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**PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF**   
**SRI LANKA**

*————————*

**MERCHANT SHIPPING (AMENDMENT)**

**A**

**BILL**

**to amend the Merchant Shipping Act, No. 52 of 1971**

*——————*

*Presented by the Minister of Ports & Shipping and*   
*Southern Development on 01st of August, 2019*

(Published in the Gazette on July 01, 2019)

*Ordered by Parliament to be printed*

*————————*

**[Bill No. 290]**

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*STATEMENT OF LEGAL EFFECT*

*Clause 2* : This clause amends section 138 of the Merchant Shipping Act, No. 52 of 1971 (hereinafter referred to as the “principal enactment”) and the legal effect of that section as amended will be to apply the International Convention on Safety of Life at Sea and Protocol 1988.

*Clause 3* : This clause amends section 139 of the principal enactment and the legal effect of that section as amended will be to enable the Minister to make regulations to give effect to the objectives of that Part and to increase the fine to an amount not exceeding five million rupees.

*Clause 4* : This clause amends section 143 of the principal enactment and the legal effect of that section as amended will be to provide the passenger ship to have certificates as may be prescribed and to increase the fine to an amount not exceeding one million rupees.

*Clause 5* : This clause amends section 144 of the principal enactment and the legal effect of that section as amended will be to provide the cargo ship to have certificates as may be prescribed and to increase the fine to an amount not exceeding five million rupees.

*Clause 6* : This clause amends section 152 of the principal enactment and the legal effect of that section as amended will be to increase the fine to an amount not exceeding three million rupees.

*Clause 7* : This clause amends section 155 of the principal enactment and the legal effect of that section as amended will be to increase the fine to an amount not exceeding ten million rupees.

*Clause 8* : This clause amends section 156 of the principal enactment and the legal effect of that section as amended will be to increase the fine to an amount not exceeding ten million rupees.

*Clause 9* : This clause amends section 157 of the principal enactment and the legal effect of that section as amended will be to supply information relating to the stability of the ship and to increase the fine to an amount not exceeding one million rupees.

*Clause 10* : This clause amends section 158 of the principal enactment and the legal effect of that section as amended will be to increase the fine to an amount not exceeding one million rupees.

*Clause 11* : This clause amends section 159 of the principal enactment and the legal effect of that section as amended will be to apply the International Convention on Load lines, 1966 as modified by the Protocol 1988.

*Clause 12* : This clause amends section 160 of the principal enactment and the legal effect of that section as amended will be to convert feet into metres.

*Clause 13* : This clause replaces sections 161 and 162 of the principal enactment and the legal effect of those sections as replaced will be to provide definitions for the terms of expressions “international voyage” and “new ship”.

*Clause 14* : This clause amends section 164 of the principal enactment and the legal effect of that section as amended will be to enable the Minister to make regulations relating to certain matters and to increase the fine to an amount not exceeding five million rupees.

*Clause 15* : This clause amends section 166 of the principal enactment and the legal effect of that section as amended will be to increase the fine to an amount not exceeding one million rupees.

*Clause 16* : This clause amends section 167 of the principal enactment and the legal effect of that section as amended will be to increase the fine and the additional fine to the amounts not exceeding three million rupees and one hundred thousand rupees respectively.

*Clause 17* : This clause amends section 168 of the principal enactment and the legal effect of that section as amended will be to increase the fine to an amount not exceeding one hundred thousand rupees.

*Clause 18* : This clause amends section 169 of the principal enactment and is consequential to the amendments made by clause 11.

*Clause 19* : This clause amends section 171 of the principal enactment and the legal effect of that section as amended will be to increase the fine to an amount not exceeding one hundred thousand rupees.

*Clause 20* : This clause amends section 172 of the principal enactment and the legal effect of that section as amended will be to increase the fine to an amount not exceeding fifty thousand rupees.

*Clause 21* : This clause amends section 173 of the principal enactment and is consequential to the amendments made by clause 11.

*Clause 22* : This clause amends section 174 of the principal enactment and the legal effect of that section as amended will be to increase the fine to an amount not exceeding one hundred thousand rupees.

*Clause 23* : This clause amends section 175 of the principal enactment and the legal effect of that section as amended will be to increase the fine and additional fine to the amounts not exceeding one million rupees and one hundred thousand rupees respectively.

*Clause 24* : This clause amends section 205 of the principal enactment and the legal effect of that section as amended will be to include any place in addition to any port in Sri Lanka and to increase the fine to an amount not exceeding five million rupees.

*Clause 25* : This clause amends section 207 of the principal enactment and the legal effect of that section as amended will be to detain unsafe ship for certain conditions.

*Clause 26* : This clause inserts Part VIIA to the principal enactment and the legal effect of that Part as inserted will be to prevent pollution from ships in terms of International Convention for the prevention of pollution from Ships, 1973 as modified by the Protocol 1978 and the Protocol 1997.

*Clause 27* : This clause inserts sections 321A, 321B, 321c and 321D to the principal enactment and the legal effect of those sections as inserted will be -

(*a*) to provide that the Director-General of Merchant Shipping may issue implementing standards for the compliance with the minimum standards of any Convention provided in the Act;   
(*b*) to impose and recover penalty; and

(*c*) appoint a panel of experts.

*Clause 28* : This clause inserts section 323A to the principal enactment and the legal effect of that section as inserted will be to empower the Director-General of Merchant Shipping to exempt applicability of regulations to certain ships.

*Clause 29* : This clause replaces section 330 of the principal enactment and the legal effect of those sections as replaced will be to deem the provisions of the Conventions relating to safety, load line, tonnage measurement and prevention of pollution from ships, as regulations made under this Act subject to modifications.

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| --- | --- |
| *Merchant Shipping (Amendment)* | 1 |

L.D.—O 31/2015

AN ACTTOAMENDTHE MERCHANT SHIPPING   
ACT, NO. 52 OF 1971

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :-

**1.** This Act may be cited as the Merchant Shipping Short title.

(Amendment) Act, No. of 2019.

|  |  |  |
| --- | --- | --- |
| 5 | **2.** Section 138 of the Merchant Shipping Act, No. 52 of | Amendment |
| 1971 (hereinafter referred to as the “principal enactment”) | of section |
| 138 of the |
| is hereby amended as follows:- |
| Act, No. 52 |

of 1971.

(1) by the repeal of the definition of the expression “certificate”, and the substitution therefor, of the 10 following new definitions-

““certificate” means, unless the context otherwise requires, the appropriate certificate as may be prescribed by regulations made under sections 15 143(1)(*b*), 144(1)(*b*) and 144(2)(*b*) as the case may be;

“Code” means, an instrument made mandatory   
 under the Convention;”;

|  |  |  |
| --- | --- | --- |
| 20 | (2) | by the repeal of the definition of the expression |
| “Convention”, and the substitution therefor, of the |

following new definition:-

““Convention” means, the International   
Convention for the Safety of Life at Sea

|  |  |
| --- | --- |
| 25 | 1974, Protocol of 1988 as amended from time to time and any subsequent |

amendment made to such Protocol;”;

|  |  |  |
| --- | --- | --- |
| 2 | (3) | *Merchant Shipping (Amendment)* |
| by the repeal of the definition of the expression |

“country to which the Convention applies”, and   
the substitution therefor, of the following new   
definition:-

5 “ “country to which the Convention applies” means, a country which is a contracting Government to the Convention;”;

(4) by the repeal of the definition of the expression “international voyage”, and the substitution 10 therefor, of the following new definition-

“ “international voyage” means, a voyage between-

(*a*) a port or place in Sri Lanka and a port or   
 place outside Sri Lanka; or

|  |  |
| --- | --- |
| 15 | (*b*) a port or place in a country to which the Convention applies (other than Sri Lanka) |

and a port or place in any other country or   
territory which is outside Sri Lanka.”.

|  |  |  |  |
| --- | --- | --- | --- |
| 20 | **3.** Section 139 of the principal enactment is hereby | | Amendment |
| amended as follows:- | | of section |
| 139 of the |
| (1) | by the repeal of subsection (1) thereof and the | principal |
| enactment. |
| substitution therefor, of the following– | |

“(1) The Minister may make such regulations   
as he considers necessary or expedient to give

|  |  |
| --- | --- |
| 25 | effect to and for the better carrying out of the objectives and purposes of this part and to provide |

generally for safety at sea and for carrying out the Convention, Codes, any Annexes thereto and any amendments or replacements of such Convention, Codes and Annexes and for ships which the 30 Convention does not apply and without prejudice to the generality of such powers, may make regulations making provision for-

*Merchant Shipping (Amendment)*  3

(*a*) inspection and survey of ships, surveys of life-saving appliances and other equipment of ships, surveys of radio installation of ships, surveys of 5 structure, machinery, equipment and other installations of ships;

(*b*) maintenance of condition after   
 survey;

(*c*) issue or endorsement of certificates 10 and their availability, acceptance and qualification;

(*d*) forms of certificates and records of   
 equipment;

(*e*) duration and validity of certificates 15 issued by Sri Lanka or issued by countries to which the Convention applies;

(*f*) control of ships when in a port or place   
 in Sri Lanka;

20 (*g*) safety investigation of marine casualties and marine incidents;

(*h*) the construction-structure, subdivision and stability of ships, their equipment, machinery and 25 electrical installations, fire protection, fire detection and fire extinction in passenger and cargo ships, the general fire precautions to be taken on such ships and special fire safety measures 30 for passenger ships;

|  |  |  |  |
| --- | --- | --- | --- |
| 4 | *Merchant Shipping (Amendment)* | | and |
| (*i*) life-saving | appliances |

arrangements;   
(*j*) radio communications;   
(*k*) safety of navigation;

5 (*l*) carriage of cargoes and oil fuels; (*m*) carriage of dangerous goods;   
 (*n*) nuclear ships;   
 (*o*) management of safe operation of ships;   
10 (*p*) safety measures for high-speed craft; (*q*) special measures to enhance maritime safety;   
 (*r*) special measures to enhance maritime security;   
15 (*s*) additional safety measures for bulk carriers;   
 (*t*) safety measures for ships operating in Polar waters;   
 (*u*) verification of compliance;

|  |  |
| --- | --- |
| 20 | (*v*) such other matters as are to be prescribed under this part; |

(*w*) any other matters generally giving   
effect to the provisions of the

|  |  |
| --- | --- |
| 25 | Convention, Codes, any Annex thereto and any amendments of such |

Convention, Codes and Annexes.”.

*Merchant Shipping (Amendment)*  5

(2) in subsection (2) thereof, by the substitution for the   
 words “fine not exceeding one thousand rupees.”,   
 of the words “a fine not exceeding five million   
 rupees.”.

|  |  |  |  |
| --- | --- | --- | --- |
| 5 | **4.** Section 143 of the principal enactment is hereby | | Amendment |
| of section |
| amended as follows:- | |
| 143 of the |
| 10 | (1) | by the repeal of subsection (1) thereof and the | principal |
| enactment. |
| substitution therefor, of the following :– | |
| “(1) (*a*) A passenger ship shall not go to sea on a | |
| voyage to or from any port or place in Sri Lanka, or | |

a Sri Lanka passenger ship shall not perform an   
international voyage, unless there are in force   
Convention certificates prescribed by regulations.

(*b*) A passenger ship shall not perform a voyage

|  |  |
| --- | --- |
| 15 | from one port or place in Sri Lanka to another such port or place in Sri Lanka, unless there are in force |

certificates as may be prescribed by regulations.”;

(2) in subsection (2) thereof, by the substitution for the words “a fine not exceeding two hundred 20 rupees”, of the words “a fine not exceeding one million rupees”.

|  |  |  |  |
| --- | --- | --- | --- |
| 25 | **5.** Section 144 of the principal enactment is hereby | | Amendment |
| amended as follows:- | | of section |
| 144 of the |
| (1) | by the repeal of subsections (1) and (2) thereof and | principal |
| enactment. |
| the substitution therefor, of the following:– | |

“(1)(*a*) A cargo ship to which the Convention   
applies shall not go to sea on a voyage to or from   
any port or place in Sri Lanka, or a Sri Lanka cargo

|  |  |
| --- | --- |
| 30 | ship which the Convention applies shall not perform an international voyage, unless there are in force |

Convention certificates as may be prescribed by   
regulations.

6 *Merchant Shipping (Amendment)*

(*b*) A cargo ship of five hundred tons gross or   
more shall not perform a voyage from one port or   
place in Sri Lanka to another such port or place in   
Sri Lanka, unless there are in force certificates as

5 may be prescribed by regulations.

(2)(*a*) A cargo ship to which the Convention   
does not apply shall not go to sea on a voyage to or   
from any port or place in Sri Lanka, or a Sri Lanka   
cargo ship which the Convention does not apply

10 shall not perform an international voyage, unless there are in force valid certificates as may be prescribed by regulations and in the case of foreign ships, such equivalent certificates as are acceptable to the Director General of Merchant Shipping.

15 (*b*) A cargo ship of less than five hundred tons gross shall not perform a voyage from one port or place in Sri Lanka to another such port or place in Sri Lanka, unless there are in force certificates as may be prescribed by regulations.”;

|  |  |  |
| --- | --- | --- |
| 20 | (2) | in subsection (3) thereof, by the substitution for |

the words “a fine not exceeding one thousand   
rupees.”, of the words “a fine not exceeding five   
million rupees.”.

|  |  |  |
| --- | --- | --- |
| 25 | **6.** Section 152 of the principal enactment is hereby | Amendment |
| amended, in subsection (2) thereof, by the substitution for | of section |
| 152 of the |
| the words “a fine not exceeding five hundred rupees.”, of |
| principal |
| 30 | the words “a fine not exceeding three million rupees.”. | enactment. |
| **7.** Section 155 of the principal enactment is hereby | Amendment |
| amended, by the substitution for the words “a fine not | of section |
| 155 of the |
| exceeding three thousand rupees,”, of the words “a fine not |
| principal |
| exceeding ten million rupees,”. | enactment. |

|  |  |  |  |
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| 5 | *Merchant Shipping (Amendment)* | 7 | Amendment |
| **8.** Section 156 of the principal enactment is hereby | |
| of section |
| amended, by the substitution for the words “a fine not | |
| 156 of the |
| exceeding three thousand rupees,”, of the words “a fine not | |
| principal |
| exceeding ten million rupees,”. | | enactment. |
| **9.** Section 157 of the principal enactment is hereby | | Amendment |
| of section |
| amended as follows:- | |
| 157 of the |

principal

|  |  |  |
| --- | --- | --- |
| (1) | by the repeal of subsections (1) and (2) thereof and | enactment. |

the substitution therefor, of the following:-

“(1) Every ship shall be supplied with such

|  |  |
| --- | --- |
| 10 | information as prescribed by regulations as is necessary for the accurate guidance as to the |

stability of the ship under varying conditions of   
service.

(2) The information required by sub section (1)

|  |  |  |
| --- | --- | --- |
| 15 | (2) | shall be in such form as may be prescribed.”; |
| in subsection (4) thereof, by the substitution for |

the words “a fine not exceeding one thousand

rupees.”, of the words “a fine not exceeding five

million rupees.”.

|  |  |  |
| --- | --- | --- |
| 20 | **10.** Section 158 of the principal enactment is hereby | Amendment |
| amended, in subsection (2) thereof, by the substitution for | of section |
| 158 of the |
| the words “a fine not exceeding two hundred rupees.”, of the |
| principal |
| 25 | words “a fine not exceeding one million rupees.”. | enactment. |
| **11.** Section 159 of the principal enactment is hereby | Amendment |
| amended by the repeal of the definitions of the expressions | ofsection 159 |
| of the |
| “Convention certificate”, “Convention of 1966” and |
| principal |
| “Convention country”, and the substitution therefor, of the | enactment. |

following new definitions:—

8 *Merchant Shipping (Amendment)*

““Convention” means the International Convention   
on Load Lines, 1966 as modified by the protocol   
of 1988 and any subsequent amendment made to   
such Protocol;

5 “Convention certificate” means, a certificate issued in accordance with the Convention;

“Convention country” means, a country which is a   
 contracting Government to the Convention;”.

|  |  |  |  |
| --- | --- | --- | --- |
| 10 | **12.** Section 160 of the principal enactment is hereby | | Amendment |
| amended by the repeal of paragraph (*b*) thereof and the | | of section |
| 160 of the |
| substitution therefor, of the following:- | |
| principal |
| 15 | “(*b*) new ships of less than 24 metres in length;”. | | enactment. |
| Replacement |
| **13.** Sections 161 and 162 of the principal enactment are | |
| hereby repealed and the following substituted therefor:- | | of sections |
| 161 and 162 |
| “Definition of“international voyage”. | 161. In this part, “international voyage”means a voyage between- | of the |
| principal |
| enactment. |

(*a*) a port or place in Sri Lanka and a   
port or place outside Sri Lanka; or

(*b*) a port or place in a country to 20 which the Convention applies (other than Sri Lanka) and a port or place in any other country or territory which is outside Sri Lanka:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 25 | Provided, | however, | that | in |
| determining the ports between which a | | | |

voyage is made no account shall be taken of any deviation by a ship from her intended voyage which is due solely to 30 such stress of weather or such other

*Merchant Shipping (Amendment)*  9

circumstance that neither the master nor   
owner nor the charterers (if any) of the   
ship could have prevented or forestalled.

|  |  |  |
| --- | --- | --- |
| 5 | Definition of | 162. In this part, “new ship” means, a ship |
| “new ship”. | the keel of which is laid, or which is at a similar |
| stage of construction, on or after, |

(*a*) in the case of a ship registered in   
or flying the flag of a country   
which is a Convention country

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 10 | (other than Sri Lanka), the date | | | |
| from | which | the | present |

Convention has entered into force;   
and

(*b*) in the case of any other ship, the

|  |  |  |  |
| --- | --- | --- | --- |
| 15 | 25th day of January, 1972.”. | | Amendment |
| **14.** Section 164 of the principal enactment is hereby | |
| amended as follows:- | | of section |
| 164 of the |
| (1) | in subsection (1) thereof- | principal |
| enactment. |

(*a*) by the substitution for the words and figures

|  |  |
| --- | --- |
| 20 | “Convention of 1966,”, of the word“Convention,”. |

(*b*) by the repeal of paragraphs (*h*), (*i*), and (*j*) thereof   
 and the substitution therefor of the following:-

“(*h*) control of ships when in a port of Sri Lanka;

|  |  |
| --- | --- |
| 25 | (*i*) safety investigation of marine casualties and marine incidents; |

(*j*) forms of certificates;

(*k*) verification of compliance;

10 *Merchant Shipping (Amendment)*

(*l*) zones, areas and seasonal periods;

(*m*) repairs, alterations and modification;

(*n*) maintenance of condition after survey;

(*o*) the validity of certificates issued under the

|  |  |
| --- | --- |
| 5 | Convention by Governments, other than the Government of Sri Lanka; |

(*p*) such other matters as are to be prescribed under   
 this Part; and

(*q*) any other matters generally for giving effect 10 to the provisions of the Convention and any amendments of such Convention.”.

(2) in subsection (2) thereof, by the substitution for   
 the words “a fine not exceeding one thousand   
 rupees.”, of the words “a fine not exceeding five

|  |  |  |
| --- | --- | --- |
| 15 | million rupees.”. | Amendment |
| **15.** Section 166 of the principal enactment is hereby |
| 20 | of section |
| amended, in subsection (2) thereof, by the substitution for |
| 166 of the |
| the words “a fine not exceeding two hundred rupees.”, of the |
| principal |
| words “a fine not exceeding one million rupees.”. |
| enactment. |
| **16.** Section 167 of the principal enactment is hereby | Amendment |
| amended, in subsection (2) thereof, by the substitution for | of section |
| 167 of the |
| the words “a fine not exceeding five hundred rupees, and to |
| principal |
| an additional fine (not exceeding ten rupees for each |
| enactment. |

centimeter by which the load line is submerged) as the court 25 may think fit to impose.”, of the words “a fine not exceeding three million rupees, and to an additional fine (not exceeding one hundred thousand rupees for each centimeter by which the load line is submerged) as the court may think fit to

impose.”.

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| 5 | *Merchant Shipping (Amendment)* | 11 | Amendment |
| **17.** Section 168 of the principal enactment is hereby | |
| amended, by the substitution for the words “a fine not | | ofsection 168 |
| of the |
| exceeding two hundred rupees.”, of the words “a fine not | |
| principal |
| exceeding one hundred thousand rupees.”. | | enactment. |
| **18.** Section 169 of the principal enactment is hereby | | Amendment |
| amended, in paragraph (*a*) of subsection (2) thereof, by the | | of section |
| 169 of the |
| substitution for the words and figures “International Load | |
| principal |
| Line Certificate (1966);”, of the words “International Load | | enactment. |

Line Certificate;”.

|  |  |  |
| --- | --- | --- |
| 10 | **19.** Section 171 of the principal enactment is hereby | Amendment |
| 15 | amended, in subsection (3) thereof, by the substitution for | of section |
| 171 of the |
| the words “a fine not exceeding two hundred rupees.”, of the |
| principal |
| words “a fine not exceeding one hundred thousand rupees.”. |
| enactment. |
| **20.** Section 172 of the principal enactment is hereby | Amendment |
| amended, in subsection (2) thereof, by the substitution for | of section |
| 172 of the |
| the words “a fine not exceeding fifty rupees.”, of the words |
| principal |
| 20 | “a fine not exceeding fifty thousand rupees.”. | enactment. |
| **21.** Section 173 of the principal enactment is hereby | Amendment |
| of section |
| amended, by the substitution for the words and figures |
| 173 of the |
| “International Load Line Certificate (1966);”, of the words |
| principal |
| 25 | “International Load Line Certificate;”. | enactment. |
| **22.** Section 174 of the principal enactment is hereby | Amendment |
| of section |
| amended, in subsection (3) thereof, by the substitution for |
| 174 of the |
| the words “a fine not exceeding two hundred rupees.”, of the |
| principal |
| words “a fine not exceeding one hundred thousand rupees.”. | enactment. |
| Amendment |
| **23.** Section 175 of the principal enactment is hereby |
| amended, in subsection (2) thereof, by the substitution for | of section |
| 30 | 175 of the |
| the words “fine not exceeding five hundred rupees, and to |
| principal |
| an additional fine (not exceeding ten rupees for each | enactment. |
| complete centimeter whereby the load line is submerged) as |
| the court may think fit to impose.”, of the words “fine not |

12 *Merchant Shipping (Amendment)*

exceeding three million rupees, and to an additional fine (not exceeding one hundred thousand rupees for each complete centimeter whereby the load line is submerged) as the court may think fit to impose.”.

|  |  |  |
| --- | --- | --- |
| 5 | **24.** Section 205 of the principal enactment is hereby | Amendment |
| amended as follows:- | of section |
| 205 of the |
| 10 | (1) in subsection (1) thereof, by the substitution for the | principal |
| enactment. |
| words “any port in Sri Lanka”, of the words “any |
| port or place in Sri Lanka”; |
| (2) in subsection (2) thereof, by the substitution for the |
| words “any port in Sri Lanka”, of the words “any | Amendment |
| port or place in Sri Lanka”; and |
| 15 | (3) in subsection (4) thereof, by the substitution for the |
| words “a fine not exceeding three thousand ”, of |
| the words “a fine not exceeding five million”. |
| **25.** Section 207 of the principal enactment is hereby |
| 20 | amended, by the repeal of subsection (1) thereof and the | of section |
| 207 of the |
| substitution therefor, of the following:- |
| principal |
| “(1) Where any ship, being in any port or place in | enactment. |
| Sri Lanka, is found to be an unsafe ship, that is to |
| say, is, by reason of the defective condition of such | Insertion of |
| ship’s hull, equipment, machinery, under manning, |
| 25 | overloading or improper loading or any other |
| condition that is not consistent with the Conventions |
| as may be provided in this Act, unfit to proceed to |
| sea without serious damage to human life having |
| regard to the nature of the service for which such |
| 30 | ship is intended, such ship may be provisionally |
| detained for the purpose of being surveyed or |
| rectifying the defective condition and either finally |
| detained or released under section 208.”. |
| **26.** The following new Part is hereby inserted immediately |
| after PART VII of the principal enactment, and shall have | Part VIIA to |
| the principal |
| effect as PART VIIA of that enactment :- |
| enactment. |

*Merchant Shipping (Amendment)*  13

“PART VII A  
 PREVENTIONOF POLLUTIONFROM SHIPS   
Chapter 1  
 **PRELIMINARY**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 5 | Interpretation. | 215A. In this Part– | | | |
| 10 |
| “certificate” means a certificate issued | | | |
| in | accordance | with | the |
| Convention; | | | |
| “Convention” means International | | | |
| Convention for the Prevention of | | | |
| 15 | Pollution from Ships, 1973 as | | | |
| modified by the Protocol of 1978 | | | |
| and the Protocol of 1997 and any | | | |
| subsequent amendment made to | | | |
| such Protocols; | | | |

“country to which the Convention   
applies” means a country which is   
a contracting Government to the   
Convention;

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| 20  25  30  35 | “International voyage” means a voyage between– | | | | |
| (*a*) | a port or place in Sri Lanka | | | |
| and a port or place outside  Sri Lanka; or | | | | |
| (*b*) | a port or place in a country | | | |
| to which the Convention | | | | |
| applies | | (other | | than |
| Sri Lanka) and a port or  place in any other country  or territory which is outside  Sri Lanka; and  “ship” means a vessel of any type whatsoever operating in the marine | | | | |
| environment | | and | includes | |
| hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms. | | | | |

|  |  |  |  |
| --- | --- | --- | --- |
| 5 | 14 | *Merchant Shipping (Amendment)* | |
| Regulations. | 215B. The Minister may make regulations | |
| in respect of– | |
| (*a*) | any matter relating to the issuance of |
| certificates and, recognition of | |
| certificates issued under the authority | |
| of a country to which the Convention | |
| applies; | |
| (*b*) | the form of certificates to be issued |
| 10 |
| under this Part; and | |
| (*c*) | such othermatters as are to be |
| prescribed under this Part. | |

Chapter 2

**CERTIFICATE**

|  |  |  |
| --- | --- | --- |
| 15 | Prohibition on ships | 215C. (1) A ship shall not go to sea on a |
| voyage to or from any port or place in Sri Lanka |
| sailing |
| or any Sri Lanka ship shall not perform an |
| without  certificate |
| international voyage, unless there is in force |
| 20 | issued under this Part. | in respect of the ship a certificate issued under |
| this Part. |
| (2) If any ship goes or attempts to go to sea |
| 25 | Variation of | in contravention of subsection (1), the owner |
| or the master of the ship shall be guilty of an |
| offence and on conviction thereof, shall be |
| liable to imprisonment for a term not exceeding |
| one year or to a fine not exceeding one hundred |
| thousand rupees or to both such imprisonment |
| and fine. |
| 215D. In the event of any amendment or |
| 30 | certificate on | replacement of any provisions of the |
| amendment |
| Convention affecting the nature of the |
| of |
| certificate referred to in subsection (1) of section |
| Convention. |
| 215C, the Minister may by Order direct that |
| 35 | Production | such subsection shall have effect as if there |
| were substituted therefor references to such |
| other certificate, appropriate to the Convention |
| as so amended, as the Minister may by such |
| order prescribe. |
| 215E. The master of every ship shall produce |
| 40 | of certificate. | to the relevant officer, at the time a clearance |
| for the ship is demanded for voyage, the |

*Merchant Shipping (Amendment)*  15

certificate referred to in subsection (1) of section   
215C, to be in force when the ship goes to sea   
and, a clearance shall not be granted and the   
ship may be detained, until the said certificate

|  |  |  |
| --- | --- | --- |
| 5 | Survey, | is so produced. |
| 215 F. (1) The owner, the master or the agent |
| 10 | examination | of a ship requiring the issue of a certificate |
| or |
| referred to in subsection (1) of section 215C |
| investigation. |
| shall apply for the ship to be surveyed, |
| examined or investigated by the relevant |

authority to the effect that the condition of the   
ship and its equipment are in good order.

(2) The relevant authority conducting the

|  |  |
| --- | --- |
| 15 | survey, examination or investigation shall, if he is satisfied that the condition of the ship and its equipment are in good order, complete |

a declaration of survey, examination or   
investigation in a form prescribed by   
regulation.

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| --- | --- |
| 20 | (3) The declaration of survey, examination or investigation shall be sent forthwith by the |

relevant authority to the Director-General of   
Merchant Shipping.

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| 25 | Issue of | 215G. Upon receipt of the declaration of |
| certificate. | survey, examination or investigation of a ship |

referred to in section 215F, the Director-General   
of Merchant Shipping shall, if satisfied that   
the relevant provisions of this Part and the   
regulations made thereunder have been

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| --- | --- | --- | --- |
| 30 | Period of | complied with, issue such certificate to such | |
| ship. | |
| 215H. A certificate shall not remain in force– | |
| 35 | validity of | (*a*) | for longer than such period as |
| certificate. |
| may be specified in the | |
| certificate, or as may be | |

prescribed; or

16 *Merchant Shipping (Amendment)*

(*b*) after notice has been given to   
 the owner, master or agent that

|  |  |
| --- | --- |
| 5 | the Director-General of  Merchant Shipping has  cancelled the certificate under |

section 215I and shall not   
remain in force during the   
period of any suspension   
made under such section.

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| --- | --- | --- | --- | --- | --- | --- |
| 10 | Cancellation | 215I.(1) The Director-General of Merchant | | | | |
| 15 | or | Shipping may cancel or suspend a certificate | | | | |
| suspension | relating to any ship where he has reason to | | | | |
| of certificate. | believe that– | | | | |
| (*a*) | any | declaration | of | survey, |
| examination or investigation on | | | | |
| which the certificate was founded has | | | | |

been in any particular made   
fraudulently or erroneously;

|  |  |  |
| --- | --- | --- |
| 20 | (*b*) | the certificate has been issued on false |
| (*c*) | or erroneous information; or |
| since the making of the declaration of |

survey, examination or investigation,   
the condition of the ship or its

|  |  |
| --- | --- |
| 25 | equipment has sustained any damage, or is otherwise insufficient. |

(2) In every such case, the Director-General   
of Merchant Shipping may require the owner   
to have the ship again surveyed, examined or

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| --- | --- |
| 30 | investigated and to obtain a further declaration of survey, examination or investigation before the reissue of the certificate or the grant of a |

fresh one in lieu thereof.

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| 35 | Information | 215J.The Director-General of Merchant |
| relating to | Shipping shall inform the owner, master or |
| cancellation |
| agent of the ship that the certificate has been |
| or |
| suspension. | cancelled or suspended. |

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| 5 | Recognition | *Merchant Shipping (Amendment)* | 17 |
| 215K. (1) A certificate issued under the | |
| of certificate |
| authority of a country to which the Convention | |
| issued |
| applies to the effect that the condition of the | |
| outside |
| Sri Lanka. | ship and its equipment are in good order, shall | |
| be accepted by the Director-General of | |

Merchant Shipping and, regarded for all   
purposes covered by the Convention as having   
the same validity as a certificate issued by such   
country.

|  |  |
| --- | --- |
| 10 | (2) Every ship shall be required to hold the certificate referred to in subsection (1), while |

in the ports or offshore terminals under the   
jurisdiction of Sri Lanka.

(3) Where the ship does not carry a valid 15 certificate, the Director-General of Merchant Shipping shall take such steps to ensure that the ship shall not sail until it may proceed to sea without presenting an unreasonable threat of harm to the marine environment:

20 Provided, the Director-General of Merchant Shipping may grant such a ship permission to leave the port or offshore terminal for the purpose of proceeding to the nearest appropriate repair yard available.”.

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| 25 | **27.** | The following new sections are hereby inserted | Insertion of |
| immediately after section 321 of the principal enactment, | | new sections |
| 321A, 321B |
| and shall have effect as sections 321A, 321B and 321C of that | |
| and 321C in |
| enactment:– | |
| the principal |

enactment.

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| --- | --- | --- |
| 30 | “Implementing | 321A. (1) The Director General of Merchant |
| standards. | Shipping may, with the concurrence of the |

Minister issue such implementing standards   
for the compliance with the minimum technical   
standards of the provisions of any Convention   
or Protocol provided in this Act, as may be

18 *Merchant Shipping (Amendment)*

required for the implementation of the   
Provisions of this Act or regulations made   
thereunder.

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| --- | --- |
| 5 | (2) It shall be the duty of all persons in respect of whom any implementation standards |

are issued under subsection (1) to comply with   
the same.

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| --- | --- | --- |
| 10 | Imposition of | 321B. (1) Where the Director- General of |
| a penalty. | Merchant Shipping has sufficient evidence to |
| believe that any person has acted in |

contravention of the provisions of this Act or   
any regulation, rule, order or direction made   
thereunder, he may–

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| --- | --- | --- |
| 15 | (*a*) | on the recommendation of the panel |
| (*b*) | appointed under section 321D of this |
| Act; and |
| in the case of a first offender, having |

regard to the circumstances in which   
the offence was committed,

|  |  |
| --- | --- |
| 20 | if it is appropriate to impose a penalty, cause a notice to be served in a form prescribed by |

regulation on such person, requiring him to   
appear within a period of one month of the date

|  |  |
| --- | --- |
| 25 | of the receipt of such notice and show cause why a penalty should not be imposed on him. |

(2) Where the person on whom the notice is   
served admits that he acted in contravention   
of the provisions of this Act or any regulation,

|  |  |
| --- | --- |
| 30 | rule, order or direction made thereunder within a period of one month of the date of receipt of |

such notice, the Director-General of Merchant   
Shipping shall impose on that person a   
monetary penalty not exceeding one third of

|  |  |
| --- | --- |
| 35 | the maximum fine that could be imposed under this Act to which such person would be liable, |

if convicted by a court.

*Merchant Shipping (Amendment)*  19

(3) (*a*) Where the person on whom the notice   
is served, appears within a period of one month

|  |  |
| --- | --- |
| 5 | of the date of receipt of such notice and states that he has a cause to show against the imposition of the penalty, the Director-General |

of Merchant Shipping may proceed forthwith   
to hear and decide the matter.

(*b*) Where the Director-General of Merchant

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| --- | --- |
| 10 | Shipping is not satisfied with reasons given, he may after assigning reasons therefor, impose |

the penalty specified in subsection (2) of this   
section.

|  |  |
| --- | --- |
| 15 | (4) Where the Director-General of Merchant Shipping imposes a monetary penalty on any person under this section for any contravention |

of the provisions of this Act or any regulation   
made thereunder, he shall cause the decision   
in a form prescribed by regulation to be served   
on such person.

20 (5) Any person aggrieved by the decision of the Director-General of Merchant Shipping, may appeal to the Secretary of the Ministry of the Minister to whom implementation of the

|  |  |
| --- | --- |
| 25 | provisions of this Act is assigned, (hereinafter referred to as the “Secretary”) within a period |

of thirty days from the date of receipt of such   
decision made under subsection (3).

(6) The Secretary shall make a decision on   
any such appeal taking into consideration the

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| --- | --- |
| 30 | decision of the Director-General of Merchant Shipping and the circumstances in which the |

offence was committed, and may either–

(*a*) allow, alter or vary the decision of the   
 Director-General of Merchant

|  |  |
| --- | --- |
| 35 | Shipping and direct the Director-General of Merchant Shipping to act |

accordingly; or

20 *Merchant Shipping (Amendment)*

(*b*) disallow the appeal for reasons stated   
 therein.

(7) The Director-General of Merchant Shipping shall comply with any direction 5 issued to him by the Secretary within a period of fourteen days from such direction and shall communicate the direction of the Secretary to the person aggrieved by his decision.

(8) Every notice under this section shall be 10 sent under registered post, and if sent under registered post or exhibited in the last known place of abode, it shall be deemed to have been served on that person.

(9) Notwithstanding anything contained in 15 this Act, no suit or prosecution shall lie in any court regarding the same offence, where the alleged offender has admitted the commission of such offence and paid such penalty.

(10) Any person aggrieved by the decision 20 of the Secretary may prefer an appeal to the Court of Appeal within thirty days from the date of communication of such decision, on question of law.

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| --- | --- | --- |
| 25 | Recovery of | 321C. (1) Upon the lapse of one month of |
| penalty. | the decision made under subsections (4) or (10) |

of section 321B, where the person on whom such decision is made makes default in the payment of penalty, the Director-General of Merchant Shipping shall issue a Certificate in 30 a form determined by the Director-General of Merchant Shipping together with certified copy of the notice and decision served on such person to the Magistrate having jurisdiction in the division in which the violation occurred.

*Merchant Shipping (Amendment)*  21

(2) The Magistrate shall, thereupon, summon   
such person who makes default in the payment   
of penalty under subsection (1) before him to   
show cause why further proceedings for the

|  |  |
| --- | --- |
| 5 | recovery of the sum due under this Act should not be taken against him, and in default of |

sufficient cause being shown, such sum shall   
be deemed to be a fine imposed by a sentence   
of the Magistrate on such person for an offence

|  |  |
| --- | --- |
| 10 | punishable with imprisonment and the provisions of section 291 (except paragraphs |

(*a*), (*d*) and (i) of subsection (1) thereof) of the   
Code of Criminal Procedure Act, No.15 of 1979   
relating to the default of payment of a fine

|  |  |
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| 15 | imposed for such an offence shall thereupon apply and the Magistrate may make any |

direction which, by the provisions of that   
subsection, he could have made at the time of   
imposing such sentence.

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| 20 | Panel of | 321D. (1) There shall be appointed by the |
| Experts. | Director-General of Merchant Shipping in |

consultation with the Secretary a panel of   
experts consisting of five persons who have   
the knowledge and experience in the fields of

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| --- | --- |
| 25 | marine navigation, marine engineering, administration, law or accountancy. |

(2) It shall be the function of such panel of experts to make recommendations to the Director-General of Merchant Shipping on 30 circumstances under which he shall impose a monetary penalty on any person.

(3) The Minister shall pay such remuneration as he shall determine in consultation with the Minister to whom the 35 subject of Finance is assigned to members of the panel.”.

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| 5 | 22 | *Merchant Shipping (Amendment)* | | Insertion of |
| **28.** | The following new section is hereby inserted | |
| immediately after section 323 of the principal enactment, | | | new section |
| and shall have effect as section 323A of that enactment:– | | | 323A in the |
| principal |
| “Power of  exemption. | | 323A. The Director General of Merchant shipping may exempt such ship or class or | enactment. |

description of ship from any specified   
requirement contained in or prescribed in   
regulations made under this Act , if he is   
satisfied that such exemption is within the

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 10 | scope of the relevant Convention.”. | | | | | Replacement |
| **29.** | Section 330 of the principal enactment is hereby | | | |
| 15 | repealed and the following substituted therefor:– | | | | | of section |
| 330 of the |
| “Application | | | 330.Until other provision is made therefor | | principal |
| enactment. |
| of  international | | by regulations made under this Act– | | |
| conventions. | | | (*a*) | the provisions of the International |

Convention for the Safety of Life at   
Sea 1974, Protocol of 1988 as   
amended from time to time and any

|  |  |
| --- | --- |
| 20 | subsequent amendment made to such Protocol shall have effect as |

regulations made under section 139,   
and shall take effect with such   
modification as may be necessary to

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| --- | --- |
| 25 | adapt them to the circumstances of Sri Lanka; and any reference therein |

to the “Administration” shall be   
construed as a reference to the Director

|  |  |
| --- | --- |
| 30 | General of Merchant Shipping, or to such other person or officer as the Director General of Merchant |

Shipping may for such purposes   
appoint;

(*b*) the provisions of the International   
 Convention on Load Lines, 1966 as

|  |  |
| --- | --- |
| 35 | modified by the Protocol of 1988 and any subsequent amendment made to |

*Merchant Shipping (Amendment)*  23

such Protocol, shall have effect as   
regulations made under Part VI of this

|  |  |
| --- | --- |
| 5 | Act, and shall take effect with such modification as may be necessary to adapt them to the circumstances of |

Sri Lanka;

|  |  |  |
| --- | --- | --- |
| 10 | (*c*) | the provisions of the International |
| Convention on Tonnage Measurement |
| of Ships, 1969 shall have effect as |
| regulations made under section 44, |

and shall take effect with such   
modification as may be necessary to   
adapt them to the circumstances of Sri   
Lanka; and

|  |  |  |
| --- | --- | --- |
| 15 | (*d*) | the provisions of the International |

Convention for the prevention of   
pollution from ships, 1973, as   
modified by the Protocol of 1978 and   
the Protocol of 1997 and any

|  |  |
| --- | --- |
| 20 | subsequent amendment made to such Protocols shall have effect as |

regulations made under section 215B,   
and shall take effect with such

|  |  |
| --- | --- |
| 25 | modification as may be necessary to adapt them to the circumstances of |

Sri Lanka.”.

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| --- | --- | --- |
| **30.** | Notwithstanding the repeal of the definition of the | Savings. |

expression “Convention” in sections 138 and 159 of the

|  |  |
| --- | --- |
| 30 | principal enactment, every regulation made in relation to the repealed Conventions in force on the date of |

commencement of this Act, in so far as such regulation is not inconsistent with the provisions of this Act, shall be deemed to have been made under this Act.

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| 35 | **31.** | In the event of any inconsistency between the | Sinhala text |
| Sinhala and Tamil texts of this Act, the Sinhala text shall | | to prevail in |
| case of |
| prevail. | |
| inconsistency. |

|  |  |
| --- | --- |
| 24 | *Merchant Shipping (Amendment)* |

Department of Government Printing