

New Inland Vessel Act for replacing existing I.V. Act of 1917

A decision has been taken for re-writing of Inland Vessel Act taking into consideration of the development with respect to the increase in the size, capacity & types of Inland Vessels, design & construction, need for qualified, experienced and competent crew for safe manning & operation, the requirement of stringent safety during construction and operation with relevant statutory safety appliances, prevention & control of pollution from the vessel etc etc, for replacing the existing Inland Vessel Act of 1917. Indian Register of Shipping who was awarded the assignment of re-writing the new Act has submitted the first draft of the new Act.

The first draft is in the process of further revision based on the observation, comments & suggestion of the viewers & stake holders. It is proposed to complete the above process and submit the final draft to Ministry of Shipping for its enactment by placing the same before both the houses of parliament.

It is therefore, the viewers are requested to kindly forward their observation, comments & suggestion for incorporation or otherwise on the draft Act on or before 30th June 2015 at E-mail id – cepm.iwai@nic.in . The draft Inland Vessel Act is attached herewith.

THE INLAND VESSELS AND NAVIGATION BILL 2015

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THE INLAND VESSELS AND NAVIGATION BILL 2015

PREAMBLE

RECOGNIZING the necessity for promoting economical and safe transportation and trade through inland waters;

RECOGNIZING the developments in the field of trade by inland waters and technological advancements that the service users and service providers could make use of;

REALISING the demand for a uniform law, and DESIROUS of bringing uniformity in application of law relating to inland waterways and navigation within the country;

RECOGNISING the importance of law in promulgating and facilitating trade and transportation by inland vessels and AIMING at growth of transportation and trade by achieving and protecting the interests and needs of stake holders;

ENVISAGING to provide for safety of navigation, protection of life and cargo, and prevention of pollution that could be caused by the use or navigation of inland vessels;

ENSURING transparency and accountability of administration, by administrative bodies to effectively implement the provisions of this Act so as to maximize benefits and to regulate trade practices;

REALISING the necessity to strengthen investigation and judicial processes to cover casualty, accidents, pollution and any such violations;

ENSURING equality of status, treatment and opportunity to vessels while using or plying in inland waters;

HAVING UNDERSTOOD the need of the time to replace and substitute the existing laws governing and relating to inland vessels, their construction, survey, registration, manning and such other aspects;

WHEREAS it is expedient to regulate and govern the unregulated sector of non-self propelled inland vessels by constituting Department of Local Self Administration and Authorities to assist and safeguard their interests; and

AIMING to enact a legislation that can adapt innovations, developments and contributions of the future;

HENCE IT IS EXPEDIENT to enact this legislation to replace and substitute the Inland Vessels Act, 1917 (Act no 1 of 1917) as amended from time to time.

PART I

1. **Short Title and Commencement**

- (1) This Act may be called The Inland Vessels and Navigation Act (----- of 2015).
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for the entry into force for different provisions of this Act.

2. **Application and Scope**

- (1) It extends to the whole of India.
- (2) All mechanically propelled inland vessels registered, recognized or identified under this Act.
- (3) All mechanically propelled vessels registered under such laws in force in India, other than this Act or in such laws in force in any country other than India; but endorsed or recognised under this Act for the purpose of plying within inland waterways.
- (4) All floating or storage units on the inland waterways
- (5) Any vessels identified as special category vessels plying or using inland waterways as an essential and inevitable surface of transportation.
- (6) Any non-self propelled inland vessels enrolled under this Act.

3. **Definitions:**

- (1) Accident: Any un-fortunate event arising out of or due to the operation or plying of inland vessels causing damage, loss of life or personal injury or any such dangerous situation that are unforeseen or occurs without any premeditated intention.
- (2) Appropriate Government means,
 - a) in relation to any corporation or company owned by the Central Government or any State Government, means the Central Government or that State Government;

- b) in relation to any corporation or company owned by the Central Government and one or more State Governments, means the Central Government; and
 - c) in relation to any other State transport undertaking or any local authority, means the Government which has control over that undertaking or authority.
- (3) Authorised insurer: An insurer carrying on general insurance business in India under the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972), for the time being and any Government insurance fund authorised to practice general insurance business under that Act.
- (4) Book of registry – any record maintained in the form of a book by the Registrar of Inland Vessels for recording the details of the inland vessels registered under this Act that are so required to be recorded under this Act.
- (5) Builder’s Certificate – a certificate signed and issued by the builder of a vessel containing a true account of the proper denomination of the tonnage of the mechanically propelled inland vessel as estimated by him, the place and date of construction, of such vessel and such other requirements as mandated by the contract of construction of the vessel.
- (6) Cargo terminal – terminal designated for the loading or unloading or any other allied processes of such loading or unloading of cargo in a port, jetty, wharf etc. on any inland vessel.
- (7) Cargo Vessels: Any mechanically propelled inland vessel, engaged or employed in the trade of carriage or transportation only of cargo through inland waters.
- (8) Casualty - Shall include any vessel being lost, abandoned, materially damaged, or causing loss of material or damage to any other vessel or any loss of life or personal injury arising thereof.
- (9) Central Data Base – the centralised record maintained for recording the data and details of vessel, crew, certificates & licenses issued, certificate & license holders, reception facilities and such other data, as prescribed to be recorded in such form and content as provided under the Act.

- (10) Certificate of Insurance: A certificate issued by an authorised insurer in pursuance of the insurance premium being paid by the insured, and includes a cover note complying with such requirements as may be prescribed.
- (11) Certificate of Registration - Certificate issued by the Registrar of Inland Vessels certifying that the inland vessel is registered under this Act and is under the ownership of the person registered as the owner of such vessel.
- (12) Classification of Inland waters: Categorisation of inland waters in accordance with the navigability, manoeuvrability or such other criteria as may be prescribed by this Act or any other law in force in India, for the purpose of reserving and/or restricting the accessibility of inland waters to ensure safety of navigation and/or to afford preferential treatment of any class or category of vessels registered or identified under this Act.
- (13) Classification society - Shall mean Indian Register of Shipping having its offices in India.
- (14) Coast Guard shall have the meaning assigned to it in clause (d) of section 2 of the Coast Guard Act, 1978(30 of 1978).
- (15) Competent Authority - Competent Authority refers to the statutory authority appointed by Central Government to function as a Competent Authority under sub-section (1) of Section 4 of this Act.
- (16) Construction Survey - Surveys carried out under this Act to ensure that mechanically propelled inland vessels are constructed in compliance with the regulations stipulated under this Act or Rules made hereunder.
- (17) Containment of Pollution – any measure adopted and successfully executed in removal, control, or suppression of pollution arising from or caused by any inland vessel used or plying in inland waters.
- (18) Court - Shall mean any civil, revenue or High Court or such other courts as may be constituted to have jurisdiction over the matters of liabilities and offences as provided in this Act and includes investigation and inquiry into claims arising out of causalities and accidents within the jurisdiction of
- (19) Cover note – shall include any note of undertaking issued by the insurer who promises to cover the liability and to indemnify the losses incurred by the

insured as provided upon loss suffered or liability incurred by the insured as provided in the contract of insurance, and validity of which is subject to

- (20) Crewmen - All personnel employed for operation or serving on an inland vessel other than Master and passengers as a part of performing the functions of manning as prescribed under this Act.
- (21) Dangerous Goods or dangerous cargo - Means any cargo/goods which due to its nature, form or content as a whole or in part are declared as dangerous or potentially dangerous while carried on any class or category of inland vessels in inland waters under this Act or any other law in force.
- (22) Fishing vessel: A vessel fitted with mechanical means of propulsion, which is exclusively engaged in fishing for profit, within inland waters.
- (23) Gross Registered Tonnage: is the expression of measurement of the capacity of a vessel for carrying cargo or other loads, the volume of space within the hull and enclosed space above the deck, calculated in tons.
- (24) Hazardous chemical or Obnoxious substance: means any chemical or substance, as the case may be, which has been designated as pollutants under this Act.
- (25) Hinterland Connection: Mechanically propelled inland vessels that are used to connect area behind a coast or the shoreline of a river from which the passengers or goods are transported or being shipped from or to the destined coastal port.
- (26) Hull Identification Number: The number and / or such other marks which are provided or assigned to any vessel, by the construction yard or such other persons recognised under this Act, which is engraved on the hull to refer, distinguish and identify one vessel from another.
- (27) Impediment to navigation : Any obstacle which may obstruct or hinder; or obstructing or hindering safe navigation of vessels through inland waters.
- (28) Indian Navy shall have the meaning assigned to it in clause (10) of section 3 of the Navy Act, 1957(62 of 1957)
- (29) Inland Port - Area designated and developed for the facilitation of activities of loading, unloading, embarking, disembarking and any other allied

activities directly or indirectly involved in the functioning of vessels including trade activities and which act as interface between land area and inland

- (30) Inland Vessel - shall include all vessels plying in the inland waters, but does not include
- a) Fishing vessels registered under Merchant Shipping Act, 1958 and Marine Products Export Development Act ,1972
 - b) Vessel registered under the Merchant Shipping Act, 1958
 - c) Vessels that are specified as not to be an inland vessel by the Competent Authority from time to time.
 - d) Mechanically propelled vessels exceeding 3000 tons gross (GRT).
- (31) Inland Waters - includes any artificial or natural waterways up to port limit and those leading or linking Islands, in which the inland vessels ply and any tidal waters as declared by Central Government from time to time; and shall not include any canal, water ways, river, lake, navigable waters or any area of channel declared not as Inland Waters, by Central Government or State Government for the purpose of this Act.
- (32) Jurisdiction of the Court, in relation to a vessel, means the Court within the limits of whose authority
- a) the port or place of registry of the vessel is situated; and/ or
 - b) the vessel is for the time being identified as present; and/or
 - c) the cause of action wholly or in part arises.
- (33) Liability of the insurer: A liability which is covered by the policy or which ought to be covered by the policy, subject to terms of right of insurer to avoid or cancel the policy.
- (34) Lien : Lien is a legal right or interest that a creditor has in the inland vessel or any property thereof, retained until a debt or duty is secured or the performance of some other obligation is satisfied.
- (35) Limitation of Liability : The rate or extent of liability within which the owner or any such other persons entitled under this Act to limit the liability is

permitted to limit or cap the liability arising out of claims, as per the procedure laid down and rates prescribed under this Act or any Rules made thereunder.

- (36) Marking of Vessel - Visual signals, sketches and symbols on inland vessels which are affixed with an intention for the identification and marking of such inland Vessel.
- (37) Master : includes any person other than a pilot or harbour master in command or in charge of a vessel.
- (38) Material fact or Material particular: The expressions shall mean, a fact or any particular of such a nature, which determines the judgment of a prudent insurer, in assessing the extent of his liability, premium to be charged, conditions to be prescribed and such other terms to be entered and incorporated in a policy of insurance governing the relationship with insured.
- (39) Mechanically Propelled Inland Vessel : Any vessel, the propulsion of which is by mechanical means, and includes any floating surfaces, including dumb vessels, barges, rigs or any such floating units, which is towed by or with the assistance of another mechanically propelled vessel used for carriage, storage and accommodation of passengers and cargo in or through inland waters.
- (40) Minimum Manning Requirement : The standard and number of persons required for safe manning and navigation of vessels as provided under this Act.
- (41) Mortgage: The instrument creating right of the mortgagee over any mechanically propelled inland vessel or shares therein, which is made as a security for a loan or other valuable consideration.
- (42) Navigable water: Any area or extent of water declared as navigable by the inland vessels, registered, recognised or identified, under this Act or by Inland Water Authority of India constituted under Inland Water Authority of India Act 1985, as amended or by any authority constituted under such other laws in force in India.
- (43) Navigation signals: The applicable signals as prescribed under this Act or rules made thereunder, that should be exhibited during navigation of vessel

for the purpose of identifying the motion of vessel or status of movement of the vessel plying through the inland waters.

- (44) Non Self-Propelled Vessel : Any vessel other than Mechanically Propelled Inland Vessels plying in the inland waters which are propelled by non-mechanical means of propulsion.
- (45) Oil : means any persistent oil such as crude oil, heavy diesel oil, lubricating oil and white oil, whether carried on board a vessel as cargo or fuel.
- (46) Oily mixture means a mixture with any oil content.
- (47) Owner : Shall mean operator, charterer, beneficial owner or registered owner who is responsible for the activities of the vessel and under obligation to comply with the provisions of this Act in relation to, or in possessing express or implied title by this Act or any other law in force.
- (48) Passenger Cargo : Any goods carried by the passenger to be conveyed in a Passenger Vessel, as part of his/her travel but not as cargo which must be carried in a cargo vessel only.
- (49) Passenger terminal : terminal designated for the embarking or dis-embarking of passengers or any other allied processes of such embarking or disembarking of passengers and the permitted cargo in a port, jetty etc.
- (50) Passenger Vessel : Any vessel permitted to or carrying ----- numbers of passengers apart from the person employed in the vessel within the permitted limits of inland vessels.
- (51) Pilot : any qualified person appointed by the owner of the vessel to assist the master or to steer the vessel in such area of inland water in accordance with the mandatory requirement as prescribed by the respective State Government.
- (52) Pleasure craft: Mechanically propelled boat engaged for the purpose of personal recreation, sports or for accommodation within the inland waters.
- (53) Policy of insurance includes “certificate of insurance”.
- (54) Port/Place of Registry : Place designated to register and maintain the Book of Registry, under the command and exercise of powers by the Registrar of

Ports appointed or authorized under this Act within the jurisdictions of respective State Governments.

- (55) Priority of Lien: The ranking of liens in the order in which they are perfected or recorded in the Book of Registry maintained at every port or place of registry.
- (56) Prohibited goods : goods that are prohibited under this Act from being carried on any class or category of inland vessel used or plying in inland waters.
- (57) Property of the vessel : shall include goods carried in the inland vessel, bridges, landing facilities, navigation marks and infrastructure.
- (58) Provisional Certificate : Any certificate of temporary nature issued in lieu of completion of or compliance with statutory requirements as provided in this Act or Rules, till a valid certificate of permanent nature is granted or denied by respective authorities appointed or authorized under this Act.
- (59) Receiver of Wreck: Any officer appointed or authorised under this Act or any other law in force in India, for the purpose of taking appropriate action or measures in the event of wreck, and for its removal as provided under this Act or Rules made hereunder.
- (60) Reciprocating country : means any country as may on the basis of reciprocity be notified by the Central Government in the Official Gazette to be a reciprocating country for the purposes of this Act.
- (61) Recognition : The expression shall mean acceptance of validity of certificates possessed by vessels which are registered under other laws in force in India or under such other laws of foreign countries which are deemed to be in compliance with the provisions of this Act, subject to satisfaction of such terms and conditions as stipulated under this Act.
- (62) Registrar of Inland Vessels : Administrative body appointed by the Competent Authority/State Government to function as Registrar of Inland Vessels.
- (63) Registry of Alteration : The Book of Registry or part thereof, devoted for recording the alterations or modifications carried out on structure/equipment or construction of an inland vessel, in compliance with this Act.

- (64) Regular Army : shall have the meaning assigned to it in clause (m) of section 3 of the Army Act, 1950(46 of 1950).
- (65) Route: means a line or designated course or canal for navigation which specifies the waterway, from one terminal, port or place to another; which may be traversed or used by any mechanically propelled inland vessel or any ferry service, registered under this Act.
- (66) Salvage: Act of the salvor in retrieving or saving any property or life in danger due to wreck or such other accident and in certain circumstances shall also have the meaning of all expenses incurred by the salvor in the performance of salvage services.
- (67) Salvor: Any one who conducts salvage operations.
- (68) Seaplane: Any aircraft that is employed or engaged for transportation of passenger and / or cargo by air and conducting the takeoff and landing on the inland waters as place or area for, loading, unloading, embarking or disembarking cargo or passengers for trade or recreational purposes.
- (69) Service provider : shall include any person who in the capacity of owner or operator of an inland vessel used or plying in inland waters providing services to any service user for the purposes of transportation, storage and/or accommodation.
- (70) Service user :- shall include any person who in the capacity of a passenger or owner of cargo or freight forwarder, uses the services of any inland vessel used or plying in inland waters for transportation, storage and/or accommodation purposes.
- (71) Special category vessels: Mechanically Propelled Inland Vessels that are identified under this Act as special by considering the use, purpose, function or utility or the means of propulsion including the fuelling system or source of power for propulsion, design, dimensions of construction or areas of operation or such other criteria or standards.
- (72) Survey : Act of assessment and measurements done with the sole intention to classify the hull, equipment and machinery of the vessels to understand the level of its fitness for plying within inland waters.

- (73) Survey Certificate or Certificate of Survey : Certificate issued by the State Government certifying and evidencing that the vessel is in compliance with the requirements of survey carried out under this Act.
- (74) Surveyor : Officer appointed under this Act to carry out survey of inland vessels under this Act.
- (75) Tidal Water : Bodies of water within the territory of a State that are subject to the ebb and flow of ordinary tides, whether navigable or not, and usually excludes harbours or lakes prescribed as tidal waters by the Central Government.
- (76) To Detain : The expression means power exercised by the respective authorities by restraining the movement and taking away the custody and possession of the vessel, for the purpose of enforcing compliance and procedures which ought to have been complied with, by the owner, operator master of vessel or such other person in charge, by the procedure established and as prescribed under this Act.
- (77) To prescribe by notification in the Official Gazette – This expression shall mean rules made under this Act in compliance with section 227.
- (78) To prescribe : unless specifically mentioned in this Act “to prescribe by notification in Official Gazette”; the expression “to prescribe” shall mean the power of administrative authority to issue orders, circulars, notices, guidelines or such other administrative orders for effective administration of the powers conferred under respective provisions.
- (79) To recognise: The expression means an administrative act by which the certificates issued or granted under any other laws in force in India or such other laws of any country other than India are accepted and are given the status at par with similar certificates granted under this Act, by endorsement or general sanction, so as to avoid duplication of processes or to uphold reciprocity.
- (80) Vessel Identification Number: The number and / or such other marks assigned by the Registrar of Inland Vessels or such other persons appointed under this Act to any vessel, which is exhibited on the conspicuous part of such vessels to refer, distinguish and identify one vessel from another.

- (81) Vessel : includes any ship, boat, sailing vessel, tugs, barges or other description of vessels including roll on-roll of vessels, container vessels, gas carriers or floating units or dumb vessels used for transportation, storage and/or accommodation within or through inland waters.
- (82) Water line : Safety water line or any marks or lines with which any inland vessel is marked to denote the safe carrying or loading capacity of such vessel as prescribed under the Act.
- (83) Wreck : A state of any vessel or goods or a part or property of such vessel,
- a) which have been cast into or have fallen into the inland waters and then sunk and remain under water or remains floating on the surface; or
 - b) which have sunk in the inland waters, but are attached to a floating object in order that they may be found again; or
 - c) which are intentionally thrown away or abandoned without hope or intention of recovery; or
 - d) which by its presence in inland waters, is a hazard and / or causes impediment to navigation, or adversely affects safety of life or causes pollution.
- (84) Zone : means any such inland water area as the State Government may, depending on the maximum significant wave height criteria, by notification in the Official Gazette, specify for the purposes of this Act.

PART II: ADMINISTRATIVE PROVISIONS

4. Central Government – Powers, Roles & Functions

- (1) For the purpose of exercising, administering, monitoring or discharging the powers, authority or duties conferred by or prescribed under this Act, the Central Government may, by notification in the Official Gazette, appoint a person to be the Director General of Inland Navigation / the Chairman of Inland Water Authority of India as the Competent Authority under this Act.
- (2) The Central Government may, by general or special Order, direct that any power, authority or jurisdiction exercisable by it under or in relation to any such provisions of this Act or Rules made hereunder or as may be specified in the order allocating the duties shall, subject to such conditions and restrictions as may be so specified, be exercisable also by the Competent Authority or by such other officer as may be specified in the Order.
- (3) The Central Government may by specific Order depute officers for a prescribed period, who shall function in the respective designated positions as an officer under the Competent Authority, subject to such terms and conditions as specified in the order of appointment.
- (4) The Central Government shall have the offices of the Competent Authority established within the respective jurisdiction of the State Government as it may deem necessary, for proper monitoring and for coordinating the implementation of this Act and Rules made there under by the State Government.
- (5) The Central Government may prescribe by notification in Official Gazette, the criteria, qualifications and the required competence levels of officers appointed, authorised or deputed for the appointment and authorisation of officers under this Part.
- (6) Any Rule made by the Central Government on any or all provisions of this Act shall,
 - a) uniformly apply in whole or in any part of India, as specified, and
 - b) prevail over such Rules, Circulars, Guidelines, Notifications or Orders, notified or issued as the case may be, by the State Government; with

immediate effect from its date of notification in Official Gazette by the Central Government.

- (7) Notwithstanding anything to the contrary in this Act, for the purposes of administration of non-self propelled vessels plying in inland waters as provided under Part XVI, the Central Government shall have no powers of administration and shall only provide assistance to the respective State Governments, upon receipt of official request from such State Governments.

5. State Government - Powers, Roles & Functions

- (1) The State Government shall facilitate and provide infrastructure for the establishment of such offices of the Competent Authority, for the purpose of convenience of assisting the respective State Government in administration, providing advice on technical matters and monitoring of the implementation of this Act.
- (2) The State Government may, by general or special order, direct that any power or authority conferred upon and any duty imposed upon it by or under this Act and, subject to such conditions and restrictions as it may think fit to impose, be exercised or discharged by the office of the Competent Authority.
- (3) The State Government may provide for the appointment, constitution, procedure and functions of Advisory Committees to advise the owners, agents and charterers of mechanically propelled inland vessels on questions affecting the interests of stake holders or such other functions or responsibilities as provided under this Act or rules made thereof.
- (4) The State Government may, by Order in writing and for reasons to be specified therein, direct that the Advisory Committee so constituted in sub-section (3) shall be dissolved from such date and for such period as may be specified in the Order.
- (5) The State Government may, by general or special order, direct that any power or authority conferred upon and any duty imposed upon the State Government by or under this Act, with regard to non-self propelled inland vessels enrolled under this Act, may, subject to such conditions and restrictions as it may think fit to impose, be exercised or discharged by such officers of the Departments of Local Self Administration established or constituted under this Act.

(6) Unless specifically mentioned elsewhere in this Act, the State Government shall have the power to make Rules and shall exercise the powers conferred to it as provided by or under this Act.

(7) The State Government may prescribe by notification in Official Gazette, the criteria, qualification and competency of officers appointed, authorised or deputed under this Section.

6. **Competent Authority - Powers, Roles & Functions**

(1) The Competent Authority shall hold his office at the Directorate General of Inland Navigation / the Chairman of Inland Water Authority of India, which shall be fully functional with staff and all necessary amenities, fit to accomplish the respective duties assigned to them, for the purpose of effective implementation of this Act or Rules made thereunder by Central Government or State Government as the case may be, from time to time.

(2) The Competent Authority may, by general or special order, and with the previous approval of the Central Government or State Government, as the case may be, direct that any power or authority conferred upon or delegated to, and any duty imposed upon, the Competent Authority by or under this Act may, subject to such conditions and restrictions as he may think fit to impose, be exercised or discharged also by such officer appointed under him.

(3) It shall be the duty of the Competent Authority to monitor effective implementation of the Act and shall recommend in writing with reasons thereof, to the Central Government or State Government, as the case may be, to adopt such measures to improve implementation.

(4) The Competent Authority may issue guidelines, circulars, notices or any other administrative orders, which are not inconsistent with this Act and the Rules made thereunder, for ensuring proper implementation of the Act and to discharge its functions:

Provided that the Central Government may, by notification in the Official Gazette, cancel any guidelines, circulars, notices or any other administrative orders issued by Competent Authority, which is confirmed to be inconsistent with the Act or Rules made thereunder, and thereupon such guidelines, circulars, notices or any other administrative orders shall cease to have effect.

7. **Advisory committee - Powers, Roles & Functions**

(1) The Advisory Committee so appointed by the respective State Government shall be constituted and shall comprise of:

- a) Head of operations of the offices of Competent Authority in the jurisdiction of respective State Governments,
- b) Members nominated from Inland Water Authority of India offices but not below the rank of Under Secretary.
- c) District Collectors as may be nominated by State Government by considering the proximity and accessibility
- d) Members from offices of Ministry of Agriculture.
- e) Members representing Ports,
- f) Members from Ministry of Finance,
- g) Members representing stake holders or inland vessel transportation and allied industries,
- h) Experts of law with specialization, experience and qualification in maritime laws,
- i) Such other members or technical experts as the State Government may deem fit.

(2) The Committee shall elect from among its members a Chairman and Vice Chairman who shall hold his office for a time as may be prescribed and shall exercise such powers and perform such functions as may be prescribed by State Government within the ambit of the purpose of its constitution.

(3) The number of persons to be appointed as members from each of the categories specified in sub-section (1), the term of office, election of members after the expiry of such term, the manner and content of holding committee procedures shall be prescribed under this Act by the respective State Government.

8. **Department of Local Self Administration - Powers, Roles & Functions:**

(1) The Department of Local Self Administration constituted and established by the State Government for the administration of non-self propelled inland vessels

enrolled under this Act, shall comprise of the following departments in the ascending order of hierarchy of power;

- a) State authority comprising of Secretary to the State Government.
 - b) District authority comprising of District Collector of Districts in every State, reportable to the Secretary of State.
 - c) Taluk authority comprising of Taluk officer of Taluk office in every District reportable to the respective District Collector.
 - d) Village authority comprising of Village Officer of village office in every Taluk reportable to the respective Taluk officers.
- (2) The Departments of Local Self Administration constituted and established by the State Government for the administration of non-self propelled inland vessels enrolled under this Act, may by general or special order, and with prior approval of the State Government as the case may be, direct that any power or authority conferred upon or delegated to; and any duty imposed upon it by or under this Act may, subject to such conditions and restrictions as it may think fit to impose, be exercised or discharged by such officer appointed under it.

PART III: SURVEY

9. Application of this Part :

- (1) Unless otherwise mentioned elsewhere in this Act, this Part shall apply to Mechanically Propelled Inland Vessels.
- (2) Nothing in this Section shall prevent the application of requirements of survey under this Part to any class or category of vessels by the State Governments by notification in the Official Gazette as a prerequisite for such vessels to be used or plying in inland waters.

10. Power to classify & categorize for the purpose of survey:

- (1) The State Government may classify and categorize mechanically propelled inland vessels, intended to proceed on any voyage, or be used for any service in inland waters or designated zones, according to the construction, design, & fitness of such vessel as prescribed by notification in Official Gazette under this Part.
- (2) The fitness of a Mechanically Propelled Inland Vessel to proceed on any voyage, or be used for any service in the inland waters shall be as specified in the Certificate of Survey issued by such Officer appointed or authorised by the State Government under this Part.
- (3) The State Government may by notification in the Official Gazette, prescribe standards of design, construction and fitness to be complied with, by mechanically propelled inland vessels classified or categorised under Sub-section (1), as a prerequisite to proceed on any voyage, or be used for any service in inland waters or zones that are designated or classified under this Part or as provided under Inland Water Authority Act of India, 1985.
- (4) Subject to sub-section (5) and sub-section (6) of Section 11, no mechanically propelled inland vessel shall proceed on any voyage, or be used for any service in the zone in which, the operation of such vessel is permitted, unless she has a valid Certificate of Survey in force, which certifies the capability of the vessel to proceed on any voyage, or be used for any service in such zones or any stretch or whole of inland waters.

(5) Any person who acts in contravention to sub-section (4) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or imprisonment for a period of ----- months or with both.

(6) Nothing in this section shall prevent the Competent Authority to exclude a mechanically propelled inland vessel from the requirement under sub-section (4), on an application made by the owner or master of the vessel for permission to proceed on a voyage, during the interval between the date on which the Certificate of Survey expires and the earliest possible date of renewal.

11. **Design Approval and Certificate of Compliance to be mandatory for new construction and alterations or modifications of existing vessels:**

(1) No construction, alteration and /or modification of inland vessels shall be carried out on any mechanically propelled inland vessel without obtaining prior approval of design from the Competent Authority.

(2) Any person who acts in contravention to sub-section (1) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with Imprisonment for a period of ----- months or with both.

(3) The Competent Authority shall;

a) prescribe standards or specifications to be complied with during the construction, alteration or modification of mechanically propelled inland vessels.

b) prescribe the form in which application has to be made by the owner, operator or construction yard for the design approval for construction, alteration or modification.

c) upon receipt of application for design approval as provided in clause (b) and on receipt of prescribed fee; the design approval may be issued or rejected within a time period of _____ working days.

d) upon issuance of design approval and receipt of prescribed fee, supervise the construction of the mechanically propelled inland vessel, calculate its stability, and conduct inclining tests, other related fitness tests and construction survey; in the course of construction of any newly built vessel

or modification or alteration of any existing mechanically propelled inland vessel.

- (4) The Competent Authority shall prescribe the minimum approved standards for the construction of mechanically propelled inland vessels, from time to time.
- (5) Upon satisfactory completion of construction or modification of any mechanically propelled inland vessel, if it is found that the construction or modification conforms to the standards or specifications prescribed under this Act, the Competent Authority / State Government shall issue a Certificate of Compliance, in such form and content as may be prescribed by the State Government/ Competent Authority.
- (6) The Competent Authority shall issue the Certificate of Classification upon satisfactory compliance with the minimum approved standards of construction.
- (7) The State Government shall by notification in Official Gazette, appoint or authorise any organization, classification society or authority, subject to such terms and conditions; to carry out the classification provided under this Section.
- (8) The State Government shall prescribe fees and / or additional fees to be made applicable for carrying out the functions under this Section.

12. Survey of Vessels

- (1) All mechanically propelled inland vessels which are already in service shall undergo annual /periodical survey, renewal surveys, additional surveys and special survey conducted by the surveyors appointed by the State Governments under this Part
- (2) Subject to Section 11, all newly constructed mechanically propelled inland vessels shall be subjected to a survey under this Part
- (3) The owner, operator, master, serang or construction yard or any other applicant, as the case may be, recognised by State Government / Competent Authority as applicant, shall submit a request for survey in such form and content as prescribed by the Competent Authority/ State Government.

13. Places of Survey

- (1) The State Government may, by notification in the Official Gazette, declare such places, within the territories under respective administration, as it thinks fit, to be places of survey of mechanically propelled inland vessels.
- (2) The State Government shall facilitate all arrangements necessary to carry out survey of inland vessels in the notified places of survey.
- (3) The State Government shall report the information on places of survey to the Competent Authority, who shall record & maintain such information in the Central Data Base.

14. Surveyors – Appointment & Qualification

- (1) In pursuance of Section 12, the State Government may, by notification in the Official Gazette appoint officers or persons as Surveyor(s) of inland vessels, at the designated places of survey.
- (2) The Competent Authority may prescribe minimum criteria and qualifications for the appointment of Surveyors, which the State Governments shall adopt in the appointment of Surveyors.
- (3) Every Surveyor appointed for the purposes of this Act, shall, for the purposes of any survey made by him, be deemed to be a public servant within the meaning of the Indian Penal Code, 1860.

15. Powers of Surveyors:

- (1) For the purposes of ensuring compliance with conditions of construction prescribed for a newly built mechanically propelled inland vessel or such vessel which has to undergo periodical survey, the surveyor(s) may board such vessel upon receipt of request for survey in prescribed form from owners, masters or construction yard.
- (2) For the purposes of conducting survey other than that contained in sub-section (1) above, the surveyor(s) may, at any reasonable time, go on board or enter any mechanically propelled inland vessel and may inspect the mechanically propelled vessel and every part thereof, including the hull, boilers, engines and other machinery, and all equipments and articles on board,

Provided that he shall not unnecessarily hinder the loading or unloading of the mechanically propelled vessel, or unnecessarily detain or delay her from proceeding on any voyage.

(3) The owner, operator, master and crew of the mechanically propelled inland vessel shall render the surveyor, all the reasonable facilities for a survey, and all information with respect to the mechanically propelled inland vessel, and her machinery or any part thereof, and all equipments and articles on board, as he may require for the purposes of a survey.

16. Fees for the Survey

- (1) Before a survey is commenced, the applicant shall pay to such officer as the State Government may by notification in the Official Gazette, appoint in this behalf;
- a) a fee calculated on the gross registered tonnage of the mechanically propelled vessel according to the rates as prescribed in such gazette; and
 - b) such additional fee, applicable to surveys carried out in certain places as prescribed in the Official Gazette.

17. Grant of Certificate of Survey - Procedures

- (1) On completion of survey of a mechanically propelled inland vessel, the surveyor shall forthwith issue the applicant, as the case may be, a declaration in the prescribed form, specifying that;
- a) the hull, boilers, engines and other machinery of the mechanically propelled vessel are sufficient for the voyage or service intended and in good condition;
 - b) the certificates of the master and engineer are valid and equipments of the mechanically propelled vessel are in such condition; as required by this Act or any other law in force for the time being and applicable to the mechanically propelled inland vessel;
 - c) the period (if less than one year) for which the hull, boilers, engines and other machinery and equipments of the mechanically propelled inland vessel is fit to function;

- d) the limit, if any, beyond which, with regard to the hull, boilers, engines and other machinery or equipments, the mechanically propelled inland vessel is in the surveyor's judgment not fit to ply;
 - e) the limits, if any, as to the number of passengers, which the mechanically propelled inland vessel is fit to carry, according to the judgment of the surveyor specifying, and if necessary, the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins; the number to be subject to such conditions and variations, according to the time of year the nature of the voyage, the cargo carried or other circumstances, as the case may be;
 - f) the nature and quantum of cargo, which according to the judgment of the surveyor, the mechanically propelled inland vessel is fit to carry;
 - g) the inland waterways or zones in which such mechanically propelled inland vessel is eligible or not eligible to be used or utilized;
 - h) the mechanically propelled inland vessels complies with the mandatory safety requirements prescribed under this Part;
 - i) the documents showing evidence of radio installation.
 - j) evidence of inspection of any installation of liquefied petroleum gas by a qualified and approved technician, in case of vessels which are mechanically propelled by liquefied petroleum gas;
 - k) the mechanically propelled inland vessel continues to conform to the standards to which it was constructed; and
 - l) any other prescribed particulars.
- (2) On receipt of the declaration of surveyor as mentioned in sub-section (1) above, the applicant shall submit the declaration of surveyor within 14 working days to such officer authorised / appointed by the State Government, by notification in the Official Gazette.
- (3) If any applicant who has received the declaration of surveyor, fails to send the declaration as required by sub-section (2), the officer shall impose an amount of Rs. 500/- as penalty for every working day during which the submission of the declaration is delayed.

- (4) The State Government/ Competent Authority shall, if satisfied that all the provisions of this Act have been complied with in respect of a declaration submitted under sub-section (2), and upon receipt of payment of prescribed fee and such penalty amount issue, a Certificate of Survey, in duplicate to the owner, operator, master, serang or construction yard.
- (5) A Certificate of Survey granted under this section shall be in the prescribed form, and shall contain a statement to the effect that, all the provisions of this Act with respect to the survey of the mechanically propelled inland vessel and the declaration of surveyor have been complied with, and shall set forth –
- a) the particulars concerning the mechanically propelled inland vessel mentioned in the declaration of surveyor as required by clauses (a), (b) and (c) of sub-section (1) of this Section, and/or
 - b) any other particulars as prescribed under this Part.
- (6) The State Government may, by notification in the Official Gazette, delegate to any person all or any of the functions assigned to the State Government under this section.

Provided that no delegation shall be made to authorise the grant of a Certificate of Survey by the surveyor who made the declaration of surveyor under sub-section (1) of this Section.

18. **Provisional Certificate of Survey**

The surveyor who conducted the survey may, without following the procedure laid down in Section 17, grant a certificate to be effective for a period which shall not in any case exceed forty-five days, to authorise the mechanically propelled inland vessel to proceed on voyage or use in service temporarily, pending the issue of the Certificate of Survey, in a manner and subject to conditions as may be prescribed by the State Government/ Competent Authority, as the case may be.

19. **Certificate of Survey to be Affixed in Conspicuous Part of Mechanically Propelled Inland Vessel:**

- (1) The owner or master of every mechanically propelled inland vessel, for which a Certificate of Survey has been granted, shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed on a conspicuous part

of the mechanically propelled inland vessel and also ensure that it remains affixed as long as the certificate remains valid, where it may be easily viewed by all persons on board.

- (2) Any person who acts in contravention to sub-section (1) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ---
----- or with Imprisonment for a period of ----- months or with both.

20. **Effect Of Certificates Of Survey**

- (1) A Certificate of Survey shall have effect in the State Government which issues the Certificate of Survey

Provided that such a Certificate of Survey shall have effect in the jurisdiction of another State Government that allows the Certificate of Survey to have such effect by virtue of endorsement or by way of general or special permission

- (2) Notwithstanding anything contained herein, the State Governments / Competent Authority shall prescribe conditions to be complied with by applicants for such endorsements, as a precondition to extend the application of Certificate of Survey to that State endorsing such certificates.
- (3) The Certificate of Survey of any mechanically propelled inland vessel found to be plying within the jurisdiction of another State without endorsement as provided in proviso to sub-section (1) shall be cancelled by the State issuing such Certificate under this Part.
- (4) Any owner or master of any mechanically propelled inland vessel found to be plying within the jurisdiction of another State without endorsement as provided in sub section (1) is committing an offence under this Part and shall be punishable with a fine which may extend to ----- or imprisonment for a period of -----
- months or with both.

21. **Terms of Certificates of Survey**

- (1) A Certificate of Survey shall be valid for a period of **one year** from the date of issuance and shall not be in force:
 - a) in any State after the expiration of one year from the date thereof; or

- b) in any State after the expiration of the period, if less than one year, for which the hull, boilers, engines or other machinery, or any of the equipments of the mechanically propelled vessel to which the certificate relates, have been stated in the certificate to be sufficient; or
 - c) in any State after notice has been given by the State Government of the State, in which it was granted to the owner or master of such mechanically propelled vessel that, such State Government has cancelled or suspended it.
 - d) in any other State by virtue of any endorsement or by general or special sanction, after notice of suspension and cancellation has been issued by the State, which originally issued the Certificate of Competency.
- (2) After a Certificate of Survey has ceased to be in force, a valid Certificate of Survey shall be obtained only after a fresh survey of the mechanically propelled inland vessel to which the certificate relates, has been conducted in accordance with the provisions of this Part, unless any relaxation from conducting a fresh survey is specifically being granted by the Competent Authority.

22. Suspension and Cancellation of Certificate of Survey

- (1) A Certificate of Survey or any endorsement made under Section 20 may be suspended or cancelled by the Government of the State in which the certificate was granted or in respect to which the endorsement was made, as the case may be, if that Government has reason to believe:
- a) that the declaration of the surveyor of the sufficiency and good condition of the hull, boilers, engines or other machinery or of any of the equipments of the mechanically propelled vessel has been fraudulently or erroneously made; or
 - b) that the certificate has otherwise been granted upon false or erroneous information; or
 - c) that since the making of the declaration the hull, boilers, engines or other machinery, or any of the equipments of the mechanically propelled vessel have sustained any material damage, or have otherwise become insufficient.

23. Power For State Government To Require Delivery Of Expired or Suspended Or Cancelled Certificate:

- (1) The State Government may require any Certificate of Survey, which has expired or has been suspended or cancelled, to be delivered to such officer as a State Government may, by notification in the Official Gazette appoint in this behalf.
- (2) Where an endorsement on any Certificate of Survey for any State has expired or been suspended or cancelled, the respective State Government may require the Certificate of Survey to be delivered up to such officer as that State Government may by notification in the Official Gazette appoint in this behalf, in order that particulars of the expiry, suspension or cancellation of the endorsement may be noted on the certificate.

24. Procedure After Suspension

- (1) The State Government shall issue the notice of suspension of the Certificate of Survey to the owner, operator, master, serang or construction yard by stating the errors to be rectified and conditions that have to be complied with by the owner, operator, master or Serang or construction yard **within 3 months** from the date of issuance, in the manner prescribed under this Part.
- (2) Non compliance of the notice of suspension by the owner, master or Construction yard, within the prescribed time period shall be recorded by the respective State Government and such State Government shall issue the notice of cancellation of Certificate of Survey issued by it, which shall come into immediate effect.

25. Report Of Suspension Or Cancellation Of Certain Certificates

- (1) If the State Government suspends or cancels an endorsement issued under Section 20, on a Certificate of Survey, it shall report the suspension or cancellation, along with the reasons thereof, to the State Government, which conferred or granted the certificate.
- (2) The State Government which has originally issued the Certificate of Survey shall evaluate the reasons and shall decide on cancellation or suspension of Certificate of Survey issued by it and shall report such information to the State Government which has reported the suspension or cancellation of the validation made through endorsement.

- (3) The State Government shall record the details of the cancelled certificate in the Book of Registry maintained by Registrar of Inland Vessels under this Act.

26. Power For State Government To Direct Survey By Two Surveyors

- (1) A survey shall ordinarily be completed by one surveyor.
- (2) Notwithstanding anything contained herein, the State Government shall appoint two surveyors, and shall prescribe the duties assigned to them by Order in writing and such Order shall detail the requirement of two surveyors to be appointed, either generally in the case of all mechanically propelled inland vessel, at any place of survey or specially in the case of any class or category or any particular mechanically propelled inland vessel at any such place as notified under this Part.
- (3) The surveyors shall perform the duties assigned under this Part or the Rules made hereunder.

27. Power For State Government To Order A Second Survey

- (1) If the surveyor making a survey of a mechanically propelled inland vessel refuses to give a declaration under sub-section (1) of Section 17 with regard to any mechanically propelled inland vessel, or gives a declaration with which the owner, operator, master, serang or construction yard of any mechanically propelled inland vessel is dissatisfied, the State Government may, on an application made by the owner, operator, master, serang or construction yard and upon payment of such fee, not exceeding twice the amount of the fee payable for the previous survey, direct two other surveyors to survey the mechanically propelled inland vessel.
- (2) The surveyors so directed shall forthwith survey the mechanically propelled inland vessel, and may, after completion of survey, either refuse to give a declaration or give such declaration as, under the circumstances, deemed proper.
- (3) Any declaration given, or any refusal to give a declaration under sub-section (2), shall be final.

28. Power for State Government To Make Rules regarding Surveys

- (1) The State Government may make rules to regulate the surveys of mechanically propelled inland vessels or such inland vessels to which the application of this Part is intended.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe –

- a) standards of construction, design & fitness for the purpose of classification and categorisation of mechanically propelled inland vessels to proceed on any voyage, or be used for any service in inland waters or zones;
- b) the times and places at which, and the manner in which, surveys are to be made;
- c) the duties of the surveyor making a survey and, where two surveyors are employed, the respective duties of each surveyor;
- d) the form in which Declarations of Survey and Certificate Of Survey are to be framed, and the nature of the particulars to be stated therein;
- e) conditions, standards and time intervals for certain class or category of mechanically propelled inland vessels to undergo an out of water hull survey;
- f) conditions and categorisation relating to annual /periodical survey, renewal surveys, additional surveys and special survey prescribed to be conducted under sub-section (3) of Section 12;
- g) the rates according to which the fees payable in respect of surveys are to be calculated, in the case of all or any of the places of survey within the respective territories under its administration; and the instances and the extent to which a survey may be dispensed with before the grant of a new certificate; and
- h) Such other purposes for the proper implementation of the provisions of this Part.

PART IV: REGISTRATION

29. **Applicability of Part**

This Part applies only to inland vessels above ___ gross registered tonnage and ___ LOA , fitted with mechanical means of propulsion, which is wholly owned by a any citizen of India; or any co-operative society which is registered or deemed to be registered under the Co-operative Societies Act, 1912, or body established under any Act relating to co-operative societies in force in any State for the time being, or any company registered under Indian Companies Act 1956 or any partnership firm registered under Limited Liability Partnership Act 2008 or any other body established by or under any Central or State Act and which has its principal place of business in India.

30. **Certificate of Registration a mandatory requirement under the Act**

- (1) A mechanically propelled inland vessel shall not proceed on any voyage or be used for any service, unless it has a valid Certificate of Registration, in respect thereof, and granted under this Act.
- (2) Any person who acts in contravention to sub-section (1) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to --- ----- or with Imprisonment for a period of ----- months or with both.
- (3) Nothing in this Section shall prevent the authority appointed or authorised under this Part to;
 - a) Permit any mechanically propelled inland vessel, built at any place other than a Port/ place of registry to make her first voyage to any such port/place for the purpose of registration; or
 - b) Permit the vessels registered under such other laws in force in India and recognised under this Act to conduct voyage within the inland waters; or
 - c) Permit any mechanically propelled vessels registered under such laws of countries other than India; which are recognised by way of endorsement under this Act, to conduct voyage through inland waters of India.

31. Obligation to carry Certificate of Registration

- (1) A valid Certificate of Registration issued under this Part shall be carried on the vessel and shall be made available for inspections when demanded by the officers appointed under this Act.
- (2) Any mechanically propelled inland vessel required to be registered under this Act, may be detained until the respective owner, operator, master or serang of such vessel produces a valid Certificate of Registration as prescribed under this Part, upon demand, by the Competent Authority or any officer appointed or authorised under this Part.

32. Ports or places of registry & Registrars of Inland Vessels

- (1) For the purpose of this Part, the State Government by notification in the Official Gazette may -
 - a) appoint ports or places of registry and shall specify in such notification the areas of inland waters covered under each such port or place for the registration of mechanically propelled inland vessels.
 - b) appoint registering authorities designated as Registrar of Inland Vessels at the said Ports/places of Registry.
- (2) A Registrar of Inland Vessels shall, in respect to the port/place of registry for which he is appointed, perform his functions as prescribed and authorised by the Competent Authority/ State Government.
- (3) Every person appointed under this Part as a Registrar of Inland Vessels for the purposes of any registration made by him, shall be deemed to be a public servant within the meaning of the Indian Penal Code, 1860.

33. Book of Registry

- (1) At every designated port/place of registry, a book shall be kept by the Registrar of Inland Vessels in which all the particulars contained in the form of the Certificate of Registration shall be duly entered and such Registrar of Inland Vessels shall, immediately after registering any mechanically propelled inland vessel or within one month at the latest, send to the State Government, a true and exact copy, together with the registration number, of every such certificate, granted under this Part.

- (2) The State Government shall report and update the Central Government with the list of the designated ports/places of registry, details of officers appointed or authorized under this Part and details of registrations as entered in the Book of Registry to facilitate and administer the registration processes under this Part.

34. Central Registry Of Vessels

- (1) A Central Registry of Vessels shall be established and maintained by the Competent Authority.
- (2) The officer in charge of the central registry of vessels shall
- a) maintain a central registry both in Electronic and Document form, which should compile the reported and updated details on designation of ports/paces of registry, Registrars of Inland vessels appointed and the status of mechanically propelled inland vessel that are registered and/or details of pending registration and issuance of Certificate of Registration granted under this Part including the details of suspension or cancellation of Certificate of Registrations made by them.
 - b) Perform such other functions as may be prescribed.

35. Application and Processes of Registration of Vessels

- (1) An application for registration of a mechanically propelled inland vessel shall be made by the owner, master, construction yard or such other applicant, as the case may be, in such form and particulars as may be prescribed by the Competent Authority / State Government and shall be accompanied by a copy of the following documents as provided as applicable to the following category of vessels;
- a) Newly built Vessels
 - (i) Document of Builder's Certificate.
 - (ii) Declaration of citizenship or certification issued by the statutory bodies in which the applicant is registered.
 - (iii) Declaration of ownership.
 - (iv) Certificate of Survey.
 - (v) Certificate of Gross Registered Tonnage

- (vi) Cover note or Certificate of Insurance
 - (vii) Certificates on compliance of safety / prevention of pollution /other technical compliance enumerated under this Act
- b) Secondhand Vessels
- (i) Bill of Sale/ Document of Sale.
 - (ii) Declaration of citizenship or certification issued by the statutory bodies in which the applicant is registered.
 - (iii) Declaration of ownership.
 - (iv) Certificate of Survey.
 - (v) Certificate of Gross Registered Tonnage
 - (vi) Cover note or Certificate of Insurance
 - (vii) Certificates on compliance of safety / prevention of pollution /other technical compliance enumerated under this Act
- c) Vessels acquired outside India
- (i) Bill of sale / Document of Sale Invoice or other documents.
 - (ii) Copy of last registry
 - (iii) Declaration of citizenship.
 - (iv) Declaration of ownership.
 - (v) Certificate of Survey.
 - (vi) Certificate of Gross Registered Tonnage
 - (vii) Cover note or Certificate of Insurance
 - (viii) Certificates on compliance of safety / prevention of pollution /other technical compliance enumerated under this Act
- d) Vessels acquired by judicial sale or by due process of law
- (i) Proof or order of judicial sale by which the title is acquired,
 - (ii) Document of last Registry.
 - (iii) Bill of sale / sale invoice.

- (iv) Cover note or Certificate of Insurance
 - (v) Certificates on compliance of safety / prevention of pollution /other technical compliance enumerated under this Act.
- (2) Every application for registration shall be made to the Registrar of Inland Vessels appointed under this Part, within the jurisdiction of the respective State in which the owner of the mechanically propelled inland vessel ordinarily resides, or has the principal place of business; and such place is the intended place of operation of the vessels subsequent to registration.
- (3) Where the owner applying for a Certificate of Registration is any applicant, other than an individual, as provided in Section 29, the application may be made to a Registrar of Inland Vessels of a State Government within the jurisdiction in which, the principal office of the applicant is situated and officially registered.
- (4) Notwithstanding anything contained in this Section, a Registrar of Inland Vessels appointed by a State Government, may register a mechanically propelled inland vessel, subject to submission of the no objection certificate issued by the State Government, for which the applicant ought to have applied as per sub-section (2) and (3) of this Section; in such form prescribed under this Part.
- (5) A Registrar of Inland Vessels may refuse the registration of a mechanically propelled inland vessel, if the vessel or the application submitted for registration is found not to be in compliance with this Act.
- (6) The Registrar of Inland Vessels shall record the reasons for not issuing the Certificate of Registration and shall provide the applicant a copy of the statement that shall contain the reasons for such refusal.

36. Grant of Certificate of Registration & Form and Contents

- (1) The Registrar of Inland Vessels shall grant Certificate of Registration to the applicant, who has paid the prescribed fee for the issuance of such certificate, and has established and furnished information to the effect that the mechanically propelled inland vessel, for which the registration is sought, is in compliance with all the requirements provided by this Act or prescribed thereunder.

(2) The Certificate of Registration shall be in such form and content as may be prescribed by the Competent Authority / State Government and shall contain the following among others¹

- a) Ownership details / Addresses
- b) Details of Mortgage
- c) Hull Identification Number
- d) Vessel Identification Number
- e) Duration applicable, if any
- f) Any other conditions that the Competent Authority / State Government may deem fit to be complied with, by the owner or operator of the mechanically propelled inland vessel after registration under this Act

37. Marking of the Vessel

(1) The Registrar of Inland Vessels shall assign the registration mark and the Vessel Identification Number, to any mechanically propelled inland vessel registered under this Part, which shall be displayed on a conspicuous part of the vessel, in such form and content as may be prescribed by the State Government by notification in Official Gazette.

(2) Any person who acts in contravention to sub-section (1) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to --- or with Imprisonment for a period of ----- months or with both.

38. Effect of Certificate of Registration

(1) A valid Certificate of Registration issued under this Part shall be conclusive proof of ownership and title, as declared by the applicant and as entered in the Book of Registry by the Registrar of Inland Vessels.

(2) Notwithstanding anything contained in this Act, any person who has beneficial interests of ownership in the mechanically propelled inland vessel or shares therein, shall have the same rights as that of the registered owner and shall be deemed as owner of such vessel for the purposes of this Act.

¹ IRS may please add where required.

- (3) Subject to sub-section (5) of this Section, a Certificate of Registration granted in respect to any mechanically propelled inland vessel shall be used only for the lawful navigation of that vessel within the limits of jurisdiction of the State Government, and in the Certificate of Registration under this Act.
- (4) Any person who acts in contravention to sub-section (3) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with Imprisonment for a period of ----- months or with both.
- (5) The owner, operator or master of a mechanically propelled inland vessel intending to operate his vessel in any inland waters, other than those falling within the jurisdictional limits of the State Government, which has issued the Certificate of Registration; shall apply for a no objection certificate from the respective registrar of inland vessels, who has originally issued the Certificate of Registration; and the registrar of inland vessel shall,
- a) on receipt of application along with the prescribed fee, issue the no objection certificate in such numbers, form and content, as may be prescribed hereunder and the certificate so issued shall remain valid for a period not exceeding 36 months.
 - b) require the No objection certificate to be carried on the mechanically propelled inland vessel and be made available for inspection to the officer appointed or authorised under this Part.
- (6) Notwithstanding anything contained in this Act, a valid Certificate of Registration issued by a Registrar of Inland Vessels in one State shall remain valid for the purpose of using or plying the vessel continuously in the inland waters of any other State Government for a period not exceeding 36 months.
- (7) The owner, operator or master of a mechanically propelled inland vessel registered in one State, and who has been continuously using such vessel in another State for a period exceeding thirty-six months, shall submit necessary application before the respective Registrar of Inland Vessels of the State in which the vessel remains; for the transfer of registry from the Registrar of Inland Vessels of the State Government, which has originally issued the Certificate of Registration, at the time of making of application for Transfer of Registry.

(8) Registrar of Inland Vessels may demand furnishing of any or all of documents from the owner or master of any mechanically propelled inland vessel, which is plying within the jurisdictional limits of the, port or place of registry to furnish,

- a) Certificate of Registration in force, carried on such vessels
- b) No objection certificate issued by the State Government, which originally issued the prevailing Certificate of Registration, applicable if any,
- c) any other documents or information, the list of which may be prescribed by notification in Official Gazette by State Government from time to time

39. Duplicate Certificate

(1) If the Certificate of Registration issued under this Part is lost or destroyed, the registered owner shall apply for a duplicate certificate to the Registrar of Inland Vessels, which issued the lost or destroyed Certificate of Registration; in such form or manner as prescribed by the Competent Authority / State Government.

(2) The State Government or the Competent Authority as the case may be, upon receipt of application under sub-section (1) and the prescribed fees or additional fees, as may be applicable, shall issue the duplicate certificate.

40. Provisional Certificate of Registration:

(1) Pending the issue of a Certificate of Registration; the Registrar of Inland Vessels may issue, a provisional Certificate of Registration in such form and content as may be prescribed by notification in Official Gazette, on an application in the prescribed form and upon payment of prescribed fee by the owner, operator or construction yard, of the mechanically propelled inland vessels.

Provided that where the Registrar of Inland Vessels, directs that the vessel be registered anew, it shall either grant a provisional certificate describing the vessel as altered or provisionally endorse the particulars of the alteration on the existing certificate.

(2) A provisional certificate issued under sub-section (1) shall be valid for not more than 60 days from the date on which it is issued or after the issue of Certificate of Registration by the Registrar of Inland Vessels, whichever occurs earlier.

- (3) During the period of validity of the provisional Certificate of Registration issued under this Part, the owner, operator or construction yard shall implement and comply with all necessary steps to be taken to have the vessel registered.
- (4) The State Government shall prescribe fees or additional fees by notification in Official Gazette, to be paid by the applicant for obtaining the provisional Certificate of Registration.

41. **Transfer of Registry:**

- (1) The registry of a mechanically propelled inland vessel may be transferred from one place in a State to another place in another State, on the basis of application made by the owner or master of the vessel to the Registrar of Inland Vessels of the port of registry in which the vessel is intended to be used or has been plying for more than 36 months.
- (2) On receipt of such application, the Registrar of Inland Vessels shall transmit notice thereof to the Registrar of Inland Vessels of the port/place of registry where the vessel is originally registered and whose valid Certificate of Registration the vessel possesses, at the time of making of application for transfer of registry.
- (3) The Certificate of Registration in respect of the vessel shall be delivered to the Registrar of Inland Vessels of the intended port/place of registry, along with the application.
- (4) On receipt of the application under sub-section (1) and the prescribed fee, the Registrar of Inland Vessels of the intended port/place of registry shall enter in its Book of Registry, all the particulars relating to the vessel and grant a fresh Certificate of Registration in respect of the vessel and thenceforth such vessel shall be considered as registered at the new port of registry.

42. **Registration Of Alterations:**

- (1) The owner, operator or master of the mechanically propelled inland vessel shall, within such period as may be prescribed, make a report of such alteration to the Registrar of Inland Vessels of the respective port/place of registry, where the vessel is registered, failing which, it shall be considered as plying without a valid Certificate of Registration.

- (2) The report under sub-section (1) shall be made in such form and shall contain such particulars with respect to the alteration, as may be prescribed and shall be accompanied by the Certificate of Registration in force, and the Certificate of Survey, in respect of the vessel at the time of the report.
- (3) The Registrar of Inland Vessels, on receipt of the report under sub-section (1) and on payment of the prescribed fee, shall either cause the alteration to be registered and entered in the Certificate of Registration, or direct that the vessel be registered anew.
- (4) Any person who acts in contravention to sub-section (1) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with Imprisonment for a period of ----- months or with **both**.

43. Change of Residence or Place Of Business:

- (1) If the owner of a mechanically propelled inland vessel ceases to reside or carry on business at the address recorded in the Certificate of Registration of the vessel, he shall, within thirty days of the change of address, intimate his new address to the Registrar of Inland Vessels who granted the Certificate of Registration or, if the new address is within the jurisdiction of another port of registry, to the Registrar of Inland Vessels of that port of registry, and shall at the same time forward the Certificate of Registration to the respective Registrar of Inland Vessels, in order that the new address may be entered therein.
- (2) Any person who acts in contravention to sub-section (1) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with Imprisonment for a period of ----- months or with both.
- (3) If the Registrar of Inland Vessels who makes any such entry as provided in sub-section (1) is not the registrar appointed at the port of registry of the mechanically propelled inland vessel, then the registrar shall communicate the new address to the Registrar of Inland Vessels of the original port of registry who shall incorporate such changes as communicated.

44. Prohibition against Transfer of Ownership of Registered Vessel

- (1) Any mechanically propelled inland vessel registered with the registering authority of a State Government under this Part, shall not be transferred to a person residing

in another State Government in India or in any country outside India, without the prior approval of the Registrar of Inland Vessels of the State, who has originally issued the Certificate of Registration.

- (2) Subject to sub-section (1), the owner of a mechanically propelled inland vessel registered under this part and the transferee shall, within **thirty days** of the transfer of ownership of the said vessel to the transferee, jointly submit a report of the transfer to the port/place of registry, within whose local limits of jurisdiction, the transferee resides or carries on business and shall also forward the valid Certificate of Registration to the Registrar of Inland Vessels appointed at that port/place of registry, together with prescribed fee, in order that the particulars of the transfer of ownership may be entered thereon in the Book of Registry.
- (3) Notwithstanding anything contained herein, the State Government may demand or order the transferor and transferee for a fresh survey to be conducted and/or fresh registration to be initiated under this Part, for grant of Certificate of Registration to a vessel, whose ownership is reported to have been transferred from transferor to transferee.

45. Suspension of Certificates of Registration:

- (1) A Registrar of Inland Vessels may suspend the Certificate of Registration of a mechanically propelled inland vessel for such period, if it has reason to believe that after the granting of the said certificate the vessel became unfit to ply in inland waters.
 - a) Any Registrar of Inland Vessels, before suspending the valid Certificate of Registration, shall provide an opportunity for hearing, to the owners, operators or masters and may suspend the Certificate of Registration under sub-section (1) by recording the reasons.
 - b) The Registrar of Inland Vessels who suspends the Certificate of Registration under sub-section (1) shall issue a notice of suspension to the registered owner stating the reasons for suspension and the conditions to be complied with for withdrawing the suspension.
 - c) A notice of suspension shall also point out the rectification, repairs and modifications required to be carried out on the vessel within a prescribed time, to withdraw the suspension that is ordered under sub-section (1).

- (2) Where the registration of a mechanically propelled inland vessel is suspended under sub-section (1) for a period of not less than one month, if the Registrar of Inland Vessels ordering the suspension, is not the Registrar of Inland Vessels appointed at the original port of registry of the said vessel; the former shall intimate the Registrar of Inland Vessels of the original port of registry of the said vessel, regarding suspension of the Certificate of Registration, who shall record the information of suspension in the Book of Registry in which the registration of the vessel is originally recorded.
- (3) The Registrar of Inland Vessels suspending the certificate shall require the owner or master of the mechanically propelled inland vessel to deliver the certificate so suspended to itself or, if it is not the Registrar of Inland Vessels of the original port or place of registry of the said vessel, to the Registrar of Inland Vessels who had granted such certificate.
- (4) Any Any person who acts in contravention to sub-section (3) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with Imprisonment for a period of ----- months or with both..
- (5) A Certificate of Registration surrendered under this section shall be returned to the owner, when an order of suspending such a certificate has been rescinded or has been withdrawn, and the same needs to be recorded in the Registry of Vessels as maintained by respective State Governments.
- (6) If the Registrar of Inland Vessels ordering the suspension has reported the information of suspension to the port or place of registry who has originally issued the Certificate of Registration, the Registrar of Inland Vessels of the original registry has to be appraised on rescinding or withdrawal of order of the suspension of Certificate of Registration.

46. **Cancellation of Certificate of Registration**

- (1) A Certificate of Registration that remains suspended for a period more than ___ months shall be deemed and declared as cancelled by the Registrar, who had originally granted the Certificate of Registration and such cancellation shall be recorded in the respective Registry of Vessels.

- (2) If the cancellation of the Certificate of Registration is deemed or declared by Registrar of Inland Vessels other than the registrar who had originally issued such Certificate, the former shall inform the Registrar of Inland Vessels of the port/place of registry, who has originally issued the Certificate of Registration; to cancel the Certificate of Registration.
- (3) The registered owners must make applications in such form and manner as may prescribed by the State Government by notification in Official Gazette; in order to have their names deleted and shall return the Certificate of Registration to the Registrar of Inland Vessels who originally granted the Certificate of Registration, in the occurrence of any of the following events;
- a) Vessels are missing;
 - b) Vessels are destroyed;
 - c) Vessels are irreparably damaged;
 - d) Vessels are sold abroad
- (4) Any Registrar of Inland Vessels, may at any time, require that any mechanically propelled inland vessel within the local limits of its jurisdiction be inspected by such authority as the State Government may, by general or special order, appoint in this behalf.
- a) If as a result of such inspection, the Registrar of Inland Vessels finds that the vessel is in such a condition that it is not fit to ply in any inland water, due to non compliance with the provisions provided or prescribed under this Act; the Registrar of Inland Vessels shall issue a notice to that effect to the owner, operator or master and they shall be given an opportunity of fair hearing.
 - b) If the Registrar of Inland Vessels still concludes that the vessel is in such a condition and is not fit to ply in any inland waters by recording the reasons therein, shall immediately cancel the Certificate of Registration of such vessel.
 - c) The owner, operator or master of the mechanically propelled inland vessel of which the Certificate of Registration has been cancelled under this Section, shall be required to surrender forthwith the cancelled Certificate

of Registration in respect of such vessel to the Registrar of Inland Vessels, , if it has not already been so surrendered.

(5) Any Registrar of Inland Vessels who cancels the Certificate of Registration under this Section shall record the cancellation in the Book of Registry of vessels and if he is not the Registrar of Inland Vessels who had originally granted the Certificate of Registration, the former shall report the cancellation to the latter who originally issued the Certificate of Registration.

(6) State Governments shall report the list of cancellations to the Competent Authority, who shall enter the same in the Central Data Base in which the details of registration of vessels and ownerships are recorded and maintained.

47. **Appeal**

(1) Any person may appeal to the State Government **within 30 days** from the date of receipt of an order passed by the Registering Authority for-

- a) refusing to register any mechanically propelled inland vessel under sub-section (5) Section 35; or
- b) suspending a Certificate of Registration under sub-section (1) of Section 45; or
- c) cancelling a Certificate of Registration under sub-section (1) of Section 46.

(2) The Competent Authority shall cause notice of every such appeal to be given to the Registrar of Inland Vessels concerned in such manner as may be prescribed, and after giving an opportunity by the concerned Registrar of Inland Vessels to the appellant to be heard, shall pass appropriate order by recording reasons thereof , which shall be final.

48. **Reciprocity**

Where the Central Government is satisfied that by the law or practice of any country other than India, mechanically propelled inland vessels having a Certificate of Registration in force under this Act, may -

(1) obtain by reason of such registration any special exemption in that country while plying in the inland waters thereof, or

- (2) be required as a condition of plying in the inland waters of that country to comply with any special requirement, whether by way of registration anew or payment of a fee or otherwise,
- (3) by notification in the Official Gazette, for the purpose of reciprocity, direct that the same exemption or requirement, or an exemption, or a requirement as similar thereto as may be, be granted to, or imposed upon, the mechanically propelled inland vessels registered in that country while plying within the inland waters of the territories to which this Act applies.

49. **Mortgage of Mechanically Propelled Vessel or Share therein:**

- (1) A registered mechanically propelled inland vessel or a share therein may be made a security for a loan or other valuable consideration, and such instrument creating the security shall be in the prescribed form or as near thereto as circumstances permit, and on the production of such instrument, the Registrar of Inland Vessels who granted the Certificate of Registration shall record it in the Book of Registry.
- (2) Mortgages shall be recorded by the Registrar of Inland Vessels in the chronological order in which they are reported to him, by the mortgagee and, the Registrar of Inland Vessels shall, by memorandum under his hand, note down on each mortgage that it has been recorded by him stating the day and hour of that record, for the purpose of prioritising the creation of charge or lien on the mechanically propelled vessel or share therein by the mortgagee.
- (3) If there are more mortgagees than one recorded in respect to the same vessel or share, the mortgages shall, notwithstanding any express, implied or constructive notice, have priority according to the date on which each mortgage is recorded in the Book of Registry and not according to the date of creation of each mortgage.
- (4) Where a registered mortgage is discharged, the Registrar of Inland Vessels shall, on the production of the respective document evidencing the cancellation of mortgage issued by the mortgagee along with a receipt for the mortgage money endorsed thereon, duly signed and stamped, make an entry in the Book of Registry to the effect that the mortgage has been discharged, and on that entry being made the estate, if any, which passes to the mortgagee shall vest with the

registered owner of the mechanically propelled inland vessel, who prior to cancellation had the status of mortgagor.

(5) Except in so far as may be necessary for making a mortgaged mechanically propelled inland vessel or share available, as a security for the mortgage debt, the mortgagee shall not, by reason of his mortgage, be deemed to be the owner of the vessel or share therein, nor shall the mortgagor be deemed to have ceased to be owner thereof.

(6) Where there is only one registered mortgagee of a mechanically propelled inland vessel or share therein, he shall be entitled to recover the amount due under the mortgage by selling the mortgaged mechanically propelled inland vessel or share therein, without approaching the High Court:

Provided that nothing contained in this sub-section shall prevent the mortgagee from recovering the amount so due, by approaching the High Court as provided in sub-section (7) hereunder.

(7) Where there are two or more registered mortgagees of a mechanically propelled inland vessel or share therein, they shall be entitled to recover the amount due under the mortgage in the High Court, and when passing a decree or thereafter the High Court may direct that the mortgaged mechanically propelled inland vessel or share be sold in execution of the decree.

(8) Every registered mortgagee of a mechanically propelled inland vessel or share therein who intends to recover the amount due under the mortgage by selling the mortgaged mechanically propelled inland vessel or its share under sub-section (6) shall give an advance notice of fifteen days relating to such sale, to the Registrar of Inland Vessels, in whose registry the mortgage is recorded.

(9) The notice under sub-section (8) shall be accompanied by the proof of payment of the wages and other amounts due to crewmen employed on the mechanically propelled inland vessel.

(10) A registered mortgage of a mechanically propelled inland vessel or share therein, shall not be affected by any act of insolvency committed by the mortgagor after the date of the record of such mortgage, notwithstanding that the mortgagor, at the commencement of his insolvency, had the mechanically

propelled inland vessel or share in his possession, order or disposition, or was the reputed owner thereof, and the mortgage shall be preferred to any right, claim or interest therein, of other creditors of the insolvent or any trustee or assignee on their behalf.

- (11) A registered mortgage of a mechanically propelled inland vessel or share therein, may be transferred to any person, and the instrument effecting the transfer shall be in the prescribed form or as near thereto as circumstances permit, and on the production of such instrument, the Registrar of Inland Vessels shall record it by entering in the Book of Registry the name of the transferee as mortgagee of the mechanically propelled inland vessel or the shares therein and shall, by memorandum, notify on the instrument of transfer that it has been recorded by him stating the day and hour of the record.
- (12) The person to whom any such mortgage has been transferred shall enjoy the same right of preference as was enjoyed by the transferor.
- (13) Where the interest of a mortgagee in a mechanically propelled inland vessel or share is transmitted on death, or insolvency, or by any lawful means other than by a transfer under this Act, the transmission shall be authenticated by a nomination of the person to whom the interest is transmitted, containing a statement of the manner in which, and the person to whom, the property has been transmitted, and shall be accompanied by like evidence, as is required by this Act, in case of a corresponding transmission of the ownership of a mechanically propelled inland vessel or share therein.
- (14) The registrar, on receipt of the declaration and the production of the aforesaid evidence, shall enter the name of the person entitled under the transmission in the Book of registry, as mortgagee of the mechanically propelled inland vessel or share therein.

50. **Certificates issued under any other enactment by Central Government to be valid under this Act**

- (1) Every Certificate of Registration and every Certificate of Survey issued in respect of a mechanically propelled inland vessel under any other enactment by Central Government, shall be valid and effective as a Certificate of Registration or Certificate of Survey, as the case may be, issued under this Act and the relevant

provisions of this Act shall apply in relation to such vessel as they apply to any mechanically propelled inland vessel registered under this Act.

- (2) Notwithstanding anything contained herein the Competent Authority/State Government may prescribe additional conditions and requirements under this Act, to be complied with by the vessels registered under any other Act, while the vessels are used for plying within the inland waters.

51. Establishments that build, transform and repair vessels:

- (1) Establishments that construct, transform and/or repair any mechanically propelled inland vessels shall be required by the State Government / Competent Authority to be registered under this Part.
- (2) The State Government may prescribe by notification in the Official Gazette, the basic minimum standards of construction, transformation, or repairs to be complied with, by such establishments.

52. Offence, Removal and Forfeiture:

- (1) The owner, operator, master or serang shall be jointly and severally liable for offences committed under this Part and shall be punished in accordance with the punishments prescribed under this Act.
- (2) Where any person is beneficially interested otherwise than by way of mortgage or share in any mechanically propelled inland vessel registered in the name of some other person as owner, the person so interested as well as the registered owner, shall be subject to all the pecuniary penalties imposed by this or any other Act in force in India, on the owners of mechanically propelled inland vessels or shares therein, and any proceedings for the enforcement of any such penalties may be taken against all or either of the said persons with or without joining all of them.
- (3) Any mechanically propelled inland vessel, which is obliged to register under the provisions of this Part,
 - a) if found being plied or used in inland waters without a valid Certificate of Registration or

- b) though in possession of a valid Certificate of Registration; if the registration mark and number assigned thereto are not affixed or painted in accordance with this Part;

shall be removed from the inland waters and / or forfeited by the authorised officers appointed by the Competent Authority / respective State Government, in accordance with the procedure established and prescribed under this Part.

53. Power to make Rules:

- (1) The State Government may make rules to carry out the objectives of this Part.
- (2) In particular, and without prejudice to the generality of the foregoing power, such Rules may--
 - a) prescribe the powers, duties and functions of registering authorities and local limits of their jurisdiction;
 - b) prescribe the form and content of the applications for registration, transfer of registration, provisional registration, alteration, issuance of no objection certificate or certificates of registration;
 - c) provide for the form and manner in which Book of Registry shall be maintained under this Part;
 - d) provide for the form and manner of the duplicate certificates of registration issued under this Part;
 - e) prescribe, subject to the approval of the Central Government, the fees and / or additional fees to be charged for the registration of mechanically propelled inland vessels or for any other actions taken by the officers appointed or authorised under this Part;
 - f) provide for the exemption of any person or class of persons from payment of the whole or any part of the fees and/or additional fees;
 - g) prescribe the form and content of provisional Certificate of Registration under Section 40;
 - h) prescribe the form and content of Certificate of Registration issued under this Part;

- i) prescribe the manner in which appeals to the State Government may be preferred under this Part and the fees payable in respect of any such appeal;
- j) provide for the form of instrument creating a mortgage of a mechanically propelled inland vessel or a share therein or transfer of any such mortgage;
- k) Prescribe the form and manner of exhibition of registration mark and Vessel Identification number as assigned under Section 37;
- l) Prescribe the documents to be furnished upon demand by the Registrar of inland vessels;
- m) Prescribe the form and manner of the declarations to be made by the registered owners for deletion of their name from the Book of Registry;
- n) Prescribe the minimum standards of construction, transformation, or repairs to be complied with by establishments that construct, transform or repair mechanically propelled inland vessels, the form and content of application and the fees for registration; and
- o) provide for effective implementation of this Part.

PART V: MANNING, QUALIFICATION, TRAINING, EXAMINATION AND CERTIFICATION

54. Application of this Part:

- (1) This Part applies to mechanically propelled inland vessels registered or recognised under this Act.
- (2) Notwithstanding anything contained herein, the State Government is empowered to extend the application of this Part to any inland vessel, by notification in the Official Gazette.
- (3) No persons under the age of 16/18 years shall be engaged on a mechanically propelled inland vessel registered under the Act.

55. Power to prescribe different & minimum manning scales:

- (1) The Competent Authority shall prescribe the requirement of minimum manning applicable for mechanically propelled inland vessel registered belonging to different class or category as categorized under this Act or such other laws in force in India.
- (2) The owner, operator or master of a mechanically propelled inland vessel shall comply with the minimum manning scales prescribed to be applicable to the such vessel.
- (3) A mechanically propelled inland vessel registered under this Act, which does not comply with the minimum manning scales prescribed in this Part shall be deemed to be unfit for navigation in inland waterways.
- (4) Any person who acts in contravention to this Section is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to --- or with Imprisonment for a period of ----- months or with both.

56. Appointment and Duties of Examiners:

- (1) The Competent Authority / State Government may appoint examiners for the purpose of examining the qualifications of persons desirous of obtaining certificates under this Part to the effect that they are competent to undertake the responsibilities of and act as, masters or serangs, or as engineers or engine-drivers, or as such other persons, as the case may be, on the mechanically propelled inland vessels.

- (2) The examiners appointed under this Section shall perform the functions assigned to them as prescribed by the Competent Authority/ State Government.
- (3) The examiners shall evaluate the persons who have undergone the prescribed training necessary for qualifying as masters or serangs, or as engineers or engine-drivers, or as such other persons, as the case may be, and shall report to the Competent Authority/ State Government, regarding the list of successful candidates who possess the prescribed qualifications.

57. Grant of Certificate of Competency:

- (1) The Competent Authority or any officer appointed or authorised by notification in the Official Gazette by State Government, may evaluate the report provided by the examiners, and upon such confirmation as correct; shall grant to every candidate who is reported by the examiners to possess the prescribed qualifications, with respective Certificate of Competency, certifying that the candidate is competent to serve as a first-class master, second-class master or serang, or as an engineer, first-class engine-driver or second-class engine-driver or such other person, designation as the case may be, on any class or category or whole of the mechanically propelled inland vessel as mentioned in the Certificate.
- (2) The Competent Authority / State Government or any authorised officer shall require the examiner for a further examination or a re-examination of any/all applicant(s), if it is found that the report submitted by examiners is defective, or there exists reason to believe that such a report has been unduly made.
- (3) Every certificate granted under this Section shall be in such form or manner as prescribed by notification in Official Gazette by Central Government under this Part.

58. Grant of Certificates of Service:

- (1) The Central Government / State Government may, without examination, grant a Certificate of Service to any person who has served as a master, or as an engineer, of a vessel of the Coast Guard, Indian Navy or regular Army for a period as may be prescribed in this behalf, to the effect that he is competent to act as a first-class master, second-class master or serang, or as an engineer, first-class engine-driver or second-class engine-driver or such other person, or designation as the case may be, on board the mechanically propelled inland vessel.

- (2) For the purpose of granting of Certificate of Services under Sub-section (1), the Competent Authority/ State Government shall verify such certificate(s) certifying the competence of applicant(s) as issued by Coast Guard, Indian Navy or regular Army, as submitted to it by the applicants along with their application.
- (3) Notwithstanding anything contained herein, the Competent Authority / State Government may by recording reasons thereof, refuse granting of Certificate of Services under Sub-section (1).
- (4) A Certificate of Service so granted under Sub-section (1), shall be in such form and content and subject to such conditions, as may be prescribed notification in Official Gazette by the Central Government and shall have the same effect as, a Certificate of Competency granted under this Act after examination under this Part.

59. Grant of Licenses:

- (1) The State Government may grant a license authorising such person, to act as master or engineer, as the case may be,
 - a) who is in possession of a second-class master's certificate granted under this Part and has, by virtue of such certificate, acted as master of a mechanically propelled inland vessel, having engines of forty or more nominal horse-power for a period of not less than five years, or
 - b) who is in possession of a first-class engine-driver's certificate granted under this Part, or an engine-driver's certificate granted or deemed to be granted under the Merchant Shipping Act, 1958, and has, by virtue of such certificate, served as an engine-driver of a mechanically propelled inland vessel having engines of not less than seventy nominal horse-power for five years, or not less than two and a half years of which period he has been the engine-driver of such vessel within the meaning of this Part, of any mechanically propelled inland vessel having engines of one hundred and seventy nominal horsepower or such less nominal horse-power as such government may deem fit.
- (2) Any such licence shall remain in force only for such time as the person holding the same is in possession of and entitled to a master's or an engine-driver's

certificate or such other certificate, as the case may be, of the nature referred to in sub-section (1).

- (3) Notwithstanding anything contained herein, the Competent Authority may by general or special order prescribe such condition(s) that shall be complied with by the applicant, as a prerequisite for granting of license under this Part.

60. Certificates To Be Held By Master And Engineer Of Vessel Of Five hundred sixty five Or More Horse-Power

(1) A mechanically propelled inland vessel having engines of Five hundred and sixty five or more nominal horse-power shall not proceed on any voyage unless she has

—

- a) as her master, a person possessing a first class master's certificate granted under this Part, or a master's certificate granted or deemed to be granted under the Merchant Shipping Act, 1958, or a master's licence granted Section 59, applicable to such vessel and voyage, and
- b) as her engineer, a person possessing an engineer's certificate granted under this Part, or granted or deemed to be granted under the Merchant Shipping Act, 1959 or an engine-driver's licence granted under Section 58, applicable to such vessel and voyage.

61. Certificates To Be Held By Master And Engineer Of Vessel Of Two hundred and Twenty six or more And less than Five hundred and sixty five Horse-Power :

(1) A mechanically propelled inland vessel having engines of two hundred and twenty six or more nominal horse-power, but of less than Five hundred and sixty five nominal horse-power, shall not proceed on any voyage unless she has --

- a) as her master, a person possessing a second-class master's certificate granted under this Act, or any certificate referred to in clause (a) of Section 59; and
- b) as her engineer, a person possessing a first-class engine-driver's certificate granted under this Act, or an engine-driver's certificate granted or deemed to be granted under the Merchant Shipping Act, 1958, or any certificate referred to in clause (b) of Section 59.

Provided that a mechanically propelled inland vessel shall be deemed to have complied with this Section if she has as her master and engineer a person possessing both a certificate referred to in clause (a), and a certificate referred to in clause (b), of this Section.

62. Certificates To Be Held By Master And Engineer Of Vessel Of Less Than Two hundred and twenty six Horsepower:

(1) A mechanically propelled inland vessel having engines of less than two hundred and twenty six nominal horse-power shall not proceed on any voyage unless she has –

- a) as her master, a person possessing a serang's certificate granted under this Act, or any certificate referred to in clause (a) of Section 60, and
- b) as her engineer a person possessing a second-class engine-driver's certificate granted under this Act, or any certificate referred to in clause (b) of Section 60:

Provided that a mechanically propelled vessel inland shall be deemed to have complied with this Section, if she has as her master and engineer a person possessing both a certificate referred to in clause (a) and a certificate referred to in clause (b), of this Section.

63. Power For State Government To Require Additional Certificates:

(1) Notwithstanding anything in this Part, the Competent Authority / State Government may, by general or special order, direct that a person possessing--

- a) a master's certificate granted or deemed to be granted under the Merchant Shipping Act, 1958, or
- b) an engineer's or engine-driver's certificate granted or deemed to be granted under the Merchant Shipping Act, 1958,

shall not act as master or engineer, as the case may be, of a mechanically propelled inland vessel] unless he also possesses —

- (i) in case (a), such a master's or serang's certificate granted under this Part as qualifies him under this Act to act as master of the mechanically propelled inland vessel, or

- (ii) in case (b), such an engineer's or engine-driver's certificate granted under this Part as qualifies him under this Act to act as engineer of the mechanically propelled vessel:

(2) Notwithstanding anything contained herein, the Competent Authority / State Government may,

- a) If found to be fit and appropriate, grant to any applicant, a Master's or Serang's or an Engineer's or engine-driver's Certificate of Competency under this Act, without examination and any such certificate shall have the same effect as a Certificate of Competency granted under this Act after examination.
- b) The competent Authority/ State Government shall record the reasons for issuance of Certificates issued under this sub-section.

64. Certificate and license issued in Duplicate:

Every Certificate of Competency or Certificate of Service and every licence granted under this part shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate or licence and the other shall be kept and recorded in the prescribed manner.

65. When original certificate is lost:

Whenever a master or serang, or an engineer or engine-driver or any other person as the case may be, proves, to the satisfaction of the authority which granted his certificate, or licence that he has, without fault on his part, lost or been deprived of it, a copy of the certificate or licence to which he is entitled as per the records in Section 64, shall be granted to him, and shall have the same effect as the original.

66. Effect of certificates of competency or service and licences

A Certificate of Competency or service and, every licence granted under this Part shall have effect throughout India.

67. Power to Suspend or Cancel:

- (1) Notwithstanding anything contained herein, the Competent Authority may suspend, cancel or vary the conditions of any Certificate of Competency or service and every licence granted under this Part by recording reasons thereof.
- (2) The State Government shall issue notice to the concerned certificate or license holder and shall provide him an opportunity of hearing before a suspension and / or cancellation of certificates or licenses issued under sub-section (1) of this Section.
- (3) In the event of suspension or cancellation of certificates or licenses issued under this Part, the holder of such certificate or license shall deliver it to the officer, appointed or authorised by State Government/Competent Authority by notification in Official Gazette under this Part.
- (4) Any person who acts in contravention to sub-section (1) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to --- or with Imprisonment for a period of ----- months or with both.

68. Registry of Certificate and / or License Holders:

- (1) The State Government shall maintain registers to record the details and data of the certificate and/or license holders and the respective certificates and/or licenses, issued under this Part in such form and content as prescribed hereunder.
- (2) State Government shall report and update the Central Government / Competent Authority with regard to the data that each of the State Governments had compiled.
- (3) The Central Government / Competent Authority shall maintain a central registry to compile the reports received from all the State Governments under this Section.

69. Appointment of Navigation In-charge :

- (1) The State Government / Competent Authority by means of notification in Official Gazette shall appoint a Navigation In-Charge to,
 - a) superintend and facilitate the engagement and discharge of crew on board the mechanically propelled inland vessel registered under this Act.

- b) provide means for securing the presence on board at the proper times of the crewmen who are appointed and engaged under this Part;
 - c) facilitate the making of apprenticeship to the inland navigational services;
 - d) hear and decide disputes between a master, owner or agent of any inland vessel and any of the crew of the inland vessel;
- (2) The Competent Authority or State Government shall prescribe fees or additional fees to be remitted by the persons who avail the services of Navigation In-Charge.
- (3) Every person appointed as a Navigation In-Charge, shall be deemed to be a public servant within the meaning of the Indian Penal Code, 1860.

70. Engagement of Crew:

- (1) The Owner, operator or master of a mechanically propelled inland vessel shall engage the crew subject to the provisions of this Act and as prescribed by Rules made thereunder.
- (2) Any person who acts in contravention to sub-section (1) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to --- or with Imprisonment for a period of ----- months or with both.
- (3) The crew shall be engaged on a mechanically propelled inland vessel by means of a valid contract of employment which shall cover all the aspects of employment including,
- a) the name of the mechanically propelled inland vessel(s) on which the member of crew undertake to serve;
 - b) either the nature and, as far as practically possible, the duration of the intended voyage or engagement or the maximum period of the voyage or engagement, and the places, if any, to which the inland navigation or engagement is intended to extend;
 - c) the number and description of the crew of different designations of appointment ;
 - d) the time when each member of crew is to be on board or to begin work;
 - e) the capacity in which each member of crew is to serve;
 - f) the amount of wages which each crewmen is to receive;

- g) a scale of the provisions which are to be furnished to each crewmen, such scale being not less than the scale fixed by the Central Government and published in the Official Gazette;
- h) any regulations as to conduct on board, and as to fines or other lawful punishments for misconduct, which have been sanctioned by the State Government as regulations prescribe to be adopted, and which the parties agree to adopt;
- i) rate and payment of compensation for personal injury or death caused by accident, arising out of and in the course of employment;
- j) details of the insurance coverage; and
- k) any other mandatory conditions as prescribed hereunder to be mandatorily applicable during employment.

71. **Fees:**

- (1) The State Government / Competent Authority shall prescribe fees applicable for the processing and issuance of certificates or licenses granted under this Part.
- (2) Notwithstanding anything contained in this Part, the State Government, by notification in Official Gazette may prescribe for additional fees as may be applicable.

72. **Power to make Rules:**

- (1) For the purposes of this Part, the State Government may make Rules to;
 - a) implement and regulate the procedures for granting of Certificates of Competency;
 - b) implement and regulate the procedures for granting of Certificates of Service;
 - c) implement and regulate the procedures for granting licences;
 - d) prescribe Form and content in which certificates are issued under this Part;
 - e) constitution of offices and functions of Navigation In-Charge appointed under this Act;

- f) prescribe form and conditions of employment of crewmen on mechanically propelled inland vessel;
- g) prescribe fees or additional fee chargeable, as the case may be, under this Part;
- h) prescribe manner and form in which the Certificates and the Licenses issued under this Part shall be recorded and maintained;
- i) prescribe duties and functions of persons appointed or authorized under this Part; and
- j) effectively implement the provisions of this Part.

PART VI: SPECIAL CATEGORY VESSELS

73. Application of this part

- (1) This Part applies to all mechanically propelled inland vessels registered or recognised under this Act and identified as special category vessels under this Part.
- (2) Notwithstanding anything contained in this Part, the Central Government or State Government as the case may be, may by notification in the Official Gazette extend the application of this Part –
 - a) to any mechanically propelled inland vessel registered under any other laws in force in India, plying or intended to ply through inland waters, and/or
 - or
 - b) to any mechanically propelled inland vessel registered under laws in force in countries, other than India, but plying or intending to ply through inland waters of India.
- (3) This Part shall not be applicable to any mechanically propelled inland vessel which is engaged in life saving purposes, during a situation of emergency, as declared or provided under this Act.

74. Power to categorise inland vessels as special in accordance with the purpose of its use –

- (1) For the purpose of this part, the Central Government or the State Government, may categorise and identify mechanically propelled inland vessels as special category vessels, into any of the following, based on their design, construction, use, purpose, area of plying, source of energy or fuelling and such other criteria, by publishing in the Official Gazette;
 - a) Passenger vessels of special nature or of special purpose, used for carrying of passengers;
 - b) Cargo vessels of special nature or of special purpose, exclusively used for carriage of cargo and/or live animals;
 - c) Fishing vessels solely used for fishing for profit within inland waters;
 - d) Sailing vessels within inland waters

- e) Cargo vessels used for carriage and transportation of cargo in gaseous, liquid or such other form;
 - f) Seaplanes;
 - g) Vessels used for recreational purposes;
 - h) vessels powered by Liquified Petroleum Gas or such other source of fuel or source of energy used for propulsion; and
 - i) such other vessels as identified to be covered under this Part periodically.
- (2) The Central Government shall prescribe by notification in the Official Gazette, the requirements and criteria that such mechanically propelled inland vessels identified under sub-section (1) must comply with, for the purpose of classification and identification under this Part.

75. Identification of vessels under this Part:

- (1) The State Government shall notify in the Official Gazette, the list of categories or class of mechanically propelled inland vessels identified as Special category vessels, with reasons and purpose of such identification mentioned in such notification under this Part.
- (2) The Competent Authority / State Government shall prescribe separate standards for the special category of vessels, identified under this part, in addition to those contained elsewhere in this Act by publication in the Official Gazette with respect to;
- a) the construction and design;
 - b) the training, qualification and manning;
 - c) the standards of surveys and special/additional surveys and safety, and
 - d) such other standards and measures as it may deem fit.
- (3) The Competent Authority/ State Government shall appoint or authorize qualified officers for the purpose of exercising duties and implementing provisions as provided under this Part.
- (4) Based on an application made by owner, operator or master of any mechanically propelled inland vessel in the prescribed form and content as notified in the Official Gazette by the State Government; the Competent Authority or any such

officer as may be appointed or authorised under this Part, on having been satisfied that the applicant's vessel complies with the provisions of this Act and falls under the special category vessels as identified in this Part, shall grant a Certificate of Identification.

- (5) The Certificate of Identification to vessels shall be granted in such form and shall be subject to such terms and conditions, as may be prescribed by the State Government by notification in the Official Gazette.

76. Safety of passengers or service users:

- (1) The State Government shall prescribe by notification in the Official Gazette, the safety features, gears and such other measures by which any mechanically propelled inland vessel identified as special category vessels under this Part, shall comply with and be equipped in accordance with the categorisation of such vessels.
- (2) The State Government/Competent Authority shall prescribe the maximum carrying capacity of the vessel identified as special category vessels by prescribing the safety waterline or the limits of water line to keep them afloat, or such other criteria and conditions other than those mentioned elsewhere in this Act for the safe voyage of inland vessels.

77. Valid Certificate of Survey as Pre-requisite:

- (1) The Competent Authority / State Government shall prescribe by notification in the Official Gazette; special / additional surveys in addition to the requirements of survey as provided in Part III of this Act, to be carried out by special category of vessel used for carrying passengers or cargo of any particular nature; provided under this Part or the Rules made hereunder.
- (2) All the surveys prescribed under this Part shall be carried out in the same procedure as provided in Part III of this Act, and the Certificate of Survey certifying satisfactory completion of survey and compliance with the provisions under this Part, shall be issued by the officers appointed or authorised by the State Government under this Act.
- (3) All mechanically propelled inland vessels registered under this Act shall have a Certificate of Survey issued with respect to the survey provided for in sub-section

(1), which validates the capability of the vessel to safely transport and carry passengers and / or cargo, as the case may be, through inland waters.

78. Inspection of Vessels:

- (1) For the purposes of survey mandated under this Part, a surveyor may, at any reasonable time, go on board a special category vessel, and may inspect the respective vessel including the hull, equipment and machinery or any part or properties of such vessel.
- (2) The owner, operator, agent, master and any such person-in-charge of the mechanically propelled inland vessel, shall facilitate all reasonable facilities to the surveyor for inspection and survey, and all such information regarding the vessel and her machinery and equipment, or any part thereof, respectively, as the surveyor or such other officers may reasonably require.
- (3) While exercising powers under this Part, the Surveyor shall not unnecessarily hinder the embarking or disembarking of the passengers or loading or unloading of cargo or any other functions which the special category vessel is assigned to use, or unnecessarily detain or delay her from proceeding on any voyage.
- (4) Any mechanically propelled inland vessel not found to be in compliance with of this Part, shall be detained or removed from the inland waters with immediate effect until the vessel comply with this Part.

79. To comply with route permits and trade licenses:

- (1) Any special category of vessel intended to carry cargo or transport passengers or to be used for any special purpose as may be identified under this Part, shall comply with the route permits and trade licenses granted by the respective State Government/ Competent Authority or any officers appointed or authorised under this Act.
- (2) Any special category of vessel not in possession of the trade licenses and route permits shall be detained and the voyage made or intended to be made by such vessel shall be declared illegal and the owner, master or any person-in-charge of such vessel shall be arrested and tried by the Courts having relevant jurisdiction for the offences committed under this Part.

- (3) Any person who acts in contravention to this Section is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to --- or with Imprisonment for a period of --- months or with both.

80. Suspension and Cancellation of Certificate of Identification:

The Competent Authority / State Government, shall as the case may be; having found that the owner, operator, master or any person-in-charge of any special category vessel, which does not comply with the provisions as provided under this Act or Rules made hereunder, shall after providing an opportunity of hearing to the concerned and by recording the reasons thereof, may suspend and / or cancel the Certificate of Identification issued under this Part.

81. Power for Central or State Government to make Rules

- (1) The Central Government / State Government, as the case may be, may make Rules for the protection of mechanically propelled inland vessels identified as special category vessels against explosion, fire, collision and other accidents.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may--
- a) prescribe the criteria and categorisation for identifying the mechanically propelled inland vessels as special category vessels;
 - b) prescribe the form and content of application to be made for the mechanically propelled inland vessels getting identified under this Part as special category vessels;
 - c) prescribe in addition to the construction, survey, navigation, safety and /or such other requisites other than those provided elsewhere in this Act, which need to be complied with by the mechanically propelled inland vessels identified as special category vessels as applicable in relation to the class or category of vessels as provided in this Part;
 - d) prescribe the form and content of Certificate of Identification issued under this Part;
 - e) prescribe the fee or additional fee payable under this Part; and

- f) ensure the effective implementation of any other provisions as laid down in this Part.

PART VII: STATE INLAND TRANSPORTATION SERVICES

82. Establishment and Powers of Inland Vessel Transport Corporation

- (1) The State Government, having regard to -
- a) the advantages offered to the public, trade and industry by the development of inland vessel transportation; and
 - b) the desirability of co-ordinating any form of inland vessel transport with any other form of transport; and
 - c) the desirability of extending and improving the facilities for inland vessel transport in any area and for providing an efficient and economical system of inland transport service therein,
- may, by notification in the Official Gazette, establish the Inland Vessel Transport Corporation for the whole or any part of the State under such name as may be specified in the notification.
- (2) The State Government shall by notification in the Official Gazette prescribe the conditions for the establishment of the Inland Vessel Transport Corporation including constitution, incorporation, powers, appointment, functions, finances, budget audit and accounts and/or any other administrative processes.

83. Operation of State owned Inland Vessels:

- (1) Any State Government may designate inland waterways for the sole and exclusive use of mechanically propelled inland vessels owned or operated by the respective Inland Vessel Transport Corporation.
- (2) Notwithstanding anything contained herein, the owners, operators or masters of any mechanically propelled vessel shall not engage in transportation of passengers and/or cargo in the inland waters, which is designated for the sole and exclusive use of mechanically propelled inland vessels, without specific permission granted by State Government / Competent Authority, as the case may be, in such form and subject to such conditions as may be prescribed herein.
- (3) Any person who acts in contravention to this Section is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with Imprisonment for a period of ----- months or with both.

84. Extension of Area of operation:

- (1) An Inland Vessel Transport Corporation may extend the operation of any of its inland water transport services to any route or area situated within another State, in public interest.
- (2) For the purpose provided in sub-section (1), the Inland Vessel Transport Corporation may, with the permission of the respective State Government, submit an official request in such form and content, along with a scheme for the purpose of extension, to the Inland Vessel Transport Corporation established under the other State Government in whose jurisdiction the extension of Area of operation is proposed.
- (3) The Inland Vessel Transport Corporation established under the State which receives a proposed extension, as provided under Sub-section (2), may subject to such conditions and validity, grant its consent for the extension of area of operation of inland vessels, and shall communicate the same to the Inland Vessel Transport Corporation who made the proposal of extension of area of its operation.
- (4) The Inland Vessel Transport Corporation may prescribe fee, duties or charges on the voyage conducted by the mechanically propelled inland vessel, by virtue of permission for extension of area of plying, granted under this Section.

85. Power to exempt any State owned inland vessel:

Other than the applicable provisions on safety and signalling as provided under this Act, the Competent Authority/ State Government shall, by special or general order, exempt any inland vessel owned by the State Governments from the application of any/all provision or part under this Act.

86. Exemption from Fees:

The State Government, by general or special order, may exempt all or any of the mechanically propelled inland vessel owned and operated or in the service of the respective State Government from the requirement of payment of any fees payable by under this Act or any Rules made hereunder.

87. Power to make Rules:

- (1) The State Government may make rules to carry out the objectives of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may--

- a) establish Inland Vessel Transport Corporation;
- b) prescribe the constitution, incorporation, powers, appointment, functions, finances, budget audit and accounts and/or any other administrative processes of the Inland Vessel Transport Corporation constituted under sub-section (1) of Section 82;
- c) lay down parameters for designation of inland waterways for the sole and exclusive use of State owned inland vessels; and
- d) prescribe procedure and format for official request of extension of area of operation by one Inland Vessel Transportation Corporation to another.

PART VIII: NAVIGATION, SAFETY AND SIGNALS

88. **Application of this Part:**

This Part applies to all mechanically propelled inland vessels registered or recognised or identified under this Act.

89. **Official Log Book:**

All mechanically propelled inland vessels shall maintain the official log book for the master to record events as prescribed by the Competent Authority under this Act.

90. **Power to classify:**

The State Government may prescribe criteria and thereby classify the mechanically propelled inland vessels for the purpose of demanding their compliance with this Part and shall publish such classification in the Official Gazette.

91. **Lights & Signals:**

(1) The State Government/ Competent Authority may prescribe standards, specifications and requirements of signals, equipments, which the mechanically propelled inland vessel shall comply and observe during construction, modification or plying or used to ply in the inland waterways.

(2) All mechanically propelled vessel shall be equipped with lights and signals for the purpose of ensuring safe navigation through inland waterways; in accordance with this Part and shall comply with the regulations provided in the Inland Water Authority of India Act 1985, or Rules prescribed thereof, as amended from time to time.

(3) Any person who acts in contravention to this Section is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with Imprisonment for a period of ----- months or with both.

92. **Inspectors of Lights and Signals:**

The State Government / Competent Authority may appoint or authorise such officers as Inspectors of Lights and Signals, who shall inspect the mechanically propelled vessel with regard to compliance with this Part.

93. **Obligation to ensure safe navigation:**

(1) All mechanically propelled vessels shall comply with this Act and shall adopt such measures to ensure safe navigation through inland waters;

(2) Any person who acts in contravention to this sub-section (1) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with Imprisonment for a period of ----- months or with both.

94. **Helm Orders:**

(1) No person on any mechanically propelled inland vessel shall, when such vessel in motion, give a helm or steering order containing the word starboard or right or any equivalent of “Starboard” or “right” unless he intends that the head of the such vessel shall move to the “right” or give a helm or steering order containing the word port or “left” or any equivalent of “port” or “left” unless he intends that the head of such vessel shall move to the left.

(2) Any person who acts in contravention to this sub-section (1) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with Imprisonment for a period of ----- months or with both.

95. **Distress Signal:**

The master or serang of a mechanically propelled inland vessel, on finding or encountering a dangerous derelict or any other hazard to navigation in the inland waterways; shall immediately send a distress signal or any such information to other mechanically propelled inland vessels in the vicinity and the State Government or Competent Authority or any other authorised or appointed officer by all means of communication at his disposal and in accordance with such rules or guidelines as may be prescribed by the State Government / Competent Authority:

Provided that no fees or charges shall be levied on the mechanically propelled inland vessels, in using any device for communicating, any information as requisitioned by this Section.

96. **Assistance to vessels in distress:**

(1) The master or Serang of any mechanically propelled inland vessel, who has received any signal of distress from any vessel or aircraft within the inland water limit, shall record the same in the official log book and proceed immediately to

the assistance of the persons in distress, by acknowledging the receipt of such signal to the vessel in distress.

- (2) Notwithstanding anything contained herein, the master of a mechanically propelled inland vessel shall be released from the obligation to render assistance as provided in sub-section (1), if he is unable to do so, or in the special circumstances of the case, considers it unreasonable to act in compliance with this provision or if the requirement for assistance is being complied with by other vessels or the assistance is no longer required.
- (3) The master or serang of a mechanically propelled inland vessel if unable to comply with the distress signal that he has received, shall record the same in the official log book.
- (4) Any master or serang who neglects or wilfully abstains from proceeding to render assistance after answering to the distress signal, or not acting in compliance with sub-section (1), is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with Imprisonment for a period of ----- months or with both.

97. Assistance to persons in danger:

- (1) The master or serang of any mechanically propelled inland vessel shall render assistance to every person found in danger of being lost in the inland waters.
- (2) The master or serang of any mechanically propelled inland vessel may abstain from complying with Sub-section (1), if in his judgment, he is unable to or, in the special circumstances of the case, such assistance cannot be rendered without serious danger to his vessel, or the persons thereon.
- (3) The master or serang of any mechanically propelled inland vessel shall record the reasons for not complying with sub-section (1) in the official log book maintained in such vessels.

98. Life Saving , Fire Safety and communications Appliances :

- (1) With regard to the criteria and classification, the Competent Authority may require any class or category of mechanically propelled inland vessels to be equipped with life saving appliances, fire detection and extinguishing, and communication appliances as prescribed under this Part.

- (2) The owner, operator or master of all mechanically propelled inland vessels shall comply with the requirements of life saving appliances and fire detection and extinguishing appliances as prescribed under sub-section (1).
- (3) On application received from the owner, operator or master of a mechanically propelled inland vessel in such form and content as may be prescribed under this Part; the surveyor shall inspect the mechanically propelled inland vessel and on finding that the vessel is complying with this Part or Rules made hereunder may issue a Certificate of Life Saving Appliances, Fire Prevention and Extinguishing and Communication Appliances to the effect that such vessel complying with this Part.
- (4) The State Government / Competent Authority may appoint or authorise such officers as surveyors to inspect and ensure that the mechanically propelled inland vessels comply with the applicable requirements prescribed under sub-section (1).
- (5) A surveyor may, at any reasonable time, enter and inspect any mechanically propelled inland vessel for the purpose of ensuring that such vessel is properly provided with life saving and fire appliances in conformity with the Rules made under this Act.
- (6) If the said surveyor finds that the mechanically propelled inland vessel is not so provided, he shall a notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite for rectification of short fall so identified; to the master or owner or operator.
- (7) Every notice so given shall be communicated in the prescribed manner to the Inland Port Authority where the mechanically propelled inland vessel may seek to obtain a clearance and such vessel shall be detained until a certificate signed by such surveyor is produced to the effect that such vessel is properly provided with the assurance that life saving and fire appliances are in conformity with the said Rules.
- (8) Any person who acts in contravention to sub-section (2) is committing an offence under this Part and shall be punishable with a fine which may extend to -----
- or imprisonment for a period of ----- months or with both.

99. Power for State Government to make Rules

- (1) The State Government may make Rules for the protection and safe navigation of mechanically propelled inland vessels and mitigation of explosion, fire and any other unfortunate events happening in such vessels while plying in and through inland waters.
- (2) In particular and without prejudice to the generality of the foregoing power, such Rules may—
 - a) Prescribe precautions to be taken for detection and prevention of explosions or fires on board the mechanically propelled inland vessels;
 - b) prescribe the apparatus which is to be kept on board mechanically propelled inland vessels, for the purpose of extinguishing fires;
 - c) regulate the transmission of sound signals;
 - d) regulate the carriage and exhibition of lights by mechanically propelled inland vessels;
 - e) regulate the carriage and exhibition of lights by other vessels on specified inland waters on which mechanically propelled inland vessels ply;
 - f) prescribe the steering rules to be observed;
 - g) regulate the towing of vessels astern or alongside;
 - h) prescribe the speed at which mechanically propelled inland vessels may be navigated in specified areas;
 - i) regulate the navigation of mechanically propelled inland vessels to prevent danger to other vessels, or to the banks, channels, navigation marks or any property, movable or immovable, in or abutting on the navigable channels.
 - j) prescribe the requirements that the hull, equipment and machinery of inland mechanically propelled vessel should comply with;
 - k) prescribe the requirement of appropriate life saving appliances, by categorising the mechanically propelled inland vessel into different classes, with regard to the services in which they are employed, the nature and duration of the voyage and the number of persons carried;

- l) Prescribe procedure, form, and contents of applications to be made by the applicant for issuance of Certificate of Life Saving Appliances, Fire Prevention and Extinguishing and Communication Appliances;
 - m) Prescribe form, contents and validity of Certificate of Life Saving Appliances, Fire Prevention and Extinguishing and Communication Appliances, issued under this Part;
 - n) the manner of communicating information regarding dangers to navigation, and the authorities on shore to whom such information is to be communicated;
 - o) the signals which shall be signals of distress, urgency and of safety respectively;
 - p) the circumstances in which, and the purposes for which, any such signal is to be used, and the circumstances in which it is to be revoked; and
 - q) the speed at which any message sent by such communication appliances or apparatus is to be transmitted;
 - r) Prescribe the number of surveyors to be appointed authorised; their conditions for appointment or authorisation, powers and functions;
 - s) Prescribe the rate of fees chargeable; and
 - t) For the effective implementation of provisions provided under this Part.
- (3) Any Rule made under this Section may contain a provision that any person committing a breach of it shall be punishable with imprisonment for a term, **which may extend upto twelve months or with fine which may extend upto five hundred thousand Indian Rupees**, or with both.

PART IX: PREVENTION OF COLISSION

100. **Power to Prescribe**

The State Government / Competent Authority may prescribe the lights and shapes to be carried and exhibited, the fog and distress signals to be carried and used, and the steering and sailing rules to be complied with by the mechanically propelled vessels plying in inland waters.

101. **Different Protocols of exhibition:**

The State Government / Competent Authority may prescribe different protocols for the exhibition and display of different standards of lights, shapes and signals by the mechanically propelled inland vessel registered, recognised or identified under this Act.

102. **Duty to comply:**

(1) The owner or master of every mechanically propelled inland vessel shall comply with the regulations prescribed under Section 100, and shall not carry or exhibit any lights or shapes or use any fog or distress signals, other than those required by the said regulations

(2) Any person who acts in contravention to this Section is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to --- or with Imprisonment for a period of ----- months or with both.

103. **Appointment of Inspectors:**

The State Government may appoint persons to inspect in any mechanically propelled inland vessel, for the purpose of ensuring that such vessels are properly provided with lights and shapes and with the means of making fog and distress signals, in pursuance of such regulations.

104. **Inspection:**

If an inspector appointed under Section 103 finds that any mechanically propelled inland vessel is not complying with this Part, he shall give a notice in writing in the

prescribed form and manner to point out the deficiency, and the remedies to rectify the deficiency to the owner, master or Serang,.

105. **Not to conduct voyage:**

(1) A mechanically propelled inland vessel that has been issued with a notice as provided in Section 104 shall not proceed to conduct any voyage unless he rectifies the deficiency so pointed out and complies with this Part

(2) Any person who acts in contravention to this Section is guilty of committing an offence **under this Part and shall be punishable with a fine which may extend to ---
----- or with Imprisonment for a period of ----- months or with both.**

106. **Wilful default:**

If any damage to person or property arises from the non-observance of any of the regulations as prescribed under this Part; by any mechanically propelled inland vessel, the damage shall be deemed to have been occasioned by the wilful default of the person in charge of the such vessel at the time, as the case may be, unless it is shown to the satisfaction of the Court that the circumstances of the case demanded deviance from the applicable regulations.

107. **Awareness and Training Programme:**

The State Government / Competent Authority shall conduct awareness and training programmes for persons employed or qualified under this Act, as master and members of crew of the mechanically propelled inland vessel.

108. **Power to make Rules :**

(1) The State Government may make Rules for the prevention of collision and other accidents of mechanically propelled vessels plying in inland waters.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- a) prescribe the necessity, frequency, order and maintenance of exhibiting different standards of lights, shapes and signals, which are equipped and

carried by mechanically propelled vessels while plying in the inland waters;

- b) prescribe the criteria for the usage of fog and distress signals that are carried ;
- c) prescribe the steering and sailing rules to be complied with by the mechanically propelled vessels while in inland waters;
- d) prescribe the criteria for classification and categorisation of mechanically propelled inland vessels for the purpose of exhibiting the lights, shapes and signals while plying in the inland waters;
- e) prescribe the qualifications and powers for the appointment or authorisation of persons as inspectors of lights and shapes so as to inspect and ensure that mechanically propelled inland vessels are complying with this Part;
- f) Prescribe the form, contents and manner of notice pointing out non compliance with this Part; and
- g) Prescribe the fees applicable and chargeable for the services rendered under this Part.

PART X: INLAND VESSEL BASED POLLUTION

109. Applicability of this Part:

- (1) This Part shall be applicable to all mechanically propelled inland vessels registered, recognized or identified under this Act.
- (2) The State Government may extend the application of this Part as a whole or in part to cover any class or category of non-self propelled inland vessels by publishing the list of class or category of such vessels in the Official Gazette.

110. Designate as Pollutants:

For the purposes of this Part, the State Government / Competent Authority shall designate the list of chemicals or any other substance or any ingredients thereof carried as bunker or as cargo in a mechanically propelled inland vessel or discharged thereof, as pollutants.

111. Prohibition of use or discharge pollutants

- (1) No mechanically propelled inland vessel registered under this Act shall be used to pollute the inland waters directly or indirectly.
- (2) No mechanically propelled inland vessel shall cause pollution by:
 - a) discharging or dumping oil or oily water or mixture into the inland waters,
 - b) discharging or dumping noxious liquid substances in bulk.
 - c) discharging or dumping harmful substances carried onboard in packaged form.
 - d) discharging or dumping sewage from inland vessels.
 - e) discharging or dumping garbage from inland vessels
 - f) emitting pollution in gaseous form into the air.
 - g) discharging or dumping hazardous chemical or obnoxious substance.
 - h) Discharging, dumping or emitting any other substance or material designated as pollutants under this Part.

Provided that nothing in this section shall apply to the discharge dump or emission of such oil or oily mixture, hazardous chemical or obnoxious substance or any other pollutant, as the case may be, from a mechanically propelled inland vessel for the purpose of securing the safety of any

mechanically propelled inland vessel, preventing damage to another mechanically propelled inland vessel, cargo or saving of life at inland water.

(3) Any person who acts in contravention to this section is committing an offence under this Part and shall be punishable with a fine which may extend to ----- - or/and imprisonment for a period of ----- months.

112. **Prevention of Pollution Certificate:**

(1) The Competent Authority shall prescribe standards of construction and equipment of the mechanically propelled inland vessels to ensure compliance with the requirements of this Part.

(2) The State Government shall appoint or authorise such officers as inspectors to ensure construction and, the installation and maintenance of equipment of all mechanically propelled inland vessels, in compliance with this Part.

(3) All mechanically propelled inland vessels, which have been constructed and equipped in compliance with this Part shall be issued with a Prevention of Pollution Certificate in such form, validity and content as prescribed by State Government/ Competent Authority.

(4) All mechanically propelled inland vessels shall carry on board a valid certificate issued under this Section and shall furnish the same on demand by concerned authorities appointed or authorised under this Part.

(5) Any person who acts in contravention to this sub-section (4) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with imprisonment for a period of ----- months or with both.

113. **Reception facilities to be mandatory:**

(1) The Competent Authority shall prescribe conditions for construction, use and maintenance of reception facilities at all inland ports located in the jurisdiction of respective State Governments.

(2) The owner or operator of an inland port shall provide reception facilities to discharge oil, oily mixture, hazardous chemicals or obnoxious substances at such inland port, cargo and / or passenger terminal, as the case may be, in compliance with Sub-section (1) of this provision.

- (3) Any person who acts in contravention to this sub-section (2) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with imprisonment for a period of ----- months or with both.
- (4) The State Government shall publish the approved rate of fees and charges, by notification in the Official Gazette; which shall be imposed by the owner or operator of the port facility from/upon/on the owners, operators/ masters of the mechanically propelled inland vessels who use the reception facilities provided in the respective inland ports.
- (5) The owner or operator of an inland port, at cargo or passenger terminal, as the case may be, providing reception facilities at any inland port, a cargo terminal or passenger terminal, is entitled to receive charges from owners, operators or masters for the use of the reception facilities, at such rates as may be prescribed by the State Government/ Competent Authority in sub-section (4) of this Section.
- (6) Any person who acts in contravention to this sub-section (5) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with imprisonment for a period of ----- months or with both.

114. **Containment of Pollution :**

- (1) The inland ports shall be provided with the equipments prescribed by State Government / Competent Authority as necessary, for the containment of pollution and removal of pollutants arising from spillage or discharge arising from mechanically propelled inland vessels.
- (2) For the purposes of minimizing the pollution already caused, or for preventing the imminent threat of pollution, the State Government/Competent Authority may, by order in writing, direct the owner or operator of an inland port, at cargo or passenger terminal to provide or arrange for the provision of such pollution containment equipments and pollutant removing materials, at such inland port, cargo and passenger terminal as may be specified in such order.
- (3) The owner or operator of the inland port shall submit a report of compliance to the State Government/Competent Authority in writing by specifying of the extent of compliance, and in the event of part compliance or non compliance, the reasons

thereof for steps not taken or failures encountered, while following the direction and / or the inability to implement, if any, within the time frame as prescribed in such order.

- (4) Any person who acts in contravention to this sub-section (2) and sub-section (3) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with imprisonment for a period of ----- months or with both.

115. **Mandatory Insurance:**

(1) All mechanically propelled inland vessels shall have valid policy of insurance, covering the liability of inland water pollution arising from such vessels.

- (2) Any person who acts in contravention to this sub-section (1) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with imprisonment for a period of ----- months or with both.

116. **Appointment & Powers for Inspection of inland port:**

(1) The State Government shall authorise or appoint any surveyor or any person as officers, to inspect any inland port at cargo or passenger terminal lying within its respective jurisdiction, by notification in Official Gazette.

(2) Any surveyor or any person authorised or appointed under this Part in this behalf may, at any reasonable time, enter and inspect any inland port, at cargo or passenger terminal for the purposes of--

- a) ensuring that the provisions of this Chapter are complied with;
- b) verifying whether such inland port, cargo or passenger terminal is provided with the pollution containment equipments or pollutant removing materials in conformity with the order of the State Government or any of the Rules made under this Part; and
- c) Satisfying himself about the adequacy of the measures taken to prevent pollution.

(3) If the surveyor finds that the inland port, at cargo or passenger terminal is not provided with the aforesaid equipment and materials, he shall give a notice in

writing pointing out the deficiencies and the recommended remedial measures to rectify such deficiency or deficiencies, that are identified during the inspection, to the owner or operator of such inland port, cargo or passenger terminal, as the case may be.

(4) No owner or operator of such inland port, at cargo or passenger terminal, as the case may be, served with the notice under sub-section (3), shall continue to conduct any business or any work at such inland port, cargo or passenger terminal, as the case may be, until he obtains a certificate signed by the surveyor to the effect that the inland port, cargo or passenger terminal, as the case may be, is properly provided with the aforesaid equipment and materials and is fully complies with the Part and Rules made under this Act

(5) Any person who acts in contravention to this sub-section (4), is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with imprisonment for a period of ----- months or with both.

117. **Subsequent Measures:**

(1) The State Government shall direct the authorised officer appointed under Part XIV to conduct investigation into the incident of pollution.

(2) The State Government shall update the Central Government with such information or report of the Court concerned on pollution that occurred within the respective jurisdiction.

118. **Powers of State Government to make rules for prevention and control of pollution:**

(1) The State Government may make rules for the purposes of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may--

a) prescribe the designated substance under Section 110;

b) prescribe construction, fitment and equipment of mechanically propelled inland vessel in compliance with this Part;

- c) prescribe the form, validity, issuance of duplicate, suspension and cancellation of the Pollution Prevention Certificate and the issuance of duplicate certificate issued under this Part;
- d) prescribe fitment of oily mixture treatment equipment on shore and on board in certain cases;
- e) prescribe details of reception facilities at inland port, cargo or passenger terminal;
- f) prescribe the forms and record books for inland port, cargo or passenger terminal and the manner in which such books shall be maintained, the nature of entries to be made therein, the time and circumstances in which such entries shall be made, the custody and disposal thereof and all other matters relating thereto; and
- g) any other matter which the State Government may deem fit and necessary to effectively implement the provisions of this Part or those may be prescribed.

PART XI: WRECK AND SALVAGE

119. **Application of this Part:**

This Part shall be applicable to all vessels used or plying in the inland waters irrespective of such vessel being registered, recognized, identified or enrolled under this Act.

120. **Not to intentionally cause wreck:**

(1) The owners, operators, masters or persons in charge of vessels plying in inland waters shall not intentionally abandon, desert, dump, throw overboard or jettison the vessel or property or parts or cargo so as to cause wreck, which may result in impediment to navigation, causing pollution or danger to life.

(2) Any person who acts in contravention to this sub-section (1), is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with imprisonment for a period of ----- months or with both.

121. **Appointment of Receivers of Wreck:**

The State Government / Competent Authority may appoint or authorise any person by notification in the Official Gazette to act as receiver of wreck within a prescribe jurisdiction, under this Part.

122. **Obligation to inform Receivers of Wreck:**

(1) The owners, operators, masters or persons in charge of vessels, property or cargo, which are wrecked, stranded or in distress or who have found any vessel, property or cargo wrecked, stranded or in distress in the inland waters shall immediately inform, by all means of communication to the Receiver of wreck in whose jurisdiction within which the vessel, property or cargo is found to be wrecked, stranded or in distress;

- a) if he is the owner of the wreck, give the receiver of wreck, such information in writing of the finding thereof and of the marks by which such wreck is distinguished;
- b) if he is not the owner of such wreck which is under his possession, deliver the same to the receiver of wreck.

- (2) Any person who acts in contravention to this Section is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to --- or with imprisonment for a period of --- months or with both.

123. **Duties of receiver of wreck:**

(1) The receiver of wreck who has been informed about the wreck shall record the information so received and immediately take necessary measures, as prescribed by notification in Official Gazette under this Part.

(2) On receiving of information that any vessel is wrecked, stranded or in distress in the inland waters, the receiver of wreck who has the respective jurisdiction, shall forthwith proceed there, and upon his arrival shall take command of all persons present and shall assign such duties and give such directions to each person as he thinks fit, for the preservation of the vessel, the lives of the persons, belongings of the vessel, equipment and of the contamination caused from discharge of cargo or bunker:

Provided that, the receiver shall not interfere between the master, Serang or person in charge and the crew of the vessel in reference to the management thereof, unless he is requested to do so by the master, Serang or person in charge .

(3) The receiver of wreck within the local limits of whose jurisdiction the vessel is wrecked, stranded or in distress may conduct an investigation into;

- a) the name and description of the vessel;
- b) the names of the master and of the owners:
- c) the names of the owners of the cargo;
- d) the ports from and to which the vessel was bound;
- e) the occasion of the wrecking, stranding, or distress of the vessel, as the case may be;
- f) the services rendered; and
- g) such other matters or circumstances relating to the vessel, the cargo or the equipment, as the receiver thinks necessary.

(4) The receiver of wreck shall, as soon as may be after taking possession of any wreck, publish a notification in such manner and at such place as the State Government / Competent Authority may, by general or special order, direct, containing a description of the wreck and the time at which and the place where it was found.

124. **Power to remove wreck :**

(1) If any vessel irrespective of such vessel being registered or recognised under this Act, or property or part of the said vessel, is wrecked, stranded or sunk in any inland water is found to be or is likely to become an obstruction, impediment or danger to the safe and convenient navigation or use of inland water or the landing place or embarking or part thereof, the receiver of wreck or any authorised or appointed officer shall,

- a) If the whereabouts of the owner are identifiable or traceable, the receiver of wreck shall, in such form and content as may be prescribed in this Part, immediately notify the owner of such vessel or property or parts about the recovery and his obligation to remove the wreck, or
- b) if the owner is unidentifiable or not traceable, the receiver of wreck shall cause such vessel or property or part to be raised, removed, blown up or otherwise destroyed as the circumstances may warrant.

(2) The receiver of wrecks or any officer appointed or authorised thereof, shall record the events of finding, marking, recovery and / or disposal of wrecks in the official register maintained.

(3) The Receiver of Wreck or any other officer appointed or authorised thereof shall send a report to the State Government regarding the wrecks that are found, marked, recovered and / or disposed within the respective jurisdiction.

125. **Disposal of Wreck:**

If any property recovered by a receiver of wreck remains unclaimed or the person claiming it fails to pay reasonable expenses incurred for preserving the wreck and an additional amount of twenty-five per cent, of the amount of such expenses; such vessel or property or part may be put to sale by public auction,

- a) immediately if the property is of perishable nature

- b) if it is not of a perishable nature, at any time not less than two months after the recovery thereof .

126. **Removal of obstruction to navigation:**

- (1) The receiver of Wreck may remove, or cause to be removed, any timber, raft or other property, floating or being in any part of the inland water, which, in his opinion, obstructs or impedes the free navigation thereof or the lawful use of any landing place or embarking or part thereof.
- (2) If the owner of any such timber, raft or other property, or the person who has caused any such obstruction, impediment or public nuisance, neglects to pay the reasonable expenses incurred in the removal thereof, within one week after demand or within fourteen days after such removal has been notified in the Official Gazette or in such other manner as the State Government may, by general or special order direct, the receiver of wreck or such other officer may cause such timber, raft or other thing or the materials of any public nuisance so removed, or so much thereof as may be necessary, to be sold by public auction and may retain all the expenses of such removal and sale out of the proceeds of the sale,
- (3) The owner of any such timber, raft or other thing shall be liable to pay the reasonable expenses of the removal thereof, and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such free navigation or lawful use.
- (4) Any person who acts in contravention to sub-sections (2) and (3) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with imprisonment for a period of ----- months or with both.
- (5) The receiver of wreck or such other officer or any magistrate having jurisdiction over the offence may cause any such nuisance to be abated.

127. **Unsold Property :**

If the property so recovered by a receiver of wreck remains unsold, such property shall be kept and deposited in such manner as the State Government directs, and may, if necessary, from time to time, realise the expenses of keeping the same, together

with the expenses of sale, or further sale of so much of the thing or materials remaining unsold.

128. **Disbursement of Sale Proceeds:**

- (1) The expenses and the additional amount as provided in Section 125 shall be payable to the receiver of wreck or such other officer, out of the sale proceeds of the property so recovered from inland waters, and the balance shall be paid to the person entitled to the property recovered, or, if no such person appears and claims the balance, shall be held in deposit for payment, without interest, to the person thereafter establishing his right of ownership thereto.
- (2) No claim beyond 36 months from the date of the sale shall be entertained and the same shall be dismissed by the receiver of wreck or such other officer.
- (3) After the period of 36 months the unclaimed amount so deposited under Sub-section (1) shall be transferred to the common fund created under Part XVII of this Act.
- (4) Where the sale proceeds of the property are not sufficient to meet the expenses and the additional amount receivable as provided in Section 125 , the owner of the vessel at the time the vessel was wrecked, stranded or sunk shall be liable to pay the deficiency to the receiver of wreck or such other officer on demand, and if the deficiency be not paid within one month of such demand, receiver of wreck or such other officer, may recover the deficiency from such owner as if it were an arrear of land revenue.

129. **Removal of lawful Obstruction:**

- (1) If any obstruction or impediment to the navigation of any inland water has been lawfully made or has become lawful by reason of the long continuance of such obstruction or impediment or otherwise, the competent officer shall report the same for the information of the State Government and shall, with the sanction of the State Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration.
- (2) Any dispute arising out of or concerning such compensation shall be determined according to the procedure established Right to Fair Compensation and

Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (30 of 2013).

130. **Protecting the wreck :**

(1) No person shall -

- a) without the leave of the master board or attempt to board any vessel which is wrecked, stranded or in distress as aforesaid, unless the person is, or acts by command or order in writing issued by, the receiver of wreck; or
- b) impede or hinder or attempt in any way to impede or hinder the saving of any vessel stranded or in danger of being stranded or otherwise in distress in the inland waters or of any part of the cargo or equipment of the vessel, or of any wreck; or
- c) secrete any wreck or deface or obliterate any marks thereon; or
- d) wrongfully carry away or remove any part of a vessel stranded or in danger of being stranded or otherwise in distress, in the inland waters, or any part of the cargo or equipment of the vessel or any wreck.

(2) Where a receiver of wreck suspects or receives information that the wreck is secreted or is in the possession of some person who concealed is not the owner thereof or that any wreck is otherwise improperly dealt with, he may apply to the Judicial Magistrate of the first class or Metropolitan Magistrate, who has jurisdiction over the matter, for a search warrant, and that magistrate may grant such warrant and the receiver of wreck by virtue thereof may enter any house or other place and also any vessel and search for, seize and detain any such wreck there found.

(3) Any person who acts in contravention to the sub-section (1) or found guilty under Sub Section (2) shall be punishable with imprisonment for a term upto ---- years or with fine upto ----- or with both.

131. **Fouling Of Government Moorings:**

(1) If any vessel hooks or gets fouled in any of the buoys or moorings laid down by or by the authority of the State Government in any part of inland water, the master, Serang or person in charge of such vessel shall not, nor shall any other person, except in the case of emergency, lift the buoy or mooring for the purpose of

unhooking or getting clear from the same without permission in writing from the receiver of wreck or any other officer appointed or authorised in this behalf.

(2) The receiver of wreck or any other officer appointed or authorised in this behalf immediately on receiving information of such possibility of accident or accident, shall issue permission in writing and shall assist and superintend clearing of such vessel, the master, Serang or person in charge of the vessel shall, on demand, pay such reasonable expenses that are incurred.

(3) Any master, Serang or person in charge or any other person acting in contravention to this Section shall, for every such offence, be punishable with fine which may extend to

132. **Power to direct to Investigation:**

The State Government may refer and direct the incident of wreck to be investigated by the Court as provided for in Part XIV.

133. **Power for State Government to Suspend or Cancel Certificates in Certain Cases:**

Any certificate granted or any endorsement made under Part V may be suspended or cancelled by the State Government in which the certificate was granted or, as the case may be, in respect of which the endorsement was made, in the following cases, namely:

- a) if, on any investigation made under this Part, the Court reports that the work or abandonment of, or loss or damage to, any vessel, or loss of life, has been caused by the intentional and wrongful act or default of the holder of such certificate, or that the holder of such certificate is incompetent, or has been guilty of any gross act of drunkenness, tyranny or other misconduct, or
- b) if the holder of such certificate is proved to have been convicted of any non-bailable offence, or
- c) if the holder of such certificate is proved to have deserted his vessel or has absented himself without leave and without sufficient reason, from his vessel or from his duty; or
- d) if, in the case of a person holding a Certificate of Competency or service as second-class master, serang, engine-driver, or such other person, is or

has become, in the opinion of the State Government, unfit to act as a second-class master, serang, as an engine-driver or such other person, as the case may be.

134. **Obligation To Deliver Up Suspended Or Cancelled Certificate:**

(1) Every person whose certificate is suspended or cancelled under this Part shall deliver it up to such person as the State Government which suspended or cancelled it may direct.

(2) Any person who acts in contravention to this sub-section (1) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with imprisonment for a period of ----- months or with both

135. **Report To Other State Government:**

If a State Government suspends or cancels an endorsement under this Part, it shall report the proceedings and the fact of suspension or cancellation to the State Government by which, or under authority from which, the certificate was granted.

136. **Power to Revoke Suspension or Cancellation, and to Grant New Certificate :**

(1) Any State Government may, at any time, revoke any order of suspension or cancellation which it may have made under this Part, or grant, without examination, to any person whose certificate it has so cancelled, a new certificate.

(2) A certificate so granted shall have the same effect as a Certificate of Competency granted under this Act after examination and procedures laid down in Part V.

137. **Salvage and Right of Salvors:**

(1) Where services are rendered

- a) wholly or in part within the inland water limit in saving life from any vessel, or;
- b) in assisting a vessel or saving the cargo or equipment of a vessel which is wrecked, stranded or in distress at any place in the inland water limits; or
- c) by any person other than the receiver of wreck in saving any wreck; the owner of the vessel, cargo, equipment or wreck shall pay the salvor, a reasonable sum for the salvage as determined by the Competent Authority

or Receiver of wreck or any officer appointed or authorised to act as valuers for the said purpose.

(2) Salvage in respect of the preservation of life when payable by the owner of the vessel shall be paid in priority to all other claims for salvage.

138. **Dispute of determination of Amount Payable as Salvage:**

(1) Any dispute arising with respect to the determination amount payable or determined amount pending or due payment under this Part shall be determined upon application made by either of the disputing parties:

a) to Judicial Magistrate of the first class or a Metropolitan Magistrate, as the case may be, where the amount claimed does not exceed ten thousand rupees; or

b) to the High Court where the amount claimed exceeds ten thousand rupees.

(2) Where there is dispute as to the persons who are entitled to the salvage amount under this Section, the Judicial magistrate of the first class or the Metropolitan Magistrate or the High Court, as the case may be, shall decide the dispute and if there are more persons than one entitled to such amount, such magistrate or the High court shall adjudicate and apportion the amount thereof among such persons.

(3) The costs of and incidental to all proceedings before a Judicial Magistrate of the first class or a Metropolitan Magistrate or the High Court under this Section shall be in the discretion of such magistrate or the High Court, who shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the aforementioned purpose.

139. **Insurance:**

All mechanically propelled vessels registered or recognised under this Act shall carry a valid Insurance policy which covers liability of owners, operators, master and /or Serang or such other person in charge of the vessel, as the case may be arising out of happening of wreck.

140. **Rules Making Power:**

- (1) The Central Government / State Government may make rules to carry out the purposes of this Part.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for;
 - a) the qualification, terms of functioning and powers of Receivers of wreck appointed under this Part;
 - b) the form , content and frequency of communications to be made by the master, Serang to the Receiver of wreck;
 - c) the form and content of publication of description of the wreck and the time at which and the place where it was found in the Official Gazette;
 - d) the procedure to be followed by receiver of wreck in respect of the taking possession of wrecks and their disposal;
 - e) the fees payable to receivers in respect of the work done by them;
 - f) the procedure to be followed for dealing with claims relating to ownership of wrecks;
 - g) the appointment of valuers in salvage cases;
 - h) the principles to be followed in awarding salvage and the apportioning of salvage;
 - i) the procedure to be followed for dealing with claims for salvage;
 - j) the detention of property in the custody of a receiver of wreck for the purpose of enforcing payment of salvage; and
 - k) any other purpose as it may deem fit for the proper implementation of this Part.

PART XII: LIABILITY AND LIMITATION OF LIABILITY

141. **Liable under the Act:**

The owner, operator, master, serang, a member of crew or insurer shall be liable for the offences and contraventions of the provisions under this Act or Rules made thereunder.

142. **Joint and several liability:**

Unless otherwise mentioned specifically in elsewhere, the owner, operators, master or Serangs may jointly and severally be held liable.

143. **Liability of beneficial owner:**

Where any person is beneficially interested otherwise than by way of mortgage or in the share in any mechanically propelled inland vessel registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all the pecuniary penalties imposed by this or any other Act on the owners of mechanically propelled inland vessels or shares therein. For the purposes of this sub-section , so nevertheless that proceedings for the enforcement of any such penalties may be taken against both or either of the said parties with or without joining both of them.

144. **Division of loss :**

(1) Whenever by the fault of two or more mechanically propelled inland vessels damage or loss is caused to one or more of them or to the cargo of one or more of them or to any property on board one or more of them, the liability to make good the damage or loss shall be in proportion to the degree in which each of such vessel was at fault:

Provided that,

- a) If, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally;
- b) Nothing in this section shall operate so as to render any of such vessel liable for any loss or damage to which her fault has not contributed;

- c) Nothing in this section shall affect the liability of any person under any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law, or as affecting the right of any person to limit his liability in the manner provided by law.
- (2) For the purposes of this Part, references to damage or loss caused by the fault of a mechanically propelled inland vessel shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable in law by way of damages.
- (3) The victim or representative of the victim may apply to the respective Court who has jurisdiction on the claim, for the detention or attachment of the vessel as per the Code of Civil Procedure 1908.

145. **Liability for Personal Injury or Loss of Life:**

- (1) Whenever loss of life or personal injuries are suffered by any person on board a mechanically propelled inland vessel or any other vessel, property owing to the fault of that vessel and of any other vessel or vessels, the liability of the owners of the such vessels concerned shall be joint and several.
- (2) Nothing in this Section shall be construed as depriving any person of his right of defence against the claim raised by the person injured, or any person entitled to sue in respect of such loss of life, or shall affected the right of any person to limit his liability in cases to which this Section relates in the manner provided by law.

146. **Exemption from liability:**

No liability for any claim other than loss of life or personal injury, shall attach to the owner, operator, master, serang or a member of crew or insurer under this Part, if he proves that the cause for claim,

- a) was a result from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or
- b) was wholly caused by an act or omission done with intent to cause such damage by any other person; or

- c) was wholly caused by the negligence or other wrongful act of State Government or other authority responsible for the maintenance of lights or other navigational aids in exercise of its functions in that behalf.

147. **Detention under this Part :**

The State Government or any such officer appointed or authorized under this Part, may detain any mechanically propelled inland vessel in connection with a claim, or an offence under this Part, by procedure notified in the Official Gazette by such State Governments.

148. **Limitation of Liability:**

- (1) The owner, operator, master, serang or person in charge of a vessel member of crew or insurer of any mechanically propelled vessels may limit the extent of his liability which could be incurred from the application and operation of this Part for;
 - a) claims arising from loss of life of or personal injury to, or loss of or damage to, property including damage to inland port works, jetties, wharfs, basins and waterways and aids to navigation, occurring on board or in direct connection with the operation of such vessel(s) or with salvage operations, and consequential loss resulting there from;
 - b) claims arising out of loss resulting from delay in the carriage of cargo and passengers or their luggage by inland waters;
 - c) claims arising out of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of such vessel or salvage operations;
 - d) claims of a person other than the person liable in respect of measures taken in order to avert or minimise loss;
 - e) claims for the loss of life or personal injury to passengers of such vessel brought by or on behalf of any person,
 - f) under the contract of passenger carriage; or

- g) who, with the consent of the carrier, is accompanying a vehicle for live animals which are covered by a contract for the carriage of goods, carried in such vessel;
- (2) Notwithstanding contained anything herein, the act of invoking limitation of liability shall not be construed to constitute an admission of liability by any person who takes the defence.
- (3) For the purpose of this Part, the liability of the owner or operator of a mechanically propelled inland vessel shall include liability in an action brought against such vessels.
- (4) The Central Government shall prescribe by notification in official gazette the limits of liability and the criteria in determining compensation for any claim relating to;
 - a) Loss of life, personal injury, damage caused by mechanically propelled inland vessel to the another vessel, environment or cargo and / or such other property,
 - b) any other damage of specific nature as deemed fit by the State Government.
- (5) The persons entitled to limit liability under Sub Section (1) may apply to the High Court for constituting of a limitation Fund for the consolidated rate as provided for under this Part.
- (6) Where a vessel or other property is detained in connection with a claim, covered under this Part, the respective High Court may order the release of such vessel or other property, upon an application made by the persons, who are entitled to limit their liability and,
 - a) by ensuring that such person, who is entitled to constitute the limitation fund has submitted his availability in person to the jurisdiction of the respective High Court or
 - b) by depositing sufficient fund or financial guarantee as determined by the High Court as Security or
 - c) by constituting the limitation fund, as the case may be.

149. **Not to be entitled:**

No person shall be entitled to limit the liability against any claim, if such claim has arisen due to intentional act or negligence of the persons or his employees, who otherwise would have been entitled to limit their liability under this Part.

150. **Power to make rules:**

(1) The Central Government may make rules prescribing

- a) The limits of liability for any claim of owner, operator, master, serang or a member of crew or insurer on arousal of claims under this Act.
- b) The criteria in determining liability and compensation under this Part;
- c) The powers and procedures of the Court under this Part;
- d) Procedures and formalities for constitution of limitation fund; or
- e) For the purpose of proper implementation of this Part.

(2) State Government may make Rules to prescribe the procedures for detention and release of mechanically propelled inland vessels under this Part

**PART XIII: INSURANCE OF MECHANICALLY PROPELLED VESSELS PLYING
IN INLAND WATERS**

151. **Application of this Part :**

- (1) This Part shall apply to any mechanically propelled vessel, registered, recognised or identified under this Part.
- (2) Notwithstanding anything contained herein, the State Government by general or special order and subject to such conditions as may be prescribed by notification in Official Gazette, shall exempt any class or category of mechanically propelled vessel used or plying in inland waters from the application of any or whole of the provisions of this Part.
- (3) This Part shall not apply to any mechanically propelled vessel owned by Central Government or State Government used for non-commercial purposes.

152. **Insurance to cover :**

No mechanically propelled vessel shall be used for voyage in inland waters, unless there is in force;

- (1) A policy of insurance covering risks or damages to hull, machinery, equipment or property of the mechanically propelled vessels.
- (2) A policy of insurance covering risks other than that provided in sub-section (1), which shall cover any liability that may be incurred by the insured:
 - a) In respect of the death of or bodily injury to any person or persons or damage to any property caused by or arising out of the use of the mechanically propelled vessel.
 - b) Arising out of the death of or bodily injury to any passenger of a mechanically propelled vessel carrying or used for transportation of passengers;
 - c) In respect of the death or bodily injury, of any person;
 - (i) engaged as crewmen in such vessel; and/or
 - (ii) engaged to perform any duty assigned to such employee including examination of tickets, on such vessel used for transportation of passengers or passenger cargo; or

(iii) In such vessel used solely for the transportation or carriage of cargo.

(3) A policy of insurance in compliance with the Public Liability Insurance Act, 1991 (6 of 1991), if the mechanically propelled inland vessel is carrying or meant to carry, dangerous or hazardous goods.

(4) A policy of insurance covering the mechanically propelled vessel to

- a) a value not less than the liability incurred or
- b) in case such vessel is entitled to be covered under limitation of liability as provided under this Act, a value not less than the prescribed and applicable limitation amount:

Provided that any policy of insurance issued with a value not less than the limitation of liability in force, immediately before the commencement of this Act, shall continue to be effective for a period of twelve months after such commencement or till the date of expiry of such policy whichever is earlier.

(5) Any person who acts in contravention to this section is committing an offence under this Part and shall be punishable with a fine which may extend to ----- or imprisonment for a period of ----- months or with both.

153. **Contractual liability not to cover:**

Notwithstanding anything contained herein, a policy shall not be required as mandatory to cover any contractual liability of the insured that arises due to any performance or non performance a contract or of agreement in the capacity of a service provider.

154. **State owned vessels exempted:**

Any mechanically propelled inland vessel owned or operated by Central Government, State Government or Inland Vessel Transport Corporation, used for commercial purpose and which is exempted for this purpose by the Central Government or State Government or any other governmental authority, by general or specific order subject to such conditions as may be prescribed herein:

Provided that no such order shall be made in relation to any such authority unless a fund has been established and is maintained by that authority in accordance with the

Rules made in that behalf under this Act for meeting any liability arising out of the use of any vehicle of that authority, which that authority or any person in its employment may incur to any claimant.

155. **Issuance and form:**

For the purpose of Section 152, the policy of insurance issued shall be a policy of which:

- (1) is issued by a person who is an authorized insurer;
- (2) insures the mechanically propelled inland vessel, any person or any classes of persons specified in the policy to the extent specified in Section 152; and
- (3) Is a Certificate of Insurance issued by the insurer to the insured in such form and content, and subject to such conditions as may be applicable and prescribed.

156. **Power to prescribe minimum terms and conditions:**

The Competent Authority/ State Government may prescribe minimum terms and conditions to be incorporated in the contract of insurance entered between insurer and insured to cover the risks as provided in Section 152.

157. **Duty to indemnify:**

Notwithstanding anything contained in any law for the time being in force, an insurer issuing a policy of insurance under this section shall be liable to indemnify the insured or any person(s), as specified in the policy in respect of any liability which the policy purports to cover in the case of the insured or those person(s).

158. **Validity of cover note:**

Where a cover note of the policy of insurance, issued by the insurer under the provisions of this Part or the Rules made hereunder is not followed by a policy of insurance within the prescribed time, the insurer shall, within **seven days** of the expiry of the period of the validity of the cover note, notify the fact to the registering authority in whose records the mechanically propelled vessel to which the cover note relates has been registered or to such other authority as the State Government may appoint or authorize in this behalf.

159. **Inspection:**

(1) The Competent Authority or State Government or any authorised officer appointed hereunder, may require the owner, operator or master of a mechanically propelled vessel to produce the valid certificate of insurance carried on board such vessel, for the purpose of inspection on compliance with this Part.

(2) Any person who acts in contravention to this Section is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to --- or with imprisonment for a period of ----- months or with both.

160. **Non-compliance:**

As a result of inspection as provided in Section 159, if it is found that the mechanically propelled inland vessel is not in compliance with this Part, such vessel shall immediately be detained and/or the Certificate of Registration of such vessel may be suspended, as the case may be, with immediate effect.

161. **Release:**

The officer who detains the vessel or suspends the Certificate of Registration as provided under Section 160, shall upon production of satisfactory proof that mechanically propelled vessel possesses a valid Certificate of Insurance in compliance with this Part, release of such vessel or withdrawal of the suspension of Certificate of Registration, as the case may be.

162. **Removal of detained vessel:**

(1) The vessels so detained under Section 160 shall be ordered to be removed from the inland waters and the owner, operator or master shall remit the fees and charges prescribed hereunder against the charges incurred in maintaining the vessel during the period of detention.

(2) Any person who acts in contravention to this sub-section (1) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with imprisonment for a period of ----- months or with both.

163. **Reciprocal Recognition:**

Where, in pursuance of an arrangement between India and any reciprocating country regarding recognition and acceptance of certificate of insurance issued in their respective territories, such certificates issued in reciprocating countries shall be recognised and accepted when such vessels are used or ply in the inland waters covered under this Act, subject to compliance of conditions by such vessels as may be prescribed by notification in Official Gazette by the Central Government or the State Government.

164. **Duty of insurers to satisfy judgments and awards against persons insured in respect of claims:**

(1) If, after a certificate of insurance has been issued under this Part, in favour of the person by whom a policy has been effected, judgment or award in respect of any such liability as is required to be covered by a policy as mentioned in this Part is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy, the insurer shall, subject to the provisions of this Section, pay to the person entitled to the benefit of the decree any sum not exceeding the sum assured payable, as if he were the judgment debtor, in respect of the liability, together with any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments.

(2) No sum shall be payable by an insurer under sub-section (1) in respect of any judgment or award unless, before the commencement of the proceedings in which the judgment or award is given the insurer had notice through the Court or, as the case may be, the Court appointed or authorised to process claim or of the bringing of the proceedings, or in respect of such judgment or award so long as execution is stayed thereon pending an appeal; and an insurer to whom notice of the bringing of any such proceedings is so given shall be entitled to be made a party thereto and to defend the action on any of the following grounds, namely:

- a) that there has been a breach of a specified condition of the policy, being a condition excluding the use of the mechanically propelled vessel.,

- b) for hire or reward, where the mechanically propelled vessel is on the date of the contract of insurance a vehicle not covered by a permit to ply for hire or reward, or
 - c) for organised racing and speed testing, or
 - d) for a purpose not allowed by the permit under which the vessel is used, where the vessel is a transport vehicle
 - (i) a condition excluding manning by a named person or persons or by any person who does not hold a certificate issued under Part V, or by any person who has been disqualified for holding or obtaining a certificate issued under Part V during the period of disqualification; or
 - (ii) a condition excluding liability for injury caused or contributed to by conditions of war, civil war, riot or civil commotion; or
 - e) that the policy is void on the ground that it was obtained by the non-disclosure of a material fact or by a representation of fact which was false in some material particular.
- (3) Where any such judgment as is referred to in sub-section (1) is obtained from a Court in a reciprocating country and in the case of a foreign judgment is, by virtue of the provisions of section 13 of the Code of Civil Procedure, 1908 (5 of 1908) conclusive as to any matter adjudicated upon by it, the insurer (being an insurer registered under the Insurance Act, 1938 (4 of 1938) and whether or not he is registered under the corresponding law of the reciprocating country) shall be liable to the person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1), as if the judgment were given by a Court in India:

Provided that no sum shall be payable by the insurer in respect of any such judgment unless, before the commencement of the proceedings in which the judgment is given, the insurer had notice through the Court concerned of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding law of the reciprocating country, to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2).

- (4) Where a certificate of insurance has been issued under sub-section (3) of section 152 to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby by reference to any condition other than those in clause (b) of sub-section (4) shall, as respects such liabilities as are required to be covered by a policy under section 152, be of no effect: Provided that any sum paid by the insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this sub-section shall be recoverable by the insurer from that person.
- (5) If the amount which an insurer becomes liable, under this section to pay in respect of a liability incurred by a person insured by a policy, exceeds the amount for which the insurer would apart from the provision of this section be liable under the policy in respect of that liability, the insurer shall be entitled to recover the excess from that person.
- (6) The insurer who has issued the Certificate of Insurance under Section 155 shall not be held liable for any claim against the insured that arises due to non disclosure of material fact or false or misrepresentation of any material and relevant fact or any such other obligation as provided under this Part by the insured :
- Provided that any sum paid by the insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this sub-section shall be recoverable by the insurer from that person.
- (7) No insurer to whom the notice referred to in sub-section (2) or sub-section (3) has been given shall be entitled to avoid his liability to any person entitled to the benefit of any such judgment or award as is referred to in sub-section (1) or in such judgment as is referred to in sub-section (3) otherwise than in the manner provided for in sub-section (2) or in the corresponding law of the reciprocating country, as the case may be.

165. **Rights of claimants against insurers on insolvency of the insured.**

- (1) Where under any contract of insurance effected in accordance with the provisions of this Part, a person is insured against liabilities which he may incur to parties as provided in Section 152 of this Part, then

- a) in the event of the person becoming insolvent or making a composition or arrangement with his creditors, or
 - b) where the insured person is a company, in the event of a winding-up order being made or a resolution for a voluntary winding-up being passed with respect to the company or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the charge,
- (2) if, either before or after that event, any such liability is incurred by the insured person, his rights against the insurer under the contract in respect of the liability shall, notwithstanding anything to the contrary in any provision of law, be transferred to and vest in the claimants covered under this Part to whom the liability was so incurred.
- (3) Where an order for the administration of the estate of a deceased debtor is made according to the law of insolvency, then, if any debt provable in insolvency is owing by the deceased in respect of a liability to a claimants covered under this Part against which he was insured under a contract of insurance in accordance with the provisions of this Part, the deceased debtor's rights against the insurer in respect of that liability shall, notwithstanding anything to the contrary in any provision of law, be transferred to and vest in the person to whom the debt is owing.
- (4) Any condition in a policy issued for the purposes of this Part purporting either directly or indirectly to avoid the policy or to alter the rights of the parties thereunder upon the happening to the insured person of any of the events specified in clause (a) or clause (b) of sub-section (1) or upon the making of an order for the administration of the estate of a deceased debtor according to the law of insolvency shall be of no effect.
- (5) Upon a transfer under sub-section (1) or sub-section (2), the insurer shall be under the same liability to the claimants covered under this Part as he would have been to the insured person.

166. **Duty to give information as to insurance.—**

- (1) Person against whom a claim is made in respect of any liability referred to under this part shall on demand by or on behalf of the person making the claim, state the details and particulars of insurance, if any and the extend of coverage that the insurer who has issued such a policy of insurance covers.
- (2) Any person who acts in contravention to sub-section (1) is committing an offence under this Part.
- (3) In the event of any person becoming insolvent or making a composition or arrangement with his creditors or in the event of an order being made for the administration of the estate of deceased person according to the law of insolvency, or in the event of circumstances as provided in clause (b) of sub-section (1) of Section 165, it shall be the duty of the insolvent debtor, personal representative of the deceased debtor or company, as the case may be, or the official assignee or receiver in insolvency, trustee, liquidator, receiver or manager, or person in possession of the property to give at the request of any person claiming that the insolvent debtor, deceased debtor or company is under such liability to him as is covered by the provisions of this Part, such information as may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by section 165 of this part, and for the purpose of enforcing such rights, if any; and any such contract of insurance as purports whether directly or indirectly to avoid the contract or to alter the rights of the parties thereunder upon the giving of such information in the events aforesaid, or otherwise to prohibit or prevent the giving thereof in the said events, shall be of no effect.
- (4) The duty to give the information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other such other relevant documents in the possession or power of the person on whom the duty is so imposed under this Act or such other laws in force in India.

167. **Settlement between insurers and insured persons :**

- (1) No settlement made by an insurer in respect of any claim in respect of any liability of the nature referred in Section 152 of this Part shall be valid unless such claimant is a party to the settlement.

(2) Where a person who is insured under a policy issued for the purposes of this Part has become insolvent, or where, if such insured person is a company, a winding-up order has been made or a resolution for a voluntary winding-up has been passed with respect to the company, no agreement made between the insurer and the insured person after the liability has been incurred to a claimants covered under this Part and after the commencement of the insolvency or winding-up, as the case may be, nor any waiver, assignment or other disposition made by or payment made to the insured person after the commencement aforesaid shall be effective to defeat the rights transferred to the claimant under this Part, but those rights shall be the same as if no such agreement, waiver, assignment or disposition or payment has been made.

168. **Insolvency of insured persons not to affect liability of insured or claims by parties :**

Where a certificate of insurance has been issued to the person by whom a policy has been effected, the happening in relation to any person insured by the policy of any such event as mentioned in Section 165 shall, notwithstanding anything contained in this Part, not affect any liability of that person of the nature referred to in Section 152 of this Part; but nothing in this Section shall affect any rights against the insurer conferred on the person to whom the liability was incurred, as provided under this Part.

169. **Effect of death on certain causes of action.—**

Notwithstanding anything contained in section 306 of the Indian Succession Act, 1925 (39 of 1925), the death of a person in whose favour a certificate of insurance had been issued, if it occurs after the happening of an event which has given rise to a claim under the provisions of this Part, shall not be a bar to the survival of any cause of action arising out of the said event against his estate or against the insurer.

170. **Effect of certificate of insurance.—**

When an insurer has issued a certificate of insurance in respect of a contract of insurance between the insurer and the insured person, then

- a) if and so long as the policy described in the certificate has not been issued by the insurer to the insured, the insurer shall, as between himself and any other person except the insured, be deemed to have issued to the insured

person a policy of insurance conforming in all respects with the description and particulars stated in such certificate; and

- b) if the insurer has issued to the insured the policy described in the certificate, but the actual terms of the policy are less favourable to persons claiming under or by virtue of the policy against the insurer either directly or through the insured than the particulars of the policy as stated in the certificate, the policy shall, as between the insurer and any other person except the insured, be deemed to be in terms conforming in all respects with the particulars stated in the said certificate.

171. **Transfer of certificate of insurance**

- (1) Where a person in whose favour the certificate of insurance has been issued in accordance with the provisions of this Part transfers to another person the ownership of the mechanically propelled vessel covered under this Part, in respect of which such insurance was taken together with the policy of insurance relating thereto, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the mechanically propelled inland vessel is transferred with effect from the date of its transfer.

Explanation: For the removal of doubts, it is hereby declared that such deemed transfer shall include transfer of rights and liabilities of the said certificate of insurance and policy of insurance.

- (2) The transferee shall apply within fourteen days from the date of transfer in the prescribed form to the insurer for making necessary changes in regard to the fact of transfer in the certificate of insurance and the policy described in the certificate in his favour and the insurer shall make the necessary changes in the certificate and the policy of insurance in regard to the transfer of insurance; failing which consequences provided in Section 160 shall follow.

172. **Power to make Rules –**

- (1) The Central Government / State Government may make rules for the purpose of carrying into effect the provisions of this Part,

(2) Without prejudice to the generality of the foregoing power, such rules may provide for,

- a) the forms to be used for the purposes of this Part;
- b) the making of applications for and the issue of Certificates of Insurance;
- c) the issue of duplicates to replace Certificates of Insurance lost, destroyed or mutilated;
- d) the custody, production, cancellation and surrender of Certificates of Insurance;
- e) the records to be maintained by insurers of policies of insurance issued under this Part;
- f) the identification by certificates or otherwise of persons or mechanically propelled inland vessels exempted from the provisions of this Part;
- g) the furnishing of information respecting policies of insurance by insurers;
- h) adopting the provisions of this Part to mechanically propelled inland vessels brought into India by persons making only a temporary stay therein or to mechanically propelled inland vessels registered in a reciprocating country and operating on any inland water route or within any area in India by applying those provisions with prescribed modifications;
- i) the form in which and the time limit within which the particulars of mechanically propelled inland vessels involved in accident may be furnished; and any other matter which is to be, or may be, prescribed; and
- j) for the effective implementation of the provisions of this Part.

PART XIV: CASUALTY AND INVESTIGATION

173. Reporting Casualty, Accident or Wreck:

- (1) The owner, operator or master of a mechanically propelled inland vessel, shall give notice of any casualty or accident occurred to or onboard such a vessel while in the inland waters, to the officer so appointed and authorised by the State Government.
- (2) Any person who acts in contravention to this section is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ---
----- or with imprisonment for a period of ----- months or with both.

174. Preliminary enquiry & investigation:

- (1) Whenever any such officer as is referred to in Section 173 receives credible information that a casualty or accident has occurred, or having been directed to conduct an enquiry by the State Government/ Competent Authority and may proceed to make a preliminary inquiry into the casualty.
- (2) An officer making a preliminary inquiry, shall send a report thereof to the State Government / Competent Authority or such other authority as may be appointed by it in this behalf.
- (3) The State Government/ Competent Authority may if it is necessary or expedient to have a formal investigation into the facts of any case reported by the authorised officer may,
 - a) appoint a special Court and direct the Court to make the investigation at such place as the State Government may fix in this behalf, or
 - b) direct any Court of Judicial Magistrate of the First Class specially empowered in make formal this behalf by the State Government and Metropolitan Magistrate to conduct investigation, which shall have jurisdiction to make formal investigations into inland transportation casualties under this Part.
- (4) The officer appointed under this Part, may, whether he has made a preliminary inquiry or not, and where the State Government/ Competent Authority so directs, make an application to a court, appointed and constituted hereunder, requesting it

to make formal investigation into any matters of plying or usage, accident or casualty, wreck or such other matter in relation to mechanically propelled inland vessels to which this Act shall apply.

175. **Constitution of Court:**

A Court appointed and directed under clause (a) of sub-section (3) and Section 174, shall consist of not less than two nor more than four persons, of whom one shall be a Magistrate, one shall be a person conversant with maritime affairs or with the navigation of the mechanically propelled inland vessels, and the other or others, if any, shall be conversant with either maritime or mercantile affairs, or with the navigation of mechanically propelled inland vessels.

176. **Power of Court of Investigation To Inquire :**

(1) A court making an investigation into any casualty referred or directed or any other incident of wreck to it may inquire into,

- a) Any charge of incompetency or misconduct arising in the course of the investigation against any master, engineer or engine-driver, or any person holding a certificate granted under Part V of this Act, and/or
- b) Any charge of a wrongful act or default on his part causing any accident or casualty.

(2) Any charge arises against any master, engineer or engine-driver, or any person holding a certificate granted under Part V of this Act, the Court shall, before the commencement of the inquiry into the charge, cause to be furnished to him a copy of such report or of any statement of the case upon which the investigation has been directed.

177. **Power for State Government to Direct further Investigation:**

(1) If the State Government has reason to believe that there are grounds for charging any master, engineer or engine-driver, or any person holding a certificate granted under Part V, with in competency or misconduct, otherwise than in the course of an investigation under Section 174,

- a) it may send a statement of the case to the principal Court of ordinary criminal jurisdiction, or the Court of the District Magistrate, at or nearest

to the place at which it may be convenient for the parties and witnesses to attend, and

b) may direct the Court to make an investigation into the charge.

(2) Before commencing an investigation under sub-section (1), the Court shall cause the person charged to be furnished with a copy of the statement of the case sent by the State Government.

178. **Person Charged To Be Heard:**

For the purpose of an investigation under this Part into any charge against a master, engineer or engine-driver, or any person holding a certificate granted under Part V, the Court may summon him to appear, and shall give him opportunity of fair hearing and making a defence, either in person or otherwise.

179. **Assessors:**

(1) For the purpose of investigation under this Part, the State Government shall prepare a list of Assessors, which may be revised from time to time.

(2) The State Government shall prescribe the qualifications, criteria and consideration/ fees/charges for the Assessors, who has experience in the merchant service or in the navigation of the mechanically propelled inland vessels.

(3) When, in the opinion of the Court making an investigation under this Part, the investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, engineer or engine-driver, or any person holding a certificate granted under Part V, the Court shall, appoint any number of assessors, from the list of Assessors provided to it by the State Government.

(4) In every other investigation the Court may, if it thinks fit, appoint as its assessor, for the purposes of the investigation, any person conversant with maritime affairs or the navigation of mechanically propelled inland vessels and willing to act as assessor.

(5) Every person appointed as an assessor under this Section shall attend during the investigation and deliver his opinion, to be recorded on the proceedings.

(6) Notwithstanding the appointment of assessor or assessors under this Section, the exercise of any/all powers conferred on the Court by this Part or any other law for the time being in force shall rest with the court.

180. **Powers of Court As To Evidence And Regulation Of Proceedings:**

(1) For the purpose of any investigation under this Part, the Court making the investigation shall, so far as relates to compelling the attendance and examination of witnesses, and the production of documents and the regulation of the proceedings, have -

- a) if the Court is a special Court; the same powers as are exercisable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made; or
- b) if the Court is a principal Court of ordinary criminal jurisdiction or the Court of the District Magistrate; the same powers as are exercisable respectively by either Court in the exercise of its criminal jurisdiction.

(2) State Government may, subject to such terms and conditions, prescribe the rate of payment of reasonable expenses to be paid to the witness(es) attending the Court making an investigation or inquiry under this Part, for the purposes of such investigation or inquiry before such court.

181. **Power of court to effect arrest of witnesses, by entry and detention of vessels**

(1) If any court making an investigation or inquiry under this Part thinks it is necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest.

(2) If any Court making an investigation under this Part issues a warrant of arrest to compel the attendance of any person whose evidence, in its opinion is necessary, and for the purpose of effecting the arrest, and subject to such conditions as may be prescribed by any general or special order, issued by the State Government in this behalf, the Court shall authorise any officer to enter any vessel.

(3) Every such officer or person engaged for the purpose of sub-section (2) shall be deemed to be a public servant within the meaning of the Indian Penal Code, 1860.

(4) No person shall be detained under this section for more than forty-eight hours and shall be produced before the Court of Investigation who has issued the warrant of arrest.

182. **Power of Court to commit for trial and bind over witness(es):**

(1) Whenever, in the course of an investigation under this Part, it appears to the Court making the investigation that any person has committed, within the territories to which this Act extends, an offence punishable under any law in force in such territories, the Court making the investigation may subject to such rules consistent with this Act as the High Court may, from time to time, make in this behalf -

- a) cause such person to be arrested;
- b) commit him or hold him to bail to take his trial before the proper Court;
- c) bind over any other person to give evidence at such trial; and
- d) exercise, for the purposes of this section, all the powers of a criminal court.

(2) Whenever, in the course of an investigation under this Part, it appears to the Court making the investigation that no prima face case can be found against the accused or that the person arrayed as accused has no connection whatsoever with the reported offence, shall immediately finalise the report mentioning such a finding, with reasons for arriving at such conclusion in accordance with the procedure established by the Code of Criminal Procedure, 1973.

183. **Depositions Of Absent Witnesses:**

(1) Whenever, in the course of a trial referred to in Section 182, the evidence of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same subject-matter before any Court making an investigation under this Part shall, if authenticated by the signature of the Magistrate or presiding Judge of such Court, be admissible in evidence on proof -

- a) that the witness cannot be found within the jurisdiction of the Court before which the trial is held; and
- b) that the deposition was made in the presence of the person accused, and that he had an opportunity of cross-examining the witness.

(2) A certificate signed by such Magistrate or presiding Judge that the deposition was made in the presence of the accused, and that he had an opportunity of cross-examining the witness shall, unless the contrary be proved, be sufficient evidence that it was so made and that the accused had such opportunity.

184. **Report By Court To State Government:**

(1) The Court shall, in the case of every investigation under this Part, transmit to the State Government a full report of the conclusions at which it has arrived, together with the evidence recorded and the written opinion of any assessor.

(2) The State Government shall, on receipt of the investigation report from the court, cause it to be published in the Official Gazette.

185. **Power For State Government To Direct Investigations Into Causes Of Explosions On Mechanically Propelled Inland Vessels:**

(1) Whenever any explosion occurs on board any mechanically propelled inland vessel, the State Government may direct that an investigation into the cause of the explosion be made by such person or persons as it may appoint in this behalf.

(2) The person or persons so appointed may, for the purpose of the investigation, enter into and upon the mechanically propelled inland vessel, with all necessary workmen and labourers, and remove any portion of the mechanically propelled inland vessel, or of the machinery thereof, and shall report to the State Government, his or their opinion on the cause of the explosion.

(3) Every person making an investigation under this section shall be deemed to be a public servant within the meaning of the Indian Penal Code 1860.

186. **Powers of court as to certificates granted by State Government:**

(1) A certificate of a master, crew or engineer which has been granted by the State Government/ Competent Authority under Part under this Act may be cancelled or suspended,

a) by a Court holding a formal investigation into a inland transportation casualty under this Part, if the court finds that the accident or casualty, including loss, standing or abandonment of, or damage to, any mechanically propelled inland vessel, or loss of life, has been caused by the wrongful act or default of such master, mate or engineer;

- b) by a court holding an inquiry under this Part into the conduct of the master, mate or engineer if the court finds that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct or in a case of collision has failed to render such assistance or give such information and / or notice as is required by Section 96, Section 97, Section 122, & and Section 173 of this Act.
- (2) At the conclusion of the investigation or inquiry, or as soon thereafter as possible, the Court shall state in open sitting, the decision to which it may have come with respect to the cancellation or suspension of any certificate and, if suspension is ordered, the period for which the certificate is suspended.
 - (3) Where the court cancels or suspends a certificate, the Court shall forward it to the State Government together with the report which it is required by this Part to transmit to it.

187. **Power of court to censure master, crew or engineer:**

Where it appears to the Court holding an investigation or inquiry that having regard to the circumstances of the case an order of cancellation or suspension under Section 186 is not justified, the court may pass an order censuring the master, mate or engineer in respect of his conduct.

188. **Power of court to remove master and appoint new master:**

- (1) A Court specially empowered under this Part, may remove the master of any mechanically propelled inland vessel, within his jurisdiction if the removal is shown as necessary to the satisfaction of the Court.
- (2) The removal may be made upon the application of the owner of any mechanically propelled inland vessel or his agent, or of the consignee of the mechanically propelled inland vessel, or of any certified officer or of one-third or more of the crew of the mechanically propelled inland vessel.
- (3) The Court may appoint a new master instead of the one removed, but where the owner, agent or consignee of the mechanically propelled inland vessel is within his jurisdiction, such an appointment shall not be made without the consent of that owner, agent or consignee.

(4) The Court, may also make such order and require such security in respect of the costs of the matter as it may deem fit and necessary.

189. **Power to make Rules:**

The State Government shall have power to make rules for the purposes of this Part and in particular, the fee, charges, powers and procedures of the Court so constituted under this Part.

PART XV: REGULATION OF TRADE PRACTICES

190. **Application of this Part :**

- (1) Unless otherwise provided elsewhere in this Part, this Part shall apply to mechanically propelled inland vessels registered, recognized and identified under this Act.
- (2) The Central Government may, by notification in the Official Gazette, extend the application of this Part to any other mechanically propelled vessel recognised under this Act and plying in or through the inland waters.

191. **Minimum standards and terms:**

The State Government/ Competent Authority may, without affecting the freedom of trade, stipulate the minimum standards, terms and conditions to protect the interests and to ensure safety of service providers and service users that shall be incorporated in the contract entered for carriage or use of inland vessels.

192. **Duty to list terminals:**

The State Government shall publish in the Official Gazette the list of cargo terminals and the points for loading and discharge of cargo and; the landing station for embarking and disembarking of passengers within their respective jurisdictions.

193. **Compliance with this Part:**

All mechanically propelled inland vessels registered, recognized and identified shall be engaged in trade or transportation of passengers or cargo only in accordance with this Part.

194. **Obligations of Service Provider :**

- (1) The Service Provider shall, subject to this Act and in accordance with the terms of the contract of carriage, carry the passenger or the goods, as the case may be, to the port of destination or at a port as agreed, in order to complete the commitment towards the service users.
- (2) The service provider shall properly and carefully,
 - a) assist and care for the passengers during embarking, disembarking and the entire course of voyage and preserve their safety with priority.

- b) receive, load, handle, stow, carry, keep, care for, unload and deliver the goods.
- (3) The State Government may by notification in the Official Gazette prescribe facilities to be provided in performing the duties under sub-sections (1) and (2).
- (4) Notwithstanding anything contained herein, the service provider, during the period of his responsibility, may decline to receive or to load, and may take such other measures as are reasonable, including unloading, destroying, or rendering goods harmless, if the goods are, or reasonably appear likely to become an actual danger to persons, property or the environment.
- (5) The service provider shall issue the transport documents or electronic records; or such documents or records, evidencing the obligations of carriage and other details of instruction and agreed terms and conditions, in a timely manner to the service user.

Provided that the service user provides the service provider the relevant information requested or required, accurately and timely for the purpose of preparation, compilation and timely issuance of the transport documents or electronic records.

- (6) Any service provider who acts in contravention to this Section is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with imprisonment for a period of ----- months or with both.

195. **Obligations of Service User:**

- (1) The service user shall provide all reasonable information and instructions, to the service provider and shall guarantee that all the information so disclosed are accurate and made in good faith, as requested by the service provider or required under this Act, for the proper handling and carriage of the goods:

Provided that the service user is under no obligation to disclose any information about which he has no knowledge or is within the reasonable knowledge and information of service provider or if required not to be disclosed under any law, on any written instruction from public authorities.

- (2) The service user is liable for loss or damage sustained by the service provider, if the service provider proves that such loss or damage was caused by a breach of the obligations of such service user under this Act.
- (3) The service user shall inform the service provider of the dangerous nature or character of the goods in a timely manner, before they are delivered to the service provider and if he fails to do so, and the service provider does not otherwise have knowledge of their dangerous nature or character, the service user is liable to the service provider for loss or damage resulting or arising from such failure to inform; and
- (4) The service user shall mark or label the dangerous goods in accordance with any law, or other directives of public authorities that apply, during any stage of the intended carriage of the goods and if he fails to do so, the service user is liable to the service provider, for the loss or damage resulting from such failure.
- (5) Any person who acts in contravention to sub-section (3) and/or (4) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with imprisonment for a period of ----- months or with both.

196. **Liability of Service Provider :**

- (1) The service user is liable for the breach of any of his obligations under this Act, caused by the acts or omissions of any person, including employees, agents and subcontractors, to whom such service user has entrusted the performance of any of his obligations.
- (2) The service user shall not be held liable for acts or omissions of the service provider or any person acting on behalf of the service provider, to whom the service provider has entrusted the performance of his obligations:

Provided that no employee shall be commonly employed by the service provider and service user, under any circumstances.
- (3) Notwithstanding anything contained herein, except with respect to loss or damage caused by a breach of his obligations as provided in Section 195 & Section 197 by the service user, the service user is relieved of all or part of his liability if the

cause or one of the causes of the loss or damage is not attributable to his fault or to the fault of any person acting on behalf of or employed by the service provider.

- (4) When the service user is relieved of a part of his liability pursuant to sub-section (3), the service user shall be held liable only for that part of the loss or damage that is attributable to his fault or to the fault of any person acting on behalf of, or employed by the service user.

197. **Prohibited Goods & Dangerous Goods:**

- (1) The State Government, by notification in the Official Gazette, shall declare the list of dangerous goods that may be carried subject to conditions as may be prescribed and prohibited goods that are prohibited from being carried on any class or category of mechanically propelled inland vessels, while plying in the inland waters.
- (2) A passenger being a service user of any mechanically propelled inland vessel under the capacity of the passenger shall not—
- a) take with him on board, load, carry, or be permitted to take with him on board, load, carry, any goods declared as Prohibited Goods under this Part; packed or stored in any form or content on board a mechanically propelled inland vessel, or
 - b) deliver or tender or be permitted to load, deliver or tender any goods declared as Prohibited Goods under this Part; packed or stored in any form or content on board a mechanically propelled inland vessel, or
 - c) take with him on board a mechanically propelled inland vessel, any dangerous goods without giving notice of their nature to the owner or master of the mechanically propelled inland vessel, or
 - d) deliver or tender for carriage on such mechanically propelled inland vessel, any dangerous goods without giving such notice, and without distinctly marking their nature, outside the package containing the goods.
- (3) If the owner or master of a mechanically propelled inland vessel suspects, or has reason to believe, that any luggage, parcel or package stored in any form or content taken, delivered, loaded or tendered, for carriage on the mechanically

propelled inland vessel contains prohibited goods and/ or dangerous goods, he may --

- a) refuse to carry it upon the mechanically propelled inland vessel, or
 - b) require it to be opened to ascertain the nature of its contents; or
 - c) if it has been received for carriage, stop its transit until he is satisfied as to the nature of its contents.
 - d) report to the officers appointed or authorised under this Part.
- (4) Upon receipt of report from the owner or master of any vessel as provided under sub-section (3), the officers appointed or authorised under this Part shall confiscate such goods, and refer the matter to be investigated by the police or law enforcement department of the respective State Government, which has jurisdiction over the vessel, and such goods confiscated shall be destroyed, stored or be subjected to judicial sale as prescribed by the State Government / Competent Authority by publication in the Official Gazette.
- (5) Any person who is found to do an act or have done an act of contravention, under sub-section (2) shall be handed over or arrested and removed, immediately and charged for an offence for causing danger to vessel and life of passenger and / or crew in the vessel, and be tried as per the Code of Criminal Procedure, 1973 and shall be punishable for such offences as provided under the Indian Penal code 1860.
- (6) The procedure prescribed by Section 43 of the Code of Criminal Procedure, 1973, in the case of arrest by private persons shall apply to every arrest made under sub-section (5).
- (7) Where any dangerous or prohibited goods have been taken or delivered on board any mechanically propelled inland vessel, in contravention of this Part, and if the service provider of such vessel is unable to resort to and comply with sub-section (2) of this Part, such goods may be thrown overboard, along with any package or receptacle in which they are contained, so as to prevent danger and to ensure safety of such vessel and life onboard; and neither the owner nor the master shall, in respect of his having so caused the goods to be thrown overboard, be subject to any liability, civil or criminal, in any Court.

198. **Grant of Route Permit:**

- (1) The Competent Authority / State Government shall designate routes in which mechanically propelled inland vessels shall be employed and engaged.
- (2) The owners, operators or master of a mechanically propelled inland vessel shall apply for route permits to the Competent Authority / State Government such in form and content as may be published in the Official Gazette.
- (3) The Competent Authority / State Government, on satisfaction that the vessel complies with the provisions of this Act and conditions and standards prescribed hereunder, may grant Route Permits to the applicant.

199. **Effect of route Permit:**

- (1) The route permit issued under this Part shall be valid till the permitted time period and within the plying limit.
- (2) Any mechanically propelled inland vessel registered, recognised or identified under this Act shall be put to use or operate, only in compliance with the respective route permit granted.
- (3) The mechanically propelled inland vessel registered, recognised or identified under this Act shall be prohibited from being used or operated, if found not in compliance with this Part or the conditions and standards prescribed hereunder.

(4) Any person who acts in contravention to sub-section (2) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to --- or with imprisonment for a period of ----- months or with both.

200. **Trade Licenses:**

- (1) The Central Government /State Government shall categorise mechanically propelled inland vessels, according to their capacity and such other criteria of classification, as may be prescribed and published in the Official Gazette, and may, for the purpose of permitting such vessels to conduct trade, grant ;
 - a) a general licence;
 - b) a licence for plying in any part of the inland waters;
 - c) a licence for a national waterway designated under Inland Water Authority Act of India 1985;

- d) a licence for a specified period or voyage; or
 - e) any other license as may be prescribed by the Central Government / State Government
- (2) The application submitted by an owner or operator of a mechanically propelled inland vessel for grant of permission of license and the licence granted under this Section shall be in such form and content; and shall be valid for such period as may be prescribed, and shall be subject to such conditions as may be specified by the Director-General of Shipping.

201. **Not to ply without a valid trade license :**

- (1) All mechanically propelled inland vessels registered or recognised under this Act or chartered by an Indian citizen or a company or a limited liability partnership firm, a co-operative society or a body established under such society, shall be taken to inland waters, only with a license permitting the nature and extent of voyage as granted or as provided in the route permit by the Competent Authority / State Government:

Provided that the State Government / Competent Authority, if it is of the opinion that it is necessary or expedient in the public interest so to do, may, by notification in the Official Gazette, exempt any class of vessels chartered by a citizen of India or a company or limited liability partnership firm or a co-operative society from the provisions of this sub-section.

- (2) In the event of any misuse or contravention of any of the provisions as provided in this Part or prescribed hereunder; by the person who has obtained a license or route permit or both under this Part, the State Government / Central Government may suspend or cancel such license, by issuing a notice in writing in the form and content as may be prescribed hereunder, to the person to whom it was granted by providing him with an opportunity of fair hearing.
- (3) The Central Government/ State Government may, by general or special order, direct that the provisions of sub-section (1) shall not apply with regard to any part or area of inland waters; or shall be applicable, subject to such conditions and restrictions as may be specified in the order.

202. **Undertaking by Service Provider:**

- (1) The owner, operator or master of a mechanically propelled vessel shall give an undertaking in writing to the respective State Government that, the mechanically propelled inland vessel registered, recognised or identified under this Act and those possessing the trade license under this Part, shall not conduct a voyage,
- a) without fitting adequate telecommunication equipment as prescribed hereunder;
 - b) after a storm signal has been transmitted or communicated;
 - c) without measures of protection against explosion and fire;
 - d) without compliance of rules for preventing collisions;
 - e) by causing obstruction on any inland waterway;
 - f) by carrying cargo on upper deck;
 - g) without adequate insurance coverage;
 - h) without route permits and trade licenses as provided under this Act,
 - i) without complying with the time table and fare table, prescribed as applicable in the Act;
 - j) by carrying dangerous goods or hazardous, inflammable and /or explosive cargo, or animals without specific permission, along with passengers;
 - k) by carrying prohibited goods on the vessel;
 - l) without complying with passenger and safety standards as prescribed under this Act;
 - m) employing crew without proper qualification and certificates and also engaging crewmen lesser in number than that prescribed to operate the vessel, and
 - n) without complying with such other conditions and standards prescribed in this regard by the State Government / Competent Authority by notification in the Official Gazette.
- (2) The Competent Authority / State Government having found that the owner, operator or master of mechanically propelled inland vessel has acted in

contravention to the undertaking as provided in sub-section (1) shall after providing an opportunity of being heard and by recording the reasons thereof, suspend and / or cancel the trade license and / or route permit granted under this Part.

(3) Any owner, operator or master of any mechanically propelled vessel acting in contravention to this sub-section (1) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with imprisonment for a period of ----- months or with both.

203. **Duty to return cancelled licence and Permit:**

When a licence and / or route permit issued under this Part ceases to be valid by virtue of lapse of time or suspension, cancellation by State Government, the person to whom it was granted shall, without unreasonable delay, return it or cause it to be returned to the original issuing authority.

204. **Continuing Offence:**

Any mechanically propelled inland vessel registered, recognised or identified under this Act, if found furthering or continuing the act of infringement of this Part; shall be removed and / or forfeited as the case may be.

205. **Power of State Government to fix maximum and minimum rates for freight for goods:**

(1) The State Government may, by notification in the Official Gazette, after such inquiry as it may consider necessary, with respect to any system of inland waterways, or of any stretch of inland waterway, or of the run between any two stations on an inland waterway--

- a) fix the maximum rate per kilometre, which may be charged for freight on goods of any description, carried in mechanically propelled inland vessels;
- b) fix the minimum rate per kilometre, which may be charged for freight on goods of any description, carried in mechanically propelled inland vessels, and

- c) declare what shall be deemed to be the distance between any two stations on an inland waterway for the purpose of calculating passengers' freight on goods where maximum or minimum rates have been fixed under this Section.
- (2) The State Government shall not fix any minimum rate under clause (b) of sub-section (1) in respect of any description of goods carried on any system of waterways, or stretch of waterway, or during the run between any two stations on an inland waterway, unless it is satisfied that the rates charged on any mechanically propelled inland vessel or group of such vessels, in respect of such goods have been reduced to such an extent, as to disclose an intention to force any other mechanically propelled inland vessel or group of such vessels, to cease from carrying such goods.
- (3) The owner, operator or any person in charge of the mechanically propelled inland vessel shall comply with the maximum and / or minimum rate of freight or fare prescribed by the Competent Authority or the State Government by virtue of the powers vested under clause a) and clause b) of sub-section (1) of this Section.
- (4) Any contravention of obligation as provided in sub-section (3) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with imprisonment for a period of ----- months or with both.
- (5) In case of any dispute relating to the fixing of the maximum or the minimum rate per kilometre which may be charged in respect of freight on goods of any description carried in mechanically propelled inland vessel between any stations lying in the jurisdiction of two State Governments, any one of the State Government may report the matter to the Central Government who shall decide the same.

206. **Advisory Committees**

The Advisory Committees as appointed by respective State Governments under this Act shall advise the owners, agents and charterers of mechanically propelled inland vessel on questions affecting the interests of service users and service providers.

207. **Power to make Rules:**

- (1) The Central Government may make rules for executing the purposes of this Part.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:
 - a) the extension of application of this Part to any other vessel recognised under this Act;
 - b) standards of minimum terms and conditions to be included in the contract entered between the service provider and service user;
 - c) prescribe the conditions on and subject to which the list of dangerous goods may be carried or prohibited on board mechanically propelled inland vessels;
 - d) prescribe the instances in which cargo may be refused to be carried by the master or person-in-charge, or which may be required to be accepted on return, on and from the mechanically propelled inland vessels;
 - e) provide for the payment of freight, and the exhibition of tickets or receipts, if any, showing the payment of their fares, by passengers in mechanically propelled inland vessels;
 - f) generally regulate the conduct of passengers in mechanically propelled inland vessels;
 - g) prescribe criteria for classifying or categorizing mechanically propelled inland vessels for the purpose of issuance of trade permit and licenses;
 - h) for the protection of passengers in mechanically propelled inland vessels,
 - i) for the supply, free of charge, of a sufficient quantity of fresh water for the use of passengers;
 - j) for the prices and conditions of carriage of passengers and/ or cargo to be printed on the back or otherwise denoted on such tickets;
 - k) prescribe conditions for granting of issuance of route permit;
 - l) the nature or extent of permission granted by way of trade license;

- m) form and content of application and undertaking to be submitted by the owner or operator of the vessel;
- n) the form in which, the period or voyage for which, and the conditions subject to which licences under this Part may be granted, the particulars to be included therein and the fees payable therefore;
- o) the manner in which maximum & minimum freight or fare shall be fixed; and
- p) such other matters as it may deem fit for the effective implementation of this Part.

PART XVI: NON SELF PROPELLED INLAND VESSEL

208. Scope of Application of this Part:

- (1) This Part shall apply to non-self propelled vessels plying within the inland water limits of respective State Governments.
- (2) For the purpose of this Part, the State Government shall be the sole administrative authority to monitor, regulate, assist and facilitate trade and transportation using non-self propelled inland vessels through the inland waters.

209. Local Self Governance:

- (1) The State Government may administer the powers conferred to it under this Part, under the scheme of administration of local self governance.
- (2) The office of Department of Local Self Administration shall be established at locations that are accessible to owners, operators of non-self propelled vessels or service users of such vessels.
- (3) The offices of the Department of Local Self Administration established for the purposes of this Part, shall in the ascending order of hierarchy of power, be at District, Taluk and Panchayath/Village levels, or any other hierarchy as prescribed by the respective State Governments, and shall exercise the powers and duties as prescribed by the respective State Government by notification in the Official Gazette and shall include the powers and duties to,
 - a) enrol the non-self propelled inland vessels under this Part;
 - b) collate data with regard to the non-self propelled inland vessels enrolled under this Act and report it to the higher authority in the hierarchy of power;
 - c) administer the welfare fund constituted under this Part in accordance with the authority and obligation prescribed under such notification in the Official Gazette;
 - d) advise and conduct awareness programmes for assisting the owners, operators or service users of non-self propelled inland vessels enrolled under this Act; and

- e) perform such other functions as assigned under this Act or Rules made thereunder.

210. **Obligation to enrol:**

- (1) The owners or operators may enrol, by submitting the details of the ownership of non-self propelled vessel, by production of proof of ownership of such vessels and such other details as prescribed by State Government by notification in the Official Gazette, at the office of the Department Of Local Self Administration, located nearest to the place of residence of the owners or area of plying of the non-self propelled vessel, in such form and content as may be prescribed by State Government by notification in the Official Gazette.
- (2) Any forms or notifications prescribed by State Government under sub-section (1) of this Section shall be made in the respective vernacular language, apart from Hindi and/or English, as the case may be.
- (3) For the purposes of identification and categorisation of non-self propelled inland vessels, to be enrolled as per sub-section (1), the State Government shall publish such criteria for categorization which may include the size, purpose of employment, age, construction, design or such other criteria of the vessels.
- (4) Enrolment of non-self propelled vessels is a prerequisite for such vessels to be entitled for the benefits and preferential treatment accorded under this Part.
- (5) The data and details of the enrolled vessels shall be recorded in the Registry of Enrolment and be reported by the offices of lowest order in the hierarchy of power to the highest hierarchy and the collated list of enrolled vessels shall be maintained by the office of District Collector or such officer appointed or authorised under this Part, for the said purpose.
- (6) The District Collectors or such officers appointed or authorised under this Part, who maintain the collated information and details of the non-self propelled inland vessel, shall report such details of enrolment to the office of Principal Secretary / Secretary of the respective State Government, who is authorised to maintain a central data base of the Registry of Enrolment of all the non-self propelled vessels registered under the respective State Government.

(7) Any change to the Registry of Enrolment, maintained by the lowest ranking of the office of the Department of Local Self Administration shall be reported and brought to the attention of the office higher in the hierarchical order and changes may be brought out accordingly, in every such registers maintained by the respective authorities including the central data base maintained by the Principal Secretary / Secretary of respective State Governments.

211. **Certificate of Enrolment:**

(1) The officer of the Department of Local Self Administration, appointed or authorised to maintain the Registry of Enrolment of non-self propelled vessel shall issue a Certificate of Enrolment in duplicate to the non-self propelled vessels that have enrolled in the registry of enrolment.

(2) The Certificate of Enrolment shall be issued in such form and content, as may be prescribed by notification in the Official Gazette by the respective State Government and details to be specified in such certificate shall include;

- a) Name, details of permanent address as given in the Unique Identification document made mandatory by such laws in force in India including Adhaar Card issued by Unique Identification Authority of India or Electoral ID of the owner or owners, as the case may be;
- b) Details such as year of construction, laying of keel or such other information;
- c) Details of design if identified or categorised under this Part;
- d) Details of officer issuing or granting the certificate; and
- e) A mark or number given to the vessels enrolled by the issuing authority.

212. **Marking of the vessel:**

(1) The Department of Local Self Administration in every State shall issue a mark or number to the non-self propelled vessel enrolled within the respective jurisdiction, which shall be unique for the purpose of identification of enrolment with the respective Department of Local Self Administration located in respective States.

- (2) The marking or numbering so issued under sub-section (1) shall be exhibited on a conspicuous part of the non-self propelled vessel in such form and manner as may be prescribed by the respective State Government under this Part.

213. **Construction :**

- (1) The State Government / Competent Authority shall prescribe the basic minimum standards that may be reasonably observed during the construction of any non-self propelled inland vessel.
- (2) Notwithstanding anything contained herein, the State Government shall prescribe by notification in the Official Gazette, the standards of construction, which any class or category of non-self propelled inland vessel shall comply with.

Provided that the standards prescribed by the State Government shall be in harmony with the traditional knowledge and practices passed on as customary or ancestral means that are applied by skilled and talented persons involved in the designing and construction of non-self propelled vessel.

214. **Safety:**

- (1) The State Government shall stipulate the minimum safety gears and equipments by notification in the Official Gazette with which the non-self propelled inland vessel shall be equipped with, for the purpose of ensuring safety of such vessels.
- (2) The State Government shall provide for standards of overhauling, modifying, altering or refitting the non-self propelled inland vessel for the purpose of ensuring safe navigation.
- (3) The non-self propelled inland vessels shall comply with the safety standards as stipulated under this Part or Rules made in this regard.
- (4) For the purpose of ensuring safe navigation of non-self propelled inland vessels, the State Government shall by notification in the Official Gazette publish the routes, areas or stretch of inland waters that are to be used or prohibited from being used or subject to such terms and conditions, for the navigation of non-self propelled inland vessel.

215. **Pollution caused by Non-Self propelled inland vessel:**

- (1) No one shall engage or use a non-self propelled vessel to dump pollutants, garbage or such other wastes listed as pollutants by the State Government by notification in the Official Gazette, into the inland waters.
- (2) Anyone found to contravene this provision shall be held punishable and be imposed with a fine equivalent to cost of removal of such pollutants, garbage or such other wastes, if the cost is assessable or, to an amount upto Rs. 5,000, whichever higher or with an imprisonment for a term extending upto ___ months or with both.

216. **Removal of Obstruction:**

- (1) The owner or operator of any non-self propelled inland vessel shall not ply or use such vessel or her property obstructing or impeding navigation through inland waters.
- (2) The State Government or any officer appointed or authorised under this Part shall remove or order the removal of any impediment or obstruction to safe navigation through inland waters.
- (3) The owner or operator of the vessel shall remove the obstruction or impediment which is ordered for removal under sub-section (2), failing which he shall be punishable with a fine equivalent to cost of removal of such obstruction or impediment or upto an amount of Rs. 5,000, whichever is higher or with an imprisonment for a term extending upto ___ months or with both.

217. **Prohibition against engaging in illegal or unlawful activities:**

- (1) No owner or master shall use or engage a non-self propelled vessel to directly or indirectly conduct any illegal or unlawful activity such as smuggling, illegal sand mining or any other unlawful activities, declared as illegal or unlawful in this Act or by any other law in force within the jurisdiction of the respective State Governments.
- (2) Any non-self propelled vessel continuing to commit the offences under this Section shall be detained or confiscated by the officers appointed or authorised by respective State Governments and any owner or master involved shall be punished under the existing law in force.

218. **Casualty and Accidents:**

- (1) The State Government may appoint or authorise such officers under this Act or constituted under other laws in force in India, to act as reporting officers of casualties or accidents involving non-self propelled inland vessels.
- (2) An owner, operator or any other person aware of a casualty or accident caused by or to non-self propelled inland vessels, in inland waters, shall inform or report it to the officers appointed under sub-section (1) or to the nearest police station.
- (3) The officer appointed under sub-section (1) shall *suomotu* or upon receipt of information from any person regarding the casualty or accident, report the same to the concerned police station, with the jurisdiction to investigate into the matter, and/or to the District Collector to investigate into the matter.
- (4) The District Collector of respective Districts in a State, who has received report as per sub-section (2) may immediately refer the matter to be investigated by Court appointed under Part XIV of this Act.

219. **Patrolling and Inspection**

The State Government shall provide for shore facilities and shall conduct patrolling to see that the non-self propelled vessels plying within inland waters are observing the provisions as provided under this Part or made applicable under this Act or Rules made thereof.

220. **Constitution of Welfare Fund:**

- (1) Every State Government by notification in the Official Gazette shall constitute a fund to be allocated at District level within its respective jurisdiction to assist the non self propelled inland vessels enrolled under this Part.
- (2) Any officer appointed or authorised under this Part to be in charge of the fund, shall with previous written approval of the respective State Government or such other authority appointed for the said purpose, utilise the fund to;
 - a) create awareness and conduct knowledge dissemination sessions for educating the owner, operators and service users of the non self propelled inland vessels plying within inland waters, on improvements required for safe navigation and to advise and equip them to achieve industrial and financial growth;

- b) adopt measures to encourage acquisitions of new vessels and to encourage new players to enter the industry.
- c) provide protection schemes and insurance protection at subsidised rates;
- d) provide equipments and devices of safety and navigation at a subsidised rate;
- e) provide support or relief during casualties, accidents or such emergencies; and
- f) provide for any support of financial assistance as it may deem fit and necessary for the sustenance, growth and well being of non-self propelled vessels enrolled as provided under this Part.

221. **Role of Advisory Committee:**

- (1) The District Collector or such other officers, appointed or authorised to act under this Part shall request in writing to the Advisory Committee constituted under Section 7 of this Act, to intervene, advise or to provide such other services, on any matters under this Part.
- (2) The Advisory committee upon receipt of request in writing as provided under subsection (1), shall forthwith address the issues so referred and provide advisory or such other services to the District Collector or such officers appointed or authorised under this Part, as it may deem fit and necessary.

222. **Power to make Rules:**

- (1) The State Government may make rules for the purposes of this Part.
- (2) In particular, and without prejudice to the generality of the foregoing power, such Rules may —
 - a) Prescribe the powers, duties & functions of the office and the officers appointed under the Department of Local Self Administration;
 - b) Prescribe the form, manner and content of enrolment of non-self propelled vessels;
 - c) Prescribe the form, manner and content of Certificate of Enrolment to a non-self propelled vessel;

- d) Prescribe the standards of construction to be complied with by various classes or categories of non-self propelled inland vessel;
- e) Prescribe minimum safety gears and equipments to be maintained in the non-self propelled inland vessels;
- f) Prescribe navigation routes, areas or stretch of inland waters that are to be used or prohibited from being used by non-self propelled inland vessels;
- g) Prescribe criteria for identification and categorization of the non-self propelled vessel;
- h) Prescribe the constitution of fund, manner of administration of funds and the criteria for its disbursement;
- i) Prescribe the list of substances listed as pollutants; and
- j) Prescribe such other rules for the effective implementation and administration of this Part.

PART XVII: MISCELLANEOUS PROVISIONS

223. Pilotage:

- (1) The State Government shall designate by notification in the Official Gazette, the requirement of pilotage in whole or part or any stretch of designated inland water ways or such passages as mandatory, and all mechanically propelled inland vessels registered or recognised under this Act shall be navigated with the assistance of qualified pilots as empanelled and listed with the respective ports by the respective State Governments/Competent Authorities.
- (2) Every master of a mechanically propelled inland vessel who possesses a master's certificate granted under this Act and which is in force, shall in relation to the ports to which Section 31 of the Indian Ports Act, 1908, has been extended, shall be deemed, for the purposes of that Section, to be the pilot of the mechanically propelled vessel of which he is in charge.

224. Vessel Detention and / or Forfeiture:

- (1) Any or all vessels plying in inland waters may be detained or forfeited, only by virtue of the procedure established in this Act for effectively implementing and enforcing the provisions of this Act.
- (2) The owners, operators or any such person recognised as responsible for the vessel under this Act, shall pay respective and applicable fees and charges for the safe custody and maintenance of the detained vessel, which shall be a precondition for release of the vessel and which if unpaid, shall create a lien over such vessel to comply with this Act.
- (3) Upon compliance with the provisions of the Act and Rules made hereunder, and after rectifying the mistakes that lead to detention, the State Government or Competent Authority shall without any unreasonable delay, release the vessel and her custody to the owner, operator or any such person recognised as responsible for the vessel under this Act.
- (4) In case of proof of illegal or unreasonable detention or forfeiture; or by the order of the respective Court which has jurisdiction over the matter, the State Government or Competent Authority, as the case may be, shall make good the

loss suffered due to such illegal detention, by the owner or operator or any such person recognised as responsible for the vessel under this Act.

- (5) Unless specifically prescribed or mentioned elsewhere in this Act, the State Government shall prescribe procedures, formalities, fees and conditions to be followed and observed by the concerned officers or authorities or Court, appointed or authorised or constituted under this Act, for the purpose of detaining a vessel.
- (6) An officer so authorised to enter any vessel may, for the purpose of enforcing the order of detention and/or forfeiture, call to his aid, any officers of the Police Department or Customs Department, or any other persons.

225. **Place of Trial :**

If any person is accused of an offence under this Act or any Rule made thereunder, the trial of the offence shall be carried out in any place in which he may be found or , or in any other place in which he might be tried, which the State Government, by notification in the Official Gazette designate or under such other laws in force in India.

226. **Prohibited Acts :**

- (1) Any or all of the following acts are prohibited and shall remain prohibited under this Act;
- a) Illegal opening of inland waterway ports or landing stages; embarking or disembarking passengers, loading or unloading cargo at places that are not prescribed;
 - b) Destroying inland waterway navigation works;
 - c) Erecting illegal obstructions to impede inland waterway navigation;
 - d) Illegal building of houses, tents, stalls or other works on inland waterways in violation of the protection of inland waterway infrastructures;
 - e) Dumping soil, rocks, sand, gravel or other waste substances & exploiting minerals within the areas of channels and channel protection corridors;
 - f) Putting fixed fishing gear, means of fishing or rearing aquatic resources in channels designated for inland navigation;

- g) Putting out inland vessels that do not meet safety and environment protection requirements and also fail to meet operating conditions;
- h) Working on board the vessels when the alcoholic content in blood is higher than ___ milligrams per 100 milliliters of blood or there is more than ___ milligrams per 1litre of exhaled air or there are found other stimulants banned from use by law, in blood;
- i) Escaping after causing accidents in order to shirk responsibility, infringing upon human life and/ or property when vessels are in distress;
- j) taking advantage of accidents to cause chaos, thus hindering the handling of accidents;
- k) Breaching the signal on wave-causing restriction or using other banned signals;
- l) Plying without specific permission beyond the limits of inland waters;
- m) Plying without applicable endorsement or sanction beyond the permitted area of voyage as prescribed under this Act;
- n) Organizing illegal races or participating in illegal races of vessels on inland waterways;
- o) Steering vessels in zigzag motion, causing danger to other vessels;
- p) Abusing one's position and powers to harass, or extort bribes while performing one's duties;
- q) Committing or permitting the commission of acts of violation and in contravention to the provisions of this Act; and
- r) Other acts as may be notified by State Government by publication in Official Gazette.

(2) Any person who acts in contravention to all or any of the situations in sub-section (1) is guilty of committing an offence under this Part and shall be punishable with a fine which may extend to ----- or with imprisonment for a period of ----- months or with both.

227. **Additional Powers :**

(1) The State Government, as the case may be, shall by notification in the Official Gazette;

- a) prescribe and implement standards for the use of inland waterways by special category of vessels;
- b) prescribe standards for the development of fairways in inland waters;
- c) prescribe standards of River Information Services;
 - (i) vessel traffic and transport management, safety and information services.
 - (ii) vessel tracing and tracking information
 - (iii) to tackle calamities and furtherance of emergency preparedness.
- d) prescribe safety standards and measures to regulate any mechanically propelled inland vessels used as hinterland connection for coastal ports;
- e) prescribe and facilitate governance, organisation and management of inland ports;
- f) enforce standards to avoid and tackle pollution arising from inland waterways;
- g) exempt, include or extend the application of any or all of the provisions of this Act to any vessels registered, recognised or identified and intended to ply, or plying in the inland waters; and / or
- h) any other matter as it may deem fit and necessary in the proper implementation of this Act or Rules made hereunder for the purpose of ensuring safe navigation, safety of life and prevention of inland vessel.

(2) The State Government, while exercising the powers conferred in sub-section (1) shall:

- a) obtain prior written permission from Central Government, and;
- b) inform in writing the concerned authorities appointed or authorised under other Acts that directly or indirectly deal with the subject matter referred in

sub-section (1); detailing the effects and consequences of exercising of such powers.

228. **Constitution of the Fund**

(1) There shall be a Fund constituted by the respective State Government to be called the Development Fund to be utilised for;

- a) meeting emergency preparedness;
- b) meeting containment of pollution caused by discharge of oil, mixtures, obnoxious substances, chemicals and other noxious and harmful substances, to preserve and protect the inland waters;
- c) supporting part or whole of expenses of owners or economically backward sector involved in activities of trade and living depending solely on inland waters;
- d) removal of unidentified wreck or obstruction affecting and impeding navigation; and
- e) to boost up development works of inland water navigation with respect to safety and convenience of conveyance.

(2) For the purposes of constitution of Fund under sub-section (1), endeavor shall be made to design schemes of contribution from ;

- a) Central Government and respective State Government;
- b) Stake holders;
- c) Consolidated fund from sale of wreck or cargo or remains thereof after deducting the expenses incurred;
- d) Excess fund out of judicial sale of vessels or any property or cargo after meeting the expenses incurred or set-off against the Court to meet damages or functioning of the Court or administrative machinery; and
- e) Part or proportionate disbursement of fees collected by respective State Governments as provided in this Part.

229. **Immunity Of Officials Acting Under The Act :**

(1) No suit, prosecution or other legal proceeding shall lie against any person or officer appointed or authorized under this Act, in respect of anything done or intended to be done in good faith under this Act.

(2) For the purpose of claiming immunity under sub-section (1), the officers appointed or authorized under this Act, shall perform and carry out the respective functions and responsibilities, with utmost care and due diligence.

230. **Offences by the Company and Limited Liability Partnership Firm or any such arrangement:**

(1) Where an offence under this Act has been committed by a company or a limited liability partnership firm or any such arrangement, every person who at the time the offence was committed was in charge of, and was responsible to the company or the limited liability partnership firm or any such arrangements, for the conduct of the business, as well as the company or the limited liability partnership firm or any such arrangement, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company or a limited liability partnership firm or any such arrangement and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or partner or other officer of the company or the limited liability partnership firm or any such arrangement as the case may be, such director, manager, secretary or partner or other officer, as the case may be; shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

231. **Power to remove difficulties:**

(1) If any difficulty arises in giving effect to the provisions of this act, the Central Government may, by order published in the Official Gazette make such

provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty.

Provided that no such order shall be made under this section after the expiry of a period of three years from the commencement of this Act.

- (2) Every order made under this section shall be laid, as soon as may be, after it is made, before each house of Parliament.

232. **Consistency with other Laws :**

- (1) The provisions of this Act shall be in addition to, and not be construed in derogation of the provisions of any other law, and shall be construed as consistent with such law, for the time being in force.
- (2) In the event of any conflict between a provision of this Act and a provision of any other law for the time being in force in whole of India or restricted to the application of the jurisdiction of any State Government, the provision of this Act shall prevail to the extent of such conflict.

233. **Suspension or Alteration of the Application and Operation of the Act:**

- (1) The State Government may, by notification in the Official Gazette, declare that all or any of the provisions, under this Act or Rules made hereunder;
 - a) Other than that provided for safety, manning and prevention of pollution, shall not apply to any specified class or category of the mechanically propelled inland vessels, or
 - b) Shall apply to any specified class or category of the mechanically propelled inland vessels with such modifications, as may be specified in the notification.
- (2) If the Central Government is satisfied that circumstances have arisen rendering it necessary that certain of the restrictions imposed by this Act should cease to be imposed or if it considers necessary or expedient so to do in the public interest, the Central Government may, by notification in the Official Gazette, suspend or relax to a specified extent, either indefinitely or for such period as may be specified in the notification, the operation of all or any of the provisions of this Act.

(3) Where the operation of any provision of this Act has under sub-section (1) been suspended or relaxed indefinitely, such suspension or relaxation may at any time while this Act remains in force be removed by the Central Government by notification in the Official Gazette.

234. **Emergency Preparedness :**

(1) State Government / Competent Authority may appoint or authorise the advisory committee or officers by notification in the Official Gazette to take adequate measures as may be prescribed hereunder to minimise or counter emergency.

(2) The owner, operator, master, serang, crew or any other person connected with inland vessels plying in inland waters shall upon finding or apprehending a situation of crisis, which could adversely affect or is adversely affecting the safety of navigation, safety of human life or preservation of inland waters, inform or report the Advisory committee or such other officers, appointed under sub-section (1) having respective jurisdiction or jurisdictions over such crisis that is found or is anticipated to affect adversely;

(3) The Advisory committee or officers, who are appointed or authorised under Sub-section (1), upon receipt of information as received in Sub-section (2), or as directed by State Government/ Competent Authority or on their own initiative, may record the crisis as emergency and, shall adopt such measures as prescribed under Sub-section (1), and such other measures which are feasible and in best of the judgment necessary to minimise or counter such emergency.

(4) The Advisory committee or officers, who are appointed or authorised under Sub-section (1) shall order or request the navy, coast guard, any other emergency force, or any inland vessel available for such assistance as necessary.

(5) No mechanically propelled inland vessel directed or acting voluntarily in rendering assistance as mentioned in Sub-section (3) shall be bound by provisions of this Act or Rules made hereunder.

(6) Any mechanically propelled inland vessel acting voluntarily for the purpose of saving life or vessel or providing basic amenities, shall report to the Advisory committee or officers appointed or authorised under Section (1) regarding the presence and reasons for the acts in writing, at the earliest possible.

- (7) The Advisory committee or officers appointed or authorised under Sub-section (1) shall disburse all basic amenities necessary and essential as it may deem fit, to the persons or vessels affected by such emergency.
- (8) The Advisory committee or officers appointed or authorised under Sub-section (1) shall report to the State Government/Competent Authority, the complete description of the events, consequences and such measures adopted under sub-section (3) and the effectiveness of such measures in countering the emergency.

235. **Endorsement of certificates issued by foreign countries:**

- (1) Any certificate or licence granted by the Government of any foreign country in accordance with the provisions of any law for the time being in force in that country corresponding to the provisions of this Act may, on payment of the respective fees prescribed for the grant of a similar certificate or licence under this Act, be endorsed by--
- a) the Government of any State in India, or
 - b) with the general or special sanction and subject to such other conditions of the Government of such State, by any authority competent to grant a similar certificate or licence under this Act.
- (2) Upon endorsement of any such certificates or licenses as provided in Sub-section (1), it shall have effect as if it had been granted under this Act.

236. **Fees collection and procedure :**

- (1) Unless specified elsewhere, the State Government shall collect fees, special fees, charges or payment against penalties of pecuniary nature, as prescribed under the provisions of this Act or the Rules hereunder.
- (2) The State Government shall appoint, authorise or constitute such officers, or constitute such offices within its jurisdictions, by notification in the Official Gazette, to act as single point collection offices within the districts or ports, considering proximity and convenience of remittance.
- (3) The State Government shall by notification in the Official Gazette, prescribe procedures, forms and contents therein of the application for the payment of fees, special fees, charges, payment against penalties of pecuniary nature, the note of receipts of payments, the number of note of receipts to be issued to the remitter,

maintenance of accounts and any other matter that is necessary for the purpose of the remittance, collection, accounts and accountability of collect fees, special fees, charges or payment against penalties of pecuniary nature.

- (4) The owner, operators or their representatives, as the case may be, shall remit the fees as prescribed under this Act or Rules made hereunder.

237. **Obstruction of officer appointed or authorised:**

(1) Any person who obstructs by his abstention, failure to facilitate inspection, or restraining or physically objecting the entry or movement or hesitation to submit the concerned books or records as and when demanded by such authority or officers authorised and appointed by the Central Government or State Government or Competent Authority, in the exercise of any power conferred, or in the discharge of any duty imposed, on such authority by or under this Act, is committing an offence under this Act.

(2) Any person who is found to be guilty under sub-section (1) is committing an offence under this Part and, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

238. **Penalties:**

(1) Any person who acts in contravention to this Act or Rules made hereunder, but for which an offense is not specifically identified in this Act, or for which specific penalty is not prescribed under sub-section (1) of Section 239; shall be punishable with a fine upto Rs: Fifty Thousand or imprisonment upto a term not exceeding three years or with both.

(2) The Central Government or the State Government, as the case may be, may prescribe in any Rule made under this Act; that such Rule may contain a provision that, any person committing a breach of it shall be punishable with imprisonment for a term which may extend to thirty six months, or with fine which may extend to fifty thousand rupees, or with both.

239. **Power / procedures to make rules :**

- (1) The Central Government or State Government, as the case may be, may make Rules are consistent with this Act, for enabling it to discharge its functions under this Act effectively.
- (2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session or of the immediately following session, or the successive sessions aforesaid, both Houses agree in making any modification in the rule shall thereafter have effect only in such modified form or be of no effect, as the case may, be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
- (3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

240. **Repeal and savings:**

- (1) The enactments specified hereunder, are hereby repealed to the extent of the application as provided under of this Act;
 - a) Bengal Ferries Acts 1885 (Act No : 1 of 1885)
 - b) Ferries Act,1878 Act (No : 17 of 1878)
 - c) The Madras Canals and Public Ferries Act (II of 1890) as amended by Amendment Act (16 of 2000)
 - d) Maharashtra Ferries and Inland Vessels Act 1868
 - e) Travancore Public Canals and Public ferries Act 1096 (1 of 1096).
 - f) Cochin Public Canals and Backwaters Navigation Act, 1092
 - g) Cochin Ferries and Tolls Act, 1082
 - h) Canals and Public Ferries Act, 1890
 - i) The Inland Vessels Act 1917 (1 of 1917).
 - j) The Inland Steam-vessels (Amendment) Act, 1920 (6 of 1920)

- k) The Inland Steam-vessels (Amendment) Act, 1930 (13 of 1930).
- l) The Inland Steam-vessels (Amendment) Act, 1949 (58 of 1949).
- m) The Inland Steam-vessels (Amendment) Act, 1950 (38 of 1950).
- n) The Inland Steam-vessels (Amendment) Act, 1951 (26 of 1951).
- o) The Inland Steam-vessels (Amendment) Act, 1977 (35 of 1977).
- p) The Inland vessels (Amendment) Act, 2007 (35 of 2007)²

(2) Notwithstanding the repeal of any enactment by sub-section (1):

- a) any notification, rule, regulation, bye-law, order or exemption issued, made or granted under any enactment hereby repealed shall, if it is not inconsistent with the provisions of this Act, continue to be in force unless and until revoked, and shall have effect as if it had been issued, made or granted under the corresponding provision of this Act;
- b) any officer appointed and anybody elected or constituted under any enactment hereby repealed shall continue and shall be deemed to have been appointed, elected or constituted unless specifically removed or replaced by appointment of officer or offices, as the case may be, under this Act;
- c) any document referring to any enactment hereby repealed shall be constructed as referring to this Act or to the corresponding provision of this Act;
- d) any fine levied or penalty imposed under any enactment hereby repealed may be recovered as if it had been levied under this Act;
- e) any offence committed under any enactment hereby repealed may be prosecuted and punished as if it had been committed under this Act;
- f) sailing vessels or sailing boats registered under any enactment hereby repealed shall be deemed to have been registered under the Act;
- g) mortgages of any mechanically propelled inland vessels recorded in any register book maintained at any port in Indian under any enactment hereby repealed shall be deemed to have been recorded in the register book under the corresponding provision of this Act;
- h) any licence, Certificate of Competency or service, Certificate of Survey, licenses or any other certificate or document issued, made or granted under any enactment hereby repealed and in force at the commencement of this Act shall be deemed to have been issued, made or granted under this Act and shall, unless cancelled under this Act, continue in force until the date shown in the certificate or document, as the case may be.

² Ministry of Law may please verify.

(3) The matters specifically provided in this Section, shall not be held to prejudice or affect the general application of Section 6 of the General Clauses Act, 1897.