



Number 34 of 1993

MERCHANT SHIPPING (SALVAGE AND WRECK) ACT, 1993

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MERCHANT SHIPPING (SALVAGE AND WRECK) ACT, 1993

AN ACT TO GIVE EFFECT TO THE INTERNATIONAL CON-
VENTION ON SALVAGE DONE AT LONDON ON THE
5 TWENTY-EIGHTH DAY OF APRIL, 1989, BY AMENDING
AND EXTENDING THE MERCHANT SHIPPING ACTS,
1894 TO 1992, TO FURTHER AMEND AND EXTEND
THOSE ACTS BY OTHERWISE AMENDING THE LAW
10 RELATING TO SALVAGE AND BY AMENDING, IN
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CRIMINAL PROCEEDINGS, TO PROVIDE FOR FINES
AND PENALTIES UNDER SECTIONS 729 AND 730 OF
THE MERCHANT SHIPPING ACT, 1894, IN LIEU OF THE
20 FINE PROVIDED FOR IN EACH OF THOSE SECTIONS,
TO PROVIDE FOR THE MAKING OF REGULATIONS
RELATING TO THE BURIAL OF HUMAN REMAINS AT
SEA AND TO PROVIDE FOR OTHER MATTERS CON-
NECTED WITH THE MATTERS AFORESAID.

[21st December, 1993]

25 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

PRELIMINARY AND GENERAL

- 1.—(1) This Act may be cited as the Merchant Shipping (Salvage
and Wreck) Act, 1993.
- 30 (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.
- 35 (3) This Act shall be construed as one with the Merchant Shipping
Acts, 1894 to 1992, and may be cited together therewith as the
Merchant Shipping Acts, 1894 to 1993.

Short title,
commencement,
construction and
collective citation.

[1993.] *Merchant Shipping (Salvage and Wreck) Act, 1993* [No. 34.]

Interpretation
(general).

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

“authorised officer” means any person appointed by the Minister under *section 3*;

“distress”, in relation to a vessel, includes a vessel in distress which is a wrecked or stranded vessel; 5

“functions” includes powers and duties;

“harbour” means—

(a) any harbour (whether natural or artificial), dock, pier, wharf, jetty, boatslip, offshore terminal, installation or place intended or used for the accommodation, berthing or anchorage of sea-going ships or for the shipping, unshipping or transshipping of goods, or 10

(b) any port, haven, estuary, tidal or other river or inland waterway to the extent that it is navigated or navigable by sea-going ships; 15

“harbour authority” means—

(a) in the case of a harbour to which the Harbours Act, 1946, applies, a harbour authority within the meaning of that Act,

(b) in the case of a harbour under the control of the Commissioners of Public Works in Ireland, the Commissioners, 20

(c) in the case of Dún Laoghaire Harbour or a fishery harbour centre to which the Fishery Harbour Centres Act, 1968, applies or any other harbour under the control of the Minister, the said Minister, 25

(d) in the case of a harbour under the control of a local authority, the local authority concerned,

(e) in the case of a harbour under the management of Iarnród Éireann — Irish Rail, that company, or

(f) any other person in whom is vested by or under any enactment the functions of improving, maintaining or managing a harbour; 30

“harbour-master” means—

(a) a person appointed by a harbour authority to be a harbour-master, and 35

(b) any officer or servant of a harbour authority duly authorised to discharge the functions of harbour-master;

“local authority” means a local authority for the purposes of the Local Government Act, 1941;

“master”, in relation to a vessel, means the person (excluding, where appropriate, a pilot) having, for the time being, the command or charge of the vessel; 40

“the Minister” means the Minister for the Marine;

“owner”, in relation to a vessel—

5 (a) where any such vessel is owned by the State or another state and is operated by a person who in the State or that other state is registered as the vessel’s operator, means the person so registered,

10 (b) in any other case, means the person registered as the owner of any such vessel, or the person who owns either directly or indirectly any such vessel, and includes any part-owner, charterer, manager or operator of any such vessel;

“receiver of wreck” means a receiver of wreck appointed under *section 41*;

“salvage” includes all expenses properly incurred by the salvor in the performance of the salvage services;

15 “salvor”, in the case of salvage services rendered by the officers or crew or part of the crew of any State-owned vessel, means the person in command of the vessel;

“shipwrecked persons” has the meaning assigned to it in *section 7*;

20 “tidal water” means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides and not being a harbour;

“vessel” means any ship or other waterborne craft, whether self-propelled or not, or any structure capable of navigation and includes—

25 (a) hydrofoil boats, air-cushion vehicles, submersible, floating craft, and

(b) subject to *section 16*, fixed or floating platforms and mobile drilling units,

together with the fixtures, fittings and equipment of any such vessel;

30 “wreck” includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water or harbour.

(2) Any word or expression which is used without definition in this Act and is also used in the Merchant Shipping Act, 1894, or the Mercantile Marine Act, 1955, shall, except where otherwise provided for or the context otherwise requires, have the same meaning in this Act as it has in those Acts.

(3) A reference in this Act to the State or to any other state includes—

40 (a) in the case of the State, the territorial seas of the State for the purposes of the Maritime Jurisdiction Acts, 1959 to 1988, and inland waters of the State for the purposes of that Act,

(b) in the case of any other state, the territorial seas and inland waters of that other state.

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(4) (a) A reference in this Act to a Part or a section is a reference to a Part or a section of this Act unless it is indicated that a reference to some other Act is intended.

(b) A reference to a subsection or paragraph is to the subsection or paragraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended. 5

(5) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended or adapted by any subsequent enactment. 10

Authorised officers.

3.—(1) There may be appointed in writing, either generally or in respect of any matter or event, such and so many persons as the Minister thinks fit and who, in the opinion of the Minister, are suitably qualified to be authorised officers for the purposes of some or all of the provisions of this Act relating to authorised officers as shall be specified therein and any such appointment shall be in respect of the State unless the appointment specifies that it is in respect of a specified area within the State. 15

(2) A warrant of appointment as an authorised officer shall—

(a) be furnished to every person appointed under this section, 20

(b) indicate the purposes for and, where appropriate, the extent to which the authorised person was so appointed,

and, when exercising any function conferred on the person as an authorised officer, that officer shall, if requested by a person affected, produce the warrant to that person. 25

(3) An appointment under this section shall remain in force—

(a) until such date as may be specified in the appointment that it is to remain in force or, if earlier, until it is withdrawn by the Minister in writing, or

(b) in any other case, until it is withdrawn by the Minister in writing. 30

Laying of orders and regulations before Houses of Oireachtas.

4.—Any order or regulation made under this Act, other than an order under *section 1 (2)*, shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next subsequent 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. 35

Repeals and savings.

5.—(1) Each enactment mentioned in the *First Schedule* to this Act is hereby repealed to the extent specified opposite that mention in that Schedule. 40

(2) All instruments or documents (including instruments or documents relating to appointments) made or issued under a provision of the enactments repealed by this section and in force immediately before the commencement of a corresponding provision of this Act shall continue in force after such commencement as if made or issued 45

under such corresponding provision and may, where appropriate, be amended or revoked accordingly.

- 5 6.—The expenses incurred by 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. Expenses.

PART II

VESSELS IN DISTRESS

- 10 7.—(1) Where a vessel is in distress in the State other than in a harbour, an authorised officer shall, upon being made acquainted with the circumstances, take such steps under *subsection (2)* as the authorised officer thinks fit for the saving of— Functions of authorised officer where vessel in distress.

(a) the lives of the persons belonging to the vessel (in this Act referred to as “shipwrecked persons”), and

(b) the vessel and the cargo and apparel of the vessel.

- 15 (2) Subject to *subsection (5)*, an authorised officer may, for the purposes of saving shipwrecked persons, a vessel in distress or the cargo or apparel of the vessel—

(a) require assistance from such relevant persons as that officer thinks necessary;

- 20 (b) require the master of any vessel near at hand to give such aid with that vessel and the crew thereof as may be in that master’s power;

25 (c) demand the use of any vehicle, vessel or aircraft suitably equipped for the purpose required that may be near at hand.

(3) If any person refuses without reasonable cause to comply with any such requisition or demand under this section, that person shall be guilty of an offence.

- 30 (4) (a) The owner of a vessel in distress shall, subject to *paragraph (b)*, be liable to pay to the Minister the expenses, including the expense of hire or use of any vehicle, vessel or aircraft, of or incidental to any action taken by an authorised officer for the purposes of saving the vessel or the cargo or apparel of the vessel in pursuance of this Act and those expenses shall, without prejudice to any other remedy, be recoverable in the same manner as salvage is recoverable.

35 (b) Where the Minister considers it appropriate in exceptional circumstances, the Minister may waive the whole or any part of the liability of the owner of a vessel concerned to pay expenses to which *paragraph (a)* relates.

- 40 (5) This section shall not apply—

(a) to a member of the Defence Forces or to any vehicle, vessel or aircraft of, or under the control of, the Defence Forces, or

45 (b) to the Royal National Lifeboat Institution or to any vehicle

or vessel of, or under the control of, the Royal National Lifeboat Institution.

(6) In this section—

“relevant persons” means, subject to *subsection (5)*—

- (a) the master of any Safety Convention ship which could, if communication could be made to that ship by a ship in distress, be requisitioned to proceed with all speed to the assistance of the persons in distress, 5
- (b) the master of any other vessel upon whom a duty to render assistance is imposed by *section 23*, 10
- (c) in relation to the management of the vessel in distress, the crew of the vessel but only where the master of the vessel so requests the authorised officer in respect of that management,
- (d) the crew necessary for the proper operation of any vehicle, vessel or aircraft to which *subsection (2) (c)* relates together with the personnel necessary to service or communicate with such vehicle, vessel or aircraft, 15
- (e) any other person in the vicinity of the vessel in distress;

“Safety Convention ship” has the same meaning as it has in the Merchant Shipping (Safety Convention) Act, 1952. 20

Functions of harbour-master, etc., where vessel in distress in harbour.

8.—(1) Subject to *subsection (2)*, where a vessel is in distress in a harbour the harbour-master of the harbour shall have the same functions as an authorised officer has for the purposes of saving—

- (a) shipwrecked persons, and 25
- (b) the vessel and the cargo and apparel of that vessel,

and, accordingly, *sections 7* and *11* shall apply with any necessary modifications.

(2) If, in relation to a harbour—

- (a) the harbour-master is not present or is indisposed, or 30
- (b) there is no harbour-master, or
- (c) the Minister considers it appropriate in a particular case (including a case in respect of such periods as the harbour-master concerned may be absent or indisposed),

the Minister may give a direction that an authorised officer shall, in respect of that harbour, have the functions of a harbour-master under this section or have those functions at such times as the harbour-master is so absent or indisposed. 35

(3) (a) In the case of harbours which have no harbour-master, a direction under *subsection (2)* may be given in respect of all or one or more such harbours. 40

(b) The Minister may amend or revoke a direction given under *subsection (2)*, including a direction previously amended by virtue of this paragraph.

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(c) The Minister shall cause to be published in the *Iris Oifigiúil* a notice of every direction under this section which has been given, amended or revoked, as the case may be.

5 (4) This section is without prejudice to any other function of a harbour-master or to the functions of a harbour authority.

10 9.—(1) Whenever a vessel is in distress, any person may, for the purpose of rendering assistance to the vessel, saving the lives of the shipwrecked persons or saving the cargo or apparel of the vessel, pass and repass, either with or without vehicles, over any adjoining lands, unless there is some public road equally convenient, without being subject to interruption by the owner or occupier, so that as little damage as possible is done, and may also, on the like condition, deposit on those lands any cargo or other article recovered from the vessel.

Power to pass over adjoining lands, etc.

15 (2) Any damage sustained by an owner or occupier, as a consequence of the exercise of the rights given by this section, shall be a charge on the vessel, cargo or articles in respect of or by which damage is occasioned, and the amount payable in respect of the damage shall, in case of dispute, be determined and shall, in default
20 of payment, be recoverable in the same manner as the amount of salvage is determined or recoverable.

(3) The owner or occupier of lands shall have no liability in respect of—

25 (a) personal injuries which may be sustained by persons passing or repassing over such lands pursuant to *subsection (1)*, or

(b) damage sustained to the vessel in distress, its cargo or any other article recovered therefrom,

30 except where the owner or occupier, or persons duly acting as the servants or agents of the owner or occupier, are maliciously involved in such injuries or damage.

(4) Where the owner or occupier of any land—

(a) impedes or hinders any person in the exercise of any rights given by this section,

35 (b) impedes or hinders the deposit of any cargo or other article recovered from the vessel as aforesaid on the land, or

(c) prevents or endeavours to prevent any such cargo or other article from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit,

40 that owner or occupier shall be guilty of an offence.

(5) This section, in its application to harbours, is without prejudice to the powers of a harbour-master to give directions under any other provision of this Act or any other enactment.

45 10.—(1) Where with reasonable cause a member of the Garda Síochána suspects that a person has, in respect of any vessel in distress, Search and seizure, etc., in respect of vessels in distress.

plundered any part or any cargo or apparel thereof, the member may without warrant—

(a) search or cause to be searched by such a member the person and, if the member considers it necessary for that purpose, detain the person for such time as is reasonably necessary to carry out the search, 5

(b) search or cause to be searched by such a member any vehicle in which the member suspects that anything so plundered may be found and for the purpose of carrying out the search, if so thought fit, require the person who is, for the time being, in control of the vehicle to bring it to a stop and when stopped to refrain from moving it or, in case the vehicle is already stationary, to refrain from moving it, or 10

(c) seize and detain anything found in the course of a search under this section which the member reasonably suspects to be something which— 15

(i) may be required as evidence in proceedings for an offence under the *Merchant Shipping Acts, 1894 to 1993*, or any other enactment, or 20

(ii) should be in the possession of the receiver of wreck for retention or disposal in accordance with the provisions of *Part IV*.

(2) Where a member of the Garda Síochána decides to search or cause to be searched a person under this section the member may require the person to accompany that member to a Garda Síochána station for the purpose of being so searched at the station. 25

(3) A person who fails to comply with a requirement under this section shall be guilty of an offence.

(4) Nothing in this section shall operate to prejudice any power of search or to seize or detain property which may be exercised by a member of the Garda Síochána apart from this section. 30

Examination in respect of vessels in distress, etc.

11.—(1) Where any vessel is or has been in distress in the State, an authorised officer may question any person belonging to the ship or any other person who may be able to give an account of the vessel or its cargo or apparel. 35

(2) For the purposes of this section, an authorised officer shall have the powers of an inspector under sections 729 and 730 (as amended by *section 65*) of the *Merchant Shipping Act, 1894*.

(3) The authorised officer holding the examination shall endeavour to find out the following matters: 40

- (a) (i) the name and description of the vessel;
- (ii) the names of the master, crew, passengers and other persons on board the vessel at the relevant time;
- (iii) the names of the owners of the vessel; 45
- (iv) the names of the owners of the cargo;

- (v) the ports from and to which the vessel was bound;
 - (vi) the occasion of the vessel's distress;
 - (vii) the number of and names of any persons killed or seriously injured;
 - 5 (viii) the extent of any material damage to the vessel;
 - (ix) the nature of the cargo and the threat of pollution from the vessel or cargo;
 - (x) the nature of any services rendered to the vessel as a result of its distress;
 - 10 (xi) such other matters as the authorised officer thinks necessary;
- and
- (b) in respect of a vessel which is or has been in distress, such other matters as the Minister directs the authorised officer to include in the examination concerning the vessel.
- 15

(4) For the purpose of enabling generally an authorised officer to carry out any functions under *subsection (1) or (2)*, the Minister may by order amend *subsection (3) (a)* and may so amend any provision thereof as previously amended by virtue of this subsection.

20

PART III
SALVAGE

12.—In this Part—

Interpretation (*Part III*).

“arbitral or judicial proceedings” shall be construed in accordance with *section 14*;

25 “arbitrator”, where appropriate, includes an umpire;

“the Convention” means the International Convention on Salvage done at London, on the twenty-eighth day of April, 1989;

30 “damage to the environment” means physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents;

“payment” means any reward, remuneration or compensation due under this Part of this Act;

35 “property” means any property not permanently and intentionally attached to the shoreline and includes freight at risk;

“reward”, in relation to salvage, means reward for undertaking salvage operations;

40 “salvage operation” means any act or activity undertaken to assist a vessel or any other property in danger in navigable tidal waters or in any harbour;

“salvor” means, in the case of salvage services rendered by the officers

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or crew or part of the crew of any State-owned vessel, the person in command of that vessel;

“State-owned vessel” means a non-commercial vessel wholly owned by the Government or a Minister of the Government, and references to “State-owner”, in relation to a vessel, shall be construed accordingly; 5

“tribunal” means any arbitrator duly authorised to deal with a matter of civil salvage when dealing with such a matter.

Application (*Part III*). 13.—This Part shall apply whenever arbitral or judicial proceedings relating to matters of civil salvage are brought in the State. 10

Jurisdiction. 14.—Except where otherwise expressly provided for, the following shall have jurisdiction under this Part—

(a) in respect of any arbitral proceedings, the arbitrator duly appointed for those proceedings, and

(b) in respect of judicial proceedings, the High Court. 15

Orders concerning conventions, etc. 15.—Where the Minister is satisfied that—
(a) any state (other than the State) has accepted or denounced the Convention or any convention or protocol which has been ratified by the State and which amends or extends the Convention, or 20

(b) any such convention or protocol extends, or ceases to extend, to any territory,

he may by order so declare.

Non-application to certain platforms and drilling units. 16.—This Part shall not apply to fixed or floating platforms or to mobile offshore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources. 25

Salvage and State-owned vessels. 17.—(1) This Part shall apply in relation to salvage services rendered in assisting any State-owned vessel, or in saving life therefrom, in the same manner as if the vessel, cargo or apparel belonged to an owner other than the State. 30

(2) Unless the Government or any Minister of the Government consents, this Part shall not be used as a basis for the seizure, arrest or detention by any legal process of, nor for any proceedings *in rem* against, any State-owned vessel, or against State-owned non-commercial cargoes. 35

(3) Subject to *subsection (5)*, where salvage operations are undertaken by any State-owned vessel, then the State, or the appropriate Minister of the Government on behalf of the State, shall be entitled to claim salvage in accordance with the provisions of this Part and shall have the same rights and remedies as if the vessel undertaking such operations were not a State-owned vessel. 40

(4) Where, but for this provision, an award under this Part for

salvage operations undertaken by any State-owned vessel would be payable to the State or a Minister of the Government as owner of that vessel, to the master and to other persons in the service of that vessel, there shall in lieu thereof be payable to the State or to that
5 Minister on behalf of the State the said award.

(5) (a) Subject to *subsection (4)*, where—

- (i) salvage operations are undertaken by the commander or crew of a vessel owned by the Minister for Defence and operated by the Defence Forces, and
- 10 (ii) proceedings are instituted by the commander or crew or part of the crew of such vessel for the enforcement of a claim in respect of such salvage services,

the following provisions shall have effect, that is to say:

- 15 (I) the said claim shall not be finally adjudicated upon unless the consent of the Minister for Defence to the taking of the said proceedings (which may be given before or after the institution of those proceedings) is proved;
- 20 (II) if the said consent is not proved, the said claim shall stand dismissed with costs.

(b) In this subsection the word “crew” includes officers.

(6) This Part shall not apply to foreign warships or other non-commercial vessels owned or operated by a state other than the State and entitled, at the time of salvage operations, to sovereign immunity
25 under generally recognised principles of international law unless that state has applied the Convention to its warships or other non-commercial vessels.

(7) Unless the state owner of a vessel consents, no provision of this Part shall be used as a basis for the seizure, arrest or detention by
30 any legal process of, nor for any proceedings *in rem* against, non-commercial cargoes owned by a foreign state and entitled, at the time of the salvage operations, to sovereign immunity under generally recognised principles of international law.

18.—(1) The provisions of this Part shall apply to any salvage
35 operation except to the extent that a contract otherwise provides expressly or by implication. Salvage contracts.

(2) The master shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel and the master or the owner of the vessel shall have the authority to conclude such
40 contracts on behalf of the owner of the property on board the vessel.

(3) Nothing in this section shall affect the application of *section 19* nor the duties to prevent or minimize damage to the environment.

19.—A contract relating to salvage or any terms thereof may be
45 annulled or modified by the arbitrator or judge in any arbitral or judicial proceedings concerned if— Annulment and modification of contracts.

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- (a) the contract has been entered into under undue influence or the influence of danger and its terms are inequitable, or
- (b) the payment under the contract is in an excessive degree too large or too small for the services actually rendered.

Duties of salvor, etc.

20.—(1) The salvor of a vessel shall owe the following duties to the owner of the vessel and to the owner or owners of other property in danger, that is to say: 5

- (a) to carry out the salvage operations with due care;
- (b) in performing the duty specified in *paragraph (a)*, to exercise due care to prevent or minimize damage to the environment; 10
- (c) whenever circumstances reasonably require, to seek assistance from other salvors;
- (d) to accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or the owner of other property in danger. 15

(2) Where a request under *subsection (1) (d)* is made to a salvor the amount of the salvor's reward shall not be prejudiced should it be found that the request was unreasonable.

Duties of owners and master of vessel, etc.

21.—The owner and master of a vessel or the owner or owners of other property in danger shall owe the following duties to the salvor, that is to say: 20

- (a) to co-operate fully with the salvor during the course of the salvage operations;
- (b) in performing the duty specified in *paragraph (a)*, to exercise due care to prevent or minimize damage to the environment; 25
- (c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested by the salvor to do so. 30

Saver of powers for protection of coastline, etc.

22.—Nothing in this Part shall affect the right of the Minister or any other person under this Act, the Sea Pollution Act, 1991, or any other enactment—

- (a) to take measures to protect the coastline or related interests from pollution or the threat of pollution following upon a maritime casualty or acts relating to such a casualty which may reasonably be expected to result in major harmful consequences, or 35
- (b) to give directions in relation to salvage operations.

General duty to render assistance to persons in danger at sea.

23.—(1) The master of a vessel shall, so far as can be done without serious danger to the vessel and persons thereon, render assistance to any person in danger of being lost at sea and, where there is a failure to so render assistance, the master shall be guilty of an offence. 40

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(2) The owner of the vessel shall incur no liability for a failure by the master under *subsection (1)* to render assistance.

(3) Compliance by the master concerned with the provisions of *subsection (1)* shall not affect the right of that master or the right of
5 any other person to salvage.

(4) Without prejudice to the giving of assistance, where appropriate, to the civil powers, the provisions of *subsection (1)* shall not apply to the commanding officer of a vessel of the Naval Service of the Defence Forces.

10 **24.**—Whenever the Minister, an authorised officer or any harbour-master or harbour authority are regulating or deciding upon matters relating to salvage operations, including matters such as admittance to harbours of vessels in distress or the provision of facilities to salvors, account shall be taken of the need for co-operation between
15 salvors, the local authority and harbour authority concerned and other interested parties in order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

Account to be taken of need for co-operation.

20 **25.**—(1) Salvage operations which have had a useful result shall give rise to a right to a reward in accordance with this Part.

Conditions for reward.

(2) Except where provided for by this Part, no payment shall be due if salvage operations have had no useful result.

(3) *Sections 26 to 33* shall apply, notwithstanding that the salvaged vessel and the vessel undertaking the salvage operations belong to
25 the same owner.

26.—(1) The reward payable by virtue of this Part shall be fixed by the arbitrator or judge in the arbitral or judicial proceedings concerned with a view to encouraging salvage operations after taking
30 into account such and so many of the following criteria as are appropriate in the circumstances:

Criteria for fixing reward.

- (a) the salvaged value of the vessel and other property;
- (b) the skill and efforts of the salvors in preventing or minimizing damage to the environment;
- 35 (c) the measure of success obtained by the salvor;
- (d) the nature and degree of the danger;
- (e) the skill and efforts of the salvors in salvaging the vessel, other property and life;
- (f) the time used and expenses and losses incurred by the salvors;
- 40 (g) the risk of liability and other risks run by the salvors or their equipment;
- (h) the promptness of the services rendered;
- (i) the availability and use of vessels or other equipment intended for salvage operations;

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(j) the state of readiness and efficiency of the salvor's equipment and the value thereof.

(2) (a) The payment of a reward in accordance with *subsection (1)* shall, subject to *paragraph (b)* of this subsection, be made by all of the vessel and other property interests in proportion to their respective salvaged values. 5

(b) The payment of the reward shall in the first instance be made in full by one of the property interests concerned nominated by the salvor, subject to a right of recourse of that property interest against the other interests for their respective shares. 10

(3) Every reward payable by virtue of this Part shall not exceed an amount equal to the salvaged value of the vessel and of the other property concerned but, in calculating such amount for the purposes of this subsection, it shall be calculated exclusive of any interest and recoverable legal costs that may be payable thereon. 15

(4) Nothing in this section shall be construed so as to prevent any right of defence in proceedings by an interested party concerned.

Special compensation.

27.—(1) If the salvor has carried out salvage operations in respect of a vessel which, by itself or its cargo, threatened damage to the environment and has failed to earn a reward under *section 26* at least equivalent to the special compensation assessable in accordance with this section, that salvor shall be entitled to special compensation from the owner of that vessel equivalent to expenses incurred by the salvor and calculated by reference to the provisions of *subsection (3)*. 25

(2) If, in the circumstances set out in *subsection (1)*, the salvor by undertaking salvage operations has prevented or minimized damage to the environment, the special compensation payable by the owner to the salvor under that subsection may be increased up to a maximum of 100 per cent. of the expenses incurred by the salvor, after taking into account the criteria set out in *section 26 (1)* which are relevant. 30

(3) In calculating the salvor's expenses for the purposes of *subsections (1)* and *(2)*, there shall be taken into account by the arbitrator or judge in the arbitral or judicial proceedings concerned the out-of-pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in *paragraphs (h), (i) and (j)* of *subsection (1)* of *section 26*. 35

(4) The total special compensation under this section shall be paid only if and to the extent that such compensation is greater than any reward recoverable by the salvor under *section 26*. 40

(5) In fixing a reward under *section 26* and assessing special compensation under this section the arbitrator or judge in the arbitral or judicial proceedings concerned shall be under no duty to fix a reward under *section 26* up to the maximum salvaged value of the vessel and other property before assessing the special compensation to be paid under this section. 45

(6) If the salvor has been negligent and has thereby failed to prevent or minimize damage to the environment, that salvor may be deprived of the whole or part of any special compensation due under this section. 50

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(7) Nothing in this section shall affect any right of recourse on the part of the owner of the vessel.

5 **28.**—(1) The apportionment, of a reward under *section 26*, between salvors shall be made on the basis of the criteria contained in that section. Apportionment between salvors.

(2) The apportionment between the owner, master and other persons in the service of each salving vessel shall be determined, by the court or person making the apportionment, in accordance with the law of the state of registry of that vessel.

10 (3) If the salvage has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and the servants of the salvor.

15 (4) Subject to *subsections (1), (2) and (3)*, whenever the aggregate amount of salvage payable has been finally ascertained, then, if any delay or dispute arises as to the apportionment thereof, the apportionment shall be determined by the High Court in such manner as it thinks just, and may for that purpose, if it thinks fit—

(a) appoint any person to carry that apportionment into effect, and

20 (b) compel any person in whose hands or under whose control the amount may be to distribute the same, or to bring the same into court to be there dealt with as the court may direct,

and may for the purposes aforesaid make such orders as it thinks fit.

25 **29.**—(1) No remuneration shall be due to a salvor from shipwrecked persons whose lives are saved by the salvor. Preservation of human life.

30 (2) A salvor of human life, who has taken part in the services rendered on the occasion of the incident giving rise to salvage, shall be entitled to a fair share of the payment awarded to the salvor for salving the vessel or other property or preventing or minimizing damage to the environment.

(3) Salvage in respect of the preservation of human life when payable by the owners of the vessel shall be payable in priority to all other claims for salvage.

35 **30.**—Where a person has entered into a contract for services before the danger arose, no payment shall be due to the person under the provisions of this Part unless the services rendered exceed what can be reasonably considered as due performance of the contract. Services rendered under existing contracts.

40 **31.**—A salvor may be deprived of the whole or part of the payment due under this Part to the extent that salvage operations have become necessary or more difficult because of fault or neglect on the salvor's part or if the salvor has been guilty of fraud or other dishonest conduct. Effect of salvor's misconduct.

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No reward payable in certain circumstances.

32.—(1) Salvage operations rendered notwithstanding the express and reasonable prohibition of—

(a) the owner or master of the vessel, or

(b) the owner of any other property in danger which is not and has not been on board the vessel,

5

shall not give rise to the payment of a reward under this Part.

(2) Nothing in this section shall be construed as giving a defence in any criminal or civil proceedings to any person undertaking salvage operations to which this section relates.

Maritime lien.

33.—(1) Nothing in this Part shall affect the salvor's maritime lien. 10

(2) Maritime lien shall not be enforced by the salvor when satisfactory security for the salvor's claim, including interest and costs, has been duly tendered or provided.

Duty to provide security to salvor.

34.—(1) Upon the request of the salvor, a person liable for payment due under this Part shall provide satisfactory security for the claim, including interest and costs of the salvor. 15

(2) Without prejudice to *subsection (1)*, the owner of the salvaged vessel shall use the best endeavours to ensure that the owners of the cargo provide satisfactory security for the claims against them, including interest and costs, before the cargo is released. 20

(3) The salvaged vessel and other property shall not, without the consent of the salvor, be removed from the harbour or place at which they first arrive after the completion of the salvage operations until satisfactory security has been put up for the salvor's claim against the relevant vessel or property. 25

(4) If, after completion of the salvage operations, satisfactory security for the salvor's claim is not provided and the salvaged property is in a harbour but not in the salvor's possession or control the receiver of wreck shall, if requested by the salvor in the prescribed form, detain the vessel and other property in the harbour until payment is made for salvage or a warrant of arrest has been issued by the High Court. 30

(5) The receiver of wreck shall release any detained property if security is given—

(a) to the satisfaction of the receiver, or 35

(b) where the claim (exclusive of interest and costs) exceeds £20,000 and any question is raised as to the sufficiency of the security, to the satisfaction of the High Court,

and any security given for salvage in pursuance of this subsection may be enforced by the High Court in the same manner as if bail had been given in that Court. 40

(6) Nothing in this section shall interfere with the power of a harbour-master to give directions under any other provision of this or any other enactment.

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(7) Section 7 (2) of the Jurisdiction of Courts (Maritime Conventions) Act, 1989, shall have effect as if the reference in it to section 552 of the Merchant Shipping Act, 1894, was a reference to *subsections (4), (5) and (6)* of this section.

5 (8) (a) In this section “prescribed form” means, subject to *paragraph (b)*, the form set out in the *Second Schedule*.

10 (b) For the purpose of giving further or better effect to this section or to any international convention relating to salvage, the Minister may by order amend the *Second Schedule* and may so amend any provision thereof as previously amended by virtue of this section.

15 35.—(1) The arbitrator or judge in the arbitral or judicial proceedings relating to the claim of the salvor may, by interim decision, order that the salvor shall be paid on account such amount as seems fair and just, and on such terms including terms as to security where appropriate, as may be fair and just according to the circumstances of the case. Interim payment to salvor.

(2) Where there is an interim payment under this section, the security provided under *section 34* shall be reduced accordingly.

20 36.—(1) No action shall be maintainable to enforce a claim relating to payment under this Part if arbitral or judicial proceedings have not been duly instituted within the appropriate period. Limitation of certain actions.

(2) This section shall not apply in cases to which section 46 of the Civil Liability Act, 1961, applies.

25 (3) In this section “the appropriate period” means—

(a) the period ending two years after the date that the salvage operations were terminated by the person concerned, or

(b) where there is in writing and signed by the person against whom the claim is made—

30 (i) an acknowledgement within the said period so ending, the period ending two years after the date that the acknowledgement was made, or

35 (ii) commencing within the period so ending, a series of succeeding acknowledgements each made within the period of two years of the date of the immediately preceding acknowledgement in the series, the period ending two years after the date the last acknowledgement of such successive acknowledgements was made.

40 37.—(1) The arbitrator or judge of the arbitral or judicial proceedings concerned may, if considered fair and just to do so in respect of the salvage operations— Interest on rewards.

(a) award interest on the payment at a rate to be fixed by the arbitrator or judge, as the case may be,

45 (b) award interest on any part of a payment already made in

respect of such period prior to payment as is considered appropriate in the circumstances.

(2) In this section “interest” includes compound interest.

Humanitarian cargoes.

38.—No provision of this Part shall be used as a basis for the seizure, arrest or detention of humanitarian cargoes donated by the State or another state if the State or such other state, as the case may be, has agreed to pay for salvage services rendered in respect of such humanitarian cargoes. 5

PART IV

WRECKED AND STRANDED VESSELS 10

Interpretation (Part IV).

39.—(1) In this Part, except where the context otherwise requires—

“Director of the National Museum” includes any person who is for the time being performing the functions of the Director;

“district”, in relation to a receiver, has the meaning assigned to it by *section 41 (1)*; 15

“receiver” means a receiver of wreck.

(2) A reference in this Part to a wrecked or stranded vessel includes—

(a) a vessel which is sunk, partially sunk, wrecked, grounded, stranded or abandoned, 20

(b) any part of such a vessel, and

(c) any article, thing or collection of things being or forming part of the tackle, equipment, cargo, stores, bunkers, oils or ballast of a wrecked vessel, 25

and, without prejudice to *section 2 (1)*, references to wreck shall be construed as including a wrecked or stranded vessel.

Responsibility of Minister.

40.—The Minister shall have the general superintendence throughout the State of all matters relating to every wrecked or stranded vessel or other wreck. 30

Appointment of receivers of wreck.

41.—(1) The Minister may appoint—

(a) with the consent of the Revenue Commissioners, any of their officers, or

(b) where it appears to the Minister to be more convenient or appropriate, any other person, 35

to be a receiver of wreck in respect of any area of the State (including the State) specified by the Minister (in this Part and the *Second Schedule* referred to as the “district”) and to perform the functions of receiver of wreck under this Act.

(2) Where in respect of any area consisting of a part of one or more districts (including, where appropriate, the area in which a 40

specific wreck or wrecks are situated) the Minister considers it appropriate in the circumstances to appoint, in accordance with this section, a receiver of wreck for that area then, upon such appointment, the existing receiver or receivers to which that area relates shall be deemed to have transferred responsibility for so much of that area as related to their respective districts and the receiver of wreck so appointed shall be deemed, either generally or from a given date or in respect of a specific wreck or wrecks specified in the appointment, to have exercised any functions exercised by the said existing receivers prior to such transfer.

(3) As soon as is practicable after an appointment under subsection (1) the Minister shall cause a notice thereof to be published in the *Iris Oifigiúil*.

42.—The Minister shall indemnify each receiver against all and any actions, expenses, costs, claims, demands and other liabilities in respect of any action by or omission or negligence on the part of the receiver.

Indemnification of receivers.

43.—(1) There shall be paid to each receiver in respect of the due discharge of functions under this Act by such receiver the expenses properly incurred in such discharge of functions, and also, such fees, in such amount and in respect of such matters as the Minister may, with the consent of the Minister for Finance, direct.

Fees of receivers.

(2) A receiver shall not be entitled to any other remuneration in discharging functions under this Act other than those payments.

(3) A receiver shall, in addition to all other rights and remedies for the recovery of those expenses or fees, have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to such salvor.

(4) Whenever any dispute arises as to the amount payable to any receiver in respect of expenses or fees, that dispute shall be determined by the Minister, whose decision shall be final.

(5) (a) All fees received by a receiver in respect of any services performed as a receiver shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

(b) In this subsection “fees” includes any interest earned by placing fees on deposit.

44.—(1) If any person finds or, not being a receiver for the district concerned, takes possession of any wreck in the State or finds and takes possession of any wreck outside the State and brings it into the State that person shall—

Duties of finder of wreck.

(a) if being the owner of the wreck give notice to the said receiver for the district concerned in which the wreck is found or into which the wreck is brought stating that he has found or taken possession of it, and describing the marks which distinguish it,

(b) if not being the owner of the wreck as soon as possible deliver it to the receiver for the district concerned.

[1993.] *Merchant Shipping (Salvage and Wreck) Act, 1993* [No. 34.]

(2) Any person who fails, without reasonable excuse, to comply with *subsection (1)*, shall—

- (a) be guilty of an offence,
- (b) if that person is not the owner of the wreck forfeit any claim to salvage, and 5
- (c) be liable to pay twice the value of the wreck to the owner if it is claimed or, if it is unclaimed, to the receiver on behalf of the State and the amount so payable shall be recoverable in the same manner as a simple contract debt in any court of competent jurisdiction. 10

(3) If any person conceals or, in the case of a person not being the owner of the wreck, keeps possession of any wreck to which *subsection (1)* applies or refuses to deliver any such wreck to a receiver for the district concerned or to any person authorised by such a receiver to demand the same, that person shall be guilty of an offence. 15

(4) Any member of the Garda Síochána may take any wreck to which *subsection (1)* relates, if necessary by force, from any person who refuses to deliver it to a receiver of the district concerned and so deliver it to the receiver.

(5) Nothing in *subsection (4)* shall operate to prejudice any power of search or to seize or detain property which may be exercised by a member of the Garda Síochána apart from this section. 20

Notice of wreck to be given by receiver.

45.—(1) A receiver shall, within 72 hours of taking possession of a wreck—

- (a) cause to be posted, at the appropriate customs office and Garda Síochána station, a notice describing the wreck and any marks which distinguish it, 25
- (b) send a similar notice to the Director of the National Museum, and
- (c) if in the opinion of the receiver the value of the wreck exceeds £20,000, send a similar notice to the secretary of the body known as Lloyd's of London. 30

(2) In this section “appropriate customs office and Garda Síochána station” means—

- (a) such office and station which are nearest the place where the wreck was found or was duly delivered to the receiver, or 35
- (b) where there is more than one Garda Síochána station or customs office in the district for which the receiver is responsible, in either case the main or any one or more of such stations or offices as the receiver considers appropriate in the circumstances. 40

Claims of owners of wreck.

46.—(1) Where in respect of any wreck in the possession of the receiver a person establishes a claim to ownership thereof to the satisfaction of the receiver within one year from the time when the wreck came into the receiver's possession, then such a person shall, on paying the salvage, fees and expenses due, be entitled to have possession of the wreck or of the proceeds of the wreck. 45

[1993.] *Merchant Shipping (Salvage and Wreck) Act, 1993* [No. 34.]

(2) Where any foreign wreck is found in the State, or is brought into any harbour in the State, a diplomatic agent of the state, or any consular officer of that state authorised in that behalf by any treaty arrangement with that state, in which—

- 5 (a) where the wreck is a vessel or part of a vessel, the vessel was at the relevant time registered, or
- (b) in the case of any other wreck, the owners of such wreck resided,

10 shall, in the absence of the owner and of the master or other agent of the owner, be deemed to be the agent of the owner, as far as relates to the custody and disposal of such foreign wreck.

(3) In this section—

15 “consular officer” means a career consular officer or an honorary consular officer both of which shall be construed in accordance with Article 1 of the Vienna Convention on Consular Relations done at Vienna on the 24th day of April, 1963, which Convention is set out in the Second Schedule to the Diplomatic Relations and Immunities Act, 1967;

20 “diplomatic agent” has the meaning assigned to it by Article 1 of the Vienna Convention on Diplomatic Relations done at Vienna on the 18th day of April, 1961, which Convention is set out in the First Schedule to the Diplomatic Relations and Immunities Act, 1967.

25 **47.**—(1) Any wreck in the possession of a receiver may, with the prior agreement of the Director of the National Museum, at any time be sold if, in the receiver’s opinion—

Immediate sale of wreck by receiver in certain cases.

- (a) it is under the value of £5,000, or
- (b) it is so much damaged or of so perishable or volatile a nature that it cannot with advantage or safety be kept, or
- (c) it is not of sufficient value to pay for storage.

30 (2) The proceeds of sale shall, after defraying the expenses of the sale, be held by the receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

35 **48.**—Subject to *sections 25, 26 and 27*, the State shall be entitled to all unclaimed wreck and, accordingly, for the purposes of those sections, the State shall, where it exercises its entitlement under this section in respect of any such wreck, be deemed to be the owner of that wreck.

State entitlement to all unclaimed wreck.

40 **49.**—(1) Where no owner establishes a claim to any wreck found in or brought into the State and in the possession of a receiver within one year after it came into the receiver’s possession, the receiver shall notify the Director of the National Museum (in this section referred to as “the Director”) that the wreck is unclaimed and the Director shall, within 30 days, decide whether or not the wreck or any part thereof is of historical, archaeological or artistic importance and shall

45 notify the receiver of the decision.

Disposal of unclaimed wreck.

(2) If the Director decides that the wreck or any part thereof is of

historical, archaeological or artistic importance, the receiver shall deliver the wreck or that part to the Director who, as soon as may be after such delivery, shall—

(a) retain it on behalf of the State, and

(b) pay— 5

(i) to the receiver, any expenses incurred by the receiver, and the receiver's fees, in relation to the wreck or that part, and

(ii) to any salvors of the wreck or that part, such amount of salvage as appears to the Director to be reasonable in all the circumstances. 10

(3) (a) A wreck which the Director decides under *subsection (2)* is or is in part of historical, archaeological or artistic importance shall not in whole or in part be removed or caused to be removed by any person without the approval of the Director. 15

(b) A person who contravenes *paragraph (a)* shall be guilty of an offence.

(4) It shall be a defence for a person charged with an offence under this section to show that the act constituting the offence was done by the person— 20

(a) in the course of any action taken by the person for the sole purpose of dealing with an emergency of any description, or

(b) out of necessity due to stress of weather or navigational hazards. 25

(5) If the Director decides that the wreck is not of historical, archaeological or artistic importance the receiver shall sell the wreck and shall pay the proceeds of the sale (after deducting therefrom the expenses of the sale, and any other expenses, including fees, incurred by the receiver, in relation to the wreck and paying to any salvors of the wreck such amount of salvage as appears to the Minister to be reasonable in all the circumstances) into the Exchequer. 30

(6) This section shall not apply to a wreck within the meaning of the National Monuments (Amendment) Act, 1987, and to which section 3 of that Act relates. 35

Effect of delivery on wreck, etc., by receiver.

50.—(1) Due parting with possession of wreck or payment of the proceeds of sale of such wreck by the receiver under this Part shall discharge the receiver from all liability in respect of the delivery or payment. 40

(2) Due parting with possession of wreck by the receiver under this Part shall not, however, prejudice or affect any question which may be raised by third parties concerning any right or title to the wreck or, where appropriate, concerning the title to the soil of the place on which the wreck was found. 45

51.—(1) In this section and *section 52*—

Duty of owner to
remove wreck in
certain
circumstances.

“appropriate authority” means a harbour authority, a local authority or the Commissioners;

“the Commissioners” means the Commissioners of Irish Lights;

5 “related interests” means the interests of the State or the public or any section of the public and, without prejudice to the generality of the foregoing, includes—

(a) the health of the public and the well-being of any area concerned;

10 (b) the marine resources, flora and fauna, and the habitats of such flora and fauna, in any area concerned;

(c) the maritime, coastal, port, estuarial or aquatic activities, including fishing and tourist activities, which constitute the means of livelihood for persons concerned, and

15 (d) the tourist attractions of any area concerned.

(2) Where any wreck is likely to become—

(a) an obstruction or danger to navigation or to lifeboats engaged in the lifeboat service, or

20 (b) a threat of harm to the marine environment or to related interests,

the owner of the wreck at the time of its sinking, wrecking, stranding, grounding or abandonment shall as soon as possible raise and remove it or otherwise render it harmless.

25 (3) (a) If an appropriate authority is of the opinion that the wreck is or is likely to become an obstruction or danger to navigation or to lifeboats engaged in the lifeboat service or a threat of harm to the marine environment or to related interests, the authority shall serve a notice on the owner requiring the owner to raise and remove or otherwise render harmless the wreck.

30 (b) If not less than 7 days after service of the notice, the owner has not complied with that notice or has failed to give to the authority satisfactory assurances that the notice shall be complied with as soon as possible, the appropriate authority may proceed to raise and remove the vessel or otherwise render it harmless.

35 (4) (a) A notice under this section to be served on the owner of a wreck shall be addressed to the owner and may be served in any of the following ways:

40 (i) where it is addressed to the owner by name, by delivering it to the owner,

(ii) by leaving it at the address at which the owner ordinarily resides or carries on business, or in a case in which an address for service has been furnished, at that address,

45 (iii) by sending it by post in a prepaid registered letter

addressed to the owner at the address at which the owner ordinarily resides or carries on business, or in a case in which an address for service has been furnished, at such address,

- (iv) where the address or the name and the address of the owner cannot be ascertained after reasonable enquiry, by publication in one or more newspapers printed in the State and circulating in the area or contiguous to the area where either or both the wreck is situated or the appropriate authority serving the notice is situated which, in the case of the Commissioners, shall be the State. 5 10

(b) For the purposes of this subsection—

- (i) a company within the meaning of the Companies Act, 1963, shall be deemed to be ordinarily resident at its registered office, 15
- (ii) a body incorporated outside the State which has a registered office under the law of the state where it is incorporated shall be deemed to be ordinarily resident at its registered office, and 20
- (iii) every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

Power to remove wreck, etc.

52.—(1) Where any wreck is in, or in or near any approach to, any harbour under the control of a harbour authority in such a manner as, in the opinion of the authority, to be, or be likely to become, an obstruction or danger to navigation or to lifeboats engaged in lifeboat service in that harbour or the approach thereto, that authority shall have the functions set out in *subsection (4)*. 25

(2) Where any wreck is on or near the coasts of the State and there is no harbour authority having functions under this section to raise and remove or otherwise render harmless that wreck, the Commissioners shall, if in their opinion that wreck is, or is likely to become, an obstruction or danger to navigation or to lifeboats engaged in the lifeboat service, have the functions set out in *subsection (4)*. 30 35

(3) Where a local authority, in whose functional area or an area contiguous thereto a wreck is situated, is of the opinion, after consulting with the harbour authority concerned or the Commissioners (as the case may be), that the wreck is not or is unlikely to become an obstruction or danger to navigation or to lifeboats engaged in the lifeboat service, the local authority shall, if that authority has reasonable grounds for believing that the wreck constitutes a threat of harm to the marine environment or to related interests, have the functions set out in *subsection (4)*. 40

(4) The functions exercisable by the appropriate authority by virtue of this section are as follows: 45

- (a) to take possession of, and raise and remove, or otherwise render harmless, the whole or any part of the wreck;
- (b) to light or buoy, subject where appropriate to the approval

of the Commissioners, the wreck until it is raised and removed or otherwise rendered harmless;

5 (c) subject to *subsections (7) and (8)*, to sell or otherwise dispose of, in such manner as they think fit, the wreck or part of the wreck in respect of which they have exercised the functions set out in either or both *paragraph (a) or (b)*;

(d) to retain out of the proceeds of the sale, the expenses incurred by them in relation to the wreck.

10 (5) Where a harbour authority, local authority or the Commissioners have incurred expenses in the exercise of their functions under this section or *section 51* in relation to any wreck, then—

15 (a) if the proceeds of any sale under *subsection (4) (c)* in connection with the exercise of those functions in relation to the wreck are insufficient to reimburse the appropriate authority for the full amount of those expenses, they may recover the full amount of the deficiency from the relevant person, or

20 (b) if there is no such sale, the appropriate authority may recover the full amount of those expenses from the relevant person.

(6) The expenses referred to in *subsection (5)* shall, without prejudice to any other remedy, be recoverable in the same manner as salvage is recoverable.

25 (7) Any surplus of the proceeds of a sale under *subsection (4) (c)* shall be held by the appropriate authority on trust for the relevant person or, if the wreck is unclaimed, for the State.

30 (8) Except in the case of other wreck which is of a perishable or volatile nature, no sale shall be made under *subsection (4) (c)* until at least 7 days' notice of the intended sale has been given by publication in one or more newspapers printed in the State and circulating in the area or contiguous to the area where either or both the wreck is situated or the appropriate authority serving the notice is situated which, in the case of the Commissioners, shall be the State.

35 (9) (a) At any time before any other wreck is sold under *subsection (4) (c)*, the owner of the wreck shall be entitled to delivery of it on payment of its fair market value.

40 (b) The fair market value of other wreck for the purposes of *paragraph (a)* shall be that agreed on between the appropriate authority concerned and the relevant person or, failing agreement, that determined by a person appointed for such purpose by the Minister.

(10) Any sum paid to the authority in respect of any wreck under *subsection (9)* shall, for the purposes of this section, be treated as the proceeds of sale of the wreck.

45 (11) This section is without prejudice to any other functions exercisable by an appropriate authority.

(12) If any question arises between two or more appropriate authorities as to their respective functions under this section, that question shall, on the application of any appropriate authority concerned, be

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referred to the Minister for a decision and any such decision of the Minister under this subsection shall be final.

(13) In this section “the relevant person” in relation to any wreck, means the owner of the wreck at the time when it sunk or was wrecked, grounded, stranded or abandoned. 5

Liability of owners in respect of removal, etc., of wreck.

53.—For the purposes of this Part and the Convention on Limitation of Liability for Maritime Claims done at London on the 19th day of November, 1976, the liability of the owners of a wrecked or stranded vessel or other wreck in respect of the raising and removal or otherwise disposing of such vessel or other wreck shall be unlimited. 10

Amendment of section 57 of Harbours Act, 1946.

54.—Section 57 of the Harbours Act, 1946, is hereby amended in subsection (1) by the insertion of “or in the seaward approaches thereto” after “limits of their harbour”, and the said subsection (1), as so amended, is set out in the Table to this section.

TABLE 15

(1) A harbour authority may remove any obstruction which is within the limits of their harbour or in the seaward approaches thereto.

Duty to exercise due care.

55.—Any person required or authorised to raise or remove or otherwise render harmless a wrecked or stranded vessel or other wreck under this Part shall exercise due care in carrying out such operations to prevent or minimize damage to the environment. 20

Interfering with wreck, etc.

56.—(1) Subject to *subsection (2)*, a person who boards or attempts to board any wrecked or stranded vessel without the permission of the master or owner of that vessel shall be guilty of an offence.

(2) Where a person is accused of an offence under *subsection (1)*, it shall be a good defence to prove that the person was acting in any one of the following capacities, that is to say—

- (a) as the appropriate authority under *section 51* or *52*,
- (b) as an authorised officer, an authorised person under *section 26* of the Sea Pollution Act, 1991, a receiver, a commissioned officer of the Defence Forces, a member of the Garda Síochána, an officer of Customs and Excise or a harbour-master, 30
- (c) as a person duly acting in the place of any person referred to in *paragraph (b)*, 35
- (d) as a person acting by or under the command of any person referred to in *paragraph (b)* or *(c)*,
- (e) as a person acting in an emergency situation where the master is not available to give permission to board, for the purpose of either or both— 40
 - (i) saving the lives of shipwrecked persons, and
 - (ii) saving the vessel or any part of its cargo or apparel from destruction and that the saving is not for the purpose of wrongfully carrying away or removing any part of its cargo or apparel: 45

5 Provided that where any such person so acting, upon being requested by the master of the vessel concerned or by any person to whom *paragraph (b), (c) or (d) of subsection (2)* relates, refuses to leave the vessel as soon as is possible or to cease attempting to board the vessel it shall not be a good defence to prove that such person so acting is a person to whom *paragraph (e)* relates.

10 (3) The master of a vessel may forcibly repel any person whom that master reasonably believes to be committing or attempting to commit an offence under *subsection (1)*.

(4) A person shall be guilty of an offence if, in relation to a wrecked or stranded vessel or other wreck, such person—

- (a) impedes or hinders or attempts to impede or hinder the saving thereof;
- 15 (b) conceals any wreck;
- (c) obliterates any mark on wreck;
- (d) wrongfully carries away or removes any wreck; or
- (e) interferes with any wreck in any way.

20 **57.—(1)** If a Judge of the District Court is satisfied by information on oath of a member of the Garda Síochána or a receiver that there is reasonable cause for suspecting that any wrecked or stranded vessel or other wreck is being concealed by or is in the possession of some person who is not the owner or receiver of it or is otherwise being improperly dealt with, the Judge may issue a search warrant under
25 this section. Search warrant and powers of entry.

(2) A search warrant issued under this section shall be expressed and operate to authorise a named member of the Garda Síochána or a named receiver, accompanied by such members of the Garda Síochána and officers of Customs and Excise as the named member
30 or receiver thinks necessary, at any time or times within one month from the date of issue of the warrant, on production if so requested of the warrant—

- (a) to enter (if necessary by force) the land, premises, vehicle, vessel or aircraft named in the warrant,
- 35 (b) to search the land, premises, vehicle, vessel or aircraft and any persons found therein,
- (c) to examine anything found therein,
- (d) if there is reasonable ground for suspecting that any thing—
 - 40 (i) may be required as evidence in proceedings for an offence under this Part,
 - (ii) should be in the possession of the receiver for retention or disposal in accordance with the provisions of this Part,

to seize and detain such thing.

45 (3) Where any premises, land, vehicle, vessel or aircraft is entered pursuant to a warrant issued under this section, the named member of the Garda Síochána or receiver and any person duly accompanying such named officer or receiver so entering may stop and detain any

person or persons found in, on or under such land or premises, or in or on such vehicle, vessel or aircraft for the purpose of searching such person or persons or causing such person or persons to be searched.

Provisions as to duties and taxes on goods from wreck, etc.

58.—(1) Without prejudice to the Customs Acts or the statutes which relate to the duties of excise and to the management of those duties, the Revenue Commissioners shall, subject to the provision of such security as they see fit to require, permit— 5

(a) to be forwarded to the port of original destination all goods saved from any wrecked or stranded vessel on its homeward voyage, and 10

(b) to be returned to the port at which they were shipped all goods saved from any wrecked or stranded vessel on its outward voyage.

(2) In this section “goods” includes wares and merchandise.

PART V 15

OFFENCES AND MISCELLANEOUS PROVISIONS

Power of arrest.

59.—(1) Where with reasonable cause a member of the Garda Síochána suspects that an offence under *section 7 (3), 9 (4) or 10 (3), subsection (1) or (4) of section 56 or section 64* is being or has been committed and so suspects a person is committing or of having committed the offence, the member may arrest the person without warrant. 20

(2) Where with reasonable cause a member of the Garda Síochána—

(a) suspects that an offence under this Act, other than an offence to which *subsection (1)* relates, has been committed or attempted, and 25

(b) suspects a person of having committed the offence or having made the attempt,

then the member may arrest the person without warrant if— 30

(i) with reasonable cause the member suspects that the person, unless arrested, either will abscond for the purposes of evading justice or will obstruct the course of justice, or

(ii) having enquired of the person, the member has reasonable doubts as to the person’s identity or place of abode, or 35

(iii) having enquired of the person, the member knows that the person does not ordinarily reside in the State, or has reasonable doubts as to whether the person so resides. 40

(3) Nothing in *paragraph (i), (ii) or (iii) of subsection (2)* shall be construed so as to apply in a case to which a person is required to accompany a member of the Garda Síochána to a Garda Síochána station for the purpose of *section 10 (2)* and who fails to comply with the requirement. 45

60.—(1) Where an offence under this Act has been committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished as if he were guilty of the first-mentioned offence.

Offences by bodies corporate.

(2) Where the affairs of a body corporate are managed by its members, *subsection (1)* of this section shall apply in relation to the acts and defaults of a member in connection with the functions of management as if he were a director or manager of the body corporate.

61.—(1) Where any thing has been seized by a member of the Garda Síochána pursuant to *subparagraph (i)* or *(ii)* of *paragraph (c)* of *subsection (1)* of *section 10*, or to *paragraph (d)* of *subsection (2)* of *section 57*, the receiver of wreck concerned may apply to a Peace Commissioner for a direction that the thing so seized be delivered to that receiver for retention or disposal in accordance with *Part IV*.

Disposal of things seized.

(2) Where a direction is given under *subsection (1)*, the receiver of wreck concerned shall give notice of the making of the direction to the owner and such other persons (if any) in such manner as the Peace Commissioner may direct.

(3) Any person who is aggrieved by a direction under *subsection (1)* may, not later than 7 days after notice of the making of the direction is given in accordance with *subsection (2)*, or such longer period as the Peace Commissioner may direct, appeal to a Judge of the District Court against the direction and in determining the appeal the Judge may—

(a) if satisfied that the direction was properly given and that, having regard to the circumstances of the case, the direction should be confirmed in respect of some or all of the things seized, confirm the direction to that extent,

(b) if not so satisfied, annul the direction or annul the direction to the extent that the Judge is not so satisfied.

(4) (a) Where no appeal has been made within the appropriate period, the direction shall have effect upon the expiration of that period, or

(b) where an appeal is taken to the District Court under *subsection (3)*, the order shall, if the District Court confirms the direction, have effect to such extent and at such time as that court determines.

62.—Where in the course of exercising any powers under—

(a) in the case of a member of the Garda Síochána, *section 10*, *44* or *57*, or

(b) in the case of a receiver of wreck, *section 57*,

Seizure and retention of property for use in criminal proceedings.

such member or receiver finds or comes into possession of anything which such member or receiver believes to be evidence of any offence or suspected offence under the *Merchant Shipping Acts, 1894 to 1993*,

it may be seized and retained for use in evidence in any criminal proceedings, for such period from the date of seizure as is reasonable or, if proceedings are commenced in which the thing so seized is required for use in evidence, until the conclusion on the proceedings, and thereafter the Police (Property) Act, 1897, shall, without prejudice to *section 61*, apply to the thing so seized in the same manner as that Act applies to property which has come into the possession of the Garda Síochána in the circumstances mentioned in that Act as if the reference in section 1 (1) of that Act to delivery of the property to the person appearing to be the owner thereof were a reference to delivery of the property to the person appearing to be entitled to possession thereof.

- Fines and penalties. **63.**—Except where otherwise provided for, a person who commits an offence under this Act shall be liable—
- (a) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months, or to both, 15
 - (b) on conviction on indictment, to a fine not exceeding £10,000,000 or to imprisonment for a term not exceeding 5 years, or to both. 20
- Obstruction. **64.**—A person shall not obstruct or impede an authorised officer, harbour-master or receiver of wreck in the due exercise of any of the functions conferred or exercisable by such officer, harbour-master or receiver under this Act and a person who so obstructs or impedes 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 12 months, or to both, 25
 - (b) on conviction on indictment, to a fine not exceeding £15,000 or to imprisonment for a term not exceeding 2 years, or to both. 30
- Amendment of sections 729 and 730 of Merchant Shipping Act, 1894. **65.**—Where a person has committed an offence under section 729 or 730 of the Merchant Shipping Act, 1894, such person shall, in lieu of a fine not exceeding ten pounds provided for in each of those sections, be liable—
- (a) in the case of an offence under the said section 729—
 - (i) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months, or to both, 35
 - (ii) on conviction on indictment, to a fine not exceeding £15,000 or to imprisonment for a term not exceeding 2 years, or to both, 40
 - and
 - (b) in the case of an offence under the said section 730—
 - (i) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months, or to both, 45

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- (ii) on conviction on indictment, to a fine not exceeding £15,000 or to imprisonment for a term not exceeding 2 years, or to both.

5 **66.**—(1) The Minister may make regulations in relation to the burial of human remains at sea. Burial at sea.

(2) A person who contravenes any regulation under this section shall be guilty of an offence and shall 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.

10

FIRST SCHEDULE

Section 5.

ENACTMENTS REPEALED

Session and Chapter or Number and Year	Short Title	Extent of repeal
57 & 58 Vict., c.60.	Merchant Shipping Act, 1894.	Part IX (sections 510 to 571).
6 Edw. 7, c.48.	Merchant Shipping Act, 1906.	Section 72.
1 & 2 Geo. 5, c.57.	Maritime Conventions Act, 1911.	Sections 6 and 7.
6 & 7 Geo. 5, c.41.	Merchant Shipping (Salvage) Act, 1916.	The whole Act.
No. 10 of 1954.	Consular Conventions Act, 1954.	Subsection (2) of section 12.
No. 18 of 1954.	Defence Act, 1954.	Sections 315 and 316.

SECOND SCHEDULE

DECLARATION OF CLAIM TO REMUNERATION FOR SALVAGE SERVICES, ETC.

DECLARATION OF CLAIM TO REMUNERATION FOR SALVAGE SERVICES AND APPLICATION TO THE RECEIVER OF WRECK TO DETAIN PROPERTY FOR PAYMENT THEREOF

5

Name of vessel saved, or from which property was saved	Official number	Port of registry or country, if foreign property	Value of property saved, as far as can be ascertained

WE, WHOSE NAMES are hereto subscribed—

1. Do severally and conjointly, solemnly and sincerely declare that we have rendered salvage services to^(a), of^(b), when in danger on the day of [month], [year], and that we are entitled to salvage for such services. 10
2. Therefore apply to the Receiver of Wreck for the District of to detain such vessel/property^(c) under the provisions of the *Merchant Shipping Acts, 1894 to 1993*. 15

AND WE MAKE this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act, 1938.

} [Signatures of Salvors]

Declared before me at
 this day of [month],
 [year] 20

.....
 Judge of the District Court/Peace Commissioner^(c).

NOTES

- ^(a) Here insert name and description of the vessel or other property saved. 25
- ^(b) Here insert the nature of the services with any particulars necessary to identify the service rendered.
- ^(c) Delete as appropriate.