

Zambia

Merchant Shipping (Temporary Provisions) Act, 1969 Chapter 468

Legislation as at 31 December 1996

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PDF created on 18 December 2024 at 11:48.

Collection last checked for updates: 31 December 1996.

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FRBR URI: /akn/zm/act/1969/13/eng@1996-12-31

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Zambia

Merchant Shipping (Temporary Provisions) Act, 1969 Chapter 468

Commenced on 13 May 1969

[This is the version of this document at 31 December 1996.]

[This legislation has been revised and consolidated by the Ministry of Legal Affairs of the Government of the Republic of Zambia. This version is up-to-date as at 31st December 1996.]

[13 of 1969]

An Act to make temporary provision for the application in Zambia of certain Acts of the Parliament of the United Kingdom relating to merchant shipping.

Part I – Preliminary

1. Short title

This Act may be cited as the Merchant Shipping (Temporary Provisions) Act.

2. Interpretation

- (1) In this Act and in the application of the Code by this Act, unless the context otherwise requires—
 - "**the Code**" means the Merchant Shipping Acts, 1894 to 1965, of the United Kingdom, and these Acts to the extent of their application by this Act to Zambia shall be construed as one Act;
 - "**person qualified**", in relation to the ownership of a Zambian ship, includes any person wholly owning a ship declared to be a Zambian ship under section five;
 - "**principal Act**" means the Merchant Shipping Act, 1894, of the United Kingdom, and any amendments as part of the Code applied by this Act;
 - "**Registrar of Shipping**" has the meaning assigned thereto in section seven;
 - "**related Acts**" means any part of the Code as applied by this Act, but does not include the principal Act;
 - "**Representative of Zambia**" means any person having diplomatic or consular status and acting in that behalf for Zambia;
 - "**ship**" includes vessel.
- (2) The interpretation provisions of the Code shall, to the extent necessary to give effect to this Act and where not inconsistent with the laws of Zambia, apply to this Act.
- (3) References in the Code to British ships shall be read as references to Zambian ships.
- (4) References in the Code to British subjects and to the British Islands, the United Kingdom or England shall be read as references to citizens of Zambia and to Zambia unless in either case the context otherwise requires.
- (5) References in the Code to the Summary Jurisdiction Acts and procedure shall be read as references to summary jurisdiction proceedings in Zambia.

- (6) References in the Code to the Secretary of State or to the Minister of Transport and Civil Aviation (as replacing the Board of Trade) or to the Commissioners of Customs shall be read as references to the Minister under this Act.
- (7) References in the Code to the Mercantile Marine Fund shall be read as references to the general revenues of the Republic.
- (8) References in the Code to Local Marine Boards or to the superintendent of mercantile marine offices or to the superintendent shall be read as references to the Registrar of Shipping.
- (9) References in the Code to the Registrar-General of Shipping and Seamen shall, where the context so requires, be read as references to the Registrar of Shipping under this Act, or to any other person appointed for purposes other than the registration of ships.
- (10) References in the Code to a British Consular officer shall be read as references to any person authorised to exercise consular functions on behalf of Zambia.
- (11) References in the Code to the Marine Department shall be read as references to the department of Government responsible for communications.
- (12) References in the Code to any court shall be read as references to the High Court.
- (13) References in the Code to the Treasury shall be read as references to the Minister responsible for finance.
- (14) References in the Code to the currency of the United Kingdom shall be read as references to the currency of Zambia lawfully issued prior to the 16th January, 1968.
- (15) Any Act cited in the Code shall not thereby be deemed to be part of the laws of Zambia unless the context so requires or its application under the laws of Zambia so admits.
- (16) Nothing in this Act shall apply in relation to the regulation of inland water transport.

3. Application of Merchant Shipping Acts, 1894 to 1965

- (1) Subject to the provisions of this Act, the Merchant Shipping Acts, 1894 to 1965, of the United Kingdom (in this Act referred to as "the Code") to the extent set out in the Schedule shall *mutatis mutandis* apply and be part of the law of Zambia.
- (2) Nothing in the Interpretation Act, 1889, of the United Kingdom shall, unless the context otherwise requires, apply for interpretation of the Code in its application by this section to Zambia.

Part II – Registration

4. Application of Part I of Merchant Shipping Act, 1894

The application of Part I of the principal Act as part of the Code shall be read subject to the provisions of sections five to eleven of this Act.

5. Zambian ship

A ship shall be deemed to be a Zambian ship if—

- (a) it is owned wholly by persons qualified to be owners of a Zambian ship, namely—
 - (i) a person who is resident in Zambia;
 - (ii) a body corporate incorporated under and subject to the laws of Zambia and having its principal place of business in Zambia;
 - (iii) the Government;

- (b) the Minister, with the consent of any person wholly owning such ship, declares by statutory order that such ship shall be deemed to be a Zambian ship.

6. Registration of Zambian ship

- (1) Every Zambian ship shall, unless exempted from registry, be registered under this Act at such place in Zambia or elsewhere as the Minister may, by statutory order, designate and such place so designated shall be the port of registry of such ship for the purposes of this Act.
- (2) Any ship required to be registered under this Act which is not so registered shall not be recognised as a Zambian ship.

7. Registrar of Shipping

References to registration under the Code shall be read as references to registration under this Part, and the Registrar of Shipping, for the purposes of this Act, shall be such public officer as the Minister shall, by *Gazette* notice, designate as Registrar of Shipping.

8. Restriction of powers of mortgagee

The power of sale conferred upon a mortgagee under the principal Act shall not be exercised without the leave of the High Court.

9. Zambian flag

References in the Code to the British flag, and red ensign or any other flag permitted, shall be read and construed exclusively as references to the National Flag of Zambia or to any other flag authorised by the Minister, by statutory order, for use on any ship.

10. Provisional registration of Zambian ship

- (1) Where a ship is purchased outside Zambia, the bill of sale may be deposited with a Representative of Zambia, who shall forthwith notify the Registrar of Shipping, and when deposited with the Representative of Zambia under this section the ship shall, for a period of six months, be deemed to be provisionally registered under this Part:

Provided that registration under this section may, upon application by the owner, be extended by the Minister for one further period of six months.

- (2) The fee payable for provisional registration shall be one-half the prescribed fee and, save where the Minister otherwise directs, no allowance shall be made on final registration for any fee paid under this section on provisional registration.

11. Registration of mortgages executed overseas

- (1) Any mortgage for the purpose of this Act executed outside Zambia may be deposited with a Representative of Zambia. The Representative of Zambia shall, where he is satisfied that the mortgage appears to be in proper order and fully executed, and on payment of the registration fee, forthwith notify the Registrar of Shipping of the deposit of the mortgage and the names of the parties with the amount secured, and the mortgage and the registration fee shall be posted to the Registrar of Shipping.
- (2) Where the Registrar of Shipping receives notice of the deposit of a mortgage with a Representative of Zambia, the mortgage shall be deemed to be registered on that day under this Part and the Registrar of Shipping shall make an appropriate entry in his register.
- (3) For the purposes of this section, "mortgage" includes a transfer of a mortgage.

12. Execution of instruments

Every instrument to be registered under this Part shall—

- (a) if executed in Zambia, be attested in accordance with the laws of Zambia;
- (b) if executed within the Commonwealth, be attested before a Representative of Zambia or a notary public;
- (c) if executed elsewhere, be attested before a Representative of Zambia.

Part III – Masters and seamen

13. Application of Part II of Merchant Shipping Act, 1894, etc.

The application of Part II of the principal Act and related Acts as part of the Code shall be read subject to the provisions of sections fourteen to eighteen of this Act.

14. Certificates of competency

The Registrar of Shipping may, where he is satisfied, accept certificates of competency issued by any authority outside Zambia, and where so accepted a certificate of competency shall for all the purposes of this Act be recognised as valid in Zambia and be deemed to have been issued under this Act:

Provided that nothing in this section shall prohibit the issue in Zambia of a certificate of competency in any proper case.

15. Reference to certain Commissioners not to apply

References to the National Debt Commissioners shall have no application in Zambia.

16. Seaman's book

- (1) The Registrar of Shipping may issue a book (in this section called a seaman's book) for use under this Act in a form approved by the Minister, or may approve any seaman's book issued by any competent authority outside Zambia.
- (2) No person shall be engaged as a member of the crew of a Zambian ship unless he has in his possession or obtains from the Registrar of Shipping a valid seaman's book issued or approved by the Registrar of Shipping under subsection (1).
- (3) The entry of the engagement and discharge of a seaman shall be attested by the Registrar of Shipping in the seaman's book.
- (4) The record of every entry in a seaman's book attested by the Registrar of Shipping shall be sufficient evidence of the facts.

17. Foreign medical reports on certain seamen

In the case of a foreign seaman, the Registrar of Shipping may accept a report from any foreign medical inspector appearing to him to be duly qualified where it relates to the fitness of that foreign seaman for duty at sea.

18. Extended application of agreements with crew

References in sections 113 and 115 of the principal Act to agreements with the crew shall, where the case so requires, be deemed to refer to more than one agreement in respect of any one ship.

Part IV – Safety of shipping

19. Application of Part V of Merchant Shipping Act, 1894, etc.

The application of Part V of the principal Act and related Acts as part of the Code shall be read subject to the provisions of sections twenty to twenty-five of this Act.

20. Application of collision regulations and rules

Rules made under the provisions of section 418 of the principal Act and in force at the commencement of this Act shall be deemed to have been made by the Minister under this Part.

21. Application of load line rules

Rules made under the provisions of section 42 of the Merchant Shipping (Safety and Load Line Conventions) Act, 1932, of the United Kingdom, and in force on the 9th May, 1967, shall be deemed to have been made by the Minister under this Part.

22. Application of rules relating to construction, etc.

Rules made under the provisions of section 1, 2, 3, 5 or 6 of the Merchant Shipping (Safety Convention) Act, 1949, of the United Kingdom, and in force on the 9th June, 1964, shall be deemed to have been made by the Minister under this Part.

23. Application of tonnage regulations and load line rules

Regulations made under section 1, and rules made pursuant to section 2, of the Merchant Shipping Act, 1965, of the United Kingdom, and in force on the 9th May, 1967, shall be deemed to have been made by the Minister under this Part.

24. Adherence to international conventions

Whenever the Government of Zambia adheres to any international convention relating to merchant shipping, the Minister may do all things necessary to give effect thereto and for such purposes the Minister may, by statutory instrument, make rules and regulations.

25. Power to issue certificates of compliance with Safety Conventions

Where a power is conferred to issue certificates under the Merchant Shipping (Safety Convention) Act, 1949, of the United Kingdom, the power may be exercised by the Minister or by any person authorised in that behalf by the Minister.

Part V – Shipping inquiries and courts

26. Application of Part VI of Merchant Shipping Act, 1894

The application of Part VI of the principal Act as part of the Code shall be read subject to the provisions of sections twenty-seven and twenty-eight of this Act.

27. Rules as to investigations and inquiries

The power conferred upon the Lord Chancellor by section 479 of the principal Act may be exercised by the Minister:

Provided that until rules are made for Zambia under the provisions of this Act any rules made and in force on the commencement of this Act shall *mutatis mutandis* be deemed to have been made under this Act, and the provisions of subsection (3) of section 479 of the principal Act shall have no application to any rules so made and in force.

28. Rules for procedure of court of survey, etc.

The power conferred upon the Lord Chancellor by section 489 of the principal Act may be exercised by the Chief Justice:

Provided that until rules are made for Zambia under the provisions of this Act any rules made and in force on the commencement of this Act shall *mutatis mutandis* be deemed to have been made under this Act.

29. Power for Minister to order an inquiry upon request

Where any government or competent authority so requests, the Minister may order an inquiry into any shipping casualty.

Part VI – Liability of shipowners

30. Application of Part VIII of Merchant Shipping Act, 1894, etc.

Part VIII of the principal Act as part of the Code and related Acts shall be read without modification other than this Act.

Part VII – Legal proceedings

31. Application of Part XIII of Merchant Shipping Act, 1894

The application of Part XIII of the principal Act as part of the Code shall be read without modification other than this Act.

Part VIII – Miscellaneous

32. Application of Part XIV of Merchant Shipping Act, 1894, etc.

The application of Part XIV of the principal Act and related Acts as part of the Code shall be read without modification other than this Act.

33. Power to appoint, etc., ship surveyors

The Minister may appoint and remove surveyors of ships for any of the purposes of this Act.

34. Power for Minister to exempt persons or things

Where there is power to exempt any person or thing from all or any of the provisions of this Act or of the Code, as applied by this Act, the Minister may by writing under his hand exercise that power.

35. Delegation of power

The Minister in his discretion may by writing under his hand delegate all or any of his powers under this Act or of the Code, as applied by this Act, to the Registrar of Shipping or any other person:

Provided that nothing in this section shall apply to the power to make any statutory instrument for the purposes of the Code, as applied by this Act.

36. Power exercisable by Order in Council may be exercised by order

- (1) The President may make statutory orders under this Act for the purposes of the Code, as applied by this Act, and references to any power to be exercised by Order in Council shall, unless otherwise prescribed by this Act, be read as references to any statutory order made by the President.
- (2) The power conferred by this section shall be deemed to include the power to authorise a reprint of any subsidiary or subordinate legislation applied by this Act. Any reprint made under this subsection may include amendments necessary for the purposes of this Act and, when published by authority, shall for all purposes be received and acted upon as subsidiary legislation made under this Act.

37. Prescribed fees

Fees payable under any part of the Code applied by this Act shall, unless otherwise provided under this Act, be the fees payable under the Code and in force on the commencement of this Act.

Schedule (Section 3 (1))**Application of Merchant Shipping Acts, 1894 to 1965**

Title of Act applied	Extent of application
The Merchant Shipping Act, 1894 (57 and 58 Vict. c.60)	Part I except sections 1,2, 3, 22, 77, 78, 79, 80, 81,84, 88, 89, 90 and 91;
	Part II except sections 125, 148, 151, 152, 153, 154, 165, 181, 182, 183, 205, 214, 215, 217, 244, 245, 248, 259, 261 and 264;
	Part V;
	Part VI except sections 476, 478, 480, 481, 482, 483, 484, 485 and 486;
	Part VIII except sections 508 and 509;
	Part XII;
	Part XIII except sections 685, 688, 692, 693, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711 and 712;
	Part XIV except sections 727, 735, 736, 737 and 740;
	All Schedules except the seventh and twenty-second.

Title of Act applied	Extent of application
The Merchant Shipping Act, 1897 (60 and 61 Vict. c.59)	The whole Act.
The Merchant Shipping (Mercantile MarineFund) Act, 1898 (61 and 62 Vict. c.44)	Sections 1 (1) (a), 3 and 9.
The Merchant Shipping (Liability of Shipowners and Others) Act, 1900 (63 and 64 Vict. c.33)	The whole Act except section 1.
The Shipowners' Negligence (Remedies) Act, 1905 (5 Edw. 7 c.10)	The whole Act.
The Merchant Shipping Act, 1906 (6 Edw. 7 c.48).	Sections 2, 6, 9, 13, 15, 16, 19, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51,52, 53, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 69, 72, 75, 76, 78, 79, 80, 84 and 86 and the First Schedule.
The Merchant Shipping (Seamen's Allotment) Act, 1911 (1 and 2 Geo. 5 c.8)	The whole Act.
The Maritime Conventions Act, 1911 (1 and 2 Geo. 5 c.57)	The whole Act except section 9 (1).
The Merchant Shipping (Certificates) Act, 1914 (4 and 5 Geo. 5 c.42)	The whole Act.
The Merchant Shipping Act, 1921 (11 and 12. Geo. 5 c.28)	The whole Act.
The Fees (Increase) Act, 1923 (13 Geo. 5 c.4)	Sections 2 and 11.
The Merchant Shipping Acts (Amendment) Act, 1923 (13 and 14 Geo. 5 c.40)	The whole Act.
The Merchant Shipping (Equivalent Provisions) Act, 1925 (15 and 16 Geo. 5 c.37)	Sections 1 and 3.
The Merchant Shipping (International Labour Conventions) Act, 1925 (15 and 16 Geo. 5 c.42)	Sections 1,2, 3, 4, 5 and 7 and First Schedule.

Title of Act applied	Extent of application
The Merchant Shipping (Safety and Load Line Conventions) Act, 1932 (22 Geo. 5 c.9)	Sections 5, 8, 9, 12, 23, 24, 27, 29, 30, 31, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 66, 68, 69, 70, 71, 72, 73 and 74 and the First and Second Schedules.
The Merchant Shipping Act, 1937	