenance,
- (c) require pleasure craft or specified classes of pleasure craft to carry specified life-saving, fire-fighting, radio and navigation equipment, and

- (d) make provision for periodic survey of specified classes of pleasure craft and their appliances and equipment and the prohibition of the use of specified classes of pleasure craft that have not been surveyed in accordance with regulations or that, following such a survey, are declared by the person who carried it out to be unsafe for use and for appeals against such declarations or against other findings of such surveys.

(3) Regulations under this section may make provision for such consequential, incidental, ancillary and supplementary matters (including the enforcement of the regulations and, with the consent of the Minister for Finance, the charging of fees by the Minister) as the Minister considers necessary or expedient.

(4) Different provision may be made in regulations under this section for different classes of pleasure craft.

(5) If in respect of a pleasure craft there is a contravention of a regulation under this section, the owner and (if the craft is in use) the master of the craft shall each be guilty of an offence and shall each be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both.

(6) In this section “*pleasure craft*” means vessels used otherwise than for profit and used wholly or mainly for sport or recreation but includes mechanically propelled vessels that are on hire pursuant to contracts or other arrangements that do not require the owners of the vessels to provide crews or parts of crews for them.

Appeal to District Court.

**21.—**(1) The owner of a vessel may appeal to the District Court against—

- (a) a declaration in a declaration of survey,
- (b) the refusal by a surveyor of ships or a radio surveyor to deliver a declaration of survey to the owner in respect of the vessel,
- (c) the revocation or suspension of a certificate in respect of the vessel by the Minister,
- (d) the refusal by the Minister to grant a certificate or a licence in respect of the vessel,
- (e) a condition, restriction or requirement specified in a certificate or licence, or
- (f) the revocation or suspension of a licence in respect of the vessel by the Minister.

(2) The jurisdiction conferred on the District Court by this section shall be exercised by the judges for the time being assigned to the district court district in which the vessel concerned is lying or where the owner concerned ordinarily resides or carries on any profession, business or occupation.

Forfeiture.

**22.**—(1) Where the owner of, or of a share in, a vessel is convicted on indictment of an offence referred to in [section 8 \(6\) \(c\)](#) or [15 \(7\) \(c\)](#) or an offence under [section 12 \(2\)](#), [13 \(3\) \(a\)](#) or [18 \(5\) \(b\)](#) and the person has been convicted previously of any of those offences, the court concerned may, in addition to or instead of any penalty that it may impose under the provision concerned, order the vessel with its equipment, fittings and furnishings, or the appropriate share thereof, to be and to be adjudged forfeited to the State and may make such other orders as it considers necessary or expedient for the purpose of giving effect to the forfeiture.

(2) Whenever an order is made under this section, an authorised officer may, for the purpose of giving effect thereto—

(a) seize and detain the vessel concerned, and

(b) do such other things as are authorised by the order or are necessary for the purpose aforesaid.

Conduct endangering vessels, structures or individuals.

**23.**—(1) This section applies to—

(a) the master of, or any seaman employed in, a vessel registered in the State, and

(b) the master of, or any seaman employed in, a vessel registered outside the State while in a port, harbour or other place in the State or within the territorial seas while proceeding to or from any such port or harbour or place.

(2) If a person to whom this section applies, while on board his vessel or in its immediate vicinity—

(a) does any act which causes or is likely to cause—

(i) the loss or destruction of or serious damage to his vessel or its machinery, navigation equipment or safety equipment,

(ii) the loss or destruction of or serious damage to any other vessel or any structure, or

(iii) the death of or serious injury to any person,

or

(b) omits to do anything required—

(i) to preserve his vessel or its machinery, navigation equipment or safety equipment from being lost, destroyed or seriously damaged,

- (ii) to preserve any person on board his vessel from death or serious injury, or
- (iii) to prevent his vessel from causing the loss or destruction of or serious damage to any other vessel or any structure, or the death of or serious injury to any person not on board his vessel,

and the act or omission was deliberate or amounted to a breach or neglect of duty or the person to whom this section applies was under the influence of alcohol or any other drug at the time of the act or omission, that person shall, subject to *subsection (4)*, be guilty of an offence.

(3) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months or to both, and
- (b) on conviction on indictment, to a fine not exceeding £5,000 or to imprisonment for a term not exceeding 2 years or to both.

(4) In proceedings for an offence under this section it shall be a defence to prove—

- (a) that the accused person could have avoided committing the offence only by disobeying a lawful command, or
- (b) that in all the circumstances the loss, destruction, damage, death or injury in question or, as the case may be, the likelihood of its being caused either could not reasonably have been foreseen by the accused person or could not reasonably have been avoided by him, or
- (c) if the act or omission alleged against the accused person constituted a breach or neglect of duty, the accused person took all reasonable steps to discharge that duty.

(5) In this section—

“*breach or neglect of duty*”, except in relation to a master, includes any disobedience to a lawful command;

“*duty*”—

- (a) in relation to a master or a seaman, means any duty falling to be discharged by him in his capacity as such, and

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 (b) in relation to a master, includes his duty with respect to the good management of his vessel and his duty with respect to the safety of operation of his vessel, its machinery and equipment;

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