

The Maritime Code, 1994

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**PART ONE**  
**GENERAL PROVISIONS**

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Article 1

By the provisions of this Law shall be regulated: the maritime and submarine areas of the Republic of Croatia, the safety of navigation on the internal waters and the territorial sea of the Republic of Croatia; the regime of the maritime demesne; the basic material and legal relations concerning waterborne craft; contractual and other obligatory relations concerning ships; procedures concerning the registration of waterborne craft; limitations of ship operator's liability; enforcement proceedings and injunction and security measures on ships.

Unless otherwise provided by this Law its provisions shall apply to waterborne craft situated or navigating on the internal waters and territorial sea of the Republic of Croatia.

Article 2

The provisions of this Law concerning ships shall apply also to boats only if expressly so provided by this Law.

Article 3

The provisions of this Law shall apply to warships only if expressly so provided by this Law.

Article 4

To maritime law relations not governed by this Law, other regulations made on the strength of law, or by other laws, customs shall also be applied.

Article 5

Unless otherwise provided by this Law, the particular expressions employed in this Law have the meaning set out below:

(1) "maritime navigation" applies to navigation carried out on the sea and on the rivers of the Adriatic river system up to the limit navigable from the side of the sea;

(2) "ship", with the exception of the warship, is any waterborne craft intended for seagoing navigation, exceeding 12 m in length and a gross tonnage of 15 tons, or authorized to carry more than 12 passengers;

(3) "Croatian warship" covers any waterborne craft, including submarines, which is under the command of a member of the armed forces of the Republic of Croatia, and whose crew members belong to the armed forces or are subjected to military discipline, and is obliged to display distinctive Croatian national signals whenever it is necessary to identify the ship's character;

(4) "foreign warship" is any waterborne craft of foreign allegiance (nationality), belongs to the navy, carries external distinctive signs of a naval waterborne craft and its nationality allegiance, is under the command of a military person, and has a military crew;

(5) "passenger ship" is a ship authorized to carry more than 12 passengers;

(6) "cargo ship" is a ship that is not a passenger ship, whose length is 12 metres or more, and gross tonnage 15 (tons) or more;

(7) "technical waterborne craft" is a ship intended to carry out technical operations (dredger, floating crane, floating dock, rigs for the research and exploitation of the subsoil, and the like);

(8) "floating facility" is a contrivance permanently made fast or moored on the water or fixed on the bottom and which is not capable of navigating (e.g. restaurants, landing stages, workshops, warehouses, pontoon bridges, pontoon marinas, offshore fixed drilling rigs, etc.);

(9) "boat" is a waterborne craft intended for seaborne navigation that is not a ship;

(10) "tug" or "pusher" is a ship intended for towing or pushing other waterborne craft;

(11) "nuclear ship" is a ship equipped with nuclear propelling machinery;

(12) "fishing vessel" is a ship intended and equipped for catching fish or other living beings in the sea or on the seabed;

(13) "foreign fishing vessel" is a ship of foreign nationality/allegiance and intended and equipped for catching fish or other living beings in the sea or on the bottom of the sea;

(14) "yacht" is a ship or boat in non-commercial activities serving for pleasure, sports or recreation;

(15) "foreign yacht" is a ship or boat of foreign nationality/allegiance in non-economic activities serving for pleasure, sports or recreation, and considered as such also according to the regulations of the state in question;

(16) "ship in public service" is a waterborne craft whose owner or operator is the Government or its body, and which is not a warship and serves exclusively for non-commercial purposes;

(17) "foreign public ship" is a waterborne craft owned or used by a foreign State and which is not a warship, and serves exclusively for non-economic purposes of the State in question;

(18) "foreign merchant ship" is a ship of foreign nationality and is used for economic purposes, as well as

any foreign ship not included under points 13, 14 and 16;

(19) "oil tanker" is a ship intended/designed in the first place for the carriage of liquid bulk oil;

(20) "chemical tanker" is a ship for the carriage of dangerous chemicals and noxious substances in bulk;

(21) "liquefied gas carrier" is a ship intended/designed for the carriage of liquefied gases in bulk;

(22) "scientific research ship" is a ship or other waterborne craft equipped for scientific research (work) or other exploration or exploitation of the seabed or its subsoil;

(23) "ship under construction" covers the building of the ship from the moment of laying the keel or a similar proceeding in shipbuilding up to the moment of its registration in the register of ships;

(24) "existing ship" is a ship that is not under construction;

(25) "naval formation of foreign warships" covers a number of foreign warships sailing together under the command of one commander;

(26) "ship operator" is a physical or legal person who, in the capacity of ship's possessor, undertakes a maritime venture, on the presumption that, until it is proved otherwise, the ship operator is the person entered in the register of ships as owner of the ship;

(27) "passenger" is any person on board the ship or boat, with the exception of children less than one year old, and persons employed on shipboard in any capacity;

(28) "public transportation" is the transport of persons and things available to anybody on equal terms and performed on the basis of the contract of carriage;

(29) "international voyage" is a scheduled voyage by ship or boat from any Croatian port to a foreign port or vice versa;

(30) "oil" applies to any persistent carbon mineral oil such as crude petroleum and all its derivatives, as well as sludge and residual oils regardless of whether carried as cargo or as supplies of fuel and lubricant;

(31) "port" is a water area and with water directly connected land area with built-up and non built-up wharf structures, breakwaters, equipment, installations and other facilities intended/designed for berthing, mooring and sheltering seagoing ships, loading and discharge of things, embarkation and disembarkation of things and passengers, warehousing and other cargo handling operations, production, refinement and processing of goods, and other economic activities in connection with these activities concerning matters of business, traffic or technology;

(32) "port open to international traffic" is a port free for the admission of waterborne craft of all flags;

(33) "anchorage" is a part of the sea or port prepared and marked for the purpose of shiphandling and anchoring;

(34) "mean low-water line" is the arithmetic mean of all low waters in the course of a month or a year;

(35) "mean high-water line" is the arithmetic mean of all high waters in the course of a month or a year;

(36) "special drawing rights" is an accounting unit as defined by the International Monetary Fund;

(37) "Ministry" applies to the ministry competent for maritime affairs;

(38) "Minister" applies to the minister in the ministry having competence in matters of maritime affairs.

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## **PART TWO**

### **MARITIME AND SUBMARINE SPACES OF THE REPUBLIC OF CROATIA**

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#### Chapter I GENERAL PROVISION

##### Article 6

The sovereignty of the Republic of Croatia on the sea extends across the internal waters and the territorial sea of the Republic of Croatia, the air space above them and the seabed and subsoil of these maritime spaces.

In its economic zone and on the continental shelf the Republic of Croatia shall implement its vested rights and jurisdiction in order to explore, exploit, protect, preserve and promote its natural marine resources, including the resources on the seabed and in the subsoil and deal with other economic activities.

The Republic of Croatia shall protect the sea from pollution, guard and advance the marine environment.

#### Chapter II INTERNAL WATERS

##### Article 7

The internal waters of the Republic of Croatia include:

(1) harbours and bays on the seashore of the land and islands;

(2) parts of the sea between the low-water line on the seashore on land and the straight baseline for the measurement of the width of the territorial sea referred to in article 16, paragraph 2, points (2) and (3), of this Law.

The bays referred to in point (1) of paragraph 1 of this article is a clearly defined indentation into land whose sea surface is equal to or larger than the surface of the semicircle the length of the diameter of which equals the length of the straight line closing the entrance to the bay.

The sea surface of the bay is measured from the low-water mark around the shore of the bay and the straight line closing the entrance to the bay.

The ports open to international traffic in the Republic of Croatia are: Umag, Novigrad, Porec, Rovinj, Pula, Raša, Rijeka, Mali Lošinj, Senj, Maslenica, Zadar, Šibenik, Primošten, Split, Korčula, Ploče, Metković and Dubrovnik.

The Government of the Republic of Croatia may designate also other ports open to international traffic.

#### Article 8

A foreign merchant ship is allowed to proceed along the internal waters of the Republic of Croatia in order to enter a port open to international traffic or the port in which the shipyard in which the ship is going to be repaired is situated, to leave such port, and to sail between the ports open to international traffic, by the shortest customary route.

The Minister may order another manner of navigation for foreign merchant ships on the internal waters if this is required by the interests of the country's defence or the safety of navigation.

#### Article 9

Coastal trade, i.e. the carriage of things and passengers from one Croatian port to another, shall be carried out exclusively by ships of the Croatian flag.

The transport of persons by a foreign yacht if this transport is carried out free of charge is not considered coastal trade in the sense of paragraph 1 of this article.

Notwithstanding the provision of paragraph 1 of this article, the Ministry may permit:

(1) a foreign ship to transport empty containers in their exploitation between ports of the Republic of Croatia on condition of reciprocity;

(2) a foreign ship to transport persons and things between ports of the Republic of Croatia if economic interests demand it.

#### Article 10

The foreign warship, foreign public ship, foreign fishing vessel, and foreign research ship may enter the Croatian internal waters in order to make a port open to international traffic or a port in which the shipyard in which the ship is to be repaired is situated, if preliminary permission to do so is obtained:

(1) for the foreign warship from the Ministry of Defence;

(2) for the foreign public ship and research ship - ships from paragraph (1) of this article - from the Ministry with the preliminary consent of the Ministry of Internal Affairs;

(3) for the foreign fishing ship- from the Ministry.

Entering the internal waters of the Republic of Croatia and the stay in a Croatian port shall not be permitted to a foreign nuclear warship, a foreign warship carrying nuclear weapons, and a foreign warship whose stay endangers the security of the Republic of Croatia.

#### Article 11

In the ports of the Republic of Croatia not more than three foreign warships of the same nationality shall stay at the same time.

No stay of a foreign warship in a port of the Republic of Croatia shall continue for more than 10 days.

Notwithstanding the provisions of paragraphs 1 and 2 of this article, the Government of the Republic of Croatia may grant the visit of foreign warships if the interests of the State demand it, regardless of the conditions prescribed by these provisions.

During the visit in the internal waters of the Republic of Croatia the foreign warship shall have only the crew of the warship on board.

#### Article 12

Foreign yachts and boats intended for pleasure, sports and recreation may sail and stay in the internal waters and in the territorial sea of the Republic of Croatia, except in the forbidden zones mentioned in article 16 and article 30 of this Law, on condition that they make by the shortest route for the nearest port open to international traffic immediately upon entering the internal waters of the Republic of Croatia and report their arrival to the harbourmaster's office or harbourmaster's branch office.

Detailed regulations concerning the navigation and stay of foreign yachts and foreign boats intended for pleasure, sports and recreation in the internal waters and their stay in the territorial sea of the Republic of Croatia shall be prescribed by the Minister.

#### Article 13

Domestic and foreign physical and juridical persons may engage in exploration, research, photographing and surveying of the sea, seabed or subsoil of the internal waters of the Republic of Croatia only with the approval of the Ministry.

The conditions on the basis of which the approval in paragraph 1 of this article is given shall be determined by the Minister.

Domestic and foreign physical and legal persons may engage in archaeological exploration of cultural monuments on the seabed and or subsoil of the internal waters of the Republic of Croatia only with the approval of the Ministry of Culture and Education, and the Ministry of Public Works and Environmental protection for any exploration in the specially protected parts of the nature reserve.

The approval referred to in paragraph 3 of this article shall be issued on the basis of the conditions prescribed by the Minister of Culture and Education, or the Minister of Public Works and Environmental Protection with the consent of the Minister.

The Ministry of Maritime Affairs, Traffic and Communications shall be informed of the approval referred

to in paragraphs 1 and 3 of this article.

The decision of the Ministry as referred to in paragraphs 1 and 3 of this article granting or refusing to grant approval shall not be appealable, but an administrative lawsuit may be instituted

#### Article 14

Repairs, reconditioning of equipment and machinery, painting, cleaning and the like (hereafter "repairs") of foreign warships shall be carried out in the shipyards of the Republic of Croatia after obtaining the approval of the Ministry of Defence.

The approval for the repairs of a foreign warship shall be given to the shipyard for a period indispensable for the repairs to be carried out, but not for more than 16 months. Exceptionally the Government of the Republic of Croatia may, if the interests of the Republic of Croatia demand it, approve of a longer period of time for the repairs.

The decision of the Ministry of Defence granting or refusing to grant the approval shall not be appealed against, but an administrative procedure may be instituted.

#### Article 15

The foreign warship under repairs shall have only one third of the crew with personal arms and one adequate unit of fire of the usual peacetime composition.

The foreign warship whose repairs have been approved shall immediately after entering the Croatian port discharge the fuel and lubricants, ammunition and other lethal weapons to a place ordered by the commandant in authority at the port in which the repairs are to be carried out.

During the time of repairs the crew of the foreign warship may stay and move in the place in which the repairs of the ship are carried out. At the request of the commander of the foreign warship the Ministry of the Interior may permit the crew members of the ship to move also outside the place in which the shipyard is situated.

In case of the workers taking part in the repair works on the foreign warship and the persons on board ex officio on behalf of the Republic of Croatia, the regulations of the Republic of Croatia shall apply.

The regulations of the foregoing paragraph shall apply to the foreign public ship under repairs.

#### Article 16

The Minister of Defence may, with the consent of the Minister, prescribe prohibited zones in the internal waters of the Republic of Croatia.

Foreign seaborne craft shall not sail over the prohibited zones in the internal waters.

Notwithstanding the provision of paragraph 2 of this article, the Ministry of Defence may approve the navigation of foreign waterborne craft, without discrimination, over the prohibited zones in the internal waters.

The ruling of the Ministry granting or refusing to grant the approval referred to in paragraph 3 of this article

shall not be appealed against, but an administrative lawsuit may be instituted.

The provision concerning the prohibited zones in the internal waters shall be brought forward by the Minister of Defence at the proposal of the Minister.

The provision concerning the prohibited zone in the internal waters shall be announced in the "Notice to Mariners".

#### Article 17

The foreign waterborne craft that due to force majeure or distress at sea has been compelled to take refuge in the internal waters of the Republic of Croatia shall without delay inform of the circumstance the nearest harbour harbourmaster's office or harbourmaster's branch office.

#### Article 18

The Minister, in keeping with the regional plan, shall prescribe conditions for the erection and maintenance of installations and appliances on the sea and made secure to the seabed for the breeding of sea animals.

The commercial breeding of fishes and other sea animals referred to in paragraph 1 of this article shall be regulated by a special law.

### Chapter III

#### THE TERRITORIAL SEA

#### Article 19

The territorial sea of the Republic of Croatia is the sea belt 12 nautical miles wide, reckoning from the baseline in the direction towards the economic belt.

The baseline is formed by:

- (1) the line of the mean low waters along the shores of the land and the islands;
- (2) the straight lines closing the entrances to the ports or bays;
- (3) the straight lines connecting these points on the shore of the land and on the shore of the islands;

(a) Cape Zarubafa - south-eastern cape of the Island of Mrkan - southern cape of the Island of St. Andrija - Cape Gruj (Island of Mljet);

(b) Cape Korizmeni (Island of Mljet) - Island of Glavat - Cape Struga (Island of Lastovo) - Cape Veljeg mora (Island of Lastovo) - south-western cape of the Island of Kopač, Cape Velo dance (Island of Korčula) - Cape Proizd - south-western cape of the Island of Vodnjak - Cape Rat (Island of Drvenik mali) - rock Mulo - rock Blitvenica - Island of Purara - Island of Balun - Island of



Mrtovac - Island of Garmenjask veli - point on the Island of Dugi otok with co-ordinates 43°53'12" north latitude and 15°10'00" east longitude;

(c) Cape Veli rat (Island of Dugi otok) - Rock Masarine - Cape Margarina (Island of Susak) - Albanež shallows - Island of Grunj - rock of Sv. Ivan na pucini - Mramori shallows - Island of Altiež - Cape Kastanjija.

The baselines are marked on the seachart "Jadransko more" (the Adriatic Sea), published by the State Hydrographic Institute ("Državni hidrografski zavod").

In determining the straight baseline of the territorial sea, part of the seashore will be considered also the most projecting permanent port buildings forming part of the port system.

#### Article 20

The outer limit of the territorial sea is the line any point of which is 12 nautical miles distant from the nearest point on the baseline.

#### Article 21

Any foreign waterborne craft has the right of innocent passage through the territorial sea of the Republic of Croatia.

#### Article 22

By innocent passage of a waterborne craft is understood navigation on the territorial sea of the Republic of Croatia without entering any of the country's ports open to international traffic, or navigation with the purpose of entering such port, or a port where the shipyard in which the waterborne craft will be repaired is situated, or in order to leave it for the economic zone, on condition that the peace, order or safety of the Republic of Croatia are not disturbed.

The foreign waterborne craft shall accomplish the innocent passage by the shortest usual route, without interruption and delay.

Stopping and anchoring of a foreign waterborne craft using the right of innocent passage is permitted only if caused by events ascribed to regular navigation or *force majeure* or distress at sea, or in order to offer assistance to people, waterborne craft or aircraft in danger or trouble.

#### Article 23

The Ministry of Foreign Affairs of the Republic of Croatia shall be informed through diplomatic channels by the State to which the warship belongs about the intention of innocent passage of the foreign warship through the territorial sea of the Republic of Croatia not later than 24 hours before the ship's entering the territorial sea of the Republic of Croatia.

#### Article 24

Innocent passage shall not be considered the passage of a foreign waterborne craft through the territorial sea of the Republic of Croatia if the ship engages in one of these activities:

- (1) threatens with force or uses force against the sovereignty, territorial integrity and by the Constitution of the Republic of Croatia established legal system, or in any manner violates the principles of international law;
- (2) exercises or practices training with weapons;
- (3) any collecting of information or data to the prejudice of the defence or security of the Republic of Croatia;
- (4) any propaganda activity aimed at affecting the defence or security of the Republic of Croatia;
- (5) the launching, landing or taking on board of any aircraft;
- (6) launching, landing or taking on board of any military device;
- (7) loading or unloading of any commodity, currency or persons contrary to the customs, taxation or health regulations or regulations concerning the entry and stay of foreigners in Croatia;
- (8) any act of deliberate or serious pollution of the marine environment;
- (9) any fishing or catching of other marine animals;
- (10) the carrying out of any research, examination or survey activities;
- (11) any activity with a view of unauthorized interference with any communications system or any other system or installation of the Republic of Croatia;
- (12) any other activity not having a direct bearing on the passage.

#### Article 25

The Minister may within the internal waters and in the territorial sea of the Republic of Croatia fix and prescribe compulsory sea lanes or traffic separation schemes with the safety of navigation in mind for all or for some kinds of waterborne craft.

The navigable routes and traffic separation schemes referred to in paragraph 1 of this article shall be fixed in the specially protected parts of the nature reserve with the approval of the Institute for the Protection of Nature of the Ministry of Public Works and Environmental Protection.

The sea lanes and traffic separation schemes referred to in paragraph 1 of this article shall be indicated in the seachart "Jadransko more" (The Adriatic Sea) and announced in due time in the "Notice to Mariners".

Article 26

The foreign fishing ship on passage through the territorial sea of the Republic of Croatia shall not engage in fishing or catching other sea animals in the sea or on the seabed.

The foreign fishing ship shall sail in the territorial sea of the Republic of Croatia at a speed of not less than six knots, without stopping or anchoring except if absolutely necessary in consequence of force majeure or distress at sea, and carry visible signals of a fishing vessel.

The provisions of paragraphs 1 and 2 of this article shall not refer to a foreign fishing ship having a permit for fishing in the territorial sea of the Republic of Croatia while the ship is in the territory where fishing is permitted.

Article 27

More than three foreign warships of the same nationality shall not be passing through the territorial sea of the Republic of Croatia at the same time.

Article 28

Warships, tankers, nuclear-powered ships, and ships carrying dangerous chemicals or noxious materials, while sailing on the internal waters and during the innocent passage through the territorial sea of the Republic of Croatia shall sail following the prescribed lanes for these ships, observe the traffic separation schemes in the areas where these traffic lanes or systems of separated traffic are prescribed, and satisfy any other prescribed conditions regarding the safety of navigation and prevention of polluting the marine environment.

Article 29

A foreign submarine and any other underwater vehicles shall during the time of passage through the territorial sea of the Republic of Croatia navigate on the surface and fly the flag its State.

Article 30

The Minister may, as an absolutely necessary safety measure, and the Minister of Defence for the purpose of artillery drill, define particular zones in the territorial sea of the Republic of Croatia in which the passage of foreign waterborne craft shall be temporarily suspended.

The decision of defining the zone mentioned in paragraph 1 of this article with the boundaries of the zone and other necessary data shall be gazetted in due time in the "Notice to Mariners".

Article 31

If the foreign warship, or the foreign public ship, does not observe the regulations on innocent passage mentioned in articles 22 to 25 and 27 to 30 of this Law or the generally accepted international rules concerning the prevention of collisions at sea, and if the ship does not answer the challenge to observe these rules, the Croatian police, war or other authorized ship, or aircraft or organ shall ask that ship to leave the territorial sea of the Republic of Croatia at once.

Article 32

National and foreign physical and legal persons may engage in scientific research, exploration, photographing and surveying of the sea, seabed and marine subsoil in the territorial sea of the Republic of Croatia only with the permission and under constant supervision of the Ministry, and on conditions prescribed by the Minister.

During the research, exploration or survey work mentioned in paragraph 1 of this article, at least one expert from a Croatian scientific institution appointed by the Ministry has to be on board the foreign scientific research ship.

The provisions of article 13 of this Law shall apply to activities referred to in paragraph 1 of this article.

Chapter IV

THE ECONOMIC ZONE <sup>2(1)</sup>

Article 33

The exclusive economic zone of the Republic of Croatia comprises the marine spaces from the outer limit of the territorial sea in the direction of the open sea up to its outer limit permitted by general international law.

Article 34

In its economic zone the Republic of Croatia shall implement its sovereign rights with the purpose of:

- (a) Exploring and exploiting, conserving and managing the animal and mineral resources;
- (b) Generating power using the sea, sea currents and winds.

Article 35

The authorized organs of the Republic of Croatia have the right and duty to undertake any necessary measure in order to implement their sovereign rights of exploring, exploiting, conserving and managing the animal

maritime resources in the exclusive economic zone of the Republic of Croatia, including the examination, inspection, capture of foreign ships and court proceedings. The state of the ship's flag shall be immediately informed through diplomatic channels of the capture or seizure of the foreign ship and of the penalties adjudged.

#### Article 36

In the exclusive economic zone the Republic of Croatia has the exclusive right to build, permit and control the building, work and use of the artificial islands, installations and appliances at sea, on the seabed and in the marine subsoil.

The consent for the building, work and use of artificial islands, installations and structures referred to in paragraph 1 of this article shall be given by the Ministry.

#### Article 37

The legal or physical person granted permission to construct an artificial island, installation or structure referred to in article 36 of this Law, shall:

- (a) Not less than 30 days before the beginning of the work, through the harbourmaster's office announce the data concerning the place, manner of construction and the dimensions, size, depth and appearance of the marine facility;
- (b) Install permanent signalling means at the site where the construction work is to begin, and then also on the marine facility itself;
- (c) Remove any marine facility that is no longer in use or is abandoned, without causing damage to the fisheries, protection and conservation of the marine environment or any other legitimate use of the sea.

#### Article 38

At the suggestion of the contractor engaged in the exploration and exploitation of the resources of the economic zone of the Republic of Croatia the Minister may, when necessary, establish around the artificial islands, installations and appliances mentioned in article 36 of the Law safety zones up to 500 metres wide measured from each and every point of the outer edge of the marine facility, and prohibit navigation in these zones.

The establishment of the safety zone, its width and regime of navigation in it shall be announced in due time in the "Notice to Mariners".

#### Article 39

The artificial islands, installations and structures, as well as the safety zones around them shall not be established in locations where interference may be caused with the recognized international navigable routes.

Article 40

The Republic of Croatia shall apply its Customs, fiscal, health, immigration and penal regulations, as well as regulations concerning foreigners, on any artificial island, installation and appliance in the economic zone of the Republic of Croatia.

Article 41

Foreign physical and legal persons may engage in scientific research in the economic zone of the Republic of Croatia with the approval of the Ministry if the exploration is carried out for peaceful purposes and is a contribution to the scientific understanding of the marine environment.

The conditions on the basis of which the approval mentioned in paragraph 1 of this article is given shall be prescribed by the Minister.

The exploitation and exploration with a view to exploiting the natural resources in the economic zone shall be done with the approval given according to special provisions.

Article 42

During the navigation in the economic zone of the Republic of Croatia the waterborne craft shall observe the generally accepted international rules and standards and the Croatian regulations concerning the prevention of the pollution of the sea from ships and pollution caused by the dumping of waste.

During the overflight of the economic zone of the Republic of Croatia the aircraft shall observe the generally accepted international rules and the Croatian regulations on the control of pollution of the sea from the air or by air.

Detailed regulations concerning the control of the pollution of the marine environment in the economic zone shall be laid down by the Minister with the consent of the Minister of Building Construction and Environmental Protection.

Chapter V  
THE CONTINENTAL SHELF

Article 43

The continental shelf of the Republic of Croatia comprises the seabed and subsoil of the submarine areas outside the extreme limit of the territorial sea of the Republic of Croatia in the direction of the open sea up to the boundary lines of the continental shelf of neighbouring countries.

The boundaries of the continental shelf of the Republic of Croatia and the Republic of Italy were laid down by the 1968 Agreement between Italy and the former Socialist Federal Republic of Yugoslavia.

Until the agreement concerning the fixing of boundaries of the continental shelf with Montenegro, or with the Federal Republic of Yugoslavia (Serbia and Montenegro) is reached, the Republic of Croatia shall for the time being enjoy the sovereign rights in that zone up to the median line proceeding to the outer limit of the territorial sea in starting from the entrance of the Boka Kotorska Bay in the direction of the open sea.

#### Article 44

The Republic of Croatia shall exercise its sovereign rights over the continental shelf with the purpose of its exploration and exploitation of the natural resources of the zone.

Under "natural resources" mentioned in paragraph 1, of this article are understood the mineral and other inanimate resources of the seabed and its subsoil and the marine animals which, at the harvesting stage, are either immobile on or under the seabed, or are unable to move except in constant physical contact with the seabed or the subsoil.

#### Article 45

In order to implement the rights mentioned in article 44, paragraph 1, of this Law the navigation, fishing, protection of living resources of the sea, as well as the basic oceanographic or other scientific explorations of public character, shall not be unduly prevented.

The provisions of article 41 of this law shall be applied in case of the explorations in the continental shelf mentioned in paragraph 1 of this article.

#### Article 46

The exploitation of the natural resources of the continental shelf of the Republic of Croatia and the erection, start-up and maintenance of the necessary installations and equipment for the exploration and engagement in the exploitation activities may be carried out observing the conditions prescribed by law and the regulations made on the basis of law.

Articles 36 to 40 of this Law shall be applied to the installations and equipment mentioned in paragraph 1 of this article.

The Ministry shall approve and supervise the laying and maintenance of submarine cables and pipelines in the continental shelf of the Republic of Croatia that enter into the area of the Croatian territorial sea, and the approval for the direction of laying submarine pipelines that are laid in the continental shelf of the territorial sea of the Republic of Croatia and do not enter the area of the territorial sea of the Republic of Croatia shall be given by the Republic of Croatia.

The ruling of the Ministry granting or refusing to grant the approval referred to in paragraph 3 of this article shall not be appealed against, but an administrative lawsuit may be instituted.

The conditions on the basis of which the approval referred to in paragraph 3 of this article is granted shall be laid down by the Minister.

Chapter VI  
THE RIGHT OF HOT PURSUIT

Article 47

Hot pursuit of a foreign ship shall be undertaken if the competent authority has a founded suspicion that the foreign ship, or boat or waterborne craft working as a team and using the ship pursued as a mother ship have violated this Law or any other regulations of the Republic of Croatia or generally accepted rules of international law.

Hot pursuit of a foreign ship shall begin only if the suspected ship, its boat or waterborne craft working in concord with the suspected ship is within the internal waters, in the territorial sea, in the exclusive economic zone or above the epicontinental shelf of the Republic of Croatia and if it does not come to a halt on the visible or audible call to stop sent from a distance permitting the call to be seen or heard.

The hot pursuit of a foreign ship can be continued in the open sea, the exclusive economic zone or in the contiguous zone of the foreign country if the pursuit has not been interrupted, until the ship has entered the territorial sea of its own or of a third State.

The hot pursuit can be undertaken by police boats, warships or military aircraft or other ships or aircraft authorized for the purpose. In the exclusive economic zone or over the continental shelf, hot pursuit shall begin only in case if violation of the regulations applicable in these zones has been committed.

If the pursued ship has during the hot pursuit been arrested, the pursuer shall surrender it to the harbourmaster's office competent for the port in which the ship was found. If the ship had only been passing through the Croatian territorial waters or the territorial sea, it shall be surrendered to the nearest harbourmaster's office. If the harbourmaster's office to which the ship has been surrendered is not competent to institute proceedings against the ship, it shall advise the body competent to institute the proceedings and act in conformity with its instructions.

The provisions mentioned in this article do not refer to foreign warships and public ships enjoying immunity.

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**PART THREE**  
**MARITIME DEMESNE**

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Chapter I  
BASIC PROVISIONS

Article 48

The maritime demesne is the public estate of interest to the Republic of Croatia, is under its special protection, and shall be used and/or exploited under the conditions and in the manner prescribed by law.



#### Article 49

The maritime demesne includes the internal waters and the territorial sea, its seabed and subsoil, as well as parts of the dry land that are by their nature intended for public maritime use or are declared as such.

In respect of paragraph 1 of this article the following shall be considered as maritime demesne: the seashore, ports and harbours, breakwaters, embankments, dams, sandbars, rocks, reefs, mouths of rivers flowing into the sea, sea canals, and animate and inanimate natural resources (fishes, minerals, etc.) in the sea and in the marine subsoil. (cf. Narodne Novine, i.e. Official Gazette of the Republic of Croatia, No. 74/95)

#### Article 50

The seashore extends from the mean low-water line and comprises the land belt limited by the line reached by the highest waves during a storm, as well as that part of the dry land the nature and purpose of which is intended for the exploitation of the sea for seaborne traffic and long shore fishery, as well as for other purposes in connection with the exploitation of the sea, the area at least six metres wide measured from the line horizontally extending from the mean high-water line.

The mean high-water line shall be determined by the State Hydrometeorological Office.

In case the seashore defined in terms of paragraph 1 of this article comprises areas of dry land of unequal width, as maritime demesne shall be considered the land area of wider extent.

By exception, at the suggestion of the body of the local self-government unit through the mediation of the county assembly the Minister may decide for a larger part of dry land than that determined in paragraph 1 of this article to be considered as seashore if this part according to its nature or purpose serves or may serve for public use, or a narrower part of the dry land if this is required by the existing conditions on the seashore (retaining walls, walls of cultural and religious buildings, and the like).

The seashore includes also the part of dry land created by leveling of the ground.

In case of doubt whether a certain estate constitutes maritime demesne, the decision shall be reached by the Minister, who shall also decide the limit of such maritime demesne.

#### Article 51

There is no property in the maritime demesne or other proprietary rights on any basis.

Anybody is free to use and/or to be benefited by the maritime demesne according to its nature and purpose in conformity with the provisions of this Law.

Special use and/or economic use of a part of the maritime demesne can be approved to physical and legal persons (concession) provided that such use is not in contradiction with the interests of the Republic of Croatia.

Special use of the maritime demesne is any use that is not general use or economic exploitation of the marine demesne.

Article 52

The part of the maritime demesne intended for the requirements of defence, improvement of the river courses, streams connected with the sea and other infrastructure facilities of interest to the Republic of Croatia may be excluded from public use by the decision of the Government of the Republic of Croatia.

Article 53

Special use and/or exploitation of the maritime demesne in violation of the special regulations concerning the protection of the environment shall be considered adverse to the interest of the Republic of Croatia.

Article 54

By letting out the maritime demesne for special use and/or exploitation to persons referred to in article 51, paragraph 3, of this Law other persons may be partly or entirely excluded from the use and/or exploitation of the maritime demesne.

The exclusion referred to in paragraph 1 of this article shall not be applied in case of *force majeure* or distress at sea while these are in force.

Article 55

The maritime demesne records are kept according to the real property registry regulations.

Article 56

The maritime demesne shall be managed, maintained and protected by the Republic of Croatia directly and/or through the mediation of the county prefectures.

The administrative and inspection supervision regarding the implementation of the regulations concerning the maritime demesne shall be the responsibility of the Ministry, if not otherwise provided by this Law.

The inspector supervises the application of the decision and concession agreement and informs the body granting the concession (hereinafter referred to as “lessor”)/ thereof.

Article 57

The funds for the maintenance, management and advancement of the maritime demesne are:

- (1) Concession royalties for the use and/or exploitation of the maritime demesne outside the port area;

- (2) Fees for the use of the maritime demesne paid by boat owners registered in the boat record book;
- (3) Half the amount of compensation for the damage or destruction of the marine flora and fauna caused by the pollution of the sea;
- (4) Amounts of the fines for maritime offences;
- (5) The amount of part of the monetary compensation from the sale of petrol;
- (6) Amounts of the monetary consideration paid for the safety of navigation paid by foreign yachts and boats intended for recreation and sports;
- (7) Funds from other sources.

The means referred to in paragraph 1 of this article shall be used exclusively for the:

- (1) Maintenance, management, protection and advancement of the maritime demesne;
- (2) Maintenance and repairs of minor ports;
- (3) Erection and maintenance of the appliances for the safety of navigation in minor ports;
- (4) Coverage of the costs of the elimination of danger and detrimental consequences due to pollution;
- (5) Purchase of appliances and equipment of the service for the prevention of the pollution of the sea;
- (6) Designing of research and professional projects intended for the preservation of the marine environment and natural resources of the sea;
- (7) Coverage of actual costs arising from the life-saving activities at sea;
- (8) Purchase of life-saving appliances and salvage equipment.

The funds referred to in paragraph 1 points (5) and (6), of this article are State revenue and are ceded to the harbourmaster's offices and shall be used exclusively for the purposes referred to in paragraph 2, points 7 and 8, of this article.

The funds referred to in paragraph 1 points (2), (3), (4) and (7), of this article are county prefecture revenue, and shall be used by the county assembly on whose territory the funds have been realized exclusively for the purposes referred to in paragraph 2 of this article, except for the purposes provided for in points 7 and 8 of this article.

The concession royalty referred to in article 62 paragraph 1, of this Law is Government revenue and shall be ceded in its entirety to the county assembly on whose territory it has been realized exclusively for the purposes referred to in paragraph 2, and paragraphs 7 and 8 of this article.

The concession royalty referred to in article 62, paragraph 2, of this Law is State revenue, and shall be deposited to the special account and used exclusively for the purposes referred to in paragraph 2 of this article, if not otherwise provided for the requirements of the country's restoration.

Article 58

The owners of boats registered in the boat record book shall pay a fee for the use of the maritime demesne at the place where their boats are registered in the boat record book.

The fee referred to in paragraph 1 of this article shall not be paid for boats of government bodies.

The fee, the amount of which is determined by the Minister, shall be paid for the current year not later than the end of February.

Chapter II

CONCESSIONS

Article 59

Physical and legal persons may be given permission for special use and/or economic exploitation of the maritime demesne (concession).

Concession rights on the maritime demesne shall be granted in a way and under conditions laid down in this Law.

The concession gives the concessionaire the right to use and/or exploit the maritime demesne to the extent and on the conditions laid down in the act of concession.

The concession shall not be transferred to a second person without the express agreement of the lessor.

The winner at the public sale of installations erected by concession on the maritime demesne shall not use and/or exploit them without express agreement of the lessor.

If the concessionaire dies, or the legal person ceases to exist, his heirs, or the successors of the legal person take his place, but the validity of the concession agreement ceases if the heirs, or legal successors do not ask the lessor to confirm the concession agreement within six months from the day of death of the concessionaire or cessation of existence of the legal person. If the lessor does not confirm the concession agreement, the regulations valid for the revocation of the concession shall be applied.

Article 60

The act of concession covers the area of the maritime demesne let out for use and/or exploitation, the mode, conditions and time of use and/or exploitation of the maritime demesne, royalty to be paid for the concession, authorization of the lessor, the rights and obligations of the concessionaire including the obligation of maintaining and protecting the maritime demesne.

On the basis of the act of concession the lessor and the concessionaire enter into a concession agreement.

#### Article 61

The concession for a period of up to four years, if it does not include the construction of solid facilities that are difficult to remove, shall be granted on demand.

The concession for a period of up to four years, if it includes the construction of solid facilities that are difficult to remove, as well as concessions for a period exceeding four years, shall be granted on the basis of public offer invitation.

in case of a number of licensing requests, preference shall be given to the applicant offering greater security for a more profitable and appropriate use and/or exploitation of the maritime demesne, and who proposes the use and/or exploitation that is of more significant interest in the estimate of the lessor.

#### Article 62

As a transferred transaction of the Government Administration, the act of concession referred to in article 61, paragraph 1, of this Law shall be made by the competent county assembly on the basis of the opinion of the communal and/or municipal authority, and the act of concession referred to in article 61, paragraph 2, of this Law shall be made by the county assembly by consent of the Ministry.

The concession for a period of 12 years or more, but not more than 33 years, shall be granted by the Government of the Republic of Croatia.

The concession for a period of more than 33 years shall be granted by the Parliament of the Republic of Croatia.

The preliminaries to making the act of concession as well as the draft of the contract referred to in article 60 of this Law shall be the responsibility of the County Office for Maritime Affairs.

In case of disagreement between the County and the Ministry as regards the granting of the concession, the case shall be decided by the Government of the Republic of Croatia.

#### Article 63

The granting of the concession shall be founded on the findings and the opinion of the body of experts so as to:

(a) make the concession respond to all special regulations and the economic character of the maritime demesne,

(b) coordinate the concession with the economic strategy and policy of the economic development of the Republic of Croatia and the County,

(c) prevent the planned activity from reducing, hindering or rendering impossible the use and/or exploitation of this, or of the neighbouring parts of the maritime demesne in concordance with their specified purpose.

The body of experts for the appraisal of the proposed concession granted by the county assembly by consent of the Ministry and granted by the Government of the Republic of Croatia, shall be composed of adequate experts (planning specialist, nature conservancy specialist, specialist for the relevant planned activity and seaborne traffic) and appointed by the Minister in conjunction with the Minister of Building Construction and Environmental Protection.

The body of experts for the appraisal of the concession granted by the county assembly shall be appointed by the county governor.

#### Article 64

For each concession granted on the maritime demesne an annual royalty fixed by the act of decision shall be paid.

The amount of the royalty shall be founded on the economic justification of the expected profitability and/or the use of the maritime demesne, the estimated degree of peril to the nature, human environment and health, and the protection of the interest and safety of the Republic of Croatia.

The royalty shall not be paid for concessions granted to bodies of the government administration, bodies of local self-government and government, physical or legal persons engaging in charity or other purposes in the interest of the Republic of Croatia.

#### Article 65

The concessionaire may, by consent of the lessor, establish a hypothec on the facilities that he has built on the maritime demesne, under conditions referred to in the concession agreement.

#### Article 66

All concessions on the maritime demesne shall be granted on the basis of the vested rights that the Republic of Croatia has to it.

The concessionaire shall see to it that third parties with whom he enters into legal relations relevant to the concession obtained do not use and/or exploit the maritime demesne in violation of the conditions under which the concession has been granted to him.

The concessionaire shall not make demands upon the Republic of Croatia for compensation if his right of the special use and/or exploitation of the maritime demesne has been limited by the earlier rights of third parties or a change in the demesne caused by natural phenomena. In this case the annual royalty may be reduced in proportion.

#### Article 67

The lessor may revoke the concession entirely or partly at any time if the interest of the Republic of Croatia calls for it, a fact that shall be established by the Parliament of the Republic of Croatia.

If the concessionaire has in view of the concession constructed a building or made other investments on the maritime demesne in conformity with the act of and agreement of concession, he has, in case of the revocation of the concession, the right to claim damages in proportion with the time for which he has been deprived of availing himself of his rights under the concession.

If the concession has been revoked in part only the concessionaire has the right to renounce it in its entirety. Notice of the renunciation shall be given to the lessor within 30 days from the day he was served the notice by the lessor of the concession being revoked in part only.

#### Article 68

The provisions of articles 66 and 67 of this Law shall be applied also in case the concessionaire is not in a position to make use of the concession in its entirety or in part only in consequence of the building construction or other works carried out in the interest of the Republic of Croatia.

#### Article 69

The concession may be revoked:

- (a) If the concessionaire does not finish building within the scheduled time the installation for which the concession has been granted,
- (b) If the concessionaire contravenes the provisions of this Law regulating the maritime demesne or the by-laws brought in with the implementation of the regulations of the Law or the terms and conditions of the concession in mind,
- (c) If the concessionaire does not make use of the concession or exploits it for purposes not granted to him by the concession agreement, or goes beyond the bounds defined in the concession,
- (d) If the concessionaire without approval does on the maritime demesne delineated in the concession agreement work that is not envisaged in the concession or is in contradiction with the approved project,
- (e) If the concessionaire is in default of the payment of the royalty for the concession,
- (f) If the concessionaire fails to maintain or neglects the regular maintenance and protection of the maritime demesne in the sense of the concession decision.

In case of the occurrences referred to in the foregoing paragraph the concessionaire shall be asked to give within a determined time his reaction to the stated reasons for the intended cancellation of his concession.

#### Article 70

The concession shall terminate:

- (a) With the expiration of the period of time for which it has been granted,

(b) With the concessionaire's renunciation after the expiration of the time determined in the act of concession,

(c) With the death of the concessionaire, or the cessation of the legal person if the heirs or legal successors fail to ask in due time for the confirmation of the concession,

(d) With the withdrawal of the concession on the part of the lessor.

The decision concerning the termination of the concession shall be made by the lessor.

#### Article 71

When the concession terminates under the provisions of article 69 or article 70, paragraphs (a) and (b), of this Law, the concessionaire shall not be entitled to indemnification.

If the concessionaire has set up a building of some kind on the maritime demesne on the conceptual basis of the concession decision, he has the right to retain the new acquisitions and erections he has built if this is possible by the nature of things and without causing major damage to the maritime demesne. If this is not possible, the new acquisitions shall be considered constituent elements of the maritime demesne, but the lessor shall have the option of asking the concessionaire to remove them as a whole or in part at the expense of the former and restore the maritime demesne to its previous condition.

If the concessionaire does not comply with the request of the lessor to place the maritime demesne within the determined time at free disposal of the lessor, or fails to remove the new acquisitions and erections, the decision shall be carried out ex officio at the concessionaire's expense.

#### Article 72

The negotiation of any problems and the settling of any disputes in connection with the granting, implementation, revocation, withdrawal or alteration of the act of concession relating to the maritime demesne is within the competence of the Ministry.

The ruling of the Ministry shall not be appealed against, but an administrative lawsuit is possible to be instituted.

### Chapter III

#### LAW AND ORDER IN THE MARITIME DEMESNE

#### Article 73

The competent body of the government administration shall before issuing the approval for the construction of the facility in the maritime demesne obtain the consent of the competent harbourmaster's office.

The construction referred to in paragraph 1 of this article shall be considered also the extension of the dry land by leveling it into the sea.



Article 74

The deposition of materials on the seashore or into the sea (from excavations, demolished buildings, waste matter etc.) shall be permitted only when approved by the administrative body competent for building construction matters.

The administrative body referred to in paragraph 1 of this article shall before making the decision obtain the consent of the body competent for environmental protection matters, water resources management and the competent harbourmaster's office.

Article 75

Solid, liquid or gaseous matters polluting the maritime demesne shall not be thrown, deposited or let flow into the sea or onto the seashore.

The materials that may not be deposited or let flow into the sea, depending on their origin, shall be prescribed by the competent ministers by special regulations with the approval of the Minister.

Any person noticing that the maritime public property has been polluted shall inform of the fact the nearest harbourmaster's office or its branch, or the nearest competent county office.

Article 76

In the maritime demesne it is prohibited to engage in works that could endanger the lives and health of people, do damage to waterborne craft and other installations or pollute the maritime demesne.

Article 77

The waterborne craft may empty waste oil bunkers, sludge deposits and other refuse only in places in the port or outside of it where there are installations for the reception of such materials.

If the harbourmaster's office ascertains that the non-emptying of bunkers referred to in paragraph 1 of this article may cause the pollution of the sea during the ensuing voyage, the shipmaster of the waterborne craft shall be ordered to empty these bunkers before leaving port.

If in the case referred to in paragraph 2 of this article the waterborne craft does not empty the bunkers of waste oils, sludge deposits and other refuse, the harbourmaster's office may prohibit the waterborne craft to leave port.

Article 78

In the case of pollution of the sea, the harbourmaster's office is authorized to prohibit the waterborne craft

to leave port, or order the detention of the waterborne craft that has caused pollution in the sea waters of the Republic of Croatia until the waterborne craft has defrayed the expenses of the removal of the noxious materials from the maritime demesne and other damage caused by the pollution, or has deposited sufficient security for the coverage of the damage.

#### Article 79

When the notification of maritime demesne pollution has been received by the harbourmaster's office, they shall inspect the site at once, establish the condition and cause of the pollution and, if possible, the amount of the damage caused.

The damage caused has to be established if possible in the presence of the one to whom the pollution is imputed, and if necessary also in the presence of experts and witnesses. A report shall be drawn up of the inspection.

The harbourmaster's office shall inform the competent body of the county of the pollution of the sea in order to proceed with adequate measures for the removal of the noxious materials from the maritime demesne.

#### Article 80

The physical or legal person using the equipment, installation and plant for the acceptance, storage and processing of oils in the maritime demesne shall, while unloading, transshipment or loading these goods undertake measures for the efficient prevention of leakage or discharge of these oils, or prevent the spreading of the discharged oil over the maritime demesne.

The pipelines and pipe connections of the ships with land installations have to undergo regular quarterly surveys by a committee of experts appointed by the harbourmaster's office.

One member of the committee referred to in paragraph 2 of this article shall be the representative of the legal or physical person referred to in paragraph 1 of this article.

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## **PART FOUR**

### **SAFETY OF NAVIGATION**

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#### Chapter I

#### GENERAL PROVISIONS

#### Article 81

The safety of navigation enacted by this Law refers to:

(1) The basic conditions that shall be conformable to: the navigable waterways in the internal waters and in the territorial sea of the Republic of Croatia, ports, waterborne craft of the Croatian flag as well as those sailing in the internal waters and in the territorial sea of the Republic of Croatia, floating facilities, the crew on waterborne

craft, navigation and pilotage on the sea, and

- (2) The control over the compliance with this part of the Law.

#### Article 82

The physical or legal person engaging in the public seaborne transport business, commercial company (hereinafter referred to as “company”) or body managing a port and company attending to the maintenance of navigable waterways and beacon age shall:

- (1) Organize the supervision of works relating to the safety of navigation,
- (2) Provide for the permanent supervision of the safety of navigation,
- (3) Keep track of the required data of importance for the safety of navigation.

#### Article 83

The Ministry shall investigate any accident in which a ship of the Croatian flag gets involved, as well as a ship of foreign nationality having an accident in the internal waters or territorial sea of the Republic of Croatia if the accident has resulted in the death or serious injuries of a Croatian citizen, major loss of or damage to property, or pollution of the maritime environment.

### Chapter II NAVIGABLE WATERWAYS

#### Article 84

The navigable waterway in the internal waters and in the territorial sea of the Republic of Croatia is the marine belt of sufficient depth and width for the safe navigation of a waterborne craft and, as circumstances require, also marked.

The facilities providing for the safety of navigation on the navigable waterways on the internal waters and on the territorial sea of the Republic of Croatia are: lighthouses, coasting lights, buoys and other navigation marks, signal stations and radio stations, optical, audible, electrical, electronic, radar and other aids for safe navigation.

For the use, or exploitation of the facilities providing for the safety of navigation on the navigable waterways a compensation fee shall be charged.

#### Article 85

The navigable waterways of the Republic of Croatia shall be looked after, their navigability maintained, provided with facilities for the safety of navigation and their good working order secured. Any change on the

navigable waterways and of the facilities providing for the safety of navigation which are essential for the safety of navigation shall be announced in the regular way in the Notices to Mariners (“Oglasima za pomorce”).

#### Article 86

The work to be done in satisfying the requirements referred to in articles 84 and 85 of this Law shall be the responsibility of the company "Plovput".

#### Article 87

For the installation of the lights and marks signaling the obstructions on the navigable waterway as well as for the exploration and exploitation of industrial and other mineral raw materials, or for the construction of installations on the waterway, the harbourmaster's office shall determine the position and distinction of the lights, or marks, as well as the measures to be taken for the safe navigation, after considering the obtained opinion obtained from the company "Plovput".

#### Article 88

The investor or owner of the facilities or means presenting permanent or temporary obstructions on the waterway (bridges, cables, sunken wrecks and the like) shall within the period of time determined by the competent harbourmaster's office, install and maintain lights and signals marking these obstructions.

If the person referred to in paragraph 1 of this article fails to install the required light or other signal, or if the installed light or other signal is not maintained in good working order, the company taking care of the maintenance and beacon age of the waterway shall at the request of the competent harbourmaster's office and at the expense of that person install the required light or other signal, or restore into working condition the defective light or other signal.

#### Article 89

The coastal radio stations shall carry on radio-communication service intended for the protection of human life and safety of navigation on the sea.

In rendering radio service, in accordance with the provisions on radio-communication referred to in paragraph 1 of this article, the coastal radio stations shall secure continuous watch and other necessary services.

The waterborne craft that are obliged to carry a radio station shall organize a round-the-clock watch while under way in compliance with the radio regulations.

### Chapter III PORTS

Article 90

The ports shall comply with the prescribed conditions of the safety of navigation.

Other questions in connection with ports that are not regulated with by Law shall be laid down in a special law.

Article 91

Ports may be those open to public traffic or those intended for special purposes if it has been previously established that the prescribed conditions for the safety of navigation in ports are complied with.

The ports open to public traffic or those for special purposes shall be instituted by a special legal provision, and the conditions of the safety of navigation in the ports open to public traffic or those for special purposes shall be determined by the Government of the Republic of Croatia.

Article 92

The managing body of the port shall maintain the port so as to secure safe navigation.

Article 93

The managing body of the port open to public traffic shall on terms of equality make it possible for any physical and legal person to use the wharfage, waterfronts, moles and other facilities in the port according to their purpose and within the capacity of the available facilities, if not otherwise provided by this Law or by another law.

As regards the exploitation of a port open to international traffic and the payment of port dues the foreign waterborne craft are equal to the Croatian ones, on terms of reciprocity.

Article 94

The foreign waterborne craft shall on arrival in the port lodge with the competent harbourmaster's office a general statement, health statement and extract from crew list and passenger list.

When leaving port the foreign waterborne craft shall hand in the extract from the crew list and the passenger list for those persons only that had been embarked or disembarked while the waterborne craft was in the port.

The foreign waterborne craft arriving from a Croatian port shall not lodge in the next Croatian port extracts from the crew list and passenger list for those persons that are not embarked or disembarked in that port.

Article 95

The foreign nuclear ship intending to call at a Croatian port open to international seaborne trade shall apply for permission to enter the port and in due time submit a certified copy of the documents concerning the safety of the nuclear plant to the Ministry for assessment of the ship's likelihood to cause nuclear damage.

The Ministry shall grant the ship referred to in paragraph 1 of this article approval to enter the Croatian port if it has ascertained that the ship presents no danger of causing nuclear damage and if the ship, at the Ministry's request, offers adequate security up to the amount referred to in article 857 of this Law.

Before the foreign nuclear ship that has been granted approval referred to in paragraph 2 of this article has entered port, the competent harbourmaster's office shall give an order to the authorized company to verify, in the most suitable place, the validity of the nuclear ship's safety certificate and to make a survey to ascertain whether the ship presents any danger of causing nuclear damage. The harbourmaster's office may, if necessary, carry out repeated inspections during the ship's stay in the port.

Article 96

A foreign ship carrying more than 2,000 tons of oil, and not in possession of an insurance certificate or other financial security given for the proprietary liability for the damage caused by oil pollution referred to in article 846 of this Law shall not enter a port or leave a port of the Republic of Croatia or load or unload oil in these ports.

The provision of paragraph 1 of this article refers also to a ship carrying more than 2,000 tons of oil owned by a foreign State and not covered by insurance or other financial guarantee if it has not a confirmation of the State in which it is registered that the ship is the property of that State and that its liability is covered within the limits stated in article 842 of this Law.

Article 97

If in a port or other parts of the internal waters and the territorial sea a fire breaks out or another accident endangering the safety of human life or waterborne craft occurs, the competent harbourmaster's office shall order the nearest or any other ship to proceed without delay to the site of the fire or accident to the rescue of the endangered human lives.

Chapter IV  
NAVIGATION AND PILOTAGE

Article 98

In navigation the prescribed rules of navigation shall be applied, as well as the prescribed signals and marks that have to satisfy the requirements of safe and orderly navigation.

Article 99

Damaged, stranded or sunken waterborne craft obstructing or endangering the safety of navigation or presenting a dangerous likelihood of pollution shall by the order of the competent harbourmaster's office be removed from the navigable waterway.

Objects or materials that may obstruct or endanger the safety of navigation shall not be dumped into the navigable waterway.

Article 100

A waterborne craft coming from abroad shall not communicate with other ships, bodies, organizations and persons on the shore before being granted free pratique from the competent harbourmaster's office.

The foreign waterborne craft shall fly its country's flag while in the territorial sea or internal waters of the Republic of Croatia.

Article 101

A laid-up foreign waterborne craft may stay within the internal waters of the Republic of Croatia on conditions established by the Minister.

2. Pilotage

Article 102

Pilotage is the guidance of a waterborne craft by a competent person (pilot), and expert advice given to the captain of the waterborne craft for safe navigation in ports, straits and other areas of internal waters and the territorial sea of the Republic of Croatia.

Pilotage may be port pilotage and coastal pilotage.

Port pilotage is the piloting of a waterborne craft within the area of a port up to a certain limit, and coastal pilotage in a part of the internal waters and the territorial sea up to the limit of port pilotage.

Article 103

Piloting in the internal waters and in the territorial sea of the Republic of Croatia shall not be conducted by foreign legal persons without special approval of the Ministry. The approval shall be granted only if the pilotage cannot or does not want to be conducted by a native legal person.

The ruling of the Ministry granting or refusing to grant the approval referred to in paragraph 1 of this article

shall not be appealed against, but an administrative lawsuit may be instituted.

#### Article 104

Compulsory pilotage, its limits, time and place of the pilot's boarding and leaving shall be established, for port pilotage, by the harbourmaster's office, and for coastal pilotage by the Minister.

To compulsory pilotage shall not be subject:

(a) Croatian warships, Croatian public ships, ships employed in the maintenance of navigable waterways and facilities serving for the safety of navigation on these waterways, Croatian passenger ships and ferryboats plying a regular service,

(b) Ships whose gross tonnage is under 500 tons.

As an exception to the provisions referred to in paragraph 2 point (b), of this article the harbourmaster's office may for particular types of ships whose gross tonnage is under 500 tons prescribe compulsory port pilotage.

Pilotage shall be conducted exclusively by a company having the Ministry's approval for this activity.

The conditions on the basis of which the approval for conducting the pilotage service is issued shall be established by the Minister.

#### Article 105

Non compulsory pilotage terminates when called off by the piloted waterborne craft, or when entering the area of compulsory pilotage and the pilot is not authorized to conduct this pilotage.

#### Article 106

Pilotage shall be available to any waterborne craft on equal terms.

As regards the use of piloting services and the payment of the remuneration for these services the foreign waterborne craft shall receive the same treatment as the Croatian waterborne craft, on term of reciprocity.

The amount of the remuneration for pilotage services shall be established by the Minister in a special provision.

#### Article 107

The pilotage of a waterborne craft, regardless of whether compulsory or non compulsory, does not relieve the shipmaster of the duty to conduct the navigation and manoeuvre the waterborne craft and of the responsibility ensuing therefrom.

The operator of the waterborne craft using the pilot's services is responsible for the pilot's actions and



failures in the same way as for the actions and failures of a crew member of his own ship.

#### Article 108

The indemnification of the damage caused by the pilot to the operator of the waterborne craft using pilotage services is the responsibility of the company employing the pilot at the moment when the damage was caused, up to the amount of the basic compensation at the rate for pilotage service rendered multiplied by the factor 300 if it has been proved that the blame for the damage lies with the pilot.

A contract limiting the liability of the company conducting compulsory pilotage, concluded contrary to the provision of paragraph 1 of this article before the damage to the ship operator has been caused shall have no legal effect.

The contract limiting the liability of a company responsible for compensating the damage caused by non-compulsory pilotage, concluded before the damage has been caused, for an amount that is less than the amount referred to in paragraph 1 of this article, shall have no legal effect.

#### Article 109

If the law does not exclude the possibility of claiming damages directly from the pilot by whom the damage has been caused, the provision of article 108, paragraph 1, of this Law shall be applicable also to the pilot, except when the damage has been caused by the pilot intentionally.

The pilot's responsibility, together with the responsibility of the company employing the pilot, or together with the responsibility of any other legal person in whose employ the pilot may be, shall not exceed the limit of responsibility referred to in article 108 of this Law, unless it can be proved that the damage has been caused by the pilot intentionally.

### Chapter V THE SHIP

#### Article 110

The ship is seaworthy within defined limits of navigation and for a specific purpose:

(1) if it satisfies adequate conditions prescribed by law and the technical rules of the Croatian Register of Shipping (hereafter: technical rules) regarding:

- (a) Protection of human life at sea,
- (b) Safety at work and of the accommodation of crew and other persons employed on shipboard,
- (c) Accommodation of passengers on shipboard,
- (d) Protection of the ship,
- (e) Protection of the cargo on shipboard,

- (f) Protection of the environment from pollution coming from the ship,
- (2) If it has the prescribed number of qualified crew members,
- (3) If the accommodation and number of passengers on shipboard is in compliance with:
  - The provisions and terms stated in the ship's papers, books and approved technical documents of the ship,
  - The rules regulating the conditions for the carriage of passengers,
- (4) If the cargo on board has been loaded, stowed, distributed and adequately secured in compliance with:
  - The provisions and terms stated in the ship's papers, books and approved technical documents of the ship,
  - The rules regulating the conditions of the carriage of cargo.

#### Article 111

The seaworthiness of the ship in compliance with the provisions of article 110, point 1, of this Law shall be confirmed by technical supervision. The technical supervision shall be effected by the Croatian Register of Shipping (hereafter: Register) in compliance with the technical rules.

The seaworthiness of a ship according to the provisions of article 110 points (2), (3) and (4), of this Law shall be established by inspection, regular examination of the documents, and in instances prescribed by law, if necessary, by surveying the ship or parts of it.

The Register shall effect the survey of the ship's seaworthiness on their own initiative in instances prescribed by the provisions or their rules, or at the request of the inspectors or other interested persons.

#### Article 112

The technical inspection of the ship in compliance with the technical rules comprises:

- (1) Approval of the technical documents on the basis of which the ship is being built or reconstructed,
- (2) Approval of the type of machinery, installations and equipment to be built into the ship,
- (3) Supervision of the construction or reconstruction of the ship,
- (4) Supervision of the construction of the machinery, installations and equipment to be built into the ship,
- (5) Survey of existing ships,
- (6) Establishment of the aptness of the organization of the ships' operators with regard to the safety of work and the protection of the environment during the exploitation of the ships.

Article 113

The surveys of existing ships may be: initial, regular and occasional.

Article 114

The initial survey is the obligatory survey to which the existing ship is liable before the beginning of the ship's exploitation on the occasion of:

- (1) The registration in the register of ships,
- (2) An alteration of the ship's assigned purpose, limits of navigation or of other properties of the ship to which the provisions of the technical rules apply.

Article 115

The regular surveys are the obligatory surveys to which the existing ship is liable at intervals prescribed by the technical rules.

Article 116

The occasional survey is the obligatory survey to which the existing ship is liable:

- When it has suffered an accident (damage) or when defects have been observed that may influence the ship's seaworthiness,
- When the ship has been repaired or parts of it have been refurbished,
- When regular surveys have been delayed in compliance with the provisions of the technical rules,
- When the ship has been laid up for more than one year,
- When the ship's assigned purpose or area of navigation has been provisionally altered,
- When so demanded for a certain ship by the Register, in addition to the regular surveys.

Article 117

The survey of the ship to ascertain its fitness to make a trial trip is an obligatory survey to which a ship is liable before going on a trial trip.

The scope of the survey shall be such as to make it possible to ascertain without any doubt that the ship satisfies the special conditions prescribed for the performance of the trial trip.

The provisions of paragraphs 1 and 2 of this article shall be applied to any ship flying during the trial run the flag of the Republic of Croatia, or the flag of another State if the trial trip is made within the internal waters and territorial sea of the Republic of Croatia.

#### Article 118

The scope and method of making the initial survey and survey in order to ascertain the seaworthiness necessary to make the trial trip, as well as the kind, frequency, scope, method of making them and the possibility of delaying the regular surveys shall be re prescribed by technical rules.

#### Article 119

The ship's condition and that of its equipment shall be maintained so as to retain the ship's seaworthiness in every respect without running any risk of the ship, persons on board, cargo and maritime surroundings being endangered.

#### Article 120

When the supervision of the construction or reconstruction of the ship, or any survey of the ship have been completed, no alterations or reconstruction of any kind of the ship's construction, machinery plant, equipment or other parts to which the requirements of the technical rules apply shall be made without the previous approval of the Register.

#### Article 121

The Register may exempt any ship of the new type, a ship not on a regular international service, or a ship plying in protected areas, and to which the provisions of international treaties apply, from the compliance with these provisions in instances and on the terms referred to in these treaties, if it has been ascertained that the ship is seaworthy under the condition of exemption.

The Register may exempt from the compliance with the provisions of the technical rules in instances and on the terms provided in these rules a ship to which the provisions of international treaties do not apply if it has been ascertained that the ship is seaworthy under the conditions of exemption.

#### Article 122

The Register may find a cargo ship seaworthy for the occasional carriage of passengers within the limits of the internal waters and the territorial sea of the Republic of Croatia if they ascertain that the ship is fit for the carriage of passengers under special conditions.

Article 123

The measurement of the ship shall be made to determine the tonnage of the ship.

Article 124

The tonnage measurement of ships shall be made by the Register in compliance with the technical rules.

Article 125

Under the provisions of this Law subject to tonnage measurement shall be:

- (1) any ship being registered with the Croatian Register of Shipping,
- (2) a foreign ship subject in a Croatian port to the payment of a remuneration the amount of which depends on the ship's tonnage if measured according to rules whose provisions are in essence different from the provisions of the technical rules.

Article 126

The tonnage measurement of a ship under the provisions of this Law shall be made before its registration with the Register of Shipping.

Article 127

Renewed tonnage measurement of a Croatian ship is made:

- (1) If after the tonnage measurement alterations have occurred in the distribution, design, capacity, use of space, number of passengers the ship is permitted to carry, assigned freeboard or permitted draft of the ship, causing an alteration of the ship's tonnage,
- (2) If there is suspicion about the correctness of the tonnage measurement already made,
- (3) If the inland navigation ship is being registered in the register book of seagoing ships.

In the case of renewed tonnage measurement, in compliance with the provisions referred to in paragraph 1 of this article, the register shall decide, depending on the reconstruction made, whether the renewed tonnage measurement has to be carried out in its entirety or in part only.

Article 128

The ship's papers that the ships are obliged to have serve as proof of the identity, seaworthiness and other properties of the ship.

In the ship's books that the ships are obliged to keep shall be entered data concerning the more important occurrences and work done on board.

Article 129

The ship's papers and books prescribed by this Law shall be written in the Croatian language.

The ship's papers and books issued on the basis of international treaties shall contain also a translation into the English language if this is required by the provisions of these treaties.

Article 130

The ship's papers and books prescribed by this Law shall be on board and always available for inspection.

Article 131

To a ship registered in the register book of seagoing merchant ships, register book of seagoing fishing ships, and register book of seagoing public ships a certificate of registration shall be issued.

The certificate of registration is proof of the Croatian national character of the ship, with a note that the ship has the right and obligation to fly the colors of the Republic of Croatia, the ship's assigned purpose and area of navigation.

The certificate of registration contains all the entries from the insert of the main ship register book in which the ship is registered.

In case of non-conformity of the contents of the certificate of registration with the contents of the ship register book regarding the registered rights, the rule in force shall be the entry in the ship register book.

The certificate of registration shall be issued by the harbourmaster's office that has entered the ship into the register book.

Article 132

The harbourmaster's office that has issued the certificate of registration shall, ex officio, enter into the ship's certificate of registration the entries from article 131 of this Law.

When the ship's name, port of registry, tonnage, system of propulsion, distinctive signal, assigned purpose

or area of navigation have been changed, the certificate of registration has also to be altered.

#### Article 133

The provisional navigational certificate shall be issued to a ship procured in a foreign country that has not yet obtained a certificate of registration, or to a ship that is abroad and whose certificate of registration has been lost.

A ship that has not yet been registered with the Croatian Register of Shipping shall with the provisional navigational certificate obtain Croatian national character and the right and obligation of flying the colors of the Republic of Croatia.

The provisional navigational certificate has a validity of up to one year from its issuance, but its validity may terminate even earlier, and that is at the moment of the ship's entry into the first Croatian port.

The provisional navigational certificate shall be issued by the diplomatic or consular representative of the Republic of Croatia.

#### Article 134

In addition to the documents referred to in articles 131 to 133 of this Law, the ships registered with the Croatian Registry of Shipping shall have:

- (a) Documents and books prescribed by the international conventions concerning the ship in question,
- (b) Documents and books prescribed by the Minister or by the Registry, serving as proof of the ship's seaworthiness or of its other properties, or documents and books relating to the major occurrences on board, if these documents are not comprised in point (a) of this article.

#### Article 135

The Minister shall prescribe the form of the documents and books issued on the basis of his rules if this is not prescribed by the international treaty.

The form of the documents and books issued by the Registry shall be prescribed by the Registry if this has not been prescribed by the international treaty.

The forms of the documents and books issued by the Register shall be gazetted in the special edition of the Register.

The expiry dates of validity, possibility of the renewal of validity, conditions under which particular documents are invalidated are details to be provided for by the provisions brought in by the Minister, or by the technical rules of the Register.

### Chapter VI FLOATING FACILITY

#### 1. Establishing the Suitability for Use of the Floating Facility

Article 136

The floating facility shall be suitable for use in a specifically approved location and for a defined purpose on condition that:

- (1) It complies with the adequate provisions of the technical rules of the Register as regards:
  - (a) The protection of human lives at sea,
  - (b) The safety at work and during the accommodation of the crew and other persons employed on the facility,
  - (c) The accommodation of other persons on the facility,
  - (d) The protection of the facility,
  - (e) The protection of the cargo on the facility,
  - (f) The protection of the environment from the pollution caused by the facility,
- (2) It has the required number of qualified crew members and other persons employed on the facility,
- (3) The accommodation and number of other persons are in compliance with:
  - The provisions and conditions stated in the documents, books and approved technical documents of the facility,
  - The regulations concerning the conditions of the stay of other persons on the facility,
- (4) The cargo on the facility is loaded, stowed and secured correctly and in compliance with:
  - The provisions and terms stated in the documents, books and approved technical documents of the facility,
  - The regulations concerning the conditions of stowing the cargo,
- (5) The facility is securely moored, anchored or lying on the seabed in a suitable location.

Article 137

As regards the establishment of the suitability for use, technical supervision and survey of floating facilities the provisions of articles 110 to 122 of this Law relating to the ship shall be adequately applied.

2. Tonnage Measurement of the Floating Facility

Article 138

As regards the tonnage measurement of floating facility the provisions of articles 123 to 127 of this Law relating to the ship shall be adequately applied.



### 3. Documents and Books of The Floating Facility

#### Article 139

The floating facility shall have books, certificates and documents evidencing its specific characteristics in compliance with the regulations.

#### Article 140

To the documents and books of floating facilities the provisions of article 131 to 135 of this Law shall be adequately applied.

#### Article 141

The owner of the floating facility shall have the approval for the location of the berth, or anchorage of the facility, as well as of its position on the seabed (location).

The provisions referred to in paragraph 1 of this article shall be issued by the harbourmaster's office after previously obtaining expert opinions of the bodies of the communal administration competent for urban planning, communal and sanitary services.

#### Article 142

The floating facilities shall be registered with the harbourmaster's office in the record book for floating facilities in its territory.

The application for the registration of the floating facility in the above record book shall be submitted within 15 days from the date of the completed initial survey.

### Chapter VII THE BOAT

#### 1. Establishing the Seaworthiness of the Boat

#### Article 143

The boat shall be suitable for navigation and a defined purpose if its seaworthiness with regard to its design, navigability, propulsion and other installations and equipment has been established.

The manner of establishing the seaworthiness of the boat shall be prescribed by the Minister.

#### Article 144

The establishment of the seaworthiness of the boat shall be made by survey.

The survey of the boat may be initial, regular and occasional.

The survey of the boat shall be made by the harbourmaster's office, and exceptionally, when it is a question of reconstruction and change of the purpose for which the existing boats have been built, the survey may be made by the Register.

The initial survey shall not be made to check the design, navigability, propulsion unit, installations and equipment of the boat having a document attesting the building of the boat issued by the Register, or of a boat built in a foreign country if it has a document of an authorized technical organization in that country.

#### Article 145

The seaworthiness certificate of the boat issued by a foreign State shall be recognized on terms of reciprocity.

If a boat that has not been registered in the territory of the Republic of Croatia belongs to a foreign citizen who is not a resident of the Republic of Croatia and the boat has not a certificate of seaworthiness, the competent body shall ban the boat from navigation until its seaworthiness has been established by the boat's survey.

The provision of paragraph 2 of this article shall be applied also to boats whose condition is in evident discordance with their actual certificate of seaworthiness.

After the boat's survey in compliance with the provision referred to in paragraph 2 of this article, the boat shall be issued a certificate of competence.

### 2. Tonnage Measurement of Boats

#### Article 146

The tonnage of the boat has to be measured. The tonnage measurement of boats has to be made in compliance with the technical rules of the Register.

If the boat's tonnage has been altered by repairs or reconstruction, the tonnage measurement of the boat shall be renewed.

The tonnage measurement of boats shall be made by the harbourmaster's office.

Chapter VIII  
THE SHIP'S CREW

1. General Provisions

Article 147

The ship's consists of the persons embarked to do work on board and who are on the crew list.

Article 148

To do the work by which safe navigation is ensured the ship shall have an adequate number of crew members with proper qualifications.

Article 149

The crew member of a ship of the Croatian mercantile marine engaged in work safeguarding navigation shall be a person of adequate age and of an adequate vocational experience and adequately certified to perform the work on board for which this occupational skill is required, and an apprentice training for obtaining a certificate.

The occupational ranks of the crew members in the Croatian mercantile marine shall be acquired through an adequate examination for a particular competency.

In addition to obtaining a certificate on the particular competency referred to in paragraph 2 of this article the crew members can also obtain special certificates.

The special certificates referred to in paragraph 3 of this article shall be obtained by passing an adequate examination.

A certificate of competency for work on shipboard shall be obtained only by a person physically and mentally fit to do work on shipboard, and not addicted to drugs or spirits, which shall be established by medical examination and periodical check-ups.

Article 150

The crew member shall do the work on board in compliance with his duties prescribed by law and the rules of navigation in such a way as not to endanger the safety of the traffic or damage the ship or the cargo on it, the safety of the passengers on board or other members of the crew and the environment from pollution with dangerous chemicals and noxious materials (oil, liquid fuel waste and their mixtures, waste water and other waste matter, as well as radioactive materials and their waste) from the ship.

Article 151

The watchkeeping crew member shall not relinquish the place and space of his assigned watch without the permission of the officer on duty.

The watch officer shall not relinquish his place in the watch while on duty without the permission of the master/commander.

Article 152

In areas of dense traffic, under conditions of limited visibility and in any other dangerous navigational situation, when automatic steering is used, the officer on duty and the helmsman shall have direct possibility of taking over the steering of the ship.

The change-over from automatic to hand steering and vice versa shall be carried out by the watch officer on duty on the bridge personally.

Article 153

As a member of the ship's crew shall sign on only a person in possession of a seaman's discharge book or permit to sign on.

The seaman's discharge book is a document showing the crew member's competency, health status, capacity in which the crew member has signed on and the time of his service on board.

The seaman's discharge book and permit to sign on are the identity papers of the person to whom they has been issued.

The seaman's discharge book shall be provided with the visa for the voyage abroad, issued by the competent harbourmaster's office, serve also as a passport, and authorize the person to be a crew member of a ship plying in the foreign trade and to go abroad in order to sign on or to return to the Republic of Croatia after signing off a ship in a foreign country.

Article 154

If the crew member is discharged from the ship during his employment on board or after its termination outside his port of shipment, the ship operator shall provide for his return to the port of shipment; if the ship operator fails to do this, the return journey to the port of shipment shall be secured by the diplomatic or consular mission of the Republic of Croatia at the expense of the operator of the ship from which the crew member was discharged.

Article 155

The costs of the crew member's return journey shall be at the expense of the ship operator.

The ship operator shall have the right of retention of the payment of any expenses of the crew member's return journey who has left the ship without approval so that the blame for the termination of employment lies with him, or if he has left the ship in consequence of a self-inflicted injury or illness caused intentionally or through gross neglect.

The expenses of the return journey of a crew member of the ship shall include the expenses for lodging, food and transportation of the crew member from the moment of his discharge from the ship to the moment of his return to the port of shipment or to his residence.

Article 156

The return journey shall be considered provided for also if the crew member has been secured adequate employment in a ship bound for his port of shipment.

In the case referred to in paragraph 1 of this article the crew member shall be entitled to the remuneration for the work done aboard that ship.

Article 157

The provisions of articles 153, 154, 155 and 156 of this Law shall be applied also to foreigners employed as crew members on Croatian ships.

Article 158

In foreign ports the crew member who is the citizen of the Republic of Croatia may, in order to protect his employment entitlements, approach the diplomatic or consular missions of the Republic of Croatia.

Article 159

The crew member shall without delay inform the shipmaster, or the officer on duty:

(1) of any extraordinary event likely to endanger the safety of the ship, passengers, other persons or cargo on board and pollute the environment with oil, dangerous chemicals and noxious materials from the ship,

(2) when, sailing on navigable waterways in the internal waters and the territorial sea of the Republic of Croatia, he finds that particular lighthouses, lights and other aids to navigation are out of order or the marks or beacon age are not in their positions.

The shipmaster shall without delay inform the competent harbourmaster's office on the malfunctions referred to in paragraph 1 point (2), of this article.

In case of danger, shipwreck or other distress the crew members of the ship shall do their best to save the ship, passengers, other persons on board, and cargo, as well as protect the environment until the shipmaster gives the order for the ship to be abandoned.

#### Article 160

The ship operator shall compensate the crew member for any damage caused to his personal gear on board destroyed or damaged on the occasion of shipwreck or any other distress on board.

In case of shipwreck the crew member in the ship operator's employ is entitled to a compensation for every day of the actual duration of unemployment to the amount of the pay due to him according to the ship's articles, so that the total of the compensation to be paid to him shall not exceed the amount of his two months' pay.

As to the return journey of the crew member of the shipwrecked ship the provisions of articles 154 to 157 of this Law shall apply.

#### Article 161

Any loss caused by physical injury or death of the crew member shall be the responsibility of the ship operator if he fails to prove that the blame does not lie with him.

The loss referred to in paragraph 1 of this article caused by a dangerous material or through dangerous activity is the responsibility of the ship operator in compliance with the general rules concerning the responsibility for the damage caused by dangerous materials or dangerous activities.

The ship operator shall be held responsible for the loss referred to in paragraph 1 of this article that the crew member has suffered at work or in connection with the work on board due to the non-existence of conditions for safe work if the fails to prove that the crew member has caused the loss intentionally or through gross neglect.

For any legal dispute of the crew member with the ship operator, as well as for disputes of the shipmaster with the ship operator the real competence shall lie with the commercial courts competent for the settlement of maritime disputes.

## 2. The Shipmaster

#### Article 162

The crew and all other persons on board the ship shall be under the command of the shipmaster.

The shipmaster shall be a citizen of the Republic of Croatia.

The shipmaster shall be appointed and relieved by the ship operator.

In case of death, prevention from exercising duties, or absence of the shipmaster, his place with all his competency shall be taken by the highest ranking crew member of the deck department who is a citizen of the Republic of Croatia.

The provision of paragraph 2 of this article shall not apply to the yacht of a foreign owner registered with the Croatian ship register (article 202 paragraph 1 point (3)).

#### Article 163

The shipmaster shall be responsible for the safety of the ship and the law and order on board and, within the limits prescribed by this Law and other rules, he shall be the representative of public authority on board and represent the ship operator.

If the skipper of the foreign yacht registered with the Croatian ship register is a foreign physical person or a stateless person, the representative of public authority referred to in paragraph 1 of this article shall be the highest ranking deck officer if he is a citizen of the Republic of Croatia or if his residence is in the area of the Republic of Croatia.

#### Article 164

The shipmaster shall attend to the provision of the ship's supplies, the ship's administration its maintenance, the maintenance and good condition of the hull, machinery, installations and equipment of the ship, safety of the ship's equipment for the embarkation and disembarkation of passengers and the handling of dangerous and other cargoes, to the correct loading, stowage, carriage and unloading of the cargo, the correct embarkation, accommodation and disembarkation of passengers, and to the performance of any tasks in connection with the process of work.

The shipmaster shall within the prescribed periods of time carry out boat drills and exercises with other life-saving appliances and installations for detecting, preventing and fighting fires.

The shipmaster shall be on board during the time of navigation.

Before the beginning of the voyage the shipmaster shall check the good condition of the ship and the amount of supplies sufficient to make the anticipated voyage possible and make sure that all the prescribed documents and books and crew members are on board, and in case of the transport of passengers - especially establish whether all measures for the safety of passengers have been undertaken.

#### Article 165

The shipmaster or the deck officer of the watch in charge of navigating the ship shall undertake any measure essential for the safety of the ship and navigation.

The shipmaster shall be in command of the ship in person whenever this is required by the safety of the ship, and especially when the ship is entering a port, channel or river or leaving them, as well as when visibility is limited.

The presence of the pilot on board shall not exonerate the shipmaster from responsibility for the navigation of the ship.

#### Article 166

In the event of incidents endangering the ship or the persons on board, the shipmaster shall undertake every measure for the rescue of persons and elimination of danger to the ship and things on board, as well as for the protection of the surroundings.

If in the case referred to in paragraph 1 of this article it is necessary to sacrifice the ship or damage the cargo or other things on board, the shipmaster shall sacrifice or damage the cargo, other things or the ship's installations or equipment not essential for navigation, or parts of the ship the sacrifice or damage of which will cause a lower amount of loss to the ship operator and persons interested in the cargo on board the ship.

#### Article 167

If in the event of danger to the ship every measure taken to save the ship has remained futile, and if the loss of the ship is unavoidable, the shipmaster shall first of all take measures for the rescue of passengers and other persons on board, remove the ship before sinking from the navigable waterway in the internal waters if this is possible and give the abandon ship order.

In the case referred to in paragraph 1 of this article the shipmaster shall take every measure necessary to save the ship's logbook, and if the conditions of the event permit it, also measures to save other ship's books, documents, sea charts of the voyage in question, and cash in the ship's safebox.

The shipmaster shall abandon the ship only when he has, within the bounds of actual feasibility, taken every measure referred to in paragraphs 1 and 2 of this article.

#### Article 168

In case of an occurrence on board endangering the safety of the ship or of navigation, or in case of an exceptional incident happening to the ship, passengers, other persons, cargo or things on board, or if pollution by oil, dangerous chemicals and noxious materials on the navigable waterway is noticed, the shipmaster shall enter in the ship's logbook a description of the event, or remark on the pollution of the navigable waterway without delay, and not later than within 24 hours.

The shipmaster referred to in paragraph 1 of this article shall submit a report to the harbourmaster's office on the event referred to in that paragraph together with the extract from the ship's logbook immediately after arrival, but not later than within 24 hours.

If the event referred to in paragraph 1 of this article occurred while under way the shipmaster shall submit the report on the event, together with the extract from the ship's logbook, within the period of time referred to in paragraph 1 of this article to the harbourmaster's office at the ship's first port of call, or to the diplomatic or consular mission of the Republic of Croatia if the ship is in a foreign country.



The shipmaster referred to in paragraph 1 of this article shall enter in the ship's logbook the birth and death of any person on board, recording the place, geographical position of the ship and the time of birth or death, and take the last will deposition and this statement record in the ship's logbook, stating the time when the last will deposition was taken.

The shipmaster shall make a written report in due form stating the fact of birth or death and the taking of the last will deposition and submit it to the competent body at the first domestic port of call, and in a foreign country to the nearest diplomatic or consular mission of the Republic of Croatia.

#### Article 169

The shipmaster shall transmit by telecommunication information on any immediate danger to the safety of navigation he comes across, especially if he notices any change on the navigable waterway referred to in article 159, paragraph 1 point 2), of this Law, if he observes oil pollution, dangerous chemicals and noxious materials, dangerous ice, perilous gale or any other immediate peril to navigation, or a tropical storm, air temperature below the freezing point accompanied by winds of gale force causing heavy accumulation of ice on the deck erections, or a wind of force ten or more on the Beaufort scale for which no gale warning has been received.

The shipmaster shall make a note of the information transmitted referred to in paragraph 1 of this article in the ship's logbook.

#### Article 170

If the ship meets with an accident or if a defect has been discovered that has an influence upon

(1) The safety of the ship, or the efficiency or integrity of the life-saving devices or other equipment,

(2) The integrity of the ship, or the efficiency or integrity of the equipment for the protection of the environment from pollution by oil, dangerous chemicals and noxious liquid materials, the shipmaster or ship operator shall as soon as practicable inform the Croatian register of ships, which will institute the procedure of ascertaining whether an adequate survey of the ship is required.

If the ship is in the port of another contracting State of the corresponding international convention, the shipmaster or ship operator shall also immediately inform the adequate bodies of maritime administration of the State in the port of the ship's call.

The shipmaster or ship operator shall by the most urgent telecommunications connection inform the maritime administration of the nearest coastal State of the event in connection with the leakage or possible leakage of oil, noxious liquid matter or release of noxious packed materials.

#### Article 171

In case of the imminent threat of war, the shipmaster shall take every precaution that appears to be essential, especially with the view to saving the ship, passengers, cargo and other property, as well as the ship's documents and books.

If a state of war sets in between the Republic of Croatia and another State, the shipmaster shall take the necessary measures to protect from the enemy the ship, persons, cargo and other property, as well as the ship's documents and books.

If the ship, in case the state of war has set in between other States in which war the Republic of Croatia is a neutral party, is in the port of a belligerent State, or heading for the port of a belligerent State, or has to pass through the internal waters or territorial sea of the belligerent State, the shipmaster shall ask the ship operator for instructions, and if this is not possible instructions from the competent Croatian bodies.

#### Article 172

The shipmaster, representing the ship operator, is authorized at a place outside the ship operator's home office for and on his behalf to enter into salvage agreements and legal transactions indispensable for the completion of the voyage, and at a place outside the ship operator's home office where there is no authorized representative of the ship operator to enter into maritime navigation contracts, apart from the time charter for the whole ship.

The shipmaster is authorized, in the capacity of the ship operator's representative, to initiate with foreign court and administrative bodies proceedings intended to protect the ship operator's rights and interests in transactions referred to in paragraph 1 of this article and in these proceedings undertake procedural actions.

If the ship operator places restrictions on the legal authorization of the shipmaster, these restrictions shall have no legal effect upon third parties unaware of them or who could not under the circumstances be aware of them.

#### Article 173

The shipmaster is authorized and obliged to give to all persons on board orders intended to make the ship and its navigation safe, and to maintain law and order on board, and to supervise the enforcement of the orders given.

In order to maintain law and order and safety on board the shipmaster is allowed to keep the necessary firearms on board, while the crewmen are not allowed to have weapons on board.

#### Article 174

It is within the shipmaster's competence to restrict the freedom of movement on board during the voyage of any person seriously endangering the safety of the ship, of the crew members and other persons, the things on board and the environment by oil pollution, dangerous chemicals or noxious materials.

The freedom of movement shall be restricted only if it is imperative for the safety of the passengers and other persons and things on board or for the protection of the ship or the environment, and shall for a foreign citizen or stateless person last not longer than by the ship's arrival at the first port of call, and for the citizen of the Republic of Croatia not longer than by the arrival of the ship at the first Croatian port.

The measures referred to in paragraphs 1 and 2 of this article shall be recorded with comment in the ship's logbook.

Article 175

It is within the competence of the shipmaster to suspend the crew member who endangers the safety of navigation, and if circumstances require to disembark him and repatriate him (article 154).

Article 176

The shipmaster has the right, in case of need and for its duration, to reduce the ration of food and water for all the persons on board in order to rationalize the use of the existing food and water supplies on board.

The measures referred to in paragraph 1 of this article shall be recorded with comment in the ship's logbook.

Article 177

If in the course of the voyage a crew member, passenger or any person on board commits a criminal offence, the shipmaster shall, according to the circumstances, take measures necessary to prevent or mitigate the occurrence of harmful consequences of the offence and bring the perpetrator to book.

If there is risk of the perpetrator's repeating the offence or of his escaping, the shipmaster shall have the perpetrator's freedom of movement on board restricted or have him arrested, have by the examination of the perpetrator, witnesses, eye-witnesses and injured parties all the circumstances under which the offence has been committed and the resulting consequences, established a protocol on each hearing made, the Articles on which or by which the offence has been made or on which the traces of the offence made are visible placed in safe custody as material evidence, and other measures taken in order to establish the circumstances under which the criminal offence has been committed.

If the ship is in a foreign country, the shipmaster shall submit a report on the criminal offence committed to the diplomatic or consular mission of the Republic of Croatia in the State whose port the ship has entered. The shipmaster shall deal with the perpetrator of the criminal offence in compliance with the instructions of the diplomatic or consular mission of the Republic of Croatia.

After arrival at the first Croatian port of call the shipmaster shall hand over the perpetrator of the criminal offence to the body of internal affairs in that port with the written report on the criminal offence committed and protocols and Articles referred to in paragraph 2 of this article.

The measures referred to in paragraphs 2 and 4 of this article shall be recorded with comment in the ship's logbook.

Article 178

If any member of the ship's crew arbitrarily abandons the ship in port the shipmaster shall report this abandonment to the harbourmaster's office.

The shipmaster shall make up a protocol and establish what things and documents belonging to the crew member who has arbitrarily abandoned the ship have been left on board. The protocol shall be made up in the presence of two witnesses, and signed by the shipmaster and the witnesses.

The shipmaster shall enter in the ship's logbook a note on the arbitrary abandonment of the ship and on the things of the crew member left on board and of their delivery to the competent Croatian body.

The body in the port receiving the personal things and documents of the crew member who has arbitrarily abandoned the ship shall deliver them to his nearest family or his parents, and if this is not possible to the person appointed by the competent trusteeship body.

#### Article 179

The crew member shall be considered as arbitrarily abandoning the ship if he has not come back on board by the time of the ship's departure from the port.

If the crew member has been prevented from returning to the ship by the time of the ship's departure from the port he shall be considered as arbitrarily abandoning the ship if he does not report to the body referred to in article 178, paragraph 1, of this Law within three days from the day when the hindrance has been removed.

#### Chapter IX

#### INSPECTORAL SUPERVISION

#### Article 180

Inspectoral supervision of the enforcement of the provisions of this part of the Law shall be carried out by the safety of navigation inspectors of the Ministry and the harbourmasters' offices.

Jobs and duties within the competence of the safety of navigation inspectors include: nautical matters, marine engineering, hydroengineering radio service and protection of the sea from pollution by ships.

Jobs and duties of the safety of navigation inspectors may be carried out also by specialists of the Ministry and of the harbourmaster's office under special authorization given by the Minister.

#### Article 181

The inspectoral duties relating to the supervision of the enforcement of the provisions of this part of the Law concerning the Safety of Navigation include especially inspection supervision of:

- (1) Foreign ships in Croatian ports with regard to the protection of persons on board and the protection of the environment,
- (2) Croatian ships and boats with regard to their seaworthiness,
- (3) The enforcement of the international regime of ports in conformity with the international obligations of

the Republic of Croatia and the supervision of the condition of all the ports with regard to their wharves and other waterfronts, breakwaters, required depths, equipment, installations and other facilities intended for the anchoring and sheltering of ships, as well as for the embarkation and landing of passengers and things,

(4) The maintenance and marking of the navigable waterways in the territorial sea and the internal waters and facilities for the safety of navigation in these navigable waterways,

(5) The functioning of the radio service catering for the safety of navigation and protection of human life at sea, as well as its installations and equipment and the maintenance of the facilities and work of this service,

(6) The construction of facilities built in the territorial sea and internal waters or on their shores with regard to their influence upon the safety of navigation,

(7) The carriage of persons and things with regard to the protection of human life and property,

(8) The protection of the sea from pollution by ships,

(9) The functioning of the meteorological service on shipboard intended for the safety of navigation.

The provision of point (3) of this article shall not apply to naval ports.

#### Article 182

In performing the inspectoral supervision of the foreign ship in compliance with article 181, paragraph 1, point (1) of this Law the examination shall be made to verify the validity of the ship's certificates as to their compliance with the provisions of:

(1) The International Convention for the Safety of Life at Sea,

(2) The International Convention on Loadlines,

(3) The International Convention on the Prevention of Marine Pollution from Ships,

(4) The International Convention on the Standards of Training, Issuing Certificates and Watchkeeping of Seamen.

If the State whose flag the ship flies is not under the obligation of the Conventions referred to in the preceding paragraph of this article, the inspector shall examine whether the ship, in regard to its construction, equipment, crew, type, quantity and stowage of cargo, number of passengers and total load, can safely make the intended voyage.

When examining the ship's seaworthiness referred to in the preceding paragraph of this article consideration shall be taken in the first place, but not exclusively, of the contents of the Conventions referred to in the first paragraph of this article.

If the foreign ship has the valid documents as referred to in the first paragraph of this article, the inspectoral supervision shall be limited to the verification of:

(1) Whether the position of the loadline or freeboard corresponds to the data stated in these documents,

(2) Whether the ship is loaded in compliance with the given loadline or freeboard line, and whether the

cargo has been correctly trimmed according to the conditions stated in these documents.

In addition to the verification of the documents referred to in paragraph 1 of this article, the examination shall also have to show that the ship loading or unloading cargo has valid documents testifying to the good working order of the ship's cargo-handling installations and that the condition of these installations corresponds to the data stated in these documents.

#### Article 183

If in making the inspectoral supervision it is found that the foreign ship does not have the valid documents as referred to in article 182, paragraph 1, of this Law, or that the position of the loadline or the freeboard does not correspond to the data stated in these documents, or that the ship is not loaded in conformity with the given loadline or the freeboard line, or that the cargo is not evenly trimmed, the ship shall be prohibited from leaving port until it is rendered fit to proceed on the voyage without endangering the human lives aboard.

If it is found during the inspection supervision that the foreign ship, due to its defects, pollutes the surroundings by oil, dangerous chemicals or noxious materials, or that its slop tanks are full, or installations out of order, the ship shall be prohibited to leave port until the defects in it are eliminated.

If it is found during the inspectoral supervision according to the provision of article 182, paragraph 5, of this Law that the foreign ship does not have valid documents giving proof of the good order and condition of the ship's cargo handling installations, or if it is found that the condition of these installations does not agree with the data stated in the documents, the loading and unloading of the cargo with the ship's installations shall be prohibited.

If during the inspection supervision the defects referred to in paragraphs 1, 2 and 3 of this article are found, the competent body whose flag the ship flies shall be informed of the established condition through diplomatic or consular bodies and the International Maritime Organization.

The provisions of the foregoing paragraphs of this article shall by analogy be applied also to ships whose States are not bound by the pertinent Conventions.

#### Article 184

If there is justified reason for doubt that the condition of the foreign ship does not correspond to the data stated in the documents referred to in article 182, paragraphs 1 and 2, of this Law, or that the foreign ship has taken aboard a larger number of passengers than permitted, or that it does not have the minimum number of qualified crew members, and that it is obvious that the ship in this condition or with such a number of passengers and this condition of the crew should not be fit to proceed on the voyage without endangering the human lives aboard, the ship shall be forbidden to leave port until it is in a position to continue on the voyage without endangering the human lives aboard.

#### Article 185

In carrying out inspectoral supervision of the ship's seaworthiness in compliance with the provisions of article 181, paragraph 1, point (2), of this Law it shall be ascertained:

- (1 ) Whether the ship has the valid prescribed ship's papers and books,
- (2 ) Whether from the date of issuing or certifying the ship's papers issued on the basis of the ship's technical survey any essential changes have taken place making it obvious that the ship's condition is not fit for navigation without endangering the persons and cargo aboard, as well as the surroundings,
- (3 ) Whether the ship satisfies the conditions specified in article 110, points (2), (3) and (4), of this Law,
- (4 ) Whether the prescribed loadline mark or freeboard line is marked on the ship's sides,
- (5 ) Whether the skill of the crew in handling lifeboats and other life-saving appliances and fire-detecting, preventing and extinguishing appliances is adequate.

The inspectoral supervision shall also have to ascertain whether the ship has the valid cargo-gear register, and whether the condition of the cargo-handling installation corresponds to the data given in the cargo-gear register.

#### Article 186

If defects with regard to the ship's seaworthiness are ascertained by the inspectoral supervision in compliance with article 185, paragraph 1, of this Law, the shipmaster shall be ordered to eliminate within a given time the defects found.

If the defects found have not been eliminated within the given time, or if the defects found are of such nature as to endanger the safety of the ship, persons and cargo aboard and the environment, or if its slop tanks are full, the ship shall be forbidden to continue on the voyage until the referred to defects have been eliminated, and the ship shall be deprived of its seaworthiness documents.

If during the inspectoral supervision it is established that the ship does not have a valid cargo gear register in compliance with the provisions of article 185, paragraph 2, of this Law, or if the condition of these installations is not in compliance with the cargo gear register, the ship shall be forbidden to load, unload or tranship the cargo by means of its own cargo handling installations.

#### Article 187

If during the inspectoral supervision according to the provisions referred to in article 181, paragraph 1, point (3), of this Law it has been found that in the ports open to international traffic the regime in compliance with the international obligations of the Republic of Croatia has not been observed, or that the condition of the ports is such as to endanger the safety of the waterborne craft, the company or the body exploiting the port shall be ordered to take within a given time adequate measures or to undertake the necessary work to eliminate the defects found.

If the measures and work ordered in compliance with paragraph 1 of this article have not been completed within the time given, the safety of navigation inspector may:

- (1 ) Prohibit the landing of waterborne craft of a given size along part of the wharf or other waterfront which has been found defective until the safe landing of these waterborne craft is made possible,
- (2 ) Prohibit the use of the wharf or other waterfront or part of it, as well as of the anchorage directly

endangering the safety of the waterborne craft, persons and things on the occasion of loading, unloading or transshipment, or if there is danger of environmental pollution due to the defective installation,

(3) Prohibit traffic in the port and anchorage during the time the safety of navigation is directly endangered in consequence of the lack of maintenance of the port facilities or the required depths in a serviceable condition.

#### Article 188

If during the inspectoral supervision according to the provisions referred to in article 181 paragraph 1 point (4), of this Law it is found that the condition of the navigable waterway or of the facility securing the safety of navigation on the waterway is such as to endanger the safety of navigation, the order shall be given:

(1) To the company in charge of maintaining and marking the navigable waterways to mark the obstacle on the waterway provisionally, or to remove it and to install or activate warning signals and lights if they have been removed or are out of order,

(2) For the temporary prohibition of navigation if no measures for safe navigation have been taken.

If during the inspection supervision in conformity with paragraph 1 of this article also other defects in the navigable waterway which may endanger the safety of navigation are found, these findings together with suggestions of the measures to be taken shall be submitted to the Ministry and to the company in charge of maintaining and marking the navigable waterways so that adequate measures can be taken.

#### Article 189

If during the inspectoral supervision in conformity with the provisions of article 181, paragraph 1, point 5, of this Law it has been found that the maintenance of the radio-stations and the performance of the radio service are not in conformity with the regulations, the order shall be given for the defects found to be remedied within a given period of time, or the work of the radio station to be suspended.

If during the inspectoral supervision referred to in paragraph 1 of this article defects of a kind that may endanger the safety of navigation have been found, a report of the defects found with suggestions for their elimination shall be submitted to the Ministry.

#### Article 190

If the safety of navigation inspector finds that the building of facilities under construction in the internal waters and the territorial sea, or on their shores, has been carried out in a way endangering the safety of navigation, the contractor shall be given the order for temporary suspension of any further work, and if necessary the removal of the materials endangering the safety of navigation.

Under the facilities endangering the safety of navigation are understood also the facilities for the construction of which no approval has been obtained from the harbourmaster's office.



Article 191

If the safety of navigation inspector finds that a crew member has no certificate of competence for the kind of work for which he is engaged or has no valid seaman's document, he shall order the defects found to be eliminated within a given period of time.

If the crew member referred to in paragraph 1 of this article does not eliminate the defects found, the safety of navigation inspector shall order the shipmaster to sign off that crew member.

If the safety of navigation inspector finds that the crew member, pilot or leader of the boat is tired, sick or in such psychophysical condition as to be unable to perform work in connection with the safety of navigation, he shall order the shipmaster to relieve him from duty.

Article 192

If the safety of navigation inspector finds that the ship has embarked a greater number of persons or loaded a larger amount of cargo than permitted, or that the cargo has been stowed so as to endanger the safety of the ship or the persons on board, he shall order the surplus number of persons to be disembarked, or the amount of cargo exceeding the permitted limit to be discharged, or the cargo to be properly stowed.

If the shipmaster fails to execute the orders referred to in paragraph 1 of this article, the safety of navigation inspector shall prohibit the ship's departure, or forbid its further voyage.

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**PART FIVE**  
**NATIONALITY, IDENTIFICATION, REGISTRATION AND DEREGISTRATION OF SHIPS**

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Chapter I  
NATIONALITY AND IDENTIFICATION OF SHIPS

Article 193

A ship shall acquire Croatian nationality by its entry into an appropriate register of ships or by the issuance of a temporary certificate of registry.

Article 194

A ship which has acquired Croatian nationality shall have the right and duty to fly the flag of the Republic of Croatia.

The right and duty to fly the flag referred to in paragraph 1 of this article shall not apply to ships without crew.

When outside of the boundaries of the internal waters and the territorial sea of the Republic of Croatia, boats registered in the boat record book on the territory of the Republic of Croatia shall fly the flag of the Republic of Croatia.

#### Article 195

The flag of the Republic of Croatia is the sign of the Croatian nationality of a ship.

#### Article 196

The flag of the Republic of Croatia displayed on board a ship shall be identical in form with the flag of the Republic of Croatia, with the ratio of its hoist (width) to its fly (length) being 1:1.5.

#### Article 197

A ship registered in the Croatian Register of Ships, with the exception of technical waterborne craft and other floating facility, and ships which have been issued a temporary certificate of registry, shall bear a name.

A technical waterborne craft and a floating facility entered into a Croatian register of ships or which have been issued a temporary certificate of registry shall have a distinctive mark, and may, in addition to the mark herein, also bear a name.

Two ships may not have the same name, and two technical waterborne crafts or two floating facilities or two boats may not bear the same mark.

Rulings relative to names and marks of ships shall be issued by the Ministry in charge.

#### Article 198

A ship shall bear the name of the port of registry.

The port of registry shall be the port located in the area within the seat of the competent Ministry's the harbourmaster's office keeping the register of ships in which the ship is entered (hereinafter referred to as "harbourmaster's office").

#### Article 199

A ship and a boat carrying a radio equipment must bear a call sign in accordance with the rules of international radio-communications.

Article 200

A boat is granted Croatian nationality by way of its entry into an appropriate boat record book.

Chapter II  
REGISTRATION AND DEREGISTRATION OF SHIPS

Article 201

Every ship which is entirely owned by physical or legal persons, citizens of the Republic of Croatia, domiciled or with the place of business in the Republic of Croatia, must be entered into a register of ships.

Article 202

The following ships may be entered in a register of ships:

(1) A ship which is wholly or partially owned by a foreign physical or legal person or a stateless person, or a citizen of the Republic of Croatia domiciled abroad if the operator of such ship is a Croatian physical or legal person, resident or with the place of business in the Republic of Croatia, provided that the ship's owner has agreed to the request of the Croatian ship operator to enter such ship in a register of ships;

(2) A ship which is wholly or partially owned by a foreign physical or legal person provided that the Republic of Croatia exercises control of the administrative, economic, and technical issues concerning the ship, and on condition that such registration is approved by the Ministry;

(3) A yacht which is wholly or partially owned by foreign physical or legal person, or stateless person, or by a citizen of the Republic of Croatia who is not domiciled in the Republic of Croatia, provided that the yacht is predominantly stationed in the area of the sea of the Republic of Croatia.

A ruling whereby the registration of a ship specified in paragraph 1, point 2, of this article is rejected, need not contain a statement as to the reasons for which the registration was rejected.

Article 203

A ship under construction in a Croatian shipyard may, at the request of the shipowner, be entered in a register of ships under construction.

Article 204

Should provisions of article 201 and 202, paragraph 1, point (3), of this Law apply, the owner of a boat may require that the boat or yacht be entered in the register of ships, no matter whether the ship meets or not the

requirements referred to in article 5, paragraph 1, point (2), of this Law, whereupon the provisions of this Law relative to ships shall also apply to such a person, insofar as proprietary rights are concerned.

In the event of entering a boat as referred to in article 202, paragraph 1, point (3), of this Law in a register of ships, the owner of a boat shall be bound to authorize a Croatian physical or legal person, domiciled in the Republic of Croatia, to represent him, in his absence from the Republic of Croatia, before competent Croatian authorities.

#### Article 205

A ship registered in a foreign register of ships may not be registered in a Croatian register of ships.

#### Article 206

A ship shall be deregistered from a Croatian Register:

1. If she has been or if she is a presumed wreck;
2. If she no longer meets the requirements set forth in articles 201 and 202 of this Law;
3. If she is permanently withdrawn from service;
4. If she is registered in another Croatian register of ships.

It shall be presumed that a seagoing ship has been wrecked if a period of three months has elapsed since receipt of the last news of the ship. In such a case it shall be presumed that the ship has become a wreck as of the date of the receipt of the last news available on such a ship.

The provisions of paragraphs 1 and 2 of this article shall correspondingly apply to deregistration of ships under construction from the register of ships under construction.

#### Article 207

A ship may not be cancelled from a Croatian register of ships if this deregistration is opposed by a creditor who has a claim for which there is a maritime lien on the ship.

Should a hypothec be established on a ship, the deregistration of such ship from the register of ships shall be subject to the consent of the hypothecary creditor

In the cases referred to in paragraphs 1 and 2 of this article a competent harbourmaster's office may allow deregistration of a ship from the register of ships even without the consent of the hypothecary creditor, or despite the opposition of the hypothecary creditor having a maritime lien on a ship, provided that a sum of money equivalent to the claim of the aforesaid hypothecary creditor be deposited with the court, or if a security is given which the court, after having heard the hypothecary creditor, may find sufficient.

The provisions of this article shall also apply to ships under construction.

The provisions of this article shall however not apply to the deregistration of ships from the registers of ships referred to in article 206, paragraph 1, point 4, herein.

#### Article 208

The provisions of article 207 herein shall not apply to the transfer of the rights of ownership effected through abandonment in favour of the insurer.

#### Article 209

Registers of ships are public records.

Anyone has the right to inspect and copy the main register book, the file of documents, the list of ship owners, and the list of ships.

The harbourmaster's office keeping a register of ships is bound, against payment of a specific charge, to issue to a person requesting it a certificate of the state of entries in the register of ships or in the register of ships under construction, and a copy of the documents kept in the file of documents, if the entries in the register refer to such documents.

The certificates and copies of documents referred to in paragraph 3 of this article shall have the probative force of public documents.

Whoever, proceeding in good faith in legal intercourse, relies on data entered in a register of ships shall not bear any legal consequences arising therefrom.

#### Article 210

Seagoing ships may be registered in the following registers of ships:

- Register of merchant ships;
- Register of fishing ships;
- Register of ships used in public service.

For ships under construction there is a register of ships under construction.

#### Article 211

Registers of ships (hereinafter referred to as "registers of ships") and register of ships under construction (hereinafter referred to as "registers of ships under construction") consist of a main register book and the file of documents.

Article 212

The main book of a register of ships and of a register of ships under construction consists of inserts.

Such inserts consist of folio A, folio B, and folio C.

Exceptionally, an insert of the main book of a register of ships in public service may consist of folios A and B only.

Every ship must be registered in a separate insert.

Article 213

In folio A of the main book of inserts of a register of ships and a register of ships under construction there shall be entered data on the identity of ships or ships under construction and their basic technical characteristics.

Article 214

In folio B of the main book of a register of ships and a register of ships under construction there shall be entered the firm or the name and place of business of the legal person, or the name and domicile of the physical person, who is the owner of the ship, including any personal restrictions on the owner regarding the free disposition of the ship or the ship under construction.

In folio B referred to in paragraph 1 of this article there shall also be entered: the firm, or the name and place of business of the ship operator if the ship is wholly or partially owned by a foreign legal or physical person, provided that the entry of the ship is made in accordance with article 202, paragraph 1, point 1, of this Law. In other cases such data about the ship operator may be entered for the purpose of recording the existence of a ship operator who is not the owner of the ship.

In folio B of a register of ships under construction the firm or name and place of business, or personal name and domicile of the ship operator and the contractor (shipowner), may also be entered for record keeping purposes.

Article 215

In folio C of the insert of the main book of the register of ships there shall be entered the real rights with which the ship or part thereof is encumbered, and the rights acquired on the basis of these rights, charter by demise, time charter for the whole ship, the right of pre-emption, and any other restrictions on the rights to dispose of the ship, which are imposed on the owner of the ship so charged, bans on encumbrances and alienation, and all notices for which it is not explicitly specified that they must be entered in another folio of the insert.

Data referred to in paragraph 1 of this article relative to ships under construction shall be entered in folio C of the insert of the main book of the register of ships under construction.

Chapter III

REGISTRATION AND DEREGISTRATION OF BOATS

Article 216

A boat shall be registered in the boat record book kept by the harbourmaster's office, or its branch office, having jurisdiction over the domicile or the place of business of the physical or legal person owning the boat.

In exception to paragraph 1 of this article a boat may be registered in the boat record book with a harbourmaster's office, or its branch office, having jurisdiction over the area where the boat is permanently or temporarily staying or sailing.

Article 217

Entry in the boat record book shall be made of a boat which is wholly owned by a physical or legal person having domicile or place of business in the Republic of Croatia.

Entry in the boat record book shall be made of a boat which is wholly or partially owned by a foreign physical or legal person, a person having no citizenship, or by a citizen of the Republic of Croatia having no domicile in the Republic of Croatia, if the boat predominantly stays in the seas of the Republic of Croatia.

Article 218

A boat already registered in a foreign boat record book may not be registered in the Croatian boat record book.

Article 219

The boat record book is a public book, and an abstract from a boat record book shall have the legal force of a public document.

Article 220

A boat entered in a boat record book shall bear a mark and may also bear a name.

Article 221

A boat shall be deregistered from the boat record book:

- (1) If it becomes a wreck or is presumed wreck or if it has been destroyed,

- (2) If it no more meets the requirements of article 216 of this Law,
- (3) If it is permanently withdrawn from navigation,
- (4) If it becomes an appurtenance of a ship or another floating facility or is shortened, by means of conversion, to a length of less than three metres,
- (5) If it is entered in another Croatian boat record book.

A boat shall be deemed a wreck if a period of three months has elapsed since the receipt of the last notice on the boat. In such a case the boat shall be deemed a wreck as of the date following the day when the last notice of it was received.

Within 15 days of the date of the occurrence of the circumstances referred to in paragraph 1 of this article, the owner of the boat shall request the harbourmaster's office that the boat be deregistered from the boat record book.

#### Article 222

The provisions of the present chapter of this Law shall not apply to the following:

- (1) Boats which are the appurtenance of a ship or another floating facility,
- (2) Sport rowing boats
- (3) Boats up to three metres in length.

The provisions of paragraph 1, point 3, of this article shall not apply to boats of special design and propulsion enabling the boat to slide above the water surface (speed-boats, etc.) nor to boats used for the performance of economic operations.

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## **PART SIX PROPRIETARY RIGHTS**

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### Chapter I

#### RIGHT OF OWNERSHIP

#### Article 223

Ships and ships under construction are movables.

#### Article 224

Ships and ships under construction may be subject to proprietary rights and in particular to the right of



ownership, hypothec and maritime liens.

Ships, ships under construction, and yachts may be in co-ownership.

Unless otherwise agreed by the co-owners, co-ownership shall be divided into equal indivisible parts.

General regulations on proprietary rights shall correspondingly apply to the proprietary rights relating to ships and not governed by the Code herein.

#### Article 225

The provisions of articles 226 to 233, 206, 207, and 208 shall apply to the acquisition, transfer, restriction and cessation of the rights referred to in article 224 of this Law.

#### Article 226

Ships, ships under construction, or yachts of Croatian nationality may be owned by a domestic or foreign physical or legal person

A ship or yacht owned by a foreign physical or legal person may be of Croatian nationality under the conditions specified in article 202 of this Law.

#### Article 227

The right of ownership over a ship under construction shall include things built into such ship under construction.

Unless otherwise entered in the register of ships under construction, the right of ownership over a ship under construction shall also include things found in the precincts of the shipyard but which have not been built into the ship under construction, if according to their construction they are exclusively intended for being built into that particular ship or its appurtenances, or if they are distinctly identified or set aside as intended to be incorporated in that ship.

#### Article 228

When the right of ownership or any other proprietary right on a ship is acquired on the basis of a legal transaction, such transaction shall be effective only if it is made in writing.

A legal transaction not made in writing shall not have any legal effect.

#### Article 229

The right of ownership and other proprietary rights on a ship may be acquired, transferred, limited or

cancelled only by an appropriate entry into the register of ships.

No entry into the register of ships is required for the establishment of a maritime lien and legal effects caused to third parties arising from such a right.

The legal effect of an entry into the register of ships of the rights referred to in paragraph 1 of this article with respect to other entries shall depend on the ranking such entries have according to article 280 of this Law.

#### Article 230

The provisions of article 228, paragraph 1, of this law shall not relate to the following cases:

(1) Transfer of the right of ownership over a ship to the insurer through the acceptance of an insurer's statement of abandonment or through payment of compensation from insurance in accordance with article 722, paragraph 3, of this Law;

(2) Acquisition of the right referred to in article 228 of this Law through inheritance, maturity, or public judicial sale;

(3) Acquisition and cessation of the right referred to in article 228 of this Law on sunken ships, if such rights were acquired or ceased owing to a failure to raise the ship within the time limit specified in article 807, paragraph 2, of this Law.

(4) Ships declared booty or war prize at sea.

#### Article 231

The provisions of articles 228, 229, and 230 of this Law shall also apply to ships under construction that are being built in Croatian shipyards from the moment of their registration in the register of ships under construction, as well as to boats which have been entered into the register of ships at their owners' request.

#### Article 232

Appurtenances of a ship shall be deemed to be all things which by their purpose lastingly serve for its use even when they are temporarily separated from it.

Appurtenances of a ship shall also include all things listed in the ship's inventory.

#### Article 233

The transfer or alienation of a ship shall also include its appurtenances.

The transfer or alienation of a ship shall not include those parts of appurtenances in respect of which a notice was entered in the register of ships, with the consent of the owner of the ship, to the effect that they are part of another physical or legal entity.

Chapter II

HYPOTHECS AND MARITIME LIENS ON SHIPS

1. Hypothec on Ships

Article 234

A hypothec on a ship is a right entitling the creditor to satisfy his claim from the price of the ship obtained through a judicial sale.

In exception to paragraph 1 of this article, when a hypothec on a ship is executed abroad, by exercising the proceedings provided in a foreign legislation whereby judicial sale is not admitted, the creditor shall be entitled to settle his claims from the sum of the purchase price obtained for the ship at the public auction.

A contract on the hypothec on a ship may also contain the provision entitling the creditor to satisfy his due and unpaid claim by exploiting the ship if the debt is not duly paid.

A hypothec on a ship shall not be terminated by a change of the owner of the ship, unless otherwise specified by this Law.

Article 235

A hypothec on a ship may arise from a contract (contractual hypothec) or a court's decision (court hypothec).

Article 236

A sub-hypothec in favour of third persons may be established by a contract under conditions as referred to in article 234 of this Law.

In the cases referred to in paragraph 1 of this article a hypothecary debtor may pay his debt to a hypothecary creditor only if so allowed by the hypothecary sub-creditor, or if he deposits the sum due with the court. If the debtor fails thus to proceed, the hypothec on the ship shall remain in force for the claim of the hypothecary sub-creditor.

A hypothecary creditor may enter a contract as referred to in article 234, paragraph 3, of this Law after drawing up a contract on the mortgage on a ship only upon written consent of the hypothecary sub-creditor.

A contract contrary to the provision in paragraph 3 of this article shall be null and void.

Article 237

A hypothec on a ship shall also extend to the ship's appurtenances, except in the case when a note has been made in the register of ships to the effect that, with respect of article 233, paragraph 2, of this Law, the appurtenance

is part of ownership of another physical or legal person.

Article 238

A hypothec on a ship shall also extend to the following accessories of the ship:

- (1) Claims for damages for still unrepaired material damage suffered by the ship;
- (2) Claims arising from general average if they relate to still unrepaired material damage to the ship.

Article 239

A hypothec on a ship shall, unless otherwise stipulated, not extend to freight, passage money, towage remuneration and hire, nor to salvage rewards.

A hypothec shall not extend to exploitation and use of the ship, unless otherwise stipulated.

Article 240

A hypothec on a ship shall, unless otherwise stipulated, also extend to indemnity from the ship's insurance due to the owner of the ship.

A hypothec on indemnity from the ship's insurance shall be extinguished if the insurer pays the indemnity before the hypothecary creditor has notified him of the existence of the hypothec on the ship.

If the insurer has been notified of the hypothec on insurance indemnity, he shall not pay this to the insured party without the consent of the hypothecary creditor.

Article 241

A hypothec in favour of the principal shall also apply to the costs of entry of the hypothec and of legal and enforcement proceedings.

Three years arrears in interest charges due to the creditor on the basis of a contract or law shall have the same rank as the principal.

Article 242

When a ship sustains such damage or its condition is such that the hypothec does not provide sufficient security to settle the claims, the hypothecary creditor (pledgee) may demand settlement of the claims even before they fall due if the debtor has not offered him some other security for the difference created by this decrease in security.

Article 243

A ship encumbered with a hypothec may be permanently withdrawn from service only with the prior consent of the hypothecary creditors (pledges).

If there is no consent from the hypothecary creditors as provided for in paragraph 1 of this article, the hypothecary debtor (pledgor) has the right to demand from the court that the ship be sold at public auction.

Article 244

The provisions of this Law pertaining to hypothec on ships shall also apply to hypothecs on ships under construction which is entered in the register of ships under construction.

Article 245

A hypothec on a ship shall cease:

- (1) If the hypothec is cancelled from the register;
- (2) If the ship is sold in enforcement of bankruptcy proceedings;
- (3) If the ship is declared as booty or war prize at sea.

If in the case referred to in paragraph 1, point 3, of this article the ship is released, the hypothec shall be re-established.

Article 246

The rights and their ranks acquired by entry of a hypothec shall not be extinguished by the ship's deregistration from the register of ships because the ship being wrecked or presumed wrecked, or because she has been permanently withdrawn from service (cf. article 206, paragraph 1, points 1 and 3).

Article 247

A hypothec may for one and the same claim be entered undividedly on two or more ships or ships under construction, or on two or more claims arising from a hypothec (joint hypothec).

In the case referred to in paragraph 1 of this article the creditor shall be entitled to demand settlement of the entire claim from each individual ship encumbered with the hypothec.

Article 248

A hypothec on a ship may be entered in the national or foreign currency.

The hypothecary creditor shall have the right freely to dispose of the resources in the currency obtained by the judicial sale of the ship, or through the court sale of the ship or at public auction by virtue of article 234, paragraph 2, of this law.

Article 249

A hypothec entered in a foreign register on a ship that has acquired Croatian nationality, which is stated in the document on the deregistration of the ship from the foreign register, shall be recorded in a Croatian register of ships as a pre-emption entry of the hypothec on the ship, which right shall have the rank according to the moment decisive for determining its ranking in the foreign register.

The hypothecary creditor in whose favour such pre-emption entry has been made shall be bound to justify such pre-emption entry within 60 days from the date he was served the notice of the entry.

2. Maritime Liens on Ships

Article 250

The following shall give rise to maritime liens:

(1) Law costs incurred in the common interest of all creditors in enforcement or security proceedings instituted in order to preserve the ship or to procure its sale, and the costs of watching and surveillance from the time of the entry of the ship into the last port; port and light dues (i.e. dues for navigation security services); pilotage dues; claims arising from contributions for social insurance; claims of the competent authorities for ordered and effected raising or removal of a wreck;

(2) Claims arising out of the pays (wages and other sums) due to the master, officers and other members of the ship's complement;

(3) Claims arising from awards for salvage at sea and contribution of the ship in general average;

(4) Claims arising from indemnities for collisions or other accidents of navigation, as well as for damages caused to port works and structures, docks and navigable waterways; claims arising from indemnities for personal injury to passengers or crew; claims arising from indemnities for loss of or damage to cargo or baggage;

(5) Claims resulting from contracts entered into or acts done by the master, outside the ship operator's head office, while acting within the scope of his statutory authority, for the purpose of the actual needs of the preservation of the ship or the continuation of the voyage, irrespective of whether the master is or is not at the same time the owner or co-owner of the ship.

Maritime liens on a ship for the principal shall also apply to interest charges.

Article 251

Maritime liens on a seagoing ship shall also extend to its appurtenances.

Article 252

Maritime liens on a ship shall also extend to freight or passage money and towage remuneration, and also to the claims due for the award for the salvage rendered in the part of the voyage during which the claim secured by the maritime lien arose.

Article 253

Provisions pertaining to maritime liens on a ship shall not relate to claims arising out of indemnity for nuclear damage.

Article 254

Maritime liens shall not be extinguished by a change of the owner of the ship, unless otherwise specified by this Law.

Article 255

Maritime liens shall not relate to the ship owner's claims arising out of insurance contracts.

Article 256

For the purposes of the provisions of this Law pertaining to maritime liens (articles 250 to 264), freight or passage money of a ship shall be considered to be the freight or passage money owed to the ship operator by the charterer or by passengers.

Maritime liens on ships in favour of the persons referred to in article 250, paragraph 1, point 2, of this Law, which are owed for all voyages made during the same period of employment on the same ship, shall be charged to freight or passage money and towage remuneration referred to in article 252 of this Law.

Maritime liens for the claims referred to in article 250, paragraph 1, points 3 and 5, of this Law and for claims arising out of collisions or other accident of navigation and indemnity for damage caused to works forming part of harbours, docks, and navigable waterways as referred to in article 250, paragraph 1, point 4, of this Law, shall only extend to those claims that arise out of the salvage awards and which have occurred after such claims had arisen.

Article 257

Claims secured by maritime liens relating to one and the same voyage of a seagoing ship shall be settled in the order mentioned in article 250, paragraph 1, of this Law, and the claims referred to in article 250, paragraph 1, point 2, of this Law shall have the same rank as claims arising out of the last voyage.

If the claims referred to in individual points of article 250, paragraph 1, of this Law cannot be fully settled, they shall be settled in proportion to their amounts. With respect to the claims referred to in article 250, paragraph 1, points 3 and 5, of this law, any subsequent claims shall, with respect to each of these points, have priority over the previous claims.

Claims arising from one and the same occurrence shall be deemed to have come into existence at the same time.

Article 258

Claims secured by a maritime lien and attaching to the last voyage of a seagoing ship shall have priority over those attaching to previous voyages.

Maritime liens in favour of the persons referred to in article 250, paragraph 1, point 2, of this Law which arise out of one and the same contract of engagement extending over several voyages shall all rank with claims attaching to the last voyage.

Article 259

A maritime lien attaching to freight or passage money and towage remuneration may be carried into effect as long as the freight or passage money or towage remuneration are owed or until their amount is still with the master or agent of the ship.

A maritime lien attaching to claims arising out of a salvage reward may be carried into effect as long as the claim in question is owed or as long as the amount paid for this claim is still with the person holding the said amount on behalf and for the account of the debtor.

Article 260

Maritime liens on a ship shall cease to exist:

- (1) With the extinguishment of the claim secured by the maritime lien;
- (2) After the expiration of one year, and in cases of maritime liens as referred to in article 250, paragraph 1, point 5, of this Law, after the expiration of six months;
- (3) With the sale of the ship in enforcement or bankruptcy proceedings;



(4) By the constitution of a limitation fund for claims secured by the maritime liens and subject to limitation of liability.

Maritime liens on a ship shall cease to exist if the ship is declared a maritime seizure, or if the ship becomes booty or war prize at sea. If the ship is released, the maritime liens which according to paragraph 1, point 2, of this article did not cease to exist before the ship was captured shall be re-established.

#### Article 261

The term referred to in article 260, paragraph 1, point 2, of this Law shall be counted:

- For maritime liens securing claims arising from remuneration for assistance and salvage - as from the date the salvage operations were terminated;

- For maritime liens securing indemnities for collisions or other accident of navigation and indemnities for personal injury - from the date the damage was caused;

- From maritime liens securing indemnities for loss of or damage to cargo or baggage - from the date on which the cargo or baggage was handed over or should have been handed over;

- For maritime liens securing indemnities for repairs, provisions, and other claims as referred to in article 250, paragraph, point 5, of this Law - from the date the claim came into existence.

- In all other cases - from the date on which the claim became due.

The term specified in article 260, paragraph 1, point 2, of this Law shall cease to run by the institution of a lawsuit for the settlement of claims secured by maritime liens. This term shall cease to run by the institution of a lawsuit only if the ship has been arrested or if a notice of the lawsuit instituted has been entered in the register of ships in which the ship is registered.

When a judgment passed in the lawsuit which was the subject matter of the notice has become final, the maritime lien shall cease to exist within 60 days from the date the judgment becomes enforceable, if within this term the creditor has not demanded that the ship be sold, or if the court, at his request, has not arrested the ship. The creditor shall have the right within this term to demand from the court that his maritime lien on the ship be entered in the register of ships with the rank according to the moment the notice of the lawsuit for the realization of the maritime lien was entered in the register of ships.

#### Article 262

The provisions of this Law pertaining to maritime liens on ships shall also apply when a ship is exploited by a person who is not the owner of the ship, unless the ship has been taken away from the owner of the ship by an unlawful act, and if the creditor who has a lien on the claim fails to act in good faith.

#### Article 263

The cessation of a maritime lien on a ship shall not cease the claim secured by this lien.

The assignment of a claim secured by a maritime lien shall also result in the transfer of the maritime lien on the ship.

Article 264

Maritime liens on a ship shall not cease to exist by the ship being deregistered from the register of ships.

Article 265

The provisions of articles 250 to 264 of this Law shall not apply to ships entered in the register of ships in public service.

Article 266

The provisions of this Law pertaining to maritime liens on ships shall also apply to boats, yachts, and ships under construction when afloat.

Chapter III

PROCEDURE FOR REGISTRATION IN REGISTERS OF SHIPS

1. Common Provisions

Article 267

The provisions of this Law pertaining to the procedure of registration of ships in the registers of ships shall also apply to ships under construction, unless otherwise specified by this Law.

Article 268

Entries in registers of ships shall be made on the basis of rulings rendered by the competent harbourmaster's office.

A ruling on an entry in folio A of the insert of the main book of register of ships shall be rendered by the harbourmaster's office keeping the register in which the ship is entered.

A ruling on the first registration of a ship, rulings on entries in folio B and folio C of the insert of the main book of a register of ships, and rulings on the deregistration of a ship shall be rendered by the harbourmaster's office keeping the register of ships.

A ruling on the transfer of the registration of a ship from one Croatian register of ships to another Croatian register of ships shall be rendered by the harbourmaster's office keeping the register of ships where the ship is to be entered.

The registration procedure referred to in paragraph 2 of this article shall be carried out in accordance with the provisions of the General Administrative Procedure Act.

#### Article 269

Only the following may be entered in a register of ships: proprietary rights, charter by demise, time-charter for the whole ship, and the right of pre-emption.

#### Article 270

An entry in a register of ships shall contain the text of the ruling on the entry.

If because of the state of entries in the register of ships the ruling on an entry may not be carried into effect, the entry may only be carried into effect on the basis of a new ruling by which the previous ruling is corrected or altered.

#### Article 271

By virtue of this Law entries shall include:

(1) First registration in a register of ships - by which a ship which until then was not registered in a Croatian register of ships is registered in such a register.

(2) Entry in folio A - by which particulars on the identification of the ship and its technical characteristics are entered in folio A of the insert of the main book of the register of ships;

(3) Inscription - by which registration, transfer, restriction or cessation of rights is effected without any special justification (unconditional entry of rights and unconditional erasure);

(4) Pre-emption entry - by which registration, transfer, restriction or cessation of rights are effected subject to subsequent justification (conditional entry of rights or conditional erasure);

(5) Notice - by which personal relations important for the disposal of property or other facts are recorded, the notice of which is under law a condition for specific legal effects;

(6) Transfer of a ship's registration - by which a ship is transferred from one Croatian register of ships to another Croatian register of ships.

(7) Deregistration of a ship - by which the ship is deregistered from a Croatian register of ships.

#### Article 272

The right of ownership and other proprietary rights on a ship may be registered on the ship as a whole or a part thereof determined in proportion to the whole, but not for individual constituent parts of the ship.

A hypothec may not be registered on a part of a ship, in proportion to the whole, if the right of the ownership of the ship has been registered in favour of one person, nor on any portion of that part of a ship for which a co-owner has been entered in the register of ships.

Entry of the transfer of a claim secured by a hypothec on the ship and the acquisition of a sub-hypothecary right shall be allowed in respect of the entire claim and a part thereof determined proportionally or numerically.

#### Article 273

Certain things which are appurtenances of a ship may, with the consent of the owner of the ship, be recorded in the register of ships as forming part of the assets of another physical or legal person.

#### Article 274

The entry of a hypothec on the ship shall contain at least:

- (1) The monetary sum of the claim secured by the hypothec;
- (2) The amount of interest charges if they must be paid together with the claim;
- (3) The firm or the name and place of business or the personal name and domicile of the hypothecary creditor (pledgee);

#### Article 275

If a hypothec is established to secure claims that might arise from a credit granted, from the guarantees taken over, or from damage indemnities, the highest sum which the credit or liability may reach must be stated in the document on the basis of which the entries are being made.

#### Article 276

Entries shall only be allowed against persons in whose favour, at the time of the submission of the proposal for the entry in the register of ships, the right of ownership or the right for which the entry is being made is registered or is being simultaneously registered in the register of ships.

#### Article 277

If several persons have successively have acquired the right to register some rights on a ship or on the rights registered on a ship, and they have not registered these rights, the last person who has acquired such a right may, provided that he proves who his predecessors are, demand that this right be registered directly in his favour.

If a claim secured by a hypothec entered in the register of ships has been transferred to some person, and the

claim has in the meantime been settled, the debtor may, if he proves the transfer, demand that the entry be erased without prior transfer being effected.

#### Article 278

If a creditor who has the right to request entry of a hypothec on a ship, or a sub-hypothecary right on a registered hypothec of his debtor, has not requested such entry, the guarantor may also request the entry of these rights in favour of the creditor.

Any co-owner may for himself and on behalf of other co-owners request entry of their joint rights which cannot be divided in proportion to the whole.

#### Article 279

Entries in a register of ships on the basis of a ruling on inheritance or legacy shall be made on the basis of a final ruling of the competent probate court.

#### 2. Ranking

#### Article 280

Decisive for the rank of an entry shall be the moment when the proposal for the entry reaches the harbour master's office keeping the register of ships in which the entry is to be made.

Entries effected on the basis of proposals which arrived at the same time shall have the same rank, unless otherwise specified by some other law.

#### Article 281

The ranking of the rights registered on a ship may be changed by an inscription or a pre-emption entry of the assignment of the rank. Such a change shall require consent from the holder of the rights who assigns his rank and whose right moves back and from the holder of the right which moves forward into his place. If the right which moves back is a hypothecary right, consent from the owner of the ship shall also be required; if the right which moves back is encumbered with a right of a third person, consent from such a person shall also be required. Such a change shall not affect the extent and ranks of other registered rights.

#### Article 282

The right which moves forward shall acquire without any restrictions the rank of the right which moves back, if these rights were entered in the register of ships immediately one after another, or have been accorded priority by all those whose rights are registered between them.

Article 283

If the assignment of rank is effected between rights which were not entered immediately one after another, without consent from those whose rights were registered between them, the right which moves forward shall acquire the rank of the right which moves back only to the extent and content of this right.

If the right which moves back is conditional or subject to a specific time limit, the right which moves forward in enforcement proceedings conducted before the occurrence of this condition or the expiration of this time limit, may be settled only to the amount which falls to this right according to its previous rank.

If a buyer at public auction must take over a right which moves back according to its previous rank without it being counted in the purchase price, in dividing the purchase price the right which moves forward shall be taken into account according to its original rank.

Article 284

The right which moves backward shall also in its previous place have priority over the right which moves forward, unless otherwise stipulated between the hypothecary creditors replacing the ranking of their hypothecs.

Article 285

If by the assignment of rank a number of rights take the rank of another right and the assignment is simultaneously inscribed, the right which had priority in the ranking prior to the assignment shall also have priority in its new place, unless otherwise stipulated between the hypothecary creditors replacing the ranking of their hypothecs.

Article 286

Subsequent changes concerning the existence or extent of the right which through the assignment of rank moves back shall not affect the rank of the right which moves forward, unless otherwise stipulated between the hypothecary creditors replacing the ranking of their hypothecs/mortgages.

3. Applications and Proposals

Article 287

A ruling on the registration of a ship in a register of ships shall be rendered on the basis of an application or proposal of the authorized party or at the request of the competent authority, unless otherwise specified in this Law.

Applications and proposals or requests as referred to in paragraph 1 of this article shall be submitted to the harbour master's office keeping the register of ships in which the ship is registered or should be registered.

#### Article 288

Applications and proposals for the registration of a ship in a register of ships shall be submitted in a sufficient number of copies to the harbourmaster's office keeping the register of ship, notably: for that harbour master's office and for those parties to whom the ruling on the registration of the ship must be submitted.

If an application or proposal has not been submitted in a sufficient number of copies, the harbourmaster's office referred to in paragraph 1 of this article shall summon the submitter to do so within a specified time limit. If the submitter fails to proceed accordingly, this authority shall order the application to be copied at the expense of the submitter.

#### Article 289

If an application is subject to a time limit, set by the provisions of this Law pertaining to the procedure for registration in a register of ships, the petition shall be deemed to have been submitted within this time limit only if before the expiration of the time limit it has reached the competent harbour master's office keeping the register of ships.

The time limits set in the provisions of this Law pertaining to the procedure for entries in a register of ships, with the exception of the time limits for the justification of a pre-emption entry (articles 346 and 348) and the time limit for the submission of original documents (article 310) or translations (article 311), may not be extended.

No restoration into the previous condition shall be allowed arising from failure to abide by the time limits set by this Law in the procedure for entry in a register of ships.

#### Article 290

An application for a first registration of a ship whose registration in a register of ships is obligatory (article 201) for entry of changes which are recorded in folio A of the insert of the main book of the register of ships, or for entry of changes on account of which a ship is being deregistered from the register of ships, shall be submitted in writing.

For other entries a proposal shall be submitted in writing.

#### Article 291

An application or proposal for registering a ship in a register of ships shall state the authority to which the application or proposal is to be addressed, the personal name and domicile or the name and place of business of the submitter of the application or proposal and of those persons to whom the ruling on the entry must be communicated, and the name or call sign of the ship to be registered.

In the proposal or application it shall be specified with precision what must be entered in the register.

A proposal for an inscription shall tacitly also contain a proposal for a pre-emption entry, unless the

proposer of the pre-emption entry has explicitly excluded this.

Several entries may be requested on the basis of one document by one proposal, and also the entry of one and the same right in several inserts, or the entry of several rights in one insert.

#### Article 292

An application for the registration of a ship in a register of ships shall contain all particulars which are to be entered in a register of ships. The application shall be accompanied by documents proving the particulars being entered in the register of ships.

#### Article 293

A proposal submitted by the legal representative of a person for entry of the acquisition, transfer, restriction or cessation of rights registered on ships must be accompanied by the approval of the competent guardianship agency where such approval is necessary.

#### Article 294

Entries in folio A of the insert of the main book of a register of ships, inscriptions and pre-emption entries shall be allowed only on the basis of documents drawn up in the form prescribed for their validity.

Titles or personal names of persons who are making part in the legal transaction cited in the document on the basis of which an entry is to be made shall be precisely specified. Such a document shall also specify the place where it was drawn up and the date when it was drawn up.

Documents on the acquisition, transfer, restriction and cessation of the rights referred to in article 228 of this Law shall also specify valid legal grounds.

Documents on the basis of which an entry is being made in a register of ships shall not have any visible defects that impair their authenticity; if they consist of several folios, they shall be sewn together so that no other folio can be inserted.

#### Article 295

Documents on the basis of which entries are made in folio B and folio C of the insert of the main book of a register of ships shall be submitted in the original, whereas other documents may be enclosed in a certified copy as well.

Of each document referred to in paragraph 1 of this article an uncertified copy or a photocopy shall be enclosed for the file of documents. The registrar of shipping shall confirm that this copy or photocopy is identical with the original.

If the original of a document is filed among official documents or is kept under custody of the harbourmaster's office keeping the register of ships, or if it was enclosed in a proposal or application already



submitted, it shall be sufficient to submit a copy or a photocopy in two exemplars, stating where the original is kept.

If the original of a document cannot be immediately submitted because it is kept by another authority or a court, this must be stated in the proposal or application and a copy or photocopy provided with a certification by an administrative body or a court proving that the copy of photocopy is identical with the original must be enclosed, and also an uncertified copy or photocopy of the document.

#### Article 296

Documents in a foreign language must be accompanied by a certified translation into the Croatian language.

#### 4. Effectuation of Registration

##### (a) Common Provisions

#### Article 297

Provisions of the Civil Procedure Act shall correspondingly apply to administrative proceedings for registration in the register of ships conducted by a harbourmaster's office keeping the register of ships, unless otherwise specified by this Law.

#### Article 298

Parties to proceedings for registration in a register of ships shall be persons who request the registration and all other persons whose rights are registered in the register of ships.

#### Article 299

An agreement reached by the parties on court jurisdiction shall not have any legal effect.

#### Article 300

In the proceedings for registration in a register of ships the harbourmaster's office keeping the register of ships shall make decisions in the form of a ruling.

#### Article 301

Parties to and other participants in proceedings for registration in a register of ships may be heard orally or submit written statements. When several persons are to be heard, they may also be heard individually in the absence of the others.

Article 302

Minutes shall be kept of oral statements made in the course of the proceedings for registration in a register of ships.

If statements or communications of minor importance are involved, only an official note may be made in the files instead of minutes.

Article 303

In proceedings for registration in a register of ships each party shall bear his own expenses.

Article 304

In deciding on an application or proposal, decisive for the harbourmaster's office keeping the register of ships shall be the moment when the application or proposal was received by such an authority.

Article 305

The harbourmaster's office keeping the register of ships shall record an application or proposal for registration in the register of ships in the daybook of the register of ships, noting in it the date, hour and minute when the application or proposal reached it. This harbourmaster's office shall record in the insert of the register of ships in which the ship is being registered, if the insert has already been opened, that the application or proposal for registration has been submitted, putting down in pencil the number under which the application or proposal has been recorded in the file registry.

If no insert has yet been opened, as soon as an application or proposal for a first registration in the register of ships arrives, an insert shall be opened in which shall be put down in pencil the number under which the petition was filed in the daybook of the register of ships, the name or mark of the ship and the numbers of all subsequent applications or proposals which arrive before the registration in the register of ships has been effected or before the ruling rejecting the entry of the ship has become final.

No insert for a first registration of a ship in the register of ships shall be opened if the application or proposal is completely unintelligible or vague.

Article 306

When a proposal requesting an inscription, a pre-emption entry or a notice on a ship already registered in a register of ships has reached it, the harbourmaster's office keeping the register of ships shall decide whether or not according to the state of entries in the register of ships in which this ship is registered there are any impediments to the effectuation of the registration requested.

Article 307

A proposal for the transfer of the registration of a ship to a register of ships kept by another harbourmaster's office shall be submitted to the harbour master's office with which the ship has been registered.

Such a proposal must be accompanied by documents proving that preconditions exist for the transfer of the ship's registration referred to in paragraph 1 of this article.

When the harbourmaster's office in whose register of ships the ship is registered receives the application or proposal for the transfer of the ship's registration, it shall make a notice of the request for such transfer in the register of ships in which the ship is registered. After rendering a ruling on the registration of the ship in the new register of ships with all data from the register of ships, a ruling thereon shall be submitted to the harbourmaster's office to whose register of ships the entry is being transferred. The harbourmaster's office from whose register of ships the ship is being deregistered shall carry out the entry of cancellation of the ship from the register of ships and shall send to the harbourmaster's office in whose register of ships the ship is to be registered the file of documents relating to the ship which has been deregistered from its register.

If a proposal is submitted for the transfer of a ship from one register to another, which is kept by the same harbourmaster's office, this harbour master's office shall proceed in accordance with the provisions of paragraph 3 of this article.

Article 308

On the basis of the proposal or application and its enclosures the harbourmaster's office keeping the register of ships shall allow the ship to be registered in the register of ships:

- (1) When from the register of ships it cannot be seen that in respect of the ship or rights thereon there is any impediment to the registration requested, or in case of an application or proposal for a first registration of a ship in the register of ships, if the requirements referred to in articles 201 and 202 of this Law have been met;
- (2) When there is not any well-founded doubt that the proposer is authorized to submit the proposal and that the participants to whose rights the registration relates have the capacity of disposing of these rights;
- (3) When according to the content of the documents submitted the request is well-founded;
- (4) When the documents have the form required for an inscription, pre-emption entry or notice.

When registration in a register of ships is allowed by a harbour master's office other than the harbourmaster's office referred to in article 268 of this Law, the harbourmaster's office referred to in article 268 of this Law shall confine itself to deciding whether or not the registration is permissible from the point of view of the state of register, while other requirements for the entry shall be decided by the harbourmaster's office allowing the registration.

Article 309

Except in the cases referred to in articles 330, 350 and 374 of this Law, the harbourmaster's office keeping a register of ships shall in respect of every application or proposal decide on the case itself without hearing the parties, and, as a rule, without rendering a prior decision (articles 310, 311, 393 and 394). In its ruling the harbourmaster's office shall explicitly state whether the proposal has been approved or rejected.

If the proposal is only partly approved, the registration shall be ordered only for that part which has been approved, and the part which has not been approved shall be rejected.

If the proposal is wholly or partially rejected, the ruling shall give the reasons for the rejection of the proposal.

Article 310

The harbourmaster's office shall render a ruling on registration in the register of ships on the basis of original documents.

If from the application or proposal and copies of the documents enclosed it follows that the request might be complied with if an original document had been submitted, the harbourmaster's office shall, in order to preserve the rank of the right involved, order a notice of the application or proposal to be made in the register of ships with the note "until the original arrives".

At the same time, the harbourmaster's office keeping the register of ships shall set the proposer a reasonable time limit within which he must submit the original document, unless the body with which it is deposited is ex officio bound to send it. If such body or a court subsequently sends the original document, or if the document is submitted within the time limit set, the proposal shall be decided with the case itself.

If the original document is not submitted within the fixed or extended time limit, the proposal shall be rejected and an order shall be made ex officio that the notice be erased.

In exception to the provision of paragraph 1 of this article the harbourmaster's office keeping the register of ships may, after being granted justifiable reasons, allow entry into the register of ships on the basis of the certificate of deregistration of a ship from a foreign register of ships sent by a facsimile message, provided also that a time limit is determined for the submission of the original document.

If it follows from the proposal and enclosed documents that the request could not have been complied with even if the original document had been enclosed, the harbourmaster's office shall reject the proposal.

The provisions of this article shall correspondingly apply to applications for the first registration of a ship or a ship under construction.

Article 311

If an application or proposal does not enclose a translation of a document written in a foreign language and

from the petition it does not follow that the request should be rejected, in order to preserve the rank for the right involved, the harbourmaster's office keeping the register of ships shall order a notice of the application or proposal to be made in the register with the note "until the translation arrives". The harbourmaster's office keeping the register of ships shall at the same time fix for the proposer a reasonable time limit within which he must submit the translation. If the translation is submitted within the fixed or extended time limit, the proposal shall be decided together with the case itself, failing which the application or proposal shall be rejected and the erasure of the notice shall be ordered ex officio.

#### Article 312

The harbourmaster's office keeping the register of ships may not allow that something more than, or something else than, a party has requested be entered in the register of ships although according to the documents submitted the party would be authorized to request more or something else.

If only a pre-emption entry is proposed, no inscription may be ordered, even if there are preconditions for such inscription.

#### Article 313

If it follows from the documents that a person who has acquired a right entitling him to inscription has been given permission for inscription, but that at the same time restrictions have been imposed upon him in connection with the disposal of the acquired right, or that obligations have been imposed upon him in respect of which an inscription has at the same time been contracted in favour of specific beneficiaries, the entry requested shall not be allowed unless an inscription or - depending on the kind of the document involved - at least a pre-emption entry of the contracted restriction or obligations is simultaneously proposed. A proposal for the simultaneous entry of mutual rights and obligations may be submitted by any party.

#### Article 314

A ruling permitting an entry in the register of ships shall contain:

(1) The designation of the insert in which the entry must be made and the name of the ship to which the entry relates;

(2) The name and place of business or the name and domicile of the person in whose favour the entry will be made, the ship or the right on the ship on which the entry will be made, the designation of the documents on the basis of which the entry is allowed, the kind of the entry that will be made and the essential content of the right being entered, all this in words which have to be entered in the register of ships.

If the content of the right which is being entered cannot be expressed briefly, reference may be made to exactly designated passages in the documents on the basis of which the entry is ordered, with the same effect as if these passages were entered in the main book. A ruling ordering registration of a ship in a register of ships must also contain all data that must be entered in folio A, in the words in which these data were stated in the previous ruling of the harbourmaster's office keeping the register of ships.

#### Article 315

When the ruling on registration in a register of ships has been rendered by a harbourmaster's office keeping the register of ships other than the harbourmaster's office having jurisdiction according to the provision of article 268 of this Law, the former shall send its ruling to the harbourmaster's office keeping the register of ships in which the ship is registered for the purpose of conducting proceedings according to articles 305 and 306 of this Law.

This harbourmaster's office shall proceed according to the provisions of article 306, paragraph 2, and article 308, paragraph 2, of this Law and shall render either a ruling ordering the enforcement of the registration, or a ruling rejecting the enforcement of the allowed registration, and shall send its ruling to the harbourmaster's office which rendered the ruling permitting the registration and also to the harbour master's office keeping the register of ships in which the ship is registered, with all relevant documents, for the purpose of enforcement of the registration and for the purpose of sending the ruling to the persons indicated in the ruling.

#### Article 316

If the harbourmaster's office referred to in article 268 of this Law rejects the proposal for an inscription or a pre-emption entry, or for a first registration of a ship in a register of ships, or if it rejects the proposal for entering a notice of rank, or if it rejects the enforcement of a permitted registration (article 315), the harbourmaster's office shall order by a ruling the entry of a notice of rejection of these requests. The harbourmaster's office shall proceed in the same way, even in the event of the rejection of the proposal for allowing sale for the purpose of settling a claim for which no right of pledge was inscribed.

The notice shall not be entered:

(1) If from the proposal and its enclosures it cannot be determined which ship or right whose entry is being requested is involved, or if the ship or the right has not been registered in the register of ships indicated, or if no insert for registration has been opened in connection with the application or proposal for a first registration;

(2) If the right of ownership or some other right on the ship has not been entered in favour of the person against whom according to the content of the document the inscription or pre-emption entry may be effected.

The inscription of the pre-emption entry shall be indicated in the ruling.

#### Article 317

If any of the proposals referred to in article 316 of this Law is rejected by a harbourmaster's office other than the harbourmaster's office mentioned in article 268 of this Law, this harbourmaster's office shall ex-officio request the harbourmaster's office referred to in article 268 of this Law to order entry of a notice of rejection of the proposal.

Article 318

When the harbourmaster's office referred to in article 268 of this Law is satisfied that the ruling rejecting the entry referred to in articles 316 and 317 of this Law has become final because no appeal has been lodged, it shall ex-officio render a ruling ordering the erasure of the notice of rejection of the entry and shall notify the parties thereof.

Article 319

The harbourmaster's office keeping the register of ships shall submit the ruling on the entry, together with all documents enclosed in the application or proposal for the entry, to the persons indicated in the ruling, for the purpose of executing the entry and for proceeding in accordance with articles 329 and 332 of this Law

Article 320

The ruling on the entry shall be carried into effect by the harbourmaster's office keeping the register in which the ship is registered; where a first registration is involved - by the harbourmaster's office keeping the register in which the ship is to be registered.

Article 321

Each entry, except entries in folio A concerning technical data, shall contain:

- (1) The date of receipt of the proposal and the number of the daybook of the register of ships;
- (2) The title of the document underlying the entry, the place where the document was drawn up and the date on which it was drawn up;
- (3) The name of the harbourmaster's office and the number and date of its ruling which allowed the entry;
- (4) The kind of entry (article 271) and the essential content of the right or facts which are to be entered;
- (5) The name and place of business or the name and domicile of the person in whose favour the entry is being made.

If the harbourmaster's office simultaneously receives several proposals relating to the same ship, at each entry made in connection with these proposals a notice shall be made of the numbers of other proposals with the indication that they arrived simultaneously.

Article 322

When the harbourmaster's office keeping the register of ships renders a ruling ordering the registration of a

ship in the register of ships, a simultaneous registration of the ship is to be made in folio A and folio B of the register of ships. After making the registration, this harbourmaster's office shall proceed in accordance with the provisions of articles 329 and 332 of this Law.

When the harbourmaster's office referred to in paragraph 1 of this article renders a ruling rejecting the application for registration of the ship in the register of ships and orders entry of a notice of rejection of the request, it shall enter the notice in folio A of the insert opened in conformity with article 305, paragraph 2, of this Law.

#### Article 323

A ruling rejecting an application or proposal for the registration of a ship in the register of ships shall be noted in folio A of the insert opened in connection with the application or proposal submitted.

The notice referred to in paragraph 1 of this article shall not be entered if no new insert has been opened in connection with the application or proposal (article 305, paragraph (3)).

#### Article 324

In each ruling it shall be indicated to whom the ruling must be delivered and to whom the harbourmaster's office must deliver individual documents (article 332, paragraph (2)).

#### Article 325

Rulings on proposals and applications for registration in the register of ships shall be delivered to the submitter of the application or proposal and to the person on whose ownership of the ship a right is acquired, or whose rights are being transferred, restricted, encumbered or abolished, and to the person against whom the entry of a notice in the register of ships has been made.

A ruling permitting an entry being wholly or partially erased shall also be delivered to all persons in whose favour there exist further inscriptions or pre-emption entries on the right entered.

A ruling on an inscription or pre-emption entry by means of which a hypothecary right or assignment of the right is registered on the registered rights of third persons, shall also be delivered to the owner of the ship.

A ruling permitting an entry at the proposal of a proxy against the party who issued the power of attorney shall be delivered to the party in person, if the power of attorney does not conform to the provision of article 335, paragraph 2, of this Law.

#### Article 326

The delivery referred to in article 325 of this Law shall be effected in accordance with the provisions of the Civil Procedure Act pertaining to delivery to parties in person.

If the originals of the enclosed documents (article 332) are to be returned to the party, such originals shall



be returned to the party who enclosed them, unless otherwise specified by the party.

Article 327

The validity of an entry may not be contested because the delivery was not properly made or not made at all.

A person who on the basis of an entry claims any right for himself, or any exemption from an obligation, shall not be required to prove that the delivery has been effected.

Article 328

The harbourmaster's office which deregistered a ship from the register of ships shall issue to the party, at his request, a certificate of deregistration. The certificate of deregistration shall cite the reasons for the deregistration and the ruling on the basis of which the deregistration was carried out.

Article 329

The harbourmaster's office keeping the register of ships shall affix to the original of the document on the basis of which an entry was made a certificate of the entry made.

The certificate referred to in paragraph 1 of this article shall cite the ruling whereby the entry was ordered and the insert in which the entry was made.

If an entry was made on the basis of several mutually interconnected documents, the certificate shall be affixed to the document from which the right to entry directly derives (articles 277 and 278).

Article 330

Nothing may be erased from the register, nor may anything be added or changed in any way.

All entries in a register of ships shall be made in ink.

If at the registration a mistake was made and was already noted at the time of the registration, it shall be corrected without an order from the competent harbourmaster's office. A mistake made at the registration shall be crossed out in such a way that it remains legible.

A mistake noted after the registration was made may only be corrected by order of the competent authority referred to in article 268 of this Law, which shall, should the mistake have any legal consequences, hear the participants. The institution of such a procedure shall be noted in the folio in which the erroneous registration was made. The effect of such a notice shall be that subsequent entries shall not prevent the correction of the mistake. When the ruling on the correction of the mistake becomes final, the notice shall be erased ex officio.

Corrections of erroneous entries shall bear a date, the signature of the registrar of shipping and the seal of the harbourmaster's office keeping such registers of ships.

#### Article 331

A ruling on the deregistration of a ship from the register of ships and a notice of the rejection of a request for deregistering the ship from the register of ships shall be entered in folio A of the register of ships.

After the ruling on the deregistration of the ship from the register of ships becomes final, the harbourmaster's office keeping the register of ships shall across each page of the insert of the main book of the register of ships draw in red ink two crossed lines and a horizontal line on each page under all entries, without crossing individual entries.

The harbourmaster's office referred to in paragraph 2 of this article shall proceed in accordance with the provisions of this paragraph after the ruling on the rejection of a proposal or application for a first registration of a ship in the register of ships (article 316, paragraph 1) becomes final.

#### Article 332

After making the registration, the harbourmaster's office keeping the register of ships shall return to the party the originals of the documents or certified copies of the documents if the application or proposal enclosed uncertified copies of these documents. Otherwise, the originals of the documents and their certified copies shall be kept in the file of documents, and the above harbourmaster's office shall notify the party that within a specific time limit he may take these documents if he submits their certified copies. The harbourmaster's office may also itself make such copies against collection of prescribed dues.

If the harbourmaster's office referred to in paragraph 1 of this article makes an entry on the basis of a court ruling, it shall handle the documents as specified in such ruling (article 324).

As regards the copies required for the file of documents, the provision of paragraph 1 of this article shall apply.

#### (b) Special Provisions

##### First Registration in the Register of Ships

#### Article 333

First registration in a register of ships under construction shall be allowed by the harbourmaster's office keeping the register of ships under construction where the ship under construction is to be registered, if the application or proposal for the first registration is accompanied by the following documents:

- (1) A document proving the right of ownership of the ship under construction;
- (2) A certificate of the shipyard on the technical data which are to be registered in folio A of the register of ships under construction, the place and starting date of construction;

(3) A statement from the owner of the ship under construction regarding the name of the ship under construction, or, if the ship has no name, a statement from the shipyard regarding the mark of the ship under construction.

#### Article 334

First registration of a ship in a register of ships shall be allowed by the harbourmaster's office keeping the register of ships under construction if the application for the first registration of the ship is accompanied by the following documents:

- (1) A document proving the right of ownership of the ship;
- (2) An excerpt from the court's register or another document proving that the owner is a Croatian citizen or a Croatian civil legal entity, or that requirements have been met for the registration of the ship in the register of ships;
- (3) A ruling on the determination of the name or mark of the ship and of the port of registration for a ship;
- (4) Tonnage certificate;
- (5) A certificate of the technical specification of the ship for the purpose of its registration in the register of ships, which is issued by the Croatian Register of Shipping;
- (6) A document determining the call sign of the ship according to the International Code of Signals, if the ship must have such a signal;
- (7) Documents proving other particulars which are to be entered in folio A of the insert of the main book of the register of ships;
- (8) A certificate of the authority keeping the foreign register of ships that the ship was deregistered from this register, if the ship is being transferred from the foreign register to a Croatian register of ships.

If the owner of the ship is a foreign national or a foreign legal person, he shall accompany his application by documents proving the right for the ship to be registered in the Croatian register of ships, and by the particulars indicated in the documents referred to in paragraph 1 of this article.

#### InscriptionArticle 335

Unless otherwise specified by this Law or other laws, an inscription (article 271, point (3)) may be permitted only on the basis of public documents or private documents on which the signatures of the persons whose right should be restricted, encumbered or transferred to another person have been certified by an authority competent for the certification of signatures.

On the basis of a private document issued by a proxy an inscription against the constituent may be allowed only if the power of attorney issued by him relates to a specific transaction or to a specific kind of transactions, and if no more than a year has elapsed from the date of the issue of the power of attorney to the date on which the request for the inscription was made.

No certification of the signature on a private document shall be necessary if the document bears the approval of the authority responsible for the safeguard of the rights and interests of the person whose right should be restricted, encumbered, abolished or transferred to another person.

#### Article 336

A private document on the basis of which an inscription may be allowed shall, in addition to the particulars referred to in article 294 of this Law, also contain:

- (1) The exact mark of the ship or the right on the basis of which the inscription is being made;
- (2) An explicit statement of the person whose right is being restricted, encumbered, abolished or transferred to another person that he allows the inscription.

The provision of point 2, paragraph 1, of this article shall not apply to documents on the acquisition of the right of ownership of a domestic or foreign ship, if first registration of the ship in a Croatian register of ships is demanded.

#### Article 337

Public documents on the basis of which an inscription may be permitted are:

- (1) Documents on legal transactions issued by the court, within the limits of its jurisdiction, if they contain the particulars prescribed in article 294 of this Law;
- (2) Documents issued in a proper form by courts or administrative agencies, within the scope of their jurisdiction, which the law recognizes as being court enforceable documents, or on the basis of which an entry may be made in public records according to separate legal provisions.

Inscriptions on the basis of a decision rendered by a foreign court may be made if such a decision is recognized in special proceedings assigned for the same.

#### Pre-emption Entry

#### Article 338

If a document submitted meets general requirements for registration, but does not meet all the special requirements for inscription prescribed in articles 335 to 337 of this Law, the harbourmaster's office keeping a register of ships shall allow a pre-emption entry (article 271, point (4)).

#### Article 339

A pre-emption entry of a mortgage on a ship shall be allowed only if the claims and the legal grounds of the hypothecary right are made credible.

Article 340

If a ship which was registered in a foreign register of ships is to be registered in a Croatian register of ships, and from the document on the deregistration of the ship from the foreign register of ships it can be seen that the ship is encumbered with a hypothec (article 249), a pre-emption entry of the hypothec shall be made ex officio with the rank it had at the moment which was decisive for establishing the ranking in the foreign register of ships, if at the moment of the registration requirements for the inscription of the hypothec specified by this Law were not met.

Article 341

A pre-emption entry of a charter by demise and a time charter for the whole ship and the right of pre-emption shall be allowed only if the existence of the right and consent for the entry are made credible.

Article 342

A pre-emption entry shall also be allowed on the basis of the following documents:

- (1) Court's decisions not yet final which approve or reject a request for the establishment, acquisition, restriction or cessation of the right registered;
- (2) Court's decisions permitting a pre-emption entry in security proceedings according to the enforcement procedure rules;
- (3) A request by a court, administrative agency or organisation exercising public authority entrusted to it by law, when they are authorised by law ex-officio to order that specific claims be secured by a hypothec on a ship.

Article 343

If the amount of a debt secured by a hypothec on the ship for which, according to the rules of the law of property, there is justified reason that the debt cannot be paid to the creditor, is deposited with the court, a pre-emption entry shall be allowed on the basis of the court's confirmation that the amount has been deposited, notably:

- (1) If the amount of the debt has been deposited with the court by the debtor or a person liable for the debt, a pre-emption entry of the erasure of the hypothec shall be allowed;
- (2) If the amount of the debt has been deposited with the court by a third person to whom according to the rules of the law of property the creditor must assign his claim, the pre-emption entry of the assignment of the claim secured by a hypothec shall be allowed.

Article 344

By a pre-emption entry registered rights are acquired, transferred, restricted or abolished, provided that the pre-emption entry is subsequently justified, and to the extent to which it is justified.

Article 345

A pre-emption entry may be justified on the basis of:

(1) A document on the basis of which inscription may be allowed provided that it was issued by the person against whom the inscription is registered;

(2) A confirmation that the court decision referred to in article 342, point 1, of this Law has become final and enforceable;

(3) A final decision of the competent authority on the existence of the claim referred to in article 342, point 3, of this Law, for whose security the pre-emption entry was registered;

(4) A final and enforceable court decision in a lawsuit against the person against whom the pre-emption entry was registered.

Article 346

If a pre-emption entry is being justified by the submission of a document valid for inscription (article 345, point 1), such justification should be made within 15 days from the date of service of the ruling on the pre-emption entry.

If a pre-emption entry is being justified on the basis of a final and enforceable court decision (article 345, point (4)), a lawsuit must be instituted within 15 days from the date of service of the ruling on the pre-emption entry.

The term within which the pre-emption entry must be justified shall be indicated in the decision on the pre-emption entry.

The term for justifying the pre-emption entry may be prolonged by the harbourmaster's office keeping the register of ships, at the party's request, if there are justified reasons for this. The proposal shall be submitted to the harbourmaster's office keeping the register of ships.

Article 347

If the pre-emption entry is being justified by the submission of the documents referred to in article 345, points 1 to 3, of this Law, the proposal for the justification of the pre-emption entry shall be submitted to the harbourmaster's office keeping the register of ships.

If the pre-emption entry is being justified by a court decision rendered in a lawsuit (article 345, point (4)),

the party seeking the pre-emption entry shall be bound to institute a lawsuit before the court having jurisdiction over the same and to notify thereof the harbourmaster's office keeping the register of ships.

#### Article 348

The term within which a lawsuit for the justification of the pre-emption entry must be instituted shall be indicated in the decision on the pre-emption entry. The term for instituting the lawsuit may be extended, at the party's proposal, if there are important reasons for this.

#### Article 349

If at the time of the submission of a proposal for a pre-emption entry a lawsuit concerning the existence of the right whose pre-emption entry is sought is already pending, it shall not be necessary to institute a separate lawsuit to justify the pre-emption entry if, according to the provisions of the Civil Procedure Act, it is still possible to make a request for the justification of the pre-emption entry in the lawsuit pending.

#### Article 350

If the pre-emption entry is not justified, the person against whom the pre-emption entry was allowed may propose that it be erased.

If from the files it does not follow that a lawsuit for the justification of the pre-emption entry was instituted on time, or that the time limit for the justification had not yet expired on the date when the proposal for the erasure was submitted, the harbourmaster's office keeping a register of ships shall within a short time fix a hearing at which the proposer of the pre-emption entry must prove that the time limit for the justification has not yet expired, or that the lawsuit was instituted on time.

If the harbourmaster's office keeping a register of ships has established that the time limit has expired, or that the lawsuit was not instituted on time, it shall allow the pre-emption entry to be erased.

It shall be considered that a lawsuit for the justification of the pre-emption entry has been instituted on time, even though the time limit for its institution had expired, if it is instituted before the submission of the proposal for the erasure of the pre-emption entry, or at least on the same date when the proposal was submitted.

#### Article 351

If the plaintiff's request for the justification of the pre-emption entry is approved in the lawsuit seeking justification of the pre-emption entry (articles 346 and 349), the justification of the pre-emption entry shall, at the request of any party, be noted in the register of ships according to the content of the final judgement.

If in the lawsuit referred to in paragraph 1 of this article the request for the justification of the pre-emption entry is finally rejected, the pre-emption entry shall be erased at the proposal of any of the parties.

Article 352

If the pre-emption entry has been erased because no lawsuit for the justification of the pre-emption entry was instituted on time, a new pre-emption entry may be proposed, but it shall have legal effect only as of the moment of the submission of such a new proposal.

The owner of the ship, or the beneficiary of a right registered may request by a lawsuit that the non-existence of the right secured by the pre-emption entry be ascertained. A judgement by which such a request is approved shall at party's request be noted in the register of ships, which shall prevent a new permission for the pre-emption entry.

Article 353

If the pre-emption entry is erased for reasons other than those mentioned in article 352 of this Law, the harbourmaster's office keeping a register of ships shall ex-officio reject any new proposal for the pre-emption entry of the same right on the basis of the same document. If the harbourmaster's office keeping the register of ships fails to do so and the new pre-emption entry is registered, this pre-emption entry shall be erased as soon as the opposite party reports that the pre-emption entry has already been erased.

Article 354

If a pre-emption entry has been made of the right of ownership of the ship, further entries may be allowed not only against the inscribed owner but also against the pre-emptively entered owner of the ship. The legal effect of such entries shall, however, depend on whether the pre-emption entry is justified or not.

If the pre-emption entry is justified, simultaneously with the entry of the justification of the pre-emption entry, all entries against the inscribed owner of the ship made after the moment of submission of the proposal on the basis of which the pre-emption entry of the right of ownership was made, shall be ex-officio erased.

If the pre-emption entry of the right of ownership is erased, all entries made in connection with this pre-emption entry shall also ex officio be erased.

The provisions of this article shall also apply when against a hypothecary creditor a pre-emption entry of the transfer of his claim to another person has been made.

Article 355

If a pre-emption entry of the erasure of some right has been made, further entries in respect of this right (e.g. of a sub-hypothecary right or right of an assignment) may be allowed, but the legal effect of such entries shall depend on whether the pre-emption entry of the erasure will be justified or not.

If the pre-emption entry of the erasure is justified, all entries that have in the meantime been allowed in respect of the erased right shall ex officio be simultaneously erased together with the entry of the justification.



Article 356

If a claim secured by a hypothec on a ship is still encumbered with sub-hypothecary rights at the time when its erasure is requested, the erasure of this claim may be allowed only with a note that the legal effect of the erasure shall in respect of the sub-hypothecary right become effective only when these have been erased.

The moment the erasure of a claim secured by a hypothec on the ship has been inscribed, no further entries on the hypothec may be allowed; and if the erasure of the hypothec has only been pre-emptively entered, further entries on this right may be allowed, but only with the legal effect referred to in article 344 of this Law.

Notice

Article 357

The legal consequence of a notice of personal relations, especially with respect to the restriction of the right to dispose of property, shall be that nobody in whose favour some right has been entered in the register of ships shall be able to claim that such relations were not known to him (e. g. minority, prolongation of parental rights or guardianship, institution of bankruptcy proceedings, etc.).

A notice of personal relations and the erasure of such a notice shall be ordered by the harbourmaster's office keeping a register of ships on the basis of documents proving such relations, at the proposal of the parties, their legal representatives or competent authorities.

Article 358

A notice of other facts, except those mentioned in article 357 of this Law, may only be allowed when such a notice is permitted by law and has the effect determined by law (e. g. ranking, a joint hypothec on a ship, a notice renouncing the claim secured by a hypothec on a ship, a lawsuit for the realisation of a maritime lien, notice of a dispute, etc.).

Article 359

The owner of a ship may request entry of a notice of ranking for intended alienation of the ship or its encumbrance with a hypothec. The legal effect of such a notice is that the ranking of the rights acquired by such alienation or encumbrance is counted from the moment the proposal for entry of the notice was submitted, if the entry of the above rights is requested while the notice is in force (article 361).

A hypothecary creditor may, with the legal effect referred to in paragraph 1 of this article, request entry of a notice of ranking for intended assignment or intended erasure of his claim.

The notices referred to in this article may only be allowed if according to the state of entries in the register of ships inscription was allowed of a right which must be registered or the erasure of the registered right, and if the signature of the proposer on the proposal has been certified by the authority competent for the certification of

signatures.

#### Article 360

A ruling by which a proposal for registration of the notice referred to in article 359 of this Law is approved shall be issued in one copy only. After entering the notice in the register of ships, the authority keeping the register of ships shall on this copy confirm that the notice was made.

#### Article 361

If a notice of ranking is allowed for intended encumbrance of a ship with a hypothec on the ship, the notice shall cease to be effective after the expiration of one year, and in the other cases referred to in article 359 of this Law - after the expiration of 60 days from the date it was allowed.

The date when such a notice will cease to be effective shall be indicated in the ruling allowing such notice.

#### Article 362

A proposal for the entry of a right or the entry of erasure with the ranking secured by a notice (article 359) must be submitted within the time limits specified in article 346 of this Law, and the proposal must be accompanied by a copy of the ruling allowing the notice.

The document on the basis of which the right whose rank has been noted is being erased or entered may also be drawn up after the proposal for entry of the notice was submitted.

In the ruling which, at the proposal submitted according to paragraph 1 of this article, an inscription or a pre-emption entry is allowed, the court shall indicate that the allowed entry has the ranking acquired by the notice. The authority which has effected entry of the allowed inscription of pre-emption entry shall confirm on the copy of the ruling by which the notice of ranking is allowed that the entry has been effected.

The entry with ranking secured by a notice shall also be allowed if the ship or claim secured by a hypothec on the ship has been transferred to a third person or has been encumbered after the proposal for the notice of ranking was submitted.

If the owner of a ship or a hypothecary creditor has gone bankrupt before a proposal for registration has been made, the registration shall be allowed only if the document on the legal transaction had already been drawn up before the date on which bankruptcy proceedings were instituted, and if the date of the drawing up of the document is proved by a certification of the authority competent for the certification of signatures. If the document does not meet these requirements, it shall be appraised, in accordance with bankruptcy rules, whether or not the registration is permissible.

#### Article 363

If an inscription of the transfer of right of ownership of a ship, or of the alienation or assignment of a ship,

or cession or erasure of a claim with the ranking acquired by a notice (article 359, paragraph 1) is allowed, the harbourmaster's office keeping the register of ships shall, at the proposal of the party in whose favour the inscription is registered, order the erasure of the entries which have in respect of this ship or claim been made after the proposal for the notice was submitted. A proposal for the erasure of such entries must be submitted within 15 days from the date when the inscription with the ranking noted became final.

#### Article 364

If the proposal for the registration has not been submitted before the expiration of the term after which the effect of the notice is terminated (article 361), or if the amount of the claim in respect of which the notice of ranking was made has by the end of this term not been exhausted, the harbourmaster's office keeping the register of ships shall ex officio order the erasure of the notice of ranking.

Before the expiration of the term referred to in article 361 of this Law erasure of the notice may be allowed only if the proposal for erasure of the notice is accompanied by a copy of the ruling allowing the notice. When it has entered the erasure, the harbourmaster's office keeping the register of ships shall confirm on the copy of this ruling that the erasure has been effected.

#### Article 365

The harbourmaster's office having jurisdiction according to article 268 of this Law shall, at the request of creditors, allow a notice of the court's cancellation of a claim arising from a hypothec and a notice of the lawsuit arising out of a hypothec, if the person against whom the notice of cancellation has been made, or the hypothec-based lawsuit instituted, is registered as the owner of the ship, and if it is proved that the lawsuit arising out of a hypothec has been instituted.

The notice of a lawsuit for the realization of a hypothec may also be allowed by the court trying the case.

The notice referred to in paragraph 1 of this article shall result in the cancellation or the lawsuit being effective against any subsequent owner of the ship and, especially, in the fact that on the basis of a final judgement passed in the lawsuit relating to the lawsuit noted in the register, or of an in-court settlement reached in this lawsuit, enforcement may be effected on the hypothecated ship directly against any subsequent owner of the ship.

#### Article 366

The notice of a lawsuit for the realization of a maritime liens shall be erased ex officio if, within 60 days from the date of the enforceability of the judgement passed on the basis of the lawsuit which was the subject matter of the notice, the creditor whose claim is secured by a maritime liens has not requested the sale of the ship or the entry of the hypothec on the ship, or if, at his request, the ship has not been arrested within this term (article 261, paragraph (2)).

If it does not follow from the files that within the statutory term the sale of the ship or the entry of the hypothec on the ship has been requested, or that the ship has been arrested, the court shall proceed in accordance with article 350, paragraphs 2 and 3, of this Law.

Article 367

A person who has instituted a lawsuit to contest an inscription which he maintains has infringed his registered rights, and demands restoration to the previous condition in the register, may request the court trying the case or the court having jurisdiction according to article 268 of this Law that a notice of the lawsuit be entered in the register of ships simultaneously with the institution of the lawsuit, or subsequently.

A notice of the lawsuit as referred to in paragraph 1 of this article shall have as a consequence that the judgement passed in this dispute shall also have effect against persons who have acquired registered rights after the moment the proposal for the notice of the lawsuit reached the authority keeping the register of ships.

Article 368

In a lawsuit instituted by an action for the erasure of an inscription against persons who have by the inscription, whose erasure is sought in the lawsuit, directly acquired rights or have been released from encumbrances, or when the lawsuit is based on relations existing directly between the plaintiff and the defendant, the statute of limitation for the plaintiff's claim shall be assessed according to the provisions and rules of the law of property pertaining to the statute of limitations.

Article 369

A person wishing to contest an inscription against third persons, of whose permission he has been duly informed, shall be obliged, within the time limit within which an appeal may be lodged against the permission of such an inscription, to propose to the authority referred to in article 268 of this Law entry of a notice that the inscription is contested, and must at the latest within 60 days from the date of the expiration of the time limit for an appeal institute a lawsuit for the erasure of the inscription against all persons who have through the contested inscription acquired some registered right or have on some registered right secured further inscriptions or pre-emption entries.

After the expiration of the time limit referred to in paragraph 1 of this article an inscription may be contested by a lawsuit for erasure instituted against third persons who had before the notice of the dispute acquired on the registered right further registered rights only if such persons were not in good faith in respect of the validity of the inscription contested.

Article 370

If the plaintiff has not been duly informed of permission for the inscription which he is contesting, the right to institute a lawsuit for its erasure against third persons who have on the registered right acquired further registered rights in good faith, expires within three years, from the moment the proposal for the contested inscription reached the harbourmaster's office keeping the register of ships.

#### Article 371

If the plaintiff withdraws the lawsuit or if according to the law it is considered that the lawsuit has been withdrawn, or if the lawsuit has been dismissed by a final decision or the plaintiff's claim rejected, or if in the case referred to in article 369 of this Law the lawsuit has not been instituted within the prescribed time limit, the harbourmaster's office keeping the register of ships shall, at the request of the opposite party, order the notice of the dispute to be erased.

If the request for erasing the contested inscription has by a final judgement been wholly or partially complied with, or the parties have reached an in-court settlement in respect of the erasure of the inscription, the harbourmaster's office keeping the register of ships shall, at the request of the party, allow entry of the erasure of the contested inscription according to the content of the judgement or in-court settlement, and shall simultaneously order erasure of the notice of the dispute and of all inscriptions and pre-emption entries for which, in respect of the right erased, a proposal for entry has reached the harbourmaster's office keeping the register of ships after this harbourmaster's office received the proposal for notice of the dispute.

#### Article 372

A person asserting that the inscription occurred as a result of a criminal offence may, to achieve the legal effects referred to in article 367 of this Law in respect of subsequent entries, request the harbourmaster's office referred to in article 268 of this Law to allow entry of a notice that the inscription is controversial. Such a person shall be obliged, together with the proposal, to submit a confirmation by the competent authority that criminal proceedings have been instituted.

If the notice of the dispute is proposed for the purpose of being also effective against third persons who have acquired registered rights in good faith before the notice of the dispute, the proposal for the notice must be submitted to the harbourmaster's office referred to in article 268 of this Law within the time limit in which the party is authorized to lodge an appeal against the allowed inscription.

#### Article 373

If in the criminal proceedings the court decides to have the inscription erased together with registered rights acquired before the notice referred to in article 372 of this Law the harbourmaster's office referred to in article 268 of this Law shall order the erasure of the inscription in accordance with the provisions of article 371, paragraph 2, of this Law, if the party against whom the contested inscription has been made submits, together with the proposal for erasure of the inscription, the decision of the court rendered in respect of these criminal proceedings, with the confirmation that the decision has become final.

If in the criminal proceedings the court has established the criminal responsibility of the accused, or instructs the injured party to bring a civil action in respect of his request for erasure of the inscription, the injured party shall have the right to institute a lawsuit for erasure of the inscription and of the registered rights referred to in paragraph 1 of this article within 60 days from the date the court decision instructing the injured party to bring a civil action has become final.

If in conducting the criminal proceedings the court has not rendered a decision establishing criminal responsibility of the accused and if the authorized person has failed within the time limit referred to in paragraph 2 of this article to institute a lawsuit, the harbourmaster's office referred to in article 268 of this Law shall allow erasure of the notice of the dispute at the proposal of the party having a legal interest in the contested inscription remaining in force.

#### Article 374

When erasure of the notice of the dispute is demanded because no lawsuit for the erasure has been instituted within the time limits referred to in articles 369 and 372 of this Law, the harbourmaster's office referred to in article 268 of this Law shall proceed in accordance with the provisions of article 350, paragraphs 2 and 3, of this Law.

#### Article 375

If owner of a ship or a creditor on whose ship and claim respectively some right is registered, institutes a lawsuit demanding that this right be wholly or partially erased because it has fallen under the statute of limitations, the harbourmaster's office referred to in article 268 of this Law shall, at the proposal of the plaintiff, allow entry of the notice of the dispute in the register of ships.

#### Article 376

If in a lawsuit it is demanded that the court determine that a particular proprietary right has been acquired by time limit, the court referred to in article 268 of this Law shall, at the request of the plaintiff, allow entry of the notice of the dispute in the register of ships.

#### Article 377

A notice of the dispute in the event of lawsuit for erasure in consequence of its being subject to the statute of limitations (article 375), or in the event of a lawsuit for determining the acquisition of a proprietary right by time limit (article 376), shall not have any effect in respect of third persons who had, relying on the register of ships, acquired certain inscriptions before the proposal for entry of the notice of the dispute reached the harbourmaster's office keeping the register of ships. If it has been established by a final judgement that the plaintiff has acquired by time limit a particular proprietary right, the right acquired by time limit shall rank before all entries made after the notice of the dispute, and all rights registered after the notice of the dispute which are at variance with it shall be erased at the party's proposal.

The provisions of article 371, paragraph 2, of this Law shall correspondingly apply to the erasure procedure.

Article 378

The court which has effected the sale of a ship shall order, ex officio, that a notice of the ruling on the adjudication of the ship sold be entered in the register of ship.

The notice referred to in paragraph 1 of this article shall have the effect that the rights entered against the present owner of the ship may be acquired by further entries only if the ruling on the adjudication is set aside by a final court decision.

If the ruling on the adjudication is not contested or if its contestation is finally rejected, at the proposal of the interested party all entries made after entry of the notice of this ruling against the present owner of the ship shall be erased, and so shall all further entries made in relation to their rights.

Article 379

Proposals for entry or erasure of notices which are decided by the body referred to in article 268 of this Law shall be submitted to the harbourmaster's office keeping the register of ships, unless otherwise specified.

Registration of a Joint Hypothec on a Ship

Article 380

For joint hypothec (article 247) established by registration in several inserts, one of the inserts shall be designated as the main one and the others as secondary. In the proposal for registration it must be specified which of the inserts is to be designated as the main one and which as secondary; if this is not specified in the proposal, it shall be considered that the insert cited in the proposal for registration in the first place is to be designated as the main one.

If it is requested that an already existing hypothec on the ship be extended for the same claim to other inserts as well, the primarily encumbered insert shall be treated in the same way as the main insert.

In the main insert a reference shall be made by a notice to secondary inserts, and in each secondary insert - to the main one.

Article 381

If in order to secure his claim a creditor requests registration of a hypothec on the ship in a particular insert of the register of ship, he shall be obliged to report the existence of the hypothec on the ship which has for this claim already been registered in another insert in order to make it possible to enter a notice of the joint hypothec.

A creditor who has failed to report the existence of a hypothec on the ship shall be liable for damage caused thereby.

If the notice of the joint hypothec on the ship is not entered, the hypothecary debtor may propose that such notice be made and request the creditor to pay the costs if the notice has not been made through the latter's fault.

If the authority referred to in article 268 of this Law, while allowing an inscription or a pre-emption entry of a hypothec, has established that a hypothec on the ship has already been registered for the same claim in its or some other register of ships, it shall ex officio rule that the insert in which the hypothec has already been registered is the main insert. The authority referred to in article 268 shall notify thereof the harbourmaster's office keeping the register of ships in which the hypothec is already registered.

#### Article 382

A proposal for the registration of a joint hypothec in several registers of ships kept by various harbourmaster's offices may be submitted either simultaneously to all the harbourmaster's offices keeping these registers of ships or only to one of these authorities.

If the proposal for the registration of a hypothec is submitted simultaneously to all the harbourmaster's offices in whose registers of ships it must be registered, in the proposal it shall be indicated which insert shall be designated as the main one and which as secondary.

If the proposal for the registration of a hypothec is submitted to one harbourmaster's office only, the proposal shall be submitted to the harbourmaster's office with which the proposer of the registration wishes to keep the main insert, and shall indicate the order in which the proposal must be forwarded to other harbourmaster's offices.

#### Article 383

If several authorities referred to in article 268 of this Law take part in the primary or a subsequent registration of a joint hypothec, each of them shall independently decide on the proposal for the inscription or pre-emptive entry of the hypothecary right in the register of ships over which it has jurisdiction. Each body shall communicate its ruling thereon also to the body keeping the main insert.

An appeal against the ruling referred to in paragraph 1 of this article shall be lodged with the authority which has rendered this ruling.

If an inscription or a pre-emptive entry registered in a secondary insert is erased on appeal, the harbourmaster's office keeping the main insert shall be notified of the erasure for the purpose of making a notice.

#### Article 384

The ranking of a joint hypothec shall be determined independently for each insert, decisive for which shall be the moment when the proposal for permitting registration of the joint hypothec reaches the individual harbourmaster's offices in whose registers the hypothec is being registered.

#### Article 385

All proposals for changing a hypothecary right for claims for which a joint hypothec on the ship has been



registered in several inserts shall be submitted to the harbourmaster's office keeping the main insert. Decisions on such proposals shall be rendered according to the state of entries in the main insert.

A proposal submitted to an harbourmaster's office other than the one referred to in paragraph 1 of this article shall be returned to the submitter with the instruction that the proposal must be submitted to the harbourmaster's office keeping the main insert.

#### Article 386

All changes that must be made on a joint hypothec by transfer, restriction, erasure or in some other way shall be registered in the main insert only.

Registration of changes in the main insert shall have the same legal effect as if it had been made in all the existing or future secondary inserts.

A partial or complete erasure of a joint hypothec relating to all the ships or to all the claims (sub-hypothec) which are the subject-matter of the joint hypothec shall be recorded in all secondary inserts, and the erasure of the joint hypothec relating to a particular ship or a particular claim shall be recorded only in the secondary insert in which this ship and claim respectively are registered.

#### Article 387

If a hypothecary right on a ship or on a claim secured by a hypothec on the ship registered in the main insert has been erased, all further entries shall also be erased from this insert and transferred to one of the secondary inserts kept by the same harbourmaster's office. If the joint hypothec still exists, this insert shall be treated as the main insert.

If the registers of ships kept by the same harbourmaster's office have no secondary inserts, the harbourmaster's office having jurisdiction over the earlier main insert shall determine, if this has not been determined by the hypothecary creditor, which secondary inserts shall in the future be treated as the main insert, and shall, ex officio, forward to the harbourmaster's office keeping the new main insert certified copies of the existing entries in the main book and certified copies of the documents relating to these entries.

The transformation of a secondary insert into the main insert shall be communicated to the harbourmaster's offices keeping all the secondary inserts and shall, ex officio, be entered in each of the still existing secondary inserts.

#### Article 388

Proposals which can no longer be ruled on by the previous harbourmaster's office because the joint hypothec has already been erased from its register of ships shall be sent to the harbourmaster's office to which the keeping of the main insert has been transferred, and the parties that have submitted the proposals shall be notified thereof.

The mutual ranking of the proposals referred to in paragraph 1 of this article shall be determined according to the moment at which they reached the authority which kept the earlier main insert.

Article 389

Only one lawsuit shall be needed for the justification of a pre-emption entry by which a joint hypothec for the same claim has been pre-emptively entered with various authorities.

In addition to the court of the hypothecary debtor having general territorial jurisdiction, the harbourmaster's office having jurisdiction according to article 268 of this Law in respect of one of the registers in which the pre-emption entry was allowed, shall also have jurisdiction over the lawsuit for the justification of the pre-emption.

Article 390

Excerpts from inserts which are in respect of a joint hypothec treated as secondary inserts shall refer to the main insert, with a note that changes that have been made in respect of the joint hypothec registered have been entered in the main insert only.

Transfer of Ships from one Register of Ships to another Register of Ships

Article 391

The harbourmaster's office keeping the register of ships shall allow transfer of the registration of a ship from one register of ships to another register of ships on the basis of a document proving that the ship will change the port of registration and that it will be registered in the port located in the area of the harbourmaster's office keeping the register of ships in which the ship is registered.

Deregistration of Ships from Registers of Ships

Article 392

The harbourmaster's office keeping the register of ships shall render a ruling on the deregistration of a ship from its register of ships:

- (1) If it has established that the ship has been lost or is presumed lost;
- (2) Owing to the alienation of the ship from the ownership of a physical person or a civil legal entity to a foreign person;
- (3) On the basis of a statement made by the owner of the ship whereby the consent of the owner to the registration in a Croatian register of ships is revoked, or of a court judgement that the statement of the owner of the ship is legally valid;
- (4) On the basis of a statement of the ship owner that he is permanently withdrawing the ship from navigation;

(5) Owing to the cessation of the existence of conditions for registration in the register of ships according to the provisions of article 202, paragraph 1, point 1, of this Law;

(6) On the basis of a ruling of the competent Ministry by which the ship registered in a register on the basis of article 202, paragraph 1, points 1 and 2, is deprived of the right to be registered in a register of ships.

The harbourmaster's office shall notify the respective Ministry on the ruling referred to in paragraph 1 of this article.

#### Article 393

A ruling on the deregistration of a ship from a register of ships shall, according to article 207 of this Law, determine that the deregistration is not opposed by maritime lienors or that creditors of hypothecary claims have consented to the deregistration, unless the deregistration is to be effected on the basis of the provisions of article 206, paragraph 1, points 1 and 4, of this Law.

#### Article 394

An application by which creditors having a maritime lien on a ship oppose entry of the deregistration of the ship from the register of ships shall be submitted to the harbourmaster's office keeping the register of ships where the ship has been registered. This harbourmaster's office shall render a decision on the application opposing the entry of the deregistration.

In the case referred to in paragraph 1 of this article deregistration of the ship from the register of ships may be ordered only after the ruling of the harbourmaster's office rejecting such opposition has become final.

#### Article 395

If a ship which has been deregistered from the register of ships because she has been lost, or is presumed lost, or because she has been permanently withdrawn from navigation, or because she has been captured at sea as booty or prize, is again registered in a register of ships, the harbourmaster's office keeping the register of ships shall render a ruling on the renewal of the registration of the ship with all those data and registered rights from the register with which she was previously registered and which were in force at the time of the deregistration of the ship, and shall notify thereof the owner of the ship, and all other persons in whose favour some right on the ship was registered.

### 5. Legal Remedies

#### Article 396

An appeal is admissible against the ruling made by the harbourmaster's office keeping the register of ships on the proposal for the registration of a ship in the register of ships.

In the appeal the parties may present all new facts and propose new evidence if this relates to substantial

infringements of the rules of procedure.

The appeal shall be lodged with the authority which has rendered the ruling in first-instance proceedings, in a sufficient number of copies for the second-instance authority and the parties taking part in the proceedings.

#### Article 397

The time limit for the appeal is 30 days when the ruling was served in the Republic of Croatia, and 60 days when it was served abroad.

#### Article 398

An untimely, incomplete or inadmissible appeal shall be rejected by the authority keeping the register of ships (i.e. harbourmaster's office).

If the court of first instance has not rejected the appeal, it shall deliver a copy of the appeal to the parties to whom the ruling appealed against has been delivered.

The authority of first instance may neither change nor set aside its ruling.

An appeal lodged directly with the authority of second instance (competent Ministry) shall be forwarded by it to the competent authority of first instance, and it shall be considered that the appeal was lodged on the date when the appeal reached the competent authority of first instance.

#### Article 399

If an appeal has been lodged against a ruling allowing an inscription or a pre-emptive entry or a first registration of a ship in a register of ships, the competent authority shall order a notice of the appeal to be made in the register of ships.

If the appeal is rejected, the court shall order the erasure of the notice.

The authority shall ex officio order the notice and the erasure of the notice referred to in paragraphs 1 and 2 of this article.

#### Article 400

If the authority of second instance rejects an appeal against a ruling rejecting a proposal for registration, the authority of first instance shall, ex officio, order the notice of this ruling in the register of ships to be erased, and shall notify the parties thereof.

Article 401

If the authority of second instance alters the ruling of the authority of first instance and accepts one of the proposals referred to in article 316 of this Law which was rejected by the authority of first instance, the allowed registration shall be made in the register of ships. In such a case it shall be deemed that the registration was made at the moment the proposal for registration was submitted.

Article 402

If the authority of second instance alters a ruling of the authority of first instance allowing the erasure of registration, and rejects the proposal for erasure of the registration, the erased inscription or the pre-emption entry shall be re-established.

If the authority of second instance alters a ruling of the authority of first instance accepting any of the proposals referred to in article 316 of this Law and rejects such proposal, the inscription or pre-emption entry shall be erased.

Article 403

A ruling of the authority of second instance ordering registration in the register of ships shall be executed by the authority of first instance.

Article 404

In the course of the registration procedure, administrative proceedings may be instituted against the ruling rendered by the authority of second instance.

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**PART SEVEN**  
**THE SHIP OPERATOR**

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1. Liability of the Ship Operator

Article 405

The ship operator of a ship shall be liable for obligations arising from the navigation and the employment of the ship, unless otherwise specified by this Law.

#### Article 406

The ship operator (that for the purpose of this part of the Law includes the owner of the ship, the charterer and the manager of the seagoing ship) and the salvor, as defined in this article, may limit their liability in conformity with the provisions of this part of the Law.

The salvor is the person that offers services with direct involvement in the operation of salvage or assistance. The operation of salvage and assistance comprises also the acts referred to in article 408, paragraph 1, point (d), of this Law.

If a claim referred to in article 408 of this Law is set out against a person for whose acts, omissions or defaults the ship operator or salvor is liable, the person shall be entitled to avail himself of the limitation of liability in conformity with this part of the Law.

The liability insurer for claims subject to the limitation according to the provisions of this Law, shall be entitled to avail himself of the benefit of this part of the Law to the same amount as the insured person.

Reference to the limitation of liability does not imply a recognition of the liability.

#### Article 407

The master, other members of the crew and other persons engaged by the ship operator, if they are liable for the claim referred to in article 408 of this Law, may limit their liability according to articles 410 to 416 of this Law.

#### Article 408

With a restriction to the application of articles 409 and 410 of this Law the following claims are subject to the limitation of liability, regardless of the grounds for liability:

(a) Claims resulting from loss of life or personal injuries, from loss or damage of property (including also damage to harbour facilities, basins, navigable waterways and navigational marks) that have occurred on board or in the direct involvement with the employment of the ship or in the operation of salvage (rendering assistance), and as from additional damages arising from the same;

(b) Claims resulting from any damage to cargo, passengers and their luggage caused by delay in the carriage by sea;

(c) Claims resulting from other damages caused by breach of non-contractual rights arising directly from the employment of the ship or from the operation of salvage and assistance;

(d) Claims set out by other persons, and not by the persons subject to liability, for measures undertaken with the purpose of preventing or reducing damage for which the person being responsible may limit his liability according to this part of Law, and as for additional damages caused by the measures undertaken:

The claims mentioned in paragraph 1 are subject to the limitation of liability even if a legal action has been taken, on contractual or non-contractual basis, on the basis of recourse or guarantee. However, the claims referred to

in paragraph 1, point (d), are not subject to the limitation of liability to the extent that they refers to indemnity on the basis of the contract with the person subject to liability.

#### Article 409

This part shall not apply to:

- (a) Claims on account of salvage and assistance or contribution in general average;
- (b) Claims resulting from damages prescribed by provisions of chapter V, part IX, f this Law;
- (c) Claims subject to an international convention or a national law governing or banning the limitation of liability for nuclear damages;
- (d) Claims prescribed by provisions of chapter VI, part IX, of this Law;
- (e) Claims of persons in the ship operator's or salvor's service whose assignments are related to the ship employment or to the operation of salvage and assistance, including the claims of their heirs, successors in title or other persons giving grounds for such claims.

#### Article 410

The ship operator's right to avail himself of the limitation of liability provided in article 408 of this Law shall be forfeited if it is proved that the damages arose as the result of acts or omissions which the ship operator performed willfully or by gross negligence with the knowledge that the damages could probably arise.

The ship operator may not limit his liability for damages resulting in loss of life or personal injury of persons in the service of the ship operator.

#### Article 411

As an exception to provisions of article 412 of this Law, the limits of liability for claims arising from one and the same occurrence shall be calculated as follows:

- (a) For claims resulting from loss of life or personal injury:
  - (i) 333,000 accounting units of Special Drawing Rights for a ship whose tonnage does not exceed 500 tons
  - (ii) for a ship whose tonnage exceeds 500 tons the following sum shall be calculated as an addition to the amount given in subparagraph (i):
    - 500 accounting units of Special Drawing Rights for each ton of the ship's tonnage from 501 to 3,000 tons

- 333 accounting units of Special Drawing Rights for each ton of the ship's tonnage from 3,001 to 30,000 tons -

- 250 accounting units of Special Drawing Rights for each ton of the ship's tonnage from 30,001 to 70,000 tons,

- 167 accounting units of Special Drawing Rights for each ton of the ship's tonnage exceeding 70,000 tons;

(b) in respect of other claims,

(i) 167,000 accounting units of Special Drawing Rights for a ship whose tonnage does not exceed 500 tons;

(ii) for a ship whose tonnage exceeds 500 tons the following sum shall be calculated as an addition to the amount given in sub-paragraph (i):

- 167 accounting units of Special Drawing Rights for each ton of the ship's tonnage from 501 to 30,000 tons

- 125 accounting units of Special Drawing Rights for each ton of the ship's tonnage from 30,001 to 70,000, and

- 83 accounting units of Special Drawing Rights for each ton of the ship's tonnage exceeding 70,000 tons.

When the sum appropriated to the payment of claims referred to in this article and calculated according to paragraph 1, point (a), is insufficient to pay the claims in full, the unpaid balance of such claims shall be paid together with the claims referred to in paragraph 1, point (b), from the sum appropriate to the payment of the said claims.

For a salvor not performing the operation of salvage from the ship or a salvor acting exclusively on board the ship to which or in relation to which salvage services are offered, the limitation of liability shall be calculated to the tonnage of 1,500 tons.

For the purpose of this part of the Law the tonnage of the ship is the gross tonnage ascertained under the rules of tonnage measurement contained in annex I of the International Convention for the Tonnage Measurement of Ships, 1969.

#### Article 412

For claims resulting from loss of life or personal injuries of a passenger on board and arising from the same occurrence, the limit of the ship operator's liability amounts to 46,666 accounting units of Special Drawing Rights multiplied by the number of passengers the ship is entitled to carry according to the navigational list; but at the maximum of 25 million Special Drawing Rights.

In the spirit of this article, "claims resulting from loss of life or personal injuries of a passenger on board" means any claim set out by a person carried by the ship or on his account:

(a) Under a contract for the carriage of passengers, or



(b) Who by the ship operator's consent accompanies a vehicle or live animals under a contract for the carriage of goods.

#### Article 413

The sums specified in articles 411 and 412 of this Law are converted into the local currency in conformity with the value of the currency on the date the fund was constituted and payment shall be effected or and adequate guarantee offered.Article 414

The limits of liability provided in article 411 of this Law shall comprise the aggregate of claims arising from the same occurrence and apply:

(a) To the person or persons mentioned in paragraph 1, article 406 of this Law and to any person for whose acts, omissions or defaults the said person or persons are liable; or

(b) To the owner of the ship offering services of salvage (or assistance) from the ship and to the salvor or salvors acting from the ship and to any person for whose acts, omissions or defaults the said person or persons are liable; or

(c) To the salvor or salvors not acting from the ship or acting exclusively on the ship to which or in relation to which the service of salvage (or assistance) is offered and to any person for whose acts, omissions and defaults he/they are liable.

The limits of liability specified in article 412 of this Law shall comprise the aggregate of claims arising from the same occurrence and apply to the person or persons mentioned in paragraph 1, article 406 of this Law relative to the ship referred to in article 412 of this Law against any person for whose acts, omissions or defaults the said person or persons are liable.

#### Article 415

The ship operator may be entitled to the limitation of liability even in case the limitation fund has not been constituted according to article 416 of this Law.

If the ship operator is entitled to the limitation of liability and the limitation fund has not been constituted, the provision of article 417 shall be applied accordingly.

#### Article 416

In a dispute any person being subject to liability may constitute a fund.

The fund shall be constituted to the amount evaluated in conformity with articles 411 and 412 of this Law as applied to claims for which the said person may be liable, increased by interest charges running from the date of the occurrence, giving rise to liability, until the date of the constitution of the limitation fund.

Any fund thus constituted shall be exclusively available for the payment of the claims for which the

limitation of liability may be entitled.

The fund may be constituted either by depositing a sum or giving a guarantee.

The fund constituted by one of the persons mentioned in paragraph 1, point (a), (b) or (c) or article 414 of this Law, or by his insurer, shall be considered to have been constituted by all the persons mentioned in paragraph 1, point (a), (b) or (c) or article 414, paragraph 2, of this Law.

#### Article 417

As an exception to the provisions of paragraphs 1, 2 and 3, article 411, and article 412 of this Law, the fund shall be shared among the creditors in proportion to the sum of their recognized claims relative to the fund.

If prior to the distribution of the fund, the person subject to liability, or his insurer, has settled the net claim relative to the fund, the person is subrogated to the amount paid for the benefit of the rights to which the defrayed claimant is entitled according to this part of the Law. Excluding the persons mentioned above, other persons may be entitled to the right of subrogation referred to in paragraph 2 for each sum of indemnity paid, but solely to the amount the subrogation is granted.

If the person subject to liability, or other person, finds that the sum for indemnity should be subsequently paid in whole or in part, but that he could have availed himself of the right of subrogation according to paragraphs 2 and 3 and provided the payment had been effected before the fund was distributed, the court may order that an adequate sum be temporarily set aside to enable the said person to benefit from the fund thereafter.

#### Article 418

If the limitation fund has been constituted according to article 416 of this Law, not any person having set out a claim relative to the fund may have the right for such a claim in respect of other property of the person entitled to the constituted fund.

Being the limitation fund constituted according to article 416 of this Law, any ship or other property appertaining to the person entitled to the fund and being under detention or seizure on account of a claim coverable from the fund or other offered security shall be released and if the fund has been constituted abroad, a local court may release the property or security provided it is judged that the creditors' interest are adequately safeguarded.

Such a release shall be ordered at any time provided that the limitation fund has been constituted:

- (a) In the port of occurrence of the event, or - if it occurred off the port boundaries - in the next (first) intermediate port; or
- (b) In the port of discharge for claims resulting from loss of life or personal injuries; or
- (c) In port of discharge for claims resulting from damages; or
- (d) In the country of detention.

The provisions of paragraphs 1 and 2 shall be applied only if the creditor may set out his claim for the limitation fund with the court that administers that fund and if the claim can be actually settled therefrom.

Article 419

The provisions of articles 406 to 476 of this Law shall also apply to boats, provided that for the application of the provisions a boat is considered a ship of 500 gross tonnage.

This part of the Law shall not apply to: (a) hydrofoils and (b) rigs/platforms employed for researches and the exploitation of natural resources of the sea bed and its subsoil.

Article 420

The provisions of articles 406 to 476 of this Law shall also apply to warships, provided that the capacity of the warship is determined in terms of displacement, one ton mentioned in article 411 of this Law shall equal two tons of displacement.

2. Proceedings for the Limitation of the Ship Operator's Liability

Article 421

Non-litigious proceedings for the limitation of the ship operator's liability shall be conducted by a sole judge of the court having territorial jurisdiction.

Unless otherwise specified by this Law, the provisions of the Civil Procedure Act shall correspondingly apply to the proceedings referred to in paragraph 1 of this article.

If the ship or boat involved in the occurrence, for which proceedings for the limitation of the ship operator's liability are conducted, is registered in the Croatian Register of ships or in a record of boats, the court in whose area ship is registered or the boat recorded, shall have territorial jurisdiction.

If the ship or boat involved in the occurrence for which proceedings for the limitation of liability of a ship operator of foreign nationality are conducted, the court in whose area the ship was arrested, and if it was not arrested, the court, in whose area assets for the constitution of the limitation fund have been deposited, shall have territorial jurisdiction.

No agreement between the parties on territorial jurisdiction shall be allowed in proceedings for the limitation of the ship operator's liability.

Article 422

Proceedings for the limitation of the ship operator's liability shall be instituted on the proposal of the person who is according to the provisions of this Law entitled to limit his liability.

A proposal for instituting proceedings for the limitation of the ship operator's liability shall, in addition to general data which must be stated in every application, also contain:

(1) A description of the occurrence giving rise to the claim for which the limitation of liability is being proposed;

(2) The ground for and the amount of limited liability;

(3) The way the proposer is ready to constitute the limitation fund (by depositing cash or by giving another adequate security) and in particular to ensure the real value of the fund (by time deposit of resources in a reliable bank etc.)

(4) A list of known creditors with the designation of their place of business or residence;

(5) Information on the kind and the likely amount of the claims of known creditors.

A proposal for instituting proceedings for the limitation of the ship operator's liability must be accompanied by documents proving the tonnage of the ship according to the provisions of article 411, paragraph 4, of this Law.

#### Article 423

If the court finds that the requirements prescribed by this Law which entitle the proposer to limit his liability have not been met, it shall render a ruling rejecting the request submitted.

If the court finds that the resources of the limitation fund will not be actually available for the benefit of the claimants, it shall reject the request for the constitution of the fund; however, the proceedings pertaining to the limitation of liability shall persist, as though the proposer invoked the limitation of liability without intention of constituting a fund, provided the requirements prescribed by this Law which entitle the proposer to limit his liability have been met.

#### Article 424

If the court is satisfied that the request made in the proposal for instituting proceedings for the limitations of the ship operator's liability complies with the provisions of this Law pertaining to the requirements for the limitation of liability, it shall render a ruling approving the limitation of liability.

If the court finds that the assets of the proposed limitation fund will be actually available for the benefit of the creditor, it shall render a ruling approving the constitution of the limitation fund.

In the ruling referred to in paragraph 2 of this article the court shall summon the proposer within 15 days to submit to the court proof that he has made available to the court the assets approved for the constitution of the limitation fund, and that he has deposited in advance a specific sum necessary to cover the costs that will be incurred in the course of or in connection with the proceedings.

If the proposer fails to proceed in conformity with the provision of paragraph 3 of this article, the court shall render a ruling setting aside the ruling on the constitution of the limitation fund.

In the ruling the court shall warn the proposer of the consequences of his failure to proceed according to the provision of paragraph 4 of this article.

Article 425

The ruling pertaining to the limitation of the proposer's liability shall be rendered by the court without deferment.

The limitation fund shall be considered to have been constituted on the date when the proposer submits to the court proof that he has proceeded in accordance with the provision of article 424, paragraph 3, of this Law.

A ruling ascertaining that the limitation fund has been constituted shall be rendered by the court within 24 hours from receipt of proof as referred to in paragraph 3 of this article.

The ruling pertaining to the limitation of liability and the constitution of the limitation fund shall be published in the Official Gazette (Narodne novine, Republika Hrvatska), on the court's notice board and, if necessary, also in some other adequate manner.

The ruling shall be delivered to the proposer and to all creditors to whose claims the limitation of liability relates, and whose place of business or residence is known to the court.

Article 426

The ruling pertaining to the limitation of the ship operator's liability or the constitution of the limitation fund shall contain:

- (1) The name of the ship operator, port of registration and nationality, or the mark and place of registration of the boat;
- (2) The firm or the name and place of business or the personal name and residence and nationality of the proposer;
- (3) The occurrence to which the ship operator's limited liability relates;
- (4) The amount of liability limitation and the ruling pertaining to the constitution of the limitation fund and date of its constitution;
- (5) A summons to the creditors to report to the court the claims which are, according to the provisions of this Law, to be paid from the limitation fund, within a period of 30 days from the date of the publication of the ruling in the Official Gazette, whether or not a final decision on their existence has already been rendered, accompanied by a warning of the consequences of the omission mentioned in article 436 of this Law;
- (6) The place and the time of the hearing for the examination of claims.

Article 427

If against a person who on the basis of the provisions of this Law is entitled to limit his liability (articles 406, 407), and to whom the constituted limitation fund relates at the time of the fund's constitution, enforcement proceedings are conducted or proceedings for securing the claims which, according to the provisions of this Law,

are to be settled from the constituted limitation fund, the enforcement court shall, at the request of such a person, stay by a ruling the enforcement proceedings or the security proceedings and set aside all acts committed in these proceedings.

The party at whose request the court has stayed the enforcement proceedings or the security proceedings shall bear his costs of the proceedings stayed, and shall be obliged, at the request of the opposite party, to pay the latter's expenses.

After the constitution of the limitation fund it shall no longer be possible to seek the institution of regular enforcement proceedings or security proceedings for securing claims which, according to the provisions of the Law, are to be settled from the constituted limitation fund.

If the ruling for the limitation of liability has been rendered, but the limitation fund has not been constituted, the court shall entitle by enforcement proceeding or security proceedings the enforcement or security solely to the amount of limitation of liability, provided the person who invokes the limitation of liability submits to the court the ruling for the limitation of liability and the proof of its compliance with this Law.

#### Article 428

Creditors making claims in a foreign currency shall report their claims in the equivalent amount of local currency - Kunas at the rate of exchange of the National Bank of Croatia on the date of constitution of the limitation fund.

For claims reported in due time (article 426, point (5)) a statutory overdue interest shall run from the date of constitution of the limitation fund and for other claims from the date of their reporting.

Examination of reported claims shall be carried out at the hearing for the examination of claims.

The proposer and all creditors who have reported their claims before the closure of the hearing for the examination of claims shall be entitled to take part in the hearing as parties.

Failure of the parties to appear at the hearing shall not prevent the court from holding the hearing.

At the hearing the court shall invite all present parties to declare themselves concerning the claims reported and concerning the ground for the limitation of the proposer's liability.\_

#### Article 429

It shall not be considered that by reporting his claim the creditor has recognized the right of the proposer to pay the reported claim from the constituted limitation fund.

A creditor may not contest the claim of another creditor by maintaining that it cannot be paid from the constituted limitation fund, as the occurrence giving rise to the claim, was caused by the ship operator with the intent to cause damage or by gross negligence with the knowledge that damages would probably arise (article 410).

It shall be considered that the proposer of the constitution of the limitation fund and the creditors recognize that the claim reported exists and that it is recoverable from the constituted limitation fund, unless this is contested in

writing and orally at the hearing before the closure of the hearing for the examination of claims.

#### Article 430

If the creditor contests that his claim is subject to the limitation of the proposer's liability, and the proposer disagrees with such contestation, the court shall by a ruling instruct the creditor within 30 days from the date of service of the ruling to institute a lawsuit against the proposer to determine that the creditor's claim is not recoverable from the limitation fund.

If the creditor fails within the time limit specified in paragraph 1 of this article to comply with the court ruling, or if he withdraws the lawsuit instituted, it shall be considered that he has renounced his contestation that his claim is subject to the limitation of the proposer's liability.

#### Article 431

If a creditor contests to another creditor the existence or amount of the latter's claim or the right for his claim to be recovered from the limitation fund, the court shall by a ruling instruct the creditor whose claim has been contested within 30 days from the date of service of the ruling to institute against the proposer and all creditors who have contested his claim or the amount of this claim a lawsuit for determining the existence and the amount of his claim or the right for it to be recovered from the limitation fund.

If the creditors contest another creditor's claim determined by a final judgement passed in the lawsuit or other authority against the proposer, the court shall by a ruling instruct the creditor or creditors who contest such claim within 30 day to institute a lawsuit to determine that the claim does not exist.

If the creditors instructed by the court to institute the lawsuit within the term referred to in paragraphs 1 and 2 of this article fail to proceed in accordance with the court ruling, or if they withdraw the lawsuit instituted, it shall be deemed that in the case referred to in paragraph 1 of this article the claim has not been reported, and in the case referred to in paragraph 2 of this article that the claim has not been contested.

#### Article 432

If the proposer contests the existence or the amount of the creditor's claim, the court shall by a ruling instruct the creditor within 30 days from the date of service of the ruling to institute a lawsuit against the proposer to ascertain the existence and the amount of his claim.

The proposer may not contest the creditor's claim if the existence and the amount of this claim has been ascertained by a final decision in a lawsuit between the proposer and the creditor or in a lawsuit conducted in accordance with the provision of article 431, paragraph 1, of this Law.

If the creditor instructed by the court to institute a lawsuit fails to proceed according to the court's ruling within the term referred to in paragraph 1 of this article, or if he withdraws the lawsuit instituted, it shall be considered that he has not reported his claim.

Article 433

An appeal against the rulings to institute a lawsuit referred to in articles 429, 431 and 432 of this Law shall not stay the enforcement of the rulings.

The lawsuits referred to in articles 429, 431 and 432 of this Law may be instituted only for the claims which were the subject-matter at the hearing for the examination of claims.

The person instructed to institute a lawsuit shall inform the court of the lawsuit referred to in paragraph 2 of this article within three days from the date of its institution.

Final judgements passed in the lawsuits referred to in articles 430, 431 and 432 of this Law shall be legally binding on all parties to the proceedings for the limitation of the ship operator's liability.

Article 434

The disputes referred to in articles 430, 431 and 432 of this Law shall fall exclusively within the territorial jurisdiction of the court in whose area the court which conducts proceedings for the limitation of the ship operator's liability is located.

Article 435

If the proposer makes it credible that some claims should be settled from the limitation fund abroad, the court may, at his proposal, order that the sum which would be necessary for the settlement of his claim be set aside from the fund in proportion to other reported claims and to the limitation fund.

A proposal as referred to in paragraph 1 of this article may be submitted until the holding of the first hearing for the distribution of the constituted limitation fund.

The sum set aside according to the provision of paragraph 1 of this article shall be kept in a separate deposit for ten years from the date the ruling on the final distribution of the constituted limitation fund became final.

The court may even before the expiration of the term referred to in paragraph 3 of this article order that the sum set aside be in whole or in part returned to the general deposit of the limitation fund, if according to the circumstances it can be concluded that other requirements for setting aside the sum have ceased exist (paragraph 1).

After the expiration of the term referred to in paragraph 3 of this article the court shall return the sum set aside to the general deposit of the limitation fund.

Article 436

In order to examine claims reported after the closure of the hearing for the examination of claims, the court shall order a new hearing for the examination of claims.



Creditors whose claims are examined at the new hearings according to the provision of paragraph 1 of this article may not contest the earlier recognized claims.

Creditors may report their claims until the closure of the first hearing for the distribution of the limitation fund.

Claims reported after the closure of the first hearing for the distribution of the limitation fund shall not be examined.

Creditors who report their claims after the expiration of the term referred to in article 426, point 5, of this Law shall be obliged to pay to the proposer and other parties to the proceedings, at their request, the costs of the proceedings caused by the subsequent report. The court may summon creditors to deposit within a specific term a sum that will be necessary to cover these costs.

#### Article 437

After the proceedings for the examination of the claims reported have been terminated, the court shall determine by a ruling which claims will be recognized and to what amount, taking account of the written statements of the parties also.

#### Article 438

The distribution of the limitation fund shall be carried out after the ruling rendered in accordance with article 437 of this Law has become final.

The court may, on the proposal of a creditor, also carry out a provisional partial distribution of the limitation fund for the purpose of the preliminary payment of the claims ascertained if the creditor proposing it makes it credible that the lawsuit referred to in articles 430, 431 and 432 of this Law will not be terminated within six months.

The distribution of the fund referred to in paragraph 2 of this article shall include the balance of limitation fund left after from the entire fund assets have been set aside for the possible payment of claims which are still controversial, in the amount in which these claims should be paid should their existence be ascertained in the amount in which they were reported.

The distribution of the assets of the limitation fund set aside according to the provisions of article 435, paragraphs 1, 2 and 3, of this Law shall be carried out after the proceedings for the examination of controversial claims to which the sums set aside relate have been terminated by final decision, account being taken of the distribution already carried out according to the provisions of paragraphs 1, 2 and 3 of this article.

#### Article 439

In order to carry out the distribution of the limitation fund, the court shall draw up a distribution draft.

After having drawn up the draft for the distribution of the limitation fund, the court shall fix a hearing for

discussing the draft, to which it shall summon the proposer and creditors whose claims have been determined and for which it has been established that they are to be paid from the limitation fund, and also creditors whose claims are controversial.

Together with the summons to appear at the hearing a copy of the distribution draft shall be sent to the parties.

#### Article 440

If in order to draw up the draft for the distribution of the constituted limitation fund it is necessary to have an expert, and the court does not have such an expert, it may entrust preparations for drawing up the distribution draft to a special expert outside the court.

The provisions of the Civil Procedure Act pertaining to expert witnesses shall also apply to experts referred to in paragraph 1 of this article.

#### Article 441

The proposer and creditors referred to in article 439 of this Law shall be entitled to take part in hearings as parties.

Absence of the parties from the hearing shall not prevent the court from holding the hearing.

At the hearing the court shall invite the parties to declare themselves concerning the draft for the distribution of the limitation fund and to make their objections to the draft.

The court shall render a decision on the distribution of the constituted limitation fund on the basis of the results of the proceedings also taking into account the written statements of the parties.

#### Article 442

The court shall be obliged within three days from the date when the ruling on the distribution of the limitation fund against which no legal remedy had been employed became final, or from the date when the appellate court delivered to the court of the first instance a final ruling, to issue an order for the payment of the claims of the creditors to which the ruling on the distribution relates.

#### Article 443

The reporting of claims in proceedings for the limitation of the ship operator's liability shall with respect to the interruption of the limitation period have the same effect as the institution of a lawsuit in litigious proceedings.

As regards claims that were contested in the proceedings for the examination of claims, it shall be considered that the limitation period was interrupted from the date of the reporting of the claims until the expiration of the time limit for instituting a lawsuit according to the provisions of articles 431 and 432 of this Law, or from the date when the judgement in which it was determined that the creditors' claims were not to be paid from the limitation

fund, became final.

The limitation period for claims which on the basis of a ruling on the distribution of the limitation fund are to be paid from the fund begins to run again when the ruling on the distribution becomes final.

Article 444

For creditors whose claims it has not been able to pay even within one month from the date of the issue of the order for payment (article 442), the court shall establish a separate deposit from the assets of the limitation fund, according to the rules on the establishment of court deposits.

The assets of the court deposit shall be placed on time deposit at a bank with an adequate interest rate to a time limit which should correspond to a period of time before the expiration of which, according to the judgement of the court, the conditions for the payment of the creditors' claims cannot be fulfilled.

Article 445

In the procedure for the limitation of the ship operator's liability each party shall bear his costs, unless otherwise specified by this Law.

Article 446

An appeal against rulings rendered in the procedure for the limitation of the ship operator's liability must be lodged within eight days from the service of the rulings.

Article 447

In a proceeding for the limitation of the ship operator's liability the parties and the public prosecutor may, against a court ruling by which the court proceedings have been finally terminated, employ all legal remedies that may be used against judgments rendered in litigious proceedings.

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**PART EIGHT  
CONTRACTS**

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Chapter I

SHIPBUILDING CONTRACT

Article 448

The shipbuilding contract is an agreement by which the shipbuilder is bound to construct a new ship in accordance with its design and technical documentation within a time limit and the contractor is bound to pay the stipulated price for the constructed ship.

The contract of reconstruction or repair of a ship is an agreement by which the ship repairer is bound to reconstruct or repair the existing ship within a time limit and the purchaser is bound to pay remuneration to the ship repairer for the stipulated conversion or repair of the ship.

Article 449

The provisions of articles 449 and 458 of this Law shall apply accordingly to the contract of reconstruction and repair of a ship, with the exception of dry-docking of the ship, provided dry-docking is effected under separate contract by payment.

If dry-docking is effected under separate contract, dry-docking shall submit to the provisions of the Law governing other maritime contracts (articles 656-660).

Article 450

The shipbuilding contract as well as any modifications of and additions to the same shall be drawn up in writing.

The shipbuilding contract as well as any modification and additions to the same drawn up contrary to the provisions of paragraph 1 of this article shall have no legal effect.

Article 451

Unless otherwise stipulated by the shipbuilding contract, the ship under construction shall be considered to be property of the shipbuilder.

Article 452

The shipbuilder shall construct the ship according to the shipbuilding contract and the rules of profession and in such a manner so as to enable the ship to obtain the seaworthiness certificates prescribed by this Law and any other certificates required by the shipbuilding contract.

If the ship, after having been constructed, is to be registered in a foreign register of ships, the shipbuilder shall construct the ship according to the shipbuilding contract and the rules of the profession and in such a manner so as to enable the ship to obtain the certificates required by the shipbuilding contract.

Article 453

The contractor shall have the right to supervise the construction of the ship and may appoint one or more superintendents for this purpose. The contractor shall notify the shipbuilder in writing of the appointment and any substitution of the superintendents.

All expenses connected with the survey of the superintendents shall be borne by the contractor.

The shipbuilder shall facilitate the superintendents in supervising the construction under way.

If the superintendent ascertains that certain works are not being carried out in accordance with the provisions of article 452 of this Law, he shall immediately notify the shipbuilder in writing.

If the shipbuilder does not accept the remarks of the superintendent, the latter shall notify without delay the contractor in writing and request that the proceedings stipulated by the contract for such cases be instituted.

If in the contract there are no provisions as to the proceedings mentioned in paragraph 5 of this article, or should the contracting parties not accept the results of such proceedings, the dispute shall be referred to the court.

The provisions of paragraphs 1 to 5 of this article shall not affect the right and duty of the Croatian Register of Ships to supervise the construction of the ship at the request of the parties and in accordance with the provisions of this Law regarding the ascertainment of the seaworthiness of the ships.

Article 454

When the shipbuilder has ordered or acquired parts or accessories for the ship from persons designated by the contractor, the shipbuilder shall be liable for the workmanship and any defects in the parts and accessories ordered or acquired, unless he can prove that he was unable to discover such defects by exercising due diligence.

Article 455

The shipbuilder shall not be liable for defects in construction if he proves that such defects ensued as the result of his having to follow the instructions of the contractor in spite of having warned him of the possibility of damaging consequences foreseeable by exercising due diligence.

When the material for the construction of the ship is supplied by the contractor, the shipbuilder shall examine it, and should ascertain certain defects, he shall notify the contractor without delay.

If the shipbuilder does not comply with the provisions of paragraph 2 of this article, he shall be liable for damages caused by the defects in the material.

The shipbuilder shall not be liable under the provisions of paragraph 3 of this article if the contractor has requested that such material be used in the construction of the ship in spite of the warning that the material is defective.

If the shipbuilder is not at the same time the designer of the project, he shall be liable for those defects in

the construction of the ship carried out in accordance with the project which he could have discovered, by exercising due diligence,.

The shipbuilder shall not be liable under the provisions of paragraph 5 of this article, in spite of the warning, if the contractor has requested that works be carried out in accordance with the project.

#### Article 456

The shipbuilder and ship repairer have the right to retain the ship being under construction or repair at the shipyard port until payment is effected in accordance with the contract of construction or repair of the ship.

#### Article 457

The shipbuilder shall at his expense and risk eliminate within an adequate time limit the defects for which he is liable under the provisions of articles 452, 453 and 455 of this Law.

If the defects cannot be eliminated, the contractor may request an adequate reduction in the price.

If the defect which cannot be eliminated is essential, the contractor shall have the right to rescind the contract.

The provisions of paragraphs 1 to 3 of this article shall not affect the right of the contractor to compensation for damages.

The shipbuilder shall not be relieved from the obligations specified in paragraphs 1 to 4 of this articles even if during the construction of the ship the contractor has not objected to the project prepared by the shipbuilder, to the material used, and to the way the works were performed.

#### Article 458

The shipbuilder shall be liable for latent defects discovered within one year counting from the day of the delivery of the ship to the contractor, provided that the latter has notified the shipbuilder of the defects in the ship as soon as discovered.

#### Article 459

The shipbuilder's obligations under the provisions of the article 458 of this Law shall be barred by the statute of limitation within one year from the day on which the shipbuilder has been notified of the ship's defects according to the article 458 of this Law.

The terms of the shipbuilding contract stipulated contrary to the provisions of paragraph 1 of this article have no legal effect.

Chapter II  
CONTRACTS FOR THE EMPLOYMENT OF SHIPS

1. General Provisions

Article 460

Contracts for the employment of ships are: maritime contracts and charter by demise.

Article 461

Maritime contracts are: contracts of carriage of goods by sea, contracts of the carriage of passengers by sea, contracts of towage or of pushing of ships on sea and contracts relating to other maritime services.

Article 462

Unless otherwise provided by this Law, the provisions governing particular maritime contracts shall also apply in appropriate manner to other maritime contracts.

Article 463

The terms in this chapter of the Law are used in the following sense:

- (1) Charterer is the contracting party that engages the ship operator to effect the carriage of goods, passengers, to tow or push ships and perform other maritime services;
- (2) Shipper is the charterer or a person appointed by him to deliver goods for carriage to the ship operator under a contract of the carriage of goods;
- (3) Consignee is the person entitled to take delivery of the goods from the ship operator;
- (4) Beneficiary is a person having specific rights in relation with the ship operator (charterer, shipper, consignee) under a contract for the carriage of goods;
- (5) Lay-time is the regular time allowed for the loading or discharging of cargo;
- (6) On demurrage is the period of time during which the loading or discharging of the cargo may be continued after expiration of the laytime.

Article 464

The provisions of this chapter of the Law (articles 460 to 687) shall also apply to:

(1) warships,

(2) boats.

As an exemption to point 1, paragraph 1, of this article the following provisions shall not apply to contracts for the employment of warships:

(1) Provisions governing time charters for the whole ship (articles 468, 469, 595 and 597 and provisions of articles 465 and 467 refer to the said contract);

(2) Provisions governing the right of the charterer to conclude a contract of the carriage of goods with a third person (article 470);

(3) Provisions governing the carriage of passengers and luggage (articles 611 to 646), excepting the provisions regulating the liability of the operator for the death of passengers or injury to them (articles 625 and 633, and the provisions of articles 626, 627, 628, 632, 637, 638, 640, 641, 644 and 645 referring to the said liability) as well as the provisions in article 623 of this Law;

(4) Provisions governing the bareboat charterers and/or charter by demise (articles 671 to 685);

(5) The provisions in articles 478 and 590 of this Law.

## 2. Maritime Contracts

### (a) Carriage of Goods

#### General Provisions on the Carriage of Goods

##### Article 465

By a contract of the carriage of goods the ship operator is bound to effect a carriage by ship, and the charterer is bound to pay the freight.

##### Article 466

A contract of the carriage of goods by ship may be concluded for the carriage of goods in the whole ship, a proportional part of the ship, or in a specified space thereof (charter party), or for the carriage of specific goods (contract of transport).

A charter party may be concluded for one or more voyages (voyage charter), or for definite period of time (time charter).

##### Article 467

A voyage charter for more voyages or a time charter for the whole ship must be drawn up in writing.



Contracts of paragraph 1 of this article which are not drawn up in written forms have no legal effect.

For contracts of carriage of goods not mentioned in paragraph 1 of this article, either party shall have the right to request that the concluded contracts not designated in paragraph 1 of this article be drawn up in writing.

If the party requested to draw up the written form does not comply with this request, the other party may rescind the contract if the enforcement of the said contract has not commenced.

The provisions in paragraph 4 of this article shall not affect the right of the party requesting the written form to claim damages.

#### Article 468

Under a time charter for a whole ship, the master is bound to follow the instructions of the charterer, provided they are within the limits of the contract and in accordance with the proper use of the ship.

Under a time charter for a whole ship, the ship operator is not liable to the charterer for obligations assumed by the master in compliance with special instructions given by the charterer.

#### Article 469

Under a time charter for the whole ship, the charterer can order neither a voyage that would expose the ship or crew to perils that could not be foreseen at the time the contract was concluded nor a voyage that cannot be expected to be completed without considerably exceeding the period of time stipulated by contract.

#### Article 470

The charterer within a charter party may conclude a contract for the carriage of goods with a third person for the ship referred to in the said charter party.

The ship operator shall also be liable to third persons for obligations under a contract concluded in accordance with paragraph 1 of this article, however only to the extent provided by the provisions, whose application cannot be overruled by agreement between the parties and under the usual terms for the said type of carriage.

If the obligations of the ship operator are increased in the cases under paragraph 2 of this article, the charterer shall be liable to the ship operator for the said obligations.

If the third person with whom a contract has been concluded according to paragraph 1 of this article had knowledge of the charter party, the ship operator shall be liable to the said person only to the extent stipulated by the said charter party and established by rules of law whose application cannot be overruled by an agreement between the parties.

Article 471

A charterer who authorizes a third person as a shipper to deliver the cargo for carriage to the ship operator shall be liable to the ship operator for the acts and omissions of the shipper to the extent stipulated by the contract of carriage.

Article 472

The contract of the carriage of goods shall terminate if its performance is permanently made impossible due to force majeure.

If due to force majeure the performance of the contract of the carriage of goods has been made impossible for a long period of time, or if it is uncertain how long the impediment will last, either party may withdraw from the contract.

The party not at fault for the impediment may cancel the contract in the cases specified in paragraph 2 of this article, if the impediment has lasted too long or if it can be expected to last too long.

Either party is also entitled to withdraw from the contract if the safety of the ship, crew or cargo could be imperilled due to force majeure or any other circumstances that cannot be averted or prevented and that could not be foreseen at the time the contract was concluded and could last a long time or indefinitely.

Article 473

If the contract for of carriage of goods has been terminated or cancelled in accordance with article 472 of this Law, the ship operator shall be entitled to reimbursement of the expenses incurred in connection with the discharging; if the contract has been terminated or cancelled for a reason that occurred after the ship left the port of loading, the ship operator shall be entitled to pro-rata freight in proportion to the distance effectively covered.

Excepting the ship operator's right to compensation under paragraph 1 of this article, the contracting parties are not entitled to any other compensation from each other.

Article 474

If the performance of a contract of the carriage of goods is made impossible for only a short period of time, neither contracting party has the right to withdraw from the contract.

Article 475

In a charter party for a whole ship the charterer may withdraw the contract before the loading is completed or before the demurrage has expired if the loading has not been completed by that time, provided he pays one half of the agreed freight, compensation for demurrage and other expenses incurred by the ship operator not covered by the

freight.

The provisions of paragraph 1 of this article shall also apply to contracts of carriage for a proportional part of the ship, for a specified space in the ship, or for the carriage of single goods, provided all charterers withdraw the contract.

In cases specified in paragraphs 1 and 2 of this article, the charterer, or charterers may also withdraw the contract after loading has been completed or demurrage has expired even in the course of the voyage, provided they pay the stipulated freight in full, the demurrage and other expenses incurred by the ship operator and not covered by the freight.

When the contract of carriage is concluded for a proportional part of the ship, or a specified part in the ship, or for the carriage of single goods, any charterer may withdraw the contract before loading has commenced, provided that he pays the stipulated freight in full, the demurrage and other expenses incurred by the ship operator not covered by the freight.

#### Article 476

Any charterer may withdraw a contract in the cases specified in article 475, paragraph 4, of this Law, although loading has commenced, provided that he fulfils the obligations under the said Articles, that the cargo may be discharged without imperilling the safety of the ship or other cargo, that the departure of the ship will neither be unduly delayed by the discharging operations nor will its sailing schedule be altered, that it will cause no damage to the other charterers and there are no other important reasons against discharging.

If the ship operator does not accept the withdrawal of the contract for reasons specified in paragraph 1 of this article, he is bound to inform the charterer immediately about it.

#### Article 477

When, in cases of cancellation of the contract, a bill of lading has been issued, the charterer may withdraw the contract if he returns all copies of the said bill of lading to the ship operator or furnishes security against any damages that the ship operator might suffer because all copies thereof were not returned to him.

The Vessel

#### Article 478

The ship operator shall be obliged to carry the cargo in the ship expressly stipulated by the contract or in one that has the stipulated features.

If the parties have not expressly agreed upon a particular ship or the features thereof according to paragraph 1 of this article, the ship operator shall be bound to carry the cargo in a ship whose features are customary for effecting the carriage as stipulated.

Article 479

The ship operator of a sea-going ship shall be bound in due time, before commencing the voyage, to exercise the due diligence of a conscientious ship operator in making the ship seaworthy, in properly equipping, manning and stocking it with the necessary supplies and making it fit to have the cargo loaded, stowed, preserved, carried and discharged in the same condition as when it was received for carriage.

The terms of the contract contrary to the provisions of paragraph 1 of this article have no legal effect.

Article 480

The space in the ship that is usually not used for stowing cargo may be used for this purpose only by express agreement between the contracting parties, provided the said agreement is not contrary to the rules of law.

Article 481

The ship operator may, with the consent of the charterer, substitute the ship specified in the contract by another. If the carriage is effected under a contract of transport, the ship may be substituted without the consent of the charterer.

Article 482

The ship operator shall be liable for the accuracy of the statements about the deadweight capacity of the ship indicated in the charter party if the difference exceeds 5 per cent.

Article 483

If the contract has been concluded for carriage in the whole ship or a specified space of the ship, and if the contracted space has not been entirely used, the ship operator cannot dispose of the remaining space without the consent of the charterer.

Loading the Cargo

Article 484

The ship operator is bound to bring the ship to the agreed port for loading.

Article 485

If, for reasons for which the charterer is not liable, the ship cannot be brought to the stipulated port, the charterer, keeping the objective of the contract in mind, shall have the right to designate the nearest suitable port to which the ship can set to take delivery of the cargo.

Article 486

The loading place at the port shall be secured by the charterer. In liner services the loading place at the port shall be secured by the ship operator.

Article 487

The ship operator shall bring the ship to the loading place designated by the charterer in accordance with article 486 of this Law if this can be done without danger for the ship and if the cargo can be loaded at the said place without putting the ship in danger.

If the loading place does not satisfy the conditions under paragraph 1 of this article, the ship operator shall bring the ship to another place as near as possible, provided he can do so without danger for the ship and the cargo can be loaded at the said place without putting the ship in danger.

Article 488

The ship may take delivery of the cargo at anchorage if so provided by contract or local customs and must do so if loading at anchorage is ordered by the competent port authority.

Article 489

If under a contract the charterer or other person has the right to designate the port loading, but the master does not receive such an order within the agreed or in due time, or if the master receives the order but cannot execute it, he shall act according to his best knowledge, and take into account the interests of the beneficiaries of carriage.

Article 490

If, under the contract, the ship must arrive at the designated port within a fixed time, the ship shall be considered to have arrived when it reaches the port or the anchorage thereof.

Article 491

The master shall notify the shipper in writing that the ship is ready to load (notice of readiness).

The notice of readiness shall be presented to the shipper at the shipper's address during office hours.

If the master does not know the address of the shipper or if the notice of readiness cannot be delivered to his address, the master shall request the charterer for instructions, and the presentation of the notice of readiness shall be considered to have legal effect from the time it would have been delivered had there been no hindrance specified above.

Article 492

A notice of readiness need not be presented for ships in liner service.

Ships in liner service shall commence loading as soon as the ship is ready to load at the designated place.

Article 493

The master may present the notice of readiness if the ship is ready to load and is at the place in the port specified under articles 484, 485, 487 and 488 of this Law, provided he has previously obtained free pratique and the loading permit and has performed all other acts permitting the loading of the cargo on the ship.

The notice of readiness may be presented even if the ship has not been brought to the place designated in paragraph 1 of this article provided this has been prevented for reasons arising from the charterer's responsibility.

Article 494

The ship operator takes over the cargo under tackle.

Article 495

If the cargo is to be loaded by the shipper, the master is bound to instruct him how to stow the cargo in order to avoid its damage due to the fact that the cargo is carried by sea.

On loading the cargo the shipper is bound to follow the master's instructions as to the distribution of the cargo on board and other circumstances regarding the safety of the persons, the ship, its installations and equipment, other cargo on board as well as the prevention of environmental pollution.

Article 496

The cargo cannot be stowed on deck without the express consent of the shipper, unless such cargo is usually stowed on deck.

Article 497

The quantity of the cargo delivered for carriage may be specified by the number of pieces, by weight or by volume.

In case of doubt, the quantity shall be specified by the unit of measurement customarily used at the port of loading.

Article 498

Another cargo may be delivered for carriage instead of the agreed cargo if the term of carriage are not altered thereby at the disadvantage of the ship operator or this would not cause the ship to be delayed or imperil the safety of the ship and the other cargo on board and if at the ship operator's request the charterer furnishes security to cover any claims which might arise from the substitution of the cargo.

If the agreed cargo has already been loaded, the expenses for its discharging and loading the substituted cargo shall be borne by the charterer.

Article 499

The charterer or the shipper shall give the ship operator instructions for handling the cargo if it is not in regular trade traffic and if the master should take special measures when stowing it.

Article 500

In cases involving dangerous cargo, the charterer or the shipper shall inform the ship operator of the nature of the danger and indicate which protective measures should be taken, even if not requested by the ship operator.

If the notice of dangerous cargo which is being carried has been specified neither in the bill of lading nor in the written document evidencing the contract of carriage, the burden of proof that the ship operator had knowledge of the peril encountered by carrying the said cargo lies with the beneficiary of the carriage.

Article 501

The ship operator must not accept for carriage cargo that is not permitted to be imported, carried in transit or exported, or that is being smuggled.

The ship operator shall not accept for carriage cargo that is of dangerous nature, if at the time the contract was concluded he neither had knowledge nor ought to have had knowledge of the dangerous nature of the cargo.

The ship operator shall not accept for carriage cargo if its condition and the condition of its packing may endanger the persons, the ship, the environment or other cargo with which it would or perhaps would come into contact during the voyage.

Article 502

The charterer shall be liable to the ship operator for damages caused to the persons, to the ship, to the cargo or environment as well as for all other damages and expenses resulting from defective packing.

Article 503

The charterer shall be liable to the ship operator, for damages caused to persons, to the ship, to the cargo or environment as well as for all other damages and expenses caused by the natural state or condition of the cargo, if the ship operator neither had knowledge nor ought to have had a knowledge of the nature and condition of the cargo.

Article 504

The provisions of articles 486, 490, 491 and 494 of this Law shall apply unless otherwise provided by the customs of the port.

Time for Loading

Article 505

The ship operator shall take delivery of the cargo for carriage during the working hours of the port. The working hours are determined by the body managing the port in accordance with the Law.

Article 506

Lay-time begins to run at the commencement of the forenoon or afternoon working hours, provided that the notice of readiness has been tendered no later than two hours before expiration of the respective forenoon or afternoon working hours.

The duration of the lay-time shall be calculated in accordance with the customs of the port.

The lay-time shall be calculated in working days or parts thereof, with a working day comprising 24 consecutive hours.

Sundays, national and other holidays when no work is performed in the port, as well as periods of the time



when loading operations are prevented due to weather conditions or hindrances on the part of the ship, shall not count as working days.

#### Article 507

On the expiration of the lay-time, on demurrage time shall commence.

On demurrage time is calculated in running days and parts thereof without interruption.

When it was impossible to work due to hindrances on the part of the ship, such time shall not count as on demurrage time.

#### Article 508

The ship operator shall be entitled to a special compensation for demurrage.

The rate of demurrage shall be established according to the rate of demurrage of other similar ships laying at the same port at the same time; if this is not possible, the rate of demurrage shall be established according to the rate of demurrage of similar ships laying in the nearest port at the same time.

Demurrage shall be paid daily for the whole day in advance; if the loading is terminated before the end of a day for which demurrage has already been paid, the ship operator shall refund a proportional part thereof.

#### Article 509

If the demurrage is not paid when due, the ship may sail immediately with the part of the cargo that has already been loaded.

In the case provided in paragraph 1 of this article, the ship operator shall retain the right to the full freight, demurrage and other claims to which he is entitled under the contract.

#### Article 510

When the ship can sail with part of the cargo loaded because demurrage has not been paid when due (article 510), the ship operator may withdraw the contract and discharge the cargo if the loaded part of the cargo does not furnish sufficient security for the ship operator's claims under the contract of carriage.

In discharging the cargo, the ship operator shall exercise the due diligence of a conscientious ship operator taking into account the circumstances of the case.

If the ship operator withdraws the contract and the cargo is not discharged, he shall retain the right to the full freight, to the compensation for demurrage incurred and discharging expenses not covered by the freight as well as other claims to which he is entitled under the contract.

Article 511

The provisions of this Law relating to lay-time and demurrage shall not apply to carriage by ships in liner service.

When carriage is performed by ships in liner service, the shipper shall deliver the cargo as fast as the ship can take it.

Article 512

A ship in liner service shall not be bound to wait for loading beyond the sailing time indicated in the sailing schedule provided that the ship is not at fault for the delay in loading.

Article 513

The shipper is bound in due time to give the master the customs documents and other documents required for loading, carrying and discharging of the cargo.

If such documents are not furnished by the expiration of lay-time or on demurrage time, and in case of carriage by ships in liner service by the time announced for sailing, the master may discharge the cargo.

In the case provided in paragraph 2 of this article, the ship operator shall retain the right to the full freight, demurrage and extraordinary demurrage or to damages for detention of a ship in liner service and for any other damages.

Article 514

The provisions of article 505, paragraph 1, and of articles 506, 507, 508, 511 and 512 of this Law shall apply unless the customs of the port provide otherwise.

Shipping Documents

Article 515

On completion of the loading, the ship operator shall issue a bill of lading to the shipper at his request.

Article 516

If the cargo has been delivered to the ship operator before loading, the shipper may request that the ship operator issue a receipt for the cargo received or a bill of lading bearing the visible annotation "received for shipment" (received for shipment bill of lading).

A ship operator who has issued a received for shipment bill of lading may, instead of issuing a bill of lading, confirm that the loading had been effected by inserting the remark "loaded" in the received for shipment bill of lading.

Article 517

If the ship operator has issued a received for shipment bill of lading, the shipper shall, on obtaining the bill of lading, return the received for shipment bill of lading to the ship operator.

If a receipt for the cargo has been issued prior to the bill of lading, the shipper shall return the said receipt to the ship operator on receipt of the bill of lading.

Article 518

If the cargo to be carried had to be loaded into different ships, or if it consists of different types of goods or is divided into different lots, both the ship operator and the shipper shall have the right to request that a separate bill of lading be issued for each ship employed, or for each type of goods, or for each lot of cargo.

If the cargo is loaded in bulk, the shipper may request that separate bills of lading be issued for certain quantity of cargo.

Article 519

Agreements between the parties which are contrary to the provisions of article 515 and article 516, paragraph 1, of this Law shall have no legal effect.

Article 520

The bill of lading may be issued to a given person, "to order" or "to the holder".

If in a bill of lading issued "to order", the person to whose order the cargo is to be delivered is not named, the ship operator shall deliver the cargo by order of the shipper.

Article 521

A bill of lading issued to a named person is transferable by cession, a bill of lading issued "to order" by endorsement, and a bill of lading issued "to holder" by delivery.

The provisions of the Law on Bill of Exchange, excepting those provisions regulating the right of recourse, shall apply in appropriate manner to the form and the effects of the endorsement.

Article 522

At the shipper's request the ship operator shall issue several original forms of the bill lading, indicating on each form the total number of original forms issued.

Article 523

Each party may request that several copies of the bill of lading be issued for its use.

It must be indicated on each copy that the said form is a copy.

At the ship operator's request, the shipper shall sign the copy of the bill of lading.

Article 524

The bill of lading contains:

- (1) The firm or its style and the main office or the name and domicile of the ship operator issuing the bill of lading,
- (2) The name or other particulars on the ship's identity,
- (3) The firm or its style and the main office or the name or domicile of the shipper,
- (4) The firm or its style and the main office or the name and domicile of the consignee, or the annotation "to order" or "to the holder",
- (5) The port of destination, or the time or place the said port will be named,
- (6) The quantity of cargo specified in number of pieces, weight or bulk or other measurement depending on the type of cargo,
- (7) The type of cargo and marks thereon,
- (8) The apparent condition of the cargo or the packing,
- (9) The provisions on the freight,
- (10) The place and the date the cargo was loaded and the bill of lading issued.

The bill of lading may also contain other statements and terms of carriage.

Article 525

The bill of lading received for shipment shall also contain the data provided in article 524 of this Law, excepting those concerning the identity of the ship and the place and day of loading.

When writing the remark "shipped" on the bill of lading received for shipment, the ship operator shall insert therein the data on the ship identity and the date the cargo was loaded.

Article 526

The bill of lading shall be personally signed by the ship operator or his representative.

Article 527

The bill of lading shall be drawn up by the ship operator on the basis of the data furnished in writing by the shipper.

Article 528

If there is a reasonable ground for doubt that the data furnished by the shipper on the type of cargo or marks thereon, or its quantity in number of pieces, weight, bulk or other unit of measurement are not exact or complete, and if there is no reasonable means of checking the accuracy of the said data during the loading or if the marks on the cargo are not clear or sufficiently durable, the ship operator may insert remarks in the bill of lading specifying his reasons for doing so.

Article 529

The shipper's signature on the bill of lading or on a copy thereof (article 526) does not mean that the shipper agreed to the remarks the ship operator inserted in the bill of lading according to the provisions under article 528 of this Law.

Article 530

When the ship operator has not inserted remarks in the bill of lading according to the provisions under article 528 of this Law, in the relationship between the ship operator and a third lawful and conscientious holder of the bill of lading, it shall be presumed that the ship operator has received the cargo as described in the bill of lading.

When the ship owner inserts remarks in the bill of lading according to the provisions of article 528, it is presumed that he had received the cargo in the same conditions as delivered to the consignee unless the lawful holder of the bill of lading proves the contrary.

Article 531

The written terms of the contract of carriage and the ship operator's general conditions shall be binding for an lawful holder of the bill of lading who is neither the charterer nor the shipper only if the bill of lading expressly

refers to the said terms and conditions.

The verbal terms of a contract of carriage not inserted in the bill of lading shall not be binding for an authorized holder of the bill of lading who is neither the charterer nor the shipper even in cases when the said terms are expressly referred to in the bill of lading.

If the bill of lading only generally refers to the terms of the contract of carriage to the ship operator's general conditions, the holder of the bill of lading mentioned in paragraph 1 of this article shall not be bound by the terms of the contract of carriage and the general conditions which are more onerous than those usually applied in that type of carriage.

### The Voyage

#### Article 532

The ship operator shall perform the voyage within the agreed period of time.

If the duration of the voyage has not been stipulated, the ship operator shall perform the voyage within a reasonable period of time.

#### Article 533

The ship operator shall proceed by the route stipulated by the contract.

If the route of the voyage has not been stipulated by the contract, the ship operator shall follow the usual route.

#### Article 534

If for any reason the ship is prevented from commencing a voyage or continuing a voyage that has already been commenced and the hindrance is expected to last a considerable period of time, or if it is uncertain how long it may last, the master shall request instructions from the charterer or the person having the right to dispose of the cargo.

If the master is not able to comply with the provisions under paragraph 1 of this article or to carry out the instructions received, he shall, depending on the given circumstances, either tranship the cargo, return it to the port of departure, or act in another way taking into account the interest of the ship operator and the beneficiary of the carriage.

If, in the cases mentioned in paragraphs 1 and 2 of this article, the contract of carriage has terminated either by law or withdrawal, the provisions of this Law regulating the mutual relations of the contracting parties in cases involving the termination of the contract (article 473) shall apply in an adequate way in respect to the rights and obligations of the contracting parties arising from the measures taken by the master.

If the contract has not been terminated or if the charterer's instructions cannot be carried out, the resulting damages shall be borne by the party at fault for the hindrance or the party causing the hindrance. If both parties have

caused the hindrance, each party shall bear its own damage. If both parties are at fault for the hindrance, each party shall bear the damage in proportion to its fault.

Article 535

The charterer or the lawful holder of the bill of lading may withdraw the contract after the voyage has commenced under the conditions provided in article 475, paragraph 3, and articles 476 and 477 of this Law.

Article 536

If the ship operator does not carry out an order received from the beneficiary of the carriage when he is bound to do so according to the provisions of this Law, he shall be liable to the beneficiary of the carriage for all damages caused thereby.

The ship operator shall be bound to compensate the consignee for damages as lawful holder of the bill of lading, if he carries out the orders of the charterer although all copies of the bill of lading have not been returned to him.

The extent of the damages under paragraphs 1 and 2 of this article cannot exceed the amount the ship operator would have to pay if he were liable for the total loss of the cargo.

Article 537

The ship operator's obligation to compensate for damages under the provisions of article 536, paragraph 2, of this Law shall not prejudice his right recourse against the beneficiary of the carriage.

Delivery of the Cargo to the Consignee

Article 538

The ship operator shall deliver the cargo to the consignee at the port of destination.

Article 539

The provisions of articles 485 to 489 and articles 491 to 494 of this Law shall apply to the port of destination and to the delivery of the cargo to the consignee.

Article 540

The ship operator shall deliver the cargo to the lawful holder of the bill of lading or in case the said documents have not been issued, to the person authorized by the contract of carriage.

Article 541

When no document of transport has been issued for the cargo, the consignee shall be entitled to request the ship operator to deliver the cargo upon arrival of the ship at the port of destination, provided that he satisfies the obligation that are binding him by the contract.

The ship operator shall carry out the request of the consignee set out in paragraph 1 of this article unless the charterer has stipulated otherwise in his orders for disposing of the cargo which are binding on the ship operator.

Article 542

The lawful holder of the bill of lading shall be entitled to request the ship operator to deliver the cargo as soon as it has arrived at the port of destination, provided he satisfies the conditions set out in the bill of lading.

On taking delivery of the cargo, the lawful holder of the bill of lading shall return the bill of lading to the ship operator.

When the cargo has been delivered at the port of destination to a person holding one or more original forms of the bill of lading, the remaining original forms no longer bind the ship operator.

Article 543

If no document of transport has been issued for the cargo, the consignee shall be entitled to request delivery of the cargo before the ship has arrived at the port of destination, provided he has been authorized in the contract by the charterer to do so.

The lawful holder of the bill of lading shall be entitled to request delivery of the cargo before the ship has arrived at its destination provided that the conditions stated in article 475, paragraph 3, and articles 476 and 477 of this Law are satisfied.

Article 544

The ship operator shall have the right to request the person to whom the cargo has been delivered to issue receipt for the delivered cargo.

Article 545

If the cargo which is covered by one document of transport is delivered in parts, the ship operator may request that the receipt of a part of the cargo be confirmed on the said document of transport or by special receipt.



Article 546

If no document of transport for the cargo being carried has been issued, the charterer shall be entitled to instruct the ship operator to deliver the cargo at the port of destination to another person rather than the one indicated in the contract.

The charterer loses the right mentioned in paragraph 1 of this article when the consignee, in accordance with the provisions of this Law, acquires the right to request and does request the ship operator to deliver the cargo.

Article 547

The provisions of articles 505 to 508 and of article 514 of this Law shall also apply to the discharging time.

Article 548

If demurrage is not paid when due, in order to obtain security for the payment of demurrage and other claims based on the contract of carriage, the master may discharge the cargo and take it into custody or entrust it to a public warehouse or other suitable person at the risk and expense of the consignee or other person entitled to dispose of the cargo.

Article 549

If the consignee fails to give written notice of any damage or shortage of the cargo immediately upon its receipt, it shall be presumed that the cargo has been delivered to him as described in the bill of lading, or as received for carriage if no document of transport has been issued unless the consignee proves the contrary.

Article 550

If the damage or shortage is not apparent, the consignee may give notice in writing as set out in article 549 of this Law within three days from the delivery of the cargo.

The notice set out in article 549 of this Law and in paragraph 1 of this article shall be sufficiently specific.

If the consignee gives notice in writing as prescribed in paragraph 1 of this article and article 549 of this Law, it shall be presumed that the objections therein are true unless the ship operator proves the contrary.

Notice need not be given if during the discharging and delivery of the cargo the ship operator and the consignee have jointly acknowledged the existence of damage or shortage in writing.

An agreement between the parties contrary to the provisions of paragraphs 1 to 4 of this article and article 549 of this Law shall have no legal effect if it is detrimental to the beneficiary of the carriage.

The ship operator and the consignee shall, as far as possible, cooperate with each other to establish the condition and quantity of the cargo at delivery.

Article 551

When determining the quantity of shortage in the delivered cargo, the usual waste during carriage shall be taken into account.

If the cargo has been lost, no waste shall be taken into account.

The waste mentioned in paragraph 1 of this article shall be assessed in accordance with the customs of the port of discharge.

Article 552

A damage caused by delay in delivery of the cargo, other than a shortage or damage to the cargo itself, shall be proved by the consignee.

Article 553

If the consignee does not appear, or if he cannot be found, or if he refuses or is unable to take delivery of the cargo, or if several lawful holders of the bill of lading appear before commencement of delivery of the cargo, the ship operator shall request instructions from the shipper or the charterer.

Article 554

If, after having requested the shipper or the charterer for instructions as set forth in article 553 of this Law, the ship operator does not receive the said instructions in due time, or if he is unable to carry out the instructions received, he may act in accordance with the provisions of article 548 of this Law but shall be obliged to inform all the beneficiaries of the carriage that he is aware of the measures he has taken.

When a ship is in liner service or the carriage of goods is being performed under a contract of transport, the ship operator shall immediately inform all the beneficiaries of the carriage that he is aware of any hindrance preventing delivery of the cargo but shall not be bound to wait for instructions; rather he may immediately take the measures prescribed in the provisions of article 548 of this Law.

Article 555

When the ship operator delivers the cargo into the custody of a public warehouse or other person, he shall be liable only for the choice thereof.

Article 556

If the cargo taken or given into custody by the ship operator under the provisions of articles 548 and 554 of this Law is not claimed within 30 days after the day it was taken or given into custody at the port of destination, and if the freight and other claims arising from the contract of carriage have not been paid, the ship operator may sell the cargo or a part thereof if this is necessary in order to cover the claims.

The ship operator may sell the cargo before expiration of the time designated in paragraph 1 of this article if the sale thereof would not bring a sufficient amount to cover the ship operator's claims and the expenses of custody, or if the cargo is damaged or perishable.

The cargo shall be sold by public auction unless it is perishable, damaged or the price of the cargo is quoted on the exchange.

The ship operator shall exercise due diligence when selling perishable or damaged goods.

Article 557

The ship operator shall be bound to deposit the amount obtained from the sale of the cargo under article 556 of this Law at the court having jurisdiction over the place of sale to the account of the person authorized to dispose of the cargo, after having deducted his claim connected with the carriage of the said cargo as well as the custody and sale expenses informing without delay all the beneficiaries of the carriage that he is aware of, about the said deposit.

Article 558

If the carriage is performed by a ship in liner service and if the ship operator, at the fault of the beneficiary of the carriage, is prevented from discharging the cargo at the port of destination before expiration of the time indicated in the sailing schedule for the ship's departure from the said port, the ship operator may discharge the cargo in another nearby port, thereby retaining the right to claim an increased freight and compensation for damages caused thereby.

If the beneficiary of the carriage is not at fault for preventing the discharge at the port of destination, the ship operator shall bear the expenses for the carriage of the cargo to the said port; if the ship operator is at fault for preventing the discharge, he shall also have to compensate for the damages caused by the delay.

Liability of the Operator for Damages  
Caused to the Goods and for Delay

Article 559

The ship operator shall be liable for any damage, shortage or loss of the cargo received for carriage from the time of receiving to the delivery, as well as for damages caused by delay in delivery of the cargo.

Article 560

The delivery of the cargo shall be considered delayed if the cargo has not been delivered to the consignee within the time agreed, or if no such time has been agreed, if the cargo has not been delivered to the consignee within a reasonable period of time.

Article 561

The ship operator shall not be liable for any damage, shortage or loss of the cargo or for a delay in delivery of the cargo if he proves that the said damage, shortage, loss or delay was caused by circumstances that could neither be prevented nor avoided by exercising the due diligence of a conscientious ship operator.

Article 562

The ship operator shall be liable for the acts and omissions that the master, other members of the crew or other persons in his employment have performed within the scope of their obligations as if these acts or omissions were his own.

The ship operator of a ship shall not be liable for any damage, shortage or loss of the cargo or for a delay in delivery of the cargo caused by acts or omissions in the navigation or management of the ship performed by the persons mentioned in paragraph 1 of this article.

Article 563

The ship operator of a sea-going ship shall be liable for any damage to cargo on board caused by fire only if it is proved that the fire occurred as a result of his personal act or omission.

Article 564

The ship operator shall not be liable for damage to the cargo caused by the ship unseaworthiness if he proves that the due diligence of a conscientious ship operator has been exercised (article 479).

Article 565

The ship operator of a ship shall not be liable for damage caused to the cargo if he proves that the said damage resulted from:

- (1) *Force majeure*, accidents at sea, acts of war, international crimes at sea, civil commotions or riots,
- (2) Sanitary restrictions or other measures and acts of government authorities,

- (3) Acts or omissions of the shipper or of other persons entitled to the cargo or of the persons in their service,
- (4) Strikes or lockouts, or any other hindrances totally or partially preventing the work,
- (5) Salvage or attempts to save life or property at sea,
- (6) Deviation of the ship due to the causes under point 1 of this paragraph or for other justified reasons,
- (7) Normal loss in weight or volume of the cargo, damage or loss arising from inherent vice, latent defects or special nature of the cargo,
- (8) Improper packing or marks on the cargo which are illegible or not sufficiently durable,
- (9) Latent defects which cannot be discovered by the exercise of due diligence.

In spite of the proof submitted by the ship operator as specified in paragraph 1 of this article, the ship operator shall be liable for damages if the beneficiary of the carriage proves that the said damages were due to the personal fault of the ship operator or the fault of the persons for whose acts and omissions the ship operator is liable, provided that such acts or omissions do not involve the navigation and the management of the ship.

#### Article 566

If it is not contrary to the existing regulations, the master may, at any time and place, discharge, render harmless or jettison dangerous cargo, provided that the ship operator was not informed of the said danger before loading.

In the cases mentioned in paragraph 1 of this article the ship operator shall retain the right to full freight and shall not be liable for damages.

#### Article 567

If the ship operator has received dangerous cargo for carriage and is aware of the dangerous nature of the cargo, he may discharge it or render it harmless if human safety or that of the ship, other cargo on board or the environment are imperilled thereby.

If, on the grounds of paragraph 1 of this article, the ship operator discharges the cargo before arriving at the port of destination, he shall be entitled to the freight in proportion to the distance usefully covered. As for other damages resulting from having loaded the dangerous cargo and from the acts of the ship operator, each party shall bear its own damage.

#### Article 568

The ship operator shall not be liable for any shortage, loss or damage to cargo or for any delay in delivery of the cargo if the shipper has knowingly misstated the nature and value of the cargo.

Article 569

The charterer shall be liable to the ship operator for damages caused by the charterer's or shipper's inaccurate or insufficient particulars as to the quantity and nature of the cargo and the marks thereon.

Article 570

The charterer shall be liable to the ship operator for damages caused by the loading or carriage of goods that are forbidden to be imported, exported or carried in transit or that are being smuggled, if at the time of shipment the ship operator neither had nor ought to have had knowledge of these properties of the cargo.

Article 571

The person who loads goods without the knowledge of the ship operator shall be liable to him for damages caused thereby.

Article 572

The ship operator may, according to his best judgement, discharge at any time and place and jettison any cargo loaded without his knowledge as well as any cargo which has been inaccurately or insufficiently marked, if such cargo imperils human safety or that of the ship, the cargo on board or the environment.

In the cases mentioned in paragraph 1 of this article, the ship operator shall retain the right to full freight and compensation for damages and shall not be liable for the damages caused by his actions.

Article 573

The master may return any cargo that is forbidden to be imported, exported or carried in transit to the port of loading or if the master deems it necessary, discharge the said cargo at any place and, if necessary, jettison it.

If, in the case mentioned in paragraph 1 of this article, the ship operator neither knew nor ought to have known about the properties of the cargo, he shall retain the right to full freight and shall not be liable for the damages caused by such actions.

If the ship operator knew or ought to have known about the properties of the cargo described in paragraph 1 of this article, he shall retain the right to freight in proportion to the distance covered usefully, and the other damages shall be borne by the party suffering the same.

Article 574

If the import, export or transit of goods is prohibited during the ship's voyage, the master may act in

accordance with the provisions of paragraph 1 of article 573 of this Law in respect of such cargo.

In the case mentioned in paragraph 1 of this article, the ship operator shall retain the right to the full freight and the compensation for damages and shall not be liable for damages caused by such actions.

#### Article 575

The ship operator shall not be liable to compensate for damages resulting from any shortage, loss or damage to the cargo nor for a delay in delivery of the cargo in an amount exceeding 666,67 accounting units of Special Drawing Rights per each package or unit of the damaged, short-delivered or lost cargo or cargo delivered with delay, or exceeding an amount of 2 accounting units of Special Drawing Rights per kilo of the gross weight of the damaged, short-delivered or lost cargo, applying thereby the higher value.

The unit of cargo according to the paragraph 1 of this article is each package or piece and in case of bulk cargo each metric ton or cubic metre or other unit of measurement which has been taken as a basis for the stipulation of the freight. If the freight for bulk cargo has not been agreed on the basis of a unit of measurement, the unit which is usually applicable on the basis for the usual manner of the stipulation of the freight in the loading port shall be considered a unit of measurement.

When the cargo is carried in containers, on pallets or by similar devices, in accordance with paragraph 1 of this article a unit of cargo shall be:

- (1) The package or unit of cargo indicated in the bill of lading - if the said package or unit of cargo is in a container, on a pallet, or on similar device;
- (2) The container, pallet or other similar device by which the cargo is carried if the package or unit of cargo is not indicated in the bill of lading.

#### Article 576

The charterer or shipper may increase the limit of the ship operator's liability specified in article 575 of this Law by agreement with the ship operator stating therein the increased value of the goods per unit of the cargo.

If a document of transport has been issued, the agreement of the parties in respect to an increase in the ship operator's liability which is not indicated in the said document of transport shall have no legal effect in favour of a consignee who is neither the charterer nor the shipper.

#### Article 577

Unless the ship operator proves the contrary, it shall be presumed that the value of the cargo is the value that the parties have agreed upon according to article 576 of this Law.

#### Article 578

The ship operator shall not be entitled to the benefit of the limitations of liability provided in articles 575

and 576 of this Law if it is proved that he himself caused the damage recklessly or with the intent that the damages could probably arise.

#### Article 579

The ship operator shall be liable for the value of any lost goods or a part thereof and for the depreciation in the value of any damaged goods.

If the goods have been delivered with delay, the ship operator shall also be liable for damages due to the delay.

As an exception to the provisions of paragraphs 1 and 2 of this article, a ship operator who according to article 578 of this Law cannot limit his liability shall be liable for all the damages caused by any loss, shortage or damage to the goods or by a delay in the delivery thereof.

#### Article 580

The extent of damages for the loss of goods shall be established according to the market value of other goods of the same quantity and property at the port of destination on the day of the ship's arrival at that port, or in case of non-arrival on the day it should have arrived.

If the extent of damages for the loss of goods cannot be established as prescribed by paragraph 1 of this article, it shall be assessed according to the market value of the goods in the port of loading on the day of the ship's departure increased by the expenses of carriage.

The extent of the damages for damaged goods shall be the difference between the market value of the goods if undamaged and their market value in the damaged condition.

If the extent of damages for the goods lost or damaged cannot be established according to the provisions of paragraphs 1 and 2 of this article, it shall be established by the court.

The expenses saved due to the non-arrival of the goods at destination or their arrival in a damaged condition shall be deducted from the amount to be paid by the ship operator as a compensation for the shortage, loss or damage to the goods.

#### Article 581

The provisions of articles 575, 579 and 580 of this Law shall also apply when the master, other members of the ship's crew or any other persons in the ship operator's service are liable under the general rules of law for damages caused by shortage, loss or damage, provided it is proved that the said damages were caused during or in connection with their work, or while performing their services or in connection therewith.

The persons mentioned in paragraph 1 of this article shall not be entitled to the benefit of the limitation of liability if it is proved that they have caused the damage intentionally or by gross negligence with the knowledge that damages could probably arise.



Article 582

The total amount of compensation for damage due by the ship operator and the persons mentioned in article 581, paragraph 1, of this Law shall not exceed the amount specified in article 575 of this Law.

The provisions of paragraph 1 of this article shall not affect the provisions of article 581, paragraph 2, of this Law.

Article 583

The persons mentioned in article 581, paragraph 1, of this Law shall be liable up to the amount specified in article 575 of this law even if the ship operator has increased the limit of his liability under article 576 of this Law.

Article 584

The provisions of this Law pertaining to the liability of the ship operator cannot be altered by contract to the detriment of the beneficiary of the carriage.

As an exception to the provisions of paragraph 1 of this article, the provisions of this Law regulating the ship operator's liability may be altered by contract in favour of the ship operator in case of:

- (1) Damage to, shortage of, or loss of the cargo occurring prior to loading or after discharging,
- (2) Damages due to delay.

The provisions of this Law governing the liability of the ship operator may also be altered by contract in favour of the ship operator in the case of:

- (1) The carriage of live animals,
- (2) The carriage of cargo on deck with the written consent of the shipper.

Article 585

The terms of a contract contrary to article 584 of this Law shall have no legal effect.

Article 586

The provisions of this Law governing the liability of the ship operator shall apply to all contractual or non-contractual claims brought on grounds whatsoever against the ship operator for any damage to, shortage or loss of the cargo.

Article 587

The provisions of this Law governing the liability of the ship operator shall not affect the provisions of this Law on the general average.

Freight

Article 588

The amount of freight shall be fixed by contract.

If the amount of freight is not fixed by contract, it shall be established according to the average rate of freight stipulated by contract for an equivalent type of cargo at the time of loading of the said cargo at the port of loading.

Article 589

If the quantity of cargo loaded exceeds the stipulated quantity the freight shall be increased proportionally.

If instead of the stipulated cargo another cargo is loaded for which the rate of freight is higher, the freight for the cargo actually loaded shall be paid.

If the quantity loaded is less than the stipulated quantity, or if no cargo is loaded, the freight shall be paid for the whole quantity of cargo as stipulated by contract.

If the quantity of the cargo loaded is less than the stipulated quantity and the rate of freight for the cargo actually loaded is higher than the agreed freight, the whole agreed freight shall be paid plus the difference between the agreed freight and the higher freight for the cargo actually loaded.

The provisions of paragraph 3 of this article shall not affect the provisions of article 475 of this Law.

Article 590

If only part of the cargo stipulated by a charter party has been loaded but the ship operator disposes of the unused space, the agreed freight shall be proportionally reduced.

If the ship operator has disposed of the unused space contrary to an express order of the charterer, the ship operator shall be liable to the charterer for damages.

Article 591

The freight stipulated by a voyage charter shall remain unaltered regardless of the duration of the voyage

unless the agreed freight is payable per unit of time.

If, at the request of the charterer or in the interest of the beneficiary of the carriage, the voyage is prolonged beyond the stipulated destination, the freight shall be proportionally increased.

#### Article 592

If under a voyage charter the freight is payable per unit of time and the time from which the payment of freight is to commence has not been established, the time shall begin to run on the day the notice of readiness was presented, i.e. at noon, if the notice was presented before noon; and at midnight, if the notice was presented in the afternoon.

If by order of the shipper the loading commenced before the time indicated in paragraph 1 of this article or if the ship sailed without the cargo, the freight shall be payable from the time the loading began or from the time the ship sailed.

The time for which the freight is payable shall terminate with the discharging of the cargo; if the ship has arrived without cargo, the time shall terminate when the ship has anchored or moored in the port where the voyage terminates, in which case the last day of the voyage shall count as a whole day.

#### Article 593

If under a voyage charter freight is payable per unit of time and if the performance of the contract is hindered during the voyage on the part of the ship operator without any fault of the charterer or shipper, the freight shall not be paid for the time of duration of the said hindrance.

#### Article 594

The freight agreed under a time charter shall be paid in advance by the charterer in equal monthly instalments, hereunder the ship operator shall be entitled to the freight only for the time he performed the contract.

Under a time charter the freight shall be paid for the time the employment of the ship was hindered only if the said hindrance is on the part of the charterer or arose due to the enforcement of his order.

The ship operator may also withdraw the contract if the freight has not been paid when due.

#### Article 595

Under a time charter for the whole ship the charterer shall in addition to paying the freight also supply fuel, lubricants and water for the ship's main engines and other machines on board at his own expenses and shall pay the port charges and other navigation dues.

Article 596

Under a time charter the payment of freight shall commence at the same time as under a voyage charter according to which freight is payable per unit of time (article 592).

A double freight shall be paid for the time after expiration of the time stipulated by the time charter when the ship continues to sail at the account of the charterer without fault of the ship operator.

Article 597

A salvage reward earned by a ship while under a time charter for carriage in the whole ship shall be divided equally between the ship operator and the charterer after deducting the expenses for salvage and the part due to the crew.

Article 598

The freight for the cargo loaded without the consent of the ship operator and any cargo that has been inaccurately or insufficiently marked shall be payable on the basis of the maximum freight rate applied in similar cases for the same type of cargo loaded for carriage on the same, or approximately the same route, provided the freight fixed in the said way is higher than the agreed freight.

Article 599

The freight shall be payable only for the cargo which has been carried and placed at the disposal of the consignee at the port of destination.

Apart from the cases mentioned in articles 475, 476, 509, 510, 566, 572, 573 and 574 of this Law and as an exception to the provisions of paragraph 1 of this article, the freight shall also be payable for the cargo not carried and not placed at the disposal of the consignee if the non-arrival of the cargo at the destination has been caused by the charterer or the shipper, by the persons entitled to dispose of the cargo or a person for whom they are responsible, or if the cargo has not arrived at the port of destination for a reason on the part of the cargo without any fault of the ship operator.

As an exception to paragraph 2 of this article, the ship operator shall, apart from the cases mentioned in articles 473, 567, 573 and 600 of this Law, be entitled to the freight for the cargo carried only a part of the voyage in proportion to the distance covered usefully, unless the ship operator is responsible for the interruption of the voyage.

Article 600

In case of shipwreck or other accident in navigation as well as the seizure or arrest of the ship or cargo as a result of acts of war, international crimes at sea, civil commotions or riots, the ship operator shall be entitled to freight for the cargo saved in proportion to the distance covered effectively.

Article 601

If no document of transport has been issued, the consignee shall pay the freight and other claims in connection with the carriage of the cargo as soon as he takes delivery thereof unless otherwise stipulated by the charterer and ship operator.

Article 602

If delivery of the cargo is performed under a bill of lading, the consignee shall pay only the claims mentioned in the bill of lading or those which arose after the issuance thereof.

Article 603

If the consignee does not fulfil the obligations under articles 601 to 603 of this Law, the ship operator shall have the right to retain and sell the cargo according to the provisions of articles 555 to 557 of this Law.

The ship operator shall also have the rights specified in paragraph 1 of this article when he is delivering the cargo to a person who is not the consignee.

Article 604

A ship operator who has delivered the cargo to the consignee shall not be entitled to request the charterer for any amount which he failed to collect from the consignee as prescribed by the provisions in article 603 of this Law.

If by selling the cargo the ship operator succeeds in recovering his claims only in part, he shall be entitled to request the charterer for payment of the unsettled part of his claims under the conditions provided in paragraph 1 of this article.

The provision of paragraph 1 of this article shall not apply if the ship operator proves that he was unable to act in accordance with the provisions of article 603 of this Law even by exercising due diligence.

Maritime Liens on the Goods loaded on a Vessel

Article 605

The maritime liens on the goods loaded on a ship exist:

(1) For court expenses incurred in the common interest of all creditors due to proceedings of enforcement or security instituted in order to preserve or sell the goods, furthermore for the expenses of custody and supervision of such goods incurred after the ship's arrival at the last port;

- (2) For claims involving a salvage reward or general average contributions pertaining to the goods;
- (3) For claims arising from the contract of carriage, including expenses for warehousing the loaded goods.

The maritime liens covering the capital claims also exist for interest.

#### Article 606

The maritime liens on loaded goods do not cease by change of the owner of the goods unless otherwise provided in this Law.

#### Article 607

The ranking of claims covered by maritime liens on loaded goods is determined in accordance with paragraph 1 of article 605 of this law.

If the claims mentioned in article 605, paragraph 1, points (1) and (3), of this Law cannot be settled in full, such claims shall be settled in proportion to their amounts.

If the claims mentioned in article 605, paragraph 1, point (2), cannot be settled in full, claims of the later date shall have priority over the earlier claims.

Claims which have arisen from one and the same event shall be presumed to have arisen at the same time.

#### Article 608

The fact that the ship operator has exercised his rights of retention according to article 603 of this Law shall not affect the order of priority of claims which are covered by maritime liens.

#### Article 609

Claims secured by a lien on the loaded cargo shall not be extinguished by extinguishment of the of the said lien.

When ceding claims covered by maritime liens, the maritime lien on the goods themselves shall also be transferred.

#### Article 610

Maritime liens on loaded goods shall cease to exist:

- (1) With the extinguishment of the claim secured by the maritime lien,

- (2) With the sale of the goods in enforcement or bankruptcy proceedings,
- (3) If the creditor does not request the competent court to issue temporary measures within 15 days from the day the goods were discharged,
- (4) If the discharged goods are lawfully transferred before expiration of the period under point (3) of this article, to third persons who keep them not on behalf of the debtor,
- (5) By declaring the goods a booty or prize at sea.

(b) Carriage of Passengers and Luggage

Article 611

When applying the provisions of this chapter of the Law on the carriage of the passengers or their luggage, the terms used herein shall have the following meanings:

- (1) Operator is the person concluding or on whose behalf a contract for carriage is concluded regardless whether he actually performs the carriage or it is performed by an actual ship operator;
- (2) Actual operator is a person other than the ship operator who is either the owner of the ship, the charterer, or a person employing the ship actually performing the carriage completely or in part;
- (3) Passenger is a person who under a contract of carriage is carried by a ship or accompanies a vehicle or live animals carried under a contract of carriage of goods;
- (4) Luggage comprises all goods carried under a contract of carriage, including vehicles, excepting:
  - (a) Goods and vehicles carried under a bareboat charter or a charter by demise, under a bill of lading or under a contract primarily concern the carriage of goods; and
  - (b) Live animals,
- (5) Hand luggage is the luggage which a passenger has in his cabin or watches or supervises, including the luggage inside or on a vehicle;
- (6) Damages due to delay are the material damages caused by the non-delivery of the luggage within a reasonable period of time counting from the day of arrival of the ship that carried or should have carried the luggage, excluding any delays caused by lockout, strikes or similar events.

Article 612

Under a contract of carriage of passengers, the ship operator is under obligation to the charterer to carry one or more passengers, while the charterer undertakes to pay the fare.

Article 613

The amount of the fare is established by contract.

Article 614

The ship operator shall issue a ticket to the passenger at his request.

The ticket may be made out to the name of a person or to the holder.

Article 615

Unless the contrary is proved, it shall be presumed that the terms shown on the ticket correspond to those stipulated by the contract.

If there is no ticket or if it is inappropriate or has been lost, this shall not affect the existence, validity and contents of the contract of carriage.

Article 616

Objections to the terms shown on a ticket made out to a holder may be placed only when the ticket is issued.

Article 617

A ticket made out to the name of a person cannot be transferred to another person without the consent of the ship operator.

Without the consent of the ship operator a ticket made out to the holder cannot be transferred to another person after the passenger has started the voyage.

Article 618

A passenger embarking without a ticket that should have been procured before the embarkation shall be bound to report to the master or other authorized member of the crew immediately.

For valid reasons the master may disembark any passenger not in possession of a ticket (paragraph 1 of this article).

A person not in possession of a ticket shall pay the fare from the port where he embarked to the port where he shall disembark; if he has failed to report in due time to the master or other authorized member of the ship's crew, he shall pay a double fare for the distance covered.



The port where the passenger embarked shall be deemed to be the port of departure of the ship if it cannot be proved that the passenger embarked at another port.

#### Article 619

In the case of voyages limited to the internal waters of the Republic of Croatia, a passenger may withdraw the contract if the ship does not commence the voyage within one hour after the time stated in the contract or in the ship's timetable, or within 12 hours in the case of voyages beyond the said limits.

In the cases provided in paragraph 1 of this article, the passenger shall have the right to reimbursement of the fare.

If the commencement of the voyage has been delayed recklessly or with the intent of the ship operator or persons in his service, the ship operator shall be bound to compensate the passengers for damages.

#### Article 620

The fare shall not be reimbursed if the passenger does not embark by the time the ship sails or if he does not complete the voyage.

#### Article 621

In the case of voyages limited to the internal waters of the Republic of Croatia the ship operator shall reimburse the fare to a passenger if he has a ticket made out to his name and cancels it six hours before commencement of the voyage, or three days before the commencement of the voyage in the case of voyages beyond the said limits.

In the case of cancellation according to paragraph 1 of this article, the ship operator may retain a maximum of 10 per cent of the amount of fare.

#### Article 622

If the ticket has been made out to a bearer, the ship operator shall reimburse the fare to the passenger if he cancels the ticket at least one hour before commencement of the voyage if not otherwise specified in the ticket.

In case of cancellation of the voyage according to paragraph 1 of this article, the ship operator may retain a maximum of 10 per cent of the amount of the fare.

#### Article 623

If a voyage limited to the internal waters of the Republic of Croatia is interrupted for more than 12 hours after commencement for reasons not caused by the passenger or in case of a voyage beyond the said limits which is

interrupted for more than three days, the passenger shall have the right:

(1) To request the ship operator to carry him and his luggage to his destination by the ship operator's own means of transportation or by other adequate means;

(2) To request the ship operator to return him and his luggage to the port of departure within a reasonable period of time and to reimburse him for the fare;

(3) To withdraw the contract and request the ship operator to reimburse him for the fare.

If the voyage has been interrupted recklessly or with the intent of the ship operator, or persons in his service, the ship operator shall be bound to compensate the passenger for damages.

#### Article 624

When a passenger requests reimbursement of the fare (article 623, paragraph 1, points (2) and (3) or compensation for damages (article 623, paragraph (2)) he shall present to the ship operator his request in writing within three days after termination of the voyage if the voyage to be performed was limited to the internal waters of the Republic of Croatia, or within seven days counting from the day of termination of the voyage if the voyage was to be performed beyond the said limits or shall bring an action in court within the same period of time.

If the passenger requests to be returned to the place of departure or to continue the voyage (article 623, paragraph 1, points (1) and (2)) he shall present the ship operator his request in writing 24 hours after expiration of the time specified in article 623 paragraph 1, of this Law.

A passenger who does not comply with the provisions of paragraphs 1 and 2 of this article shall forfeit the right to claim compensation for damages and reimbursement of the fare, or request the ship operator to continue the voyage or return him to the port of departure.

#### Article 625

The provisions of this Law governing the ship operator's liability for the death or personal injuries sustained by a passenger shall also apply if the carriage is performed free of charge.

#### Article 626

The ship operator shall be liable for damages arising from the death or personal injuries sustained by a passenger or from the shortage, loss or damage to luggage if the event causing the said damages occurred during the voyage, moreover for damages caused by any delay in delivering the luggage to the passenger if the said damages or delay were caused at the fault of the ship operator or persons in his service.

The person claiming compensation for damages according to paragraph 1 of this article shall have to prove that the event causing the damages occurred during the voyage and moreover the amount of the damages.

Article 627

The ship operator shall be liable for the damages mentioned in article 626 of the Law caused by the fault of a person in his service who was performing the duties within the scope of his employment.

Article 628

Unless the contrary is proved, the ship operator shall be presumed to be at fault if the death or personal injury suffered by the passenger, or the shortage, loss or damage to hand luggage, or any delay in its delivering to the passenger has been directly or indirectly caused by shipwreck, collision, running aground, explosion, fire or by defect of the ship.

Unless the contrary is proved the ship operator shall be presumed to be at fault to the shortage, loss or damage to other luggage, or any delay in the delivery of such luggage to the passenger regardless of the nature of the event causing the said damage.

Article 629

The ship operator shall be liable to the passenger according to article 628, paragraph 2, of this Law for damages arising from shortage, or damage to valuables (money, securities, gold, silver, jewels, precious stones, objects of art) or from any delay in delivery of the same to the passenger only if the ship operator had taken the said valuables into custody.

The ship operator shall issue a written receipt for goods received in custody according to paragraph 1 of this article.

Article 630

At the passenger's request the ship operator shall issue a written receipt for luggage he has taken into custody.

The luggage receipt shall indicate the type of luggage and their number of pieces.

Unless the contrary is proved, the particulars in the luggage receipt shall be presumed to be correct.

Article 631

If upon termination of the voyage the luggage has not been claimed or removed from the ship, the ship operator shall keep it in his custody or give it into the custody of an adequate custodian at the risk and expense of the passenger.

Article 632

If the ship operator proves that the personal injuries or death of a passenger, the shortage, loss or damage to his luggage, or the delay in delivering the luggage to the same has been partly or exclusively caused at the fault of the said passenger or by an action of his which cannot be considered normal, the court shall mitigate the ship operator's liability or relieve him therefrom.

Article 633

The liability of the ship operator for the personal injuries or death of a passenger shall be limited in all cases to 46,666 accounting units of Special Drawing Rights per passenger and voyage.

If the compensation for damages is granted as an annuity the capital payment cannot exceed the amount specified in paragraph 1 of this article.

The amount specified in paragraph 1 of this article shall apply to the settlement of the claims of all creditors based on the events caused in the course of a single voyage.

Article 634

The liability of the ship operator for damages caused to luggage due to its shortage, loss or damage, or to any delay in its delivery to the passenger shall be limited in all cases to:

- (1) 833 accounting units of Special Drawing Rights per passenger and voyage for hand luggage,
- (2) 3,333 accounting units of Special Drawing Rights per vehicle and voyage for vehicles, including luggage carried in or on a vehicle,
- (3) 1,200 accounting units of Special Drawing Rights per passenger and voyage for other luggage except the luggage mentioned in paragraph 1, points 1 and 2 of this article.

The provisions of paragraph 1, point 3, of this article shall also apply to the ship operator's liability for damages caused to valuables (article 629).

Article 635

The ship operator and the passenger may agree that the ship operator shall be liable according to the provisions of article 634 of this Law only after deducting a franchise of no more than 117 accounting units of Special Drawing Rights in the case of damages to a vehicle and no more than 13 accounting units of Special Drawing Rights per passenger in the case of damages caused to any delay in its delivery to the passenger.

The amount of franchise shall be deducted from the amount of compensation due to the passenger.

The provisions of this article shall not apply to valuables.

Article 636

The ship operator's right to avail himself of the benefit of limitation of liability provided in articles 633, 634 and 635 of this Law shall be forfeited if it is proved that the damages arose as the result of acts or omissions which the ship operator performed intentionally or recklessly with the knowledge that damages could probably arise.

Article 637

The amount to which the ship operator's liability is limited as prescribed by articles 633, 634 and 635 of this Law may be increased by express agreement in writing between the ship operator and the passenger.

Article 638

In addition to the amount which the ship operator is bound to pay the passenger according to the provisions of articles 633, 634, 635 and 637 of this Law, the interest and costs of the proceedings recognized by the court in an action for damages due to the personal injury or death of the passenger, a shortage, loss or damage to his luggage or delay in delivery of the same to the passenger shall be paid in full.

Article 639

If an action has been brought against persons in the service of the ship operator or the actual ship operator for damages prescribed by the provisions of this Law in respect to the carriage of passengers and their luggage, such persons shall be entitled to the benefit of the exemption or limitation of liability to which the ship operator is entitled according to the provisions of this Law, provided that the said persons have acted within the scope of their duties on board.

The persons in service of the ship operator or the actual ship operator mentioned in paragraph 1 of this article shall forfeit their right to the benefit of the limitation of liability provided by articles 633, 634 and 635 of this Law if it is proved that the damages were caused by acts or omissions of the said persons performed with the intent to cause the damages or recklessly with the knowledge that damages would probably arise.

The limit of liability agreed by the ship operator and the passenger as prescribed by the provisions of article 637 of this Law shall not apply to the persons mentioned in paragraph 1 of this article.

Article 640

The carriage of passengers and hand luggage comprises the time the passenger is on board, the time of embarking and disembarking and the time the passengers are carried from shore to ship and vice-versa, provided that the charges for such secondary carriages are included in the price of the ticket or if the ship employed for such carriages is supplied by the ship operator. The time spent by the passenger at the port terminal or any other part of the port shall not be considered as part of the carriage of passengers.

In addition to the time indicated in paragraph 1 of this article, the carriage of hand luggage also comprises the period of time commencing the moment the ship operator takes the luggage into custody either ashore or on board and terminates the moment he returns the same to the passenger.

#### Article 641

When there is a ground for applying the limitation of liability according to the provisions of articles 633, 634, 635 and 637 of this Law, the said limits of liability shall apply to the total amount of compensation which can be awarded within the scope of all contractual and non-contractual actions brought on the grounds of liability for the personal injury or death of a passenger, for the shortage, loss or damage to luggage or for any delay in delivery of the same to the passenger.

If the carriage has been performed by an actual ship operator, the total amount of compensation recoverable from the ship operator or the actual ship operator and from the persons in their service who were acting within the scope of their official duties cannot exceed the highest amount of compensation which may be claimed either from the ship operator or the actual ship operator; however none of the person mentioned shall be liable beyond the limits applicable to the same.

In all cases where persons in the service of the ship operator or the actual ship operator are entitled under the provisions of article 639 of this Law to the benefit of the limitation of liability as provided in articles 633, 634 and 635 of this Law the total amount of compensation recoverable from the ship operator or eventually from the actual ship operator and from the persons in their service cannot exceed the said limitation.

#### Article 642

The passenger shall be bound to submit his objection to the ship operator or his authorized representative in writing:

- (1) When the luggage shows apparent damage,
  - (a) In the case of hand luggage - before or at the moment the luggage is discharged,
  - (b) In case of other luggage - before or at the moment of its delivery,
- (2) When the damage to the luggage is not apparent or the luggage has been lost - 15 days from the day of discharging or delivery or from the day on which the luggage should have been delivered.

Should the passenger not comply with the provisions of paragraph 1 of this article, it shall be presumed that he has taken delivery of the luggage in good order unless the contrary is proved.

A written notice shall not be necessary if the condition of the luggage has been ascertained in the presence of both parties at the moment of delivery.

#### Article 643

If the luggage is not delivered to the passenger within 30 days after the termination of the voyage, the

passenger may declare that he considers the luggage to be lost.

When submitting the declaration in accordance with paragraph 1 of this article, the passenger shall be entitled to request the ship operator to inform him of the recovery of the luggage if it should be traced within one year from the day the compensation for the lost luggage was paid.

Within 30 days after receiving the information that the luggage has been traced, the passenger may request delivery of the luggage at a place of his designation against payment of the expenses of carriage.

A passenger who has taken delivery of the recovered luggage shall refund the amount received as compensation for the loss of the luggage, deducting thereby the freight which had been refunded to him, but retaining the right to compensation for damages resulting from the late delivery of the luggage.

Should the passenger not make the request provided in paragraphs 2 and 3 of this article, the ship operator may freely dispose of the luggage.

#### Article 644

Any term of contract stipulated before the occurrence of the event causing the personal injury or death of a passenger or the shortage, loss or damage to his luggage or a delay in delivery of the luggage to the passenger shall be null and void if the said term purports the release of the ship operator for his liability to the passenger, the establishment of a limit of liability lower than the amount prescribed by this Law, excepting the amount of limitation under article 635 of this Law, or the transfer of the burden of proof from the ship operator to another person.

#### Article 645

The provisions of articles 626, 627, 628, 629 and 632 of this Law shall apply to all contractual and non-contractual claims brought against the ship operator on any grounds whatsoever for damages caused by the personal injury or death of a passenger, the shortage, loss or damage to or by a delay in delivery of the same to the passenger.

#### Article 646

The ship operator shall be entitled to retain and sell the luggage delivered to him for carriage and the valuables he received in custody in order to satisfy the claims in connection with the carriage of a passenger and luggage and the custody of valuables.

#### (c) Towing and Pushing

#### Article 647

Under a contract of towage the ship operator of a tug undertakes to tow or push another ship or object with his own ship to a designated place or for a specified period of time or for the performance of a particular operation, and the ship operator of the towed or pushed ship undertakes to remunerate the towage.

The amount of towage remuneration shall be stipulated by contract.

Article 648

The towage shall be under command of the master of the towed ship, unless otherwise agreed.

Article 649

According to this Law:

(1) The towage commences:

- when at the tow-master's order, the tug is brought in such a position that it may perform the towage, or when at the tow-master's order, the tug receives or delivers the towing line or when it starts pushing the tow or performing any other manoeuvre necessary for the towage, whichever comes first,

(2) The towage ends:

- when the tow-master's final order to release the tow line has been performed or when the pushing or any other manoeuvre necessary for towage has terminated, whichever comes last.

Article 650

When a tug tows an unmanned waterborne craft, the tug operator shall take the usual measures so as to maintain the seaworthiness of the towed craft in the same condition as when received for towing.

The tug operator shall be responsible for the cargo on the towed craft only if the ship operator has expressly agreed to such an obligation.

The tug operator may undertake to perform the carriage of cargo by towing it with his own ship or with another ship. In case of doubt, it shall be presumed that a contract of towage has been concluded.

A tug operator who, in accordance with the provisions of paragraphs 2 and 3 of this article, is responsible for the cargo shall be liable for damage to the cargo under the provisions of this Law relating to the ship operator's liability for the carriage of goods.

Article 651

The compensation for damages caused by collision of towed or pushed ships or by their collision with third ships shall be governed by the provisions of this Law regulating the compensation due to the collision of ships.



Article 652

If the towed ship is imperiled owing to circumstances for which the tug operator is not liable under the contract of towage and if the tug participates in salvage services, the tug operator shall be entitled to a salvage reward if the salvage is performed successfully.

The tug operator shall not be entitled to a salvage reward if stipulated by contract that any salvage reward is included in the towage remuneration.

If stipulated by contract that towage remuneration shall be due only if the towage is performed successfully, the tug operator shall be nevertheless entitled to the remuneration in the event of unsuccessful towage if he proves that the ship operator of the towed ship was at fault for the unsuccessful towage.

If it has not been stipulated that the towage remuneration be due only in case of successfully performed towage, the tug operator shall not be entitled to the remuneration if the ship operator of the towed ship proves that the ship operator of the tug was at fault for the unsuccessful towage.

Article 653

The provisions of this Law on general average shall also apply to relations involving the tug and the tow.

Article 654

Ships of foreign flag shall not perform a towage commencing and ending in Croatian ports or internal waters and within the territorial waters of the Republic of Croatia (coastwise towing) without the consent of the competent minister.

Article 655

The provisions of article 647, paragraph 2, and articles 650 and 654 of this Law shall also apply to pushing operations.

(d) Other Maritime Contracts

Article 656

The provisions of articles 657 to 660 of this Law shall apply to contracts concluded by a contractor who engages a service other than the carriage of passengers, luggage, goods or towage and a ship operator who performs the services by ship, while the contractor undertakes to pay remuneration. The contracts under paragraph 1 of this article may also be time charters.

Article 657

Unless otherwise agreed, the ship operator shall be liable for the seaworthiness of the ship in accordance with the provisions of article 479 of this Law.

Article 658

Unless otherwise stipulated by the parties, the ship operator shall be liable for the acts and omissions of the persons who perform the contract in his service as if they were his own acts and omissions.

The provisions of paragraph 1 of this article shall not affect the provisions of article 657 of this Law.

The ship operator and the persons in his service shall be liable for the death and personal injuries sustained by persons in the service of the contractor in accordance with the provisions of this Law governing liability for the death or personal injury of members of the crew, provided their presence on board fall within the scope of performing the contract.

Article 659

The provisions of article 469 of this Law shall also apply to the contracts mentioned in article 656 of this Law.

Article 660

The provisions of this Law regulating the freight for the carriage of goods shall also apply in the appropriate manner to the contracts under article 656 of this Law.

(e) Carriage by Several Carriers

Article 661

The contract of carriage of goods, passengers and luggage by sea may provide that the ship operator performs the carriage partly by his own ship and partly by the ships of other ship operators (through carriage).

A ship operator who has received cargo under a contract of through carriage of goods shall issue a bill of lading for the whole contracted voyage (through bill of lading).

A ship operator who has undertaken the through carriage of passengers shall issue the passenger a ticket covering the whole contracted voyage (through ticket).

A ship operator who has received luggage for carriage from a passenger under a direct contract for the carriage of passengers shall issue a luggage receipt for the whole contracted voyage (through luggage receipt).

Each subsequent ship operator enters into a contract of through carriage of goods or luggage if he takes over the cargo or the luggage and the document of direct transport.

Each subsequent ship operator enters into a contract of through carriage of passengers if he accepts a passenger with a through ticket.

#### Article 662

The ship operator who concluded the contract of through carriage, the ship operator who issued the through document of transport, the ship operator who delivered the cargo to the consignee and the ship operator who performed the carriage when the event occurred which gave rise to claim for damages due to shortage, loss or damage to the cargo, shall be jointly and severally liable to the person entitled to the said claim.

For damages caused by delay in the carriage of goods, the ship operator who concluded the contract of carriage and the ship operator who delivered the goods to the consignee shall be liable to the beneficiary of the carriage.

The provisions of paragraphs 1 and 2 of this article shall also apply in respect to the through carriage of luggage.

#### Article 663

The ship operator who has settled a claim in accordance with the provisions of article 662 of this Law shall have the right of recourse against the ship operator who performed the carriage when the event occurred giving rise to the claim.

If the ship operator who performed the carriage when the event mentioned in paragraph 1 of this article occurred cannot be identified, the amount of the settled claim shall be borne by the ship operators having taken part in the through carriage in proportion to their respective portion of the stipulated freight with the exception of those ship operators who prove that the event did not occur during the part of the voyage which they performed.

If the ship operator who settled the claim is not at fault for being unable to assert his right of recourse against the ship operator who carried the goods when the event occurred, the amount of the settled claim shall be borne by all ship operators who took part in the through carriage in proportion to their respective portion of the stipulated freight.

#### Article 664

If, upon receipt of the cargo, the carrier taking part in a through carriage did not insert remarks in the through document of transport in accordance with provisions of article 528 of this Law, he shall have to prove to the other ship operators taking part in the said carriage that he delivered the cargo to the subsequent carrier or to the consignee in the same condition as when he had received it from the previous ship operator or the shipper.

If the ship operator taking part in the through carriage has inserted remarks in the through document of transport according to article 528 of this Law, the other ship operators shall have to prove that they have received the

cargo from the shipper or from the previous ship operator in the same condition as that described in the document of transport.

#### Article 665

The ship operator who has concluded a contract of through carriage of passengers shall be liable for the whole contracted voyage.

Each subsequent ship operator taking part in the performance of a through carriage of passengers shall be liable to a passenger only for damages caused on the part of the voyage he has performed.

The ship operator on whose part of the voyage the shortage, loss or damage to hand luggage has occurred shall be liable for the same damages. The passenger shall be bound to present the written objection prescribed by the provisions of article 642, paragraph 1, of this Law to the ship operator on whose part of the voyage the damages have occurred at the latest when the passenger disembarks from the ship of the said ship operator.

The ship operator is specified in paragraphs 1 and 2 of this article shall be jointly and severally liable for the personal injury or death of a passenger.

#### Article 666

If the ship operator who has concluded a contract of through carriage of passengers has settled the claim of a passenger, for which another ship operator is also liable according to the provisions of article 665, paragraph 2, of this Law, he shall have right of recourse against the said ship operator.

#### Article 667

Any special agreement under which the ship operator accepts obligations not prescribed by this Law or waives the rights to which is entitled according to this Law shall have legal effect against the actual carrier only if the latter has given express consent hereto in writing.

#### Article 668

The ship operator who has entrusted the whole or a part of the carriage to another actual ship operator shall be liable for the whole voyage.

The provisions of this Law in respect to the through carriage of passengers (articles 665 and 666) shall apply to the actual ship operator to whom the carriage has been entrusted as prescribed in the provisions of paragraph 1 of this article.

#### Article 669

Under a contract of carriage of goods and passengers it may be agreed that the ship operator who has

concluded a contract of carriage shall also engage the services of other ship operators or carriers.

If the ship operator binds himself according to paragraph 1 of this article, he shall be bound to exercise the due diligence of a conscientious ship operator when engaging an appropriate ship operator or carrier and shall be liable to the passenger or the charterer for his choice thereof.

#### Article 670

If, in accordance with article 669 of this Law, the carriage must be performed by land and air, the provisions of this Law shall apply only to the part of the carriage performed by ship.

### 3. Charter by Demise

#### Article 671

Under a charter by demise as prescribed by this Law, the lessor gives the lessee, against payment of hire, a ship to perform navigation activities.

#### Article 672

The charter by demise shall be drawn up in writing. A charter by demise not drawn up in writing shall have no legal effect.

#### Article 673

The lessor shall deliver the ship to the lessee in such condition that it may be employed as stipulated or is customary.

Unless otherwise agreed, the ships shall be delivered without the crew.

#### Article 674

The operating costs of the ships shall be borne by the lessee.

The lessee shall be bound to maintain the ship in order for the duration of the charter and on expiration of the charter shall return it in the same condition as when he has taken delivery thereof and at the same place.

The lessee shall not be liable for the ordinary wear and tear of the ship.

The lessee shall bear neither the expenses for the repairs necessary to remove latent defects of the ship which existed at the time of its delivery for usage nor damages caused by the loss of the ship due to force majeure.

Article 675

The lessor shall be liable for damages caused by defects rendering the ship unfit or impairing its fitness for the stipulated or customary employment if such defects existed at the time of its delivery to the lessee unless the lessor proves that the said defects could not have been discovered by exercising the due diligence of a conscientious ship operator.

Article 676

If the ship is under charter by demise the crew shall carry out the orders of the lessee provided the same is so stipulated by the charter.

The lessee shall have the right to change the crew.

Article 677

In case of doubt whether a charter by demise or a time charter has been concluded, it shall be deemed that a time charter has been concluded.

Article 678

The hire shall be paid monthly in advance counting from the day the hire starts to run.

The lessor shall not be entitled to hire for any period of the time the lessee was prevented from using the ship at the fault of the lessor or as a result of a latent defect in the ship which existed at the time of its delivery to the lessee.

Article 679

If the lessee does not pay the hire when due, the lessor may immediately claim the payment of hire stipulated for the entire duration of the charter or withdraw it.

The provisions of paragraph 1 of this article shall not affect the lessor's right to claim damages.

Article 680

A charter by demise may be concluded for a definite or indefinite period of time, for one or more voyages.

Article 681

A charter by demise concluded for a definite period of time may be extended by written agreement only.

A charter by demise concluded for an indefinite period of time may be withdrawn by written notice given at least three months in advance.

Article 682

The charter by demise is terminated by the loss of the ship or if it becomes permanently unfit for employment and if force majeure prevents employment of the ship during the time of charter by demise.

If the ship repairs which are borne by the lessor last too long or are expected to last too long, the lessee may withdraw from the charter.

Article 683

If the lessee does not redeliver the ship to the owner on the expiration of the charter by demise, he shall pay a compensation for the overtime in the amount of double the hire.

If the delay in redelivery of the ship is due to the fault of the lessee, he shall also be liable to the owner for any damages exceeding the amount specified in paragraph 1 of this article.

Article 684

The lessee shall be entitled to any salvage award earned by the ship while under a charter by demise.

Article 685

The lessee may sub-charter the ship only with the written consent of the owner.

4. Period of Limitation

Article 686

Claims arising from a contract of employment of ships, excepting claims in connection with a contract of carriage of passengers and luggage shall be time barred under a one-year period.

Claims arising from a contract of carriage of passengers and luggage shall be barred under a two- years period.

After a claim has arisen the parties may agree in writing to extend the period of limitation specified in paragraph 1 of this article.

Unless drawn up in writing an agreement under paragraph 1 of this article shall have no legal effect.

The statute of limitation shall start to run:

1. under contracts of carriage of goods:

- in case of damages due to shortage, loss or damage to the cargo from the day the cargo has been delivered or should have been delivered at destination;
- in cases of damages due to delay - from the day the cargo has been delivered;
- in case of non-fulfilment of other contractual obligations from the day the obligation should have been fulfilled.

2. under contracts of carriage of passengers:

- in case of personal injury - from the day the passenger disembarked;
- in case of the death of a passenger during the voyage - from the day the ship arrived or should have arrived at the port where the passenger intended to disembark;
- in case of the death of a passenger during the voyage - from the day the ship arrived or should have arrived at the port where the passenger intended to disembark;
- in case of personal injury of a passenger during the voyage which caused the death of the said passenger after disembarkation - from the day the passenger died; however, if action for damages resulting from the death or personal injury of a passenger is not brought within three years from his disembarkation, the right to claim damages shall be forfeited.

3. Under contracts of carriage of luggage:

- for luggage delivered for carriage - from the day the luggage was delivered or should have been delivered at the port where the passenger disembarked or should have disembarked;
- for hand luggage - from the day the passenger disembarked or in the case of the death of the passenger during the voyage - from the day the ship arrived or should have arrived at the port where the passenger intended to disembark.

4. Under contracts of towage or pushing - from the day the towage or pushing ended, excepting claims for towage remuneration for which the time limit starts to run from the day the towage remuneration was due;

5. Under contracts of charter by demise - from the day the contract has been terminated, excepting claims for hire for which the time limit starts to run from the day the hire was due;

6. For recourse claims - from the day the act on which the right of recourse is based was performed.



Chapter III

CONTRACTS OF MARITIME AGENCIES

Article 687

By a contract of maritime agency, the maritime agent undertakes to perform maritime agency services and services of assistance, mediation and representation, for and on behalf of the principal, on the basis of a general or special authorization, whereas the principal undertakes to reimburse the maritime agent for the expenses and pay to him a remuneration.

Article 688

Maritime agency services are services relating in particular to the navigation, ships and their employment with special regard to: the assistance and clearance of ships, mediation in concluding contracts of employment of ships, their sales and purchase, building and ship repair, insurance of ships and cargoes, safeguard of the ships= interests, supply and manning of ships, care for crews and passengers.

Article 689

Under a maritime agency agreement based on a general authorisation the maritime agent undertakes, for and on behalf of the principal, to perform all services or all services of a specific type in the field of his activity.

A maritime agency agreement based on a general authorisation must be drawn in writing.

An agreement that is not drawn up in writing shall have no legal effects. In case of doubt as to the limits of the general authorisation it shall be deemed that it refers to the clearance activities.

If a maritime agent deals exclusively with mediation or with the stipulation of contracts of employment of ships, in case of doubt as to the limits of the general authorisation, it shall be deemed that it refers to the mediation for stipulating such agreements, excepting bare boat charters, charters by demise and time charter for a whole ship.

Article 690

If the principal limits the authorisation of the maritime agent regarding the usual services of a maritime agent, such limitation shall have no legal effect in respect of third persons who had no knowledge of the said limitation nor under the existing circumstances ought to have had knowledge of the same.

Article 691

The maritime agent is obliged and authorised within the limits of the given authorisation to perform services which are necessary or customary in order to fulfil any received orders with the due diligence of a good businessman.

Article 692

The maritime agent may sign a contract of employment of a ship for and on behalf of both contracting parties on the basis of an express authorisation of the contracting parties.

Article 693

If the maritime agent does expressly declare that he is acting in the capacity of a maritime agent, it shall be deemed, in respect of the person in good faith, that the maritime agent is acting in his own name.

Article 694

The maritime agent shall be entitled to an advance for the expenses and to a remuneration.

If the expenses and the remuneration are not paid to the agent, the agent has the right of retention of the principal's property.

Article 695

The maritime agent is entitled to the reimbursement of the expenses and to a remuneration for the mediation and stipulation of contracts by the mere fact that the contract has been concluded.

Article 696

The ministry herewith brings the rules on the conditions required to perform the activity of maritime agents.

Chapter IV

CONTRACT OF MARINE INSURANCE

1. General Provisions

Article 697

The provisions of this chapter shall apply to:

(1) Insurance of hull and machinery, ship's equipment, its outfit and stores as well as other goods being on board or carried by the ship;

(2) Insurance of freight, passage money, insurance charges, supplies expenses, general average expenditure, salvage money, expected profits, commission, crew wages, lien and other rights and other economic gains that exist

or may be reasonably expected from the maritime venture and/or carriage of goods by sea and can be quantified in terms of money.

(3) Insurance against liability losses caused to third parties in course of ship's employment and items specified in No. 1 of this paragraph being possessed by either natural or legal persons.

The provisions of this chapter shall also be applied to insurance of new buildings and things necessary for the building, to container insurance, to insurance of research and seabed platforms, to insurance of goods carried before or after by other means of conveyance and to insurance of goods warehoused, stocked or deposited elsewhere before, during or after such transportation and also to other similar insurance if concluded in accordance with policies or terms customary for marine insurance, if the object of reinsurance is any of the insurance contracts mentioned in this article.

In so far as applicable, the provisions of this chapter shall be also applicable to reinsurance if it makes part of this contract of insurance.

The provisions of this chapter shall be also applied to insurance of boats.

As meant in this chapter, third parties are considered to be persons other than parties to the contract of marine insurance.

#### Article 698

The insured can only be such a person that has or may deem to have a justifiable interest to avoid the risk occurrence.

The insured may claim to be indemnified for the loss covered by the insurance only if he had an interest in the subject matter insured at the time or after the insured event occurred or if he acquired such interest afterwards.

#### Article 699

The contracting party may stipulate a contract of insurance for his own account, for the account of a particular third party or for an undefined party ("to whom it may concern").

If it is not evident from the contract of insurance that the insurance has been effected for the account of an undefined party, the insurance shall be deemed to be effected for the account of the contracting party or for an ascertained third party.

When contracting the insurance the insurer shall not be liable to disclose whether he is concluding the insurance for his own account or for the account of a third party.

A person who has concluded the contract of insurance explicitly on behalf and for the account of a principal shall not be deemed a contracting party.

#### Article 700

An insurance concluded for the account of an uncertain party without his instructions is valid if the third

party (the insured ) subsequently agrees to it.

In accordance with paragraph 1 of this article, the contracted insurance may be approved may be given even after the occurrence of the loss covered by the insurance.

The submission of an indemnity claim shall be deemed to be an approval of the third party to the insurance concluded.

#### Article 701

An insurance for the account of an uncertain party shall be deemed to be concluded for the account of the person having some interest in the subject-matter insured at the time when the insured event occurs or being entitled to claim an indemnity for the loss according to article 698, paragraph 2, of this Law.

An insurance concluded for the account of an uncertain party shall be valid if a party having an interest in the subject matter insured at the time when the insured event occurs or who is entitled to claim an indemnity for the loss under article 698, paragraph 2, of this Law, holds or comes into possession of the policy and agrees to the terms of the insurance already contracted.

#### Article 702

If the contracting party or his agent, when effecting insurance, fails to disclose all the circumstances which he knows or ought to know and which are of some importance for evaluating the extent of the risk, or if he discloses them incorrectly, the insurer shall be entitled to require from the contracting party to pay additionally the difference between the premium corresponding to the actual risk value and the one formerly paid.

In an insurance for the account of a certain third party it shall be assumed that all the circumstances that were known to the insured, and which he could communicate in time to the contracting party, ought to have been known to the contracting party.

The provisions of this article, paragraph 1, shall not be applied to circumstances which are notorious, which were known or were reasonably presumed to be known to the insurer.

The insurer shall forfeit his right set out in paragraph 1 of this article if he fails to require an additional premium to be paid by the contracting party within three months from the termination of the insurance or, if the event insured against happens, not later than the final payment of the indemnity.

#### Article 703

If the contracting party or his agent when contracting the insurance wilfully or through gross negligence fails to disclose to the insurer all the circumstances which he knows or ought to have known and which had substantial influence to the conclusion and terms of the insurance, or if he discloses them incorrectly, the insurer shall be entitled to claim the insurance so concluded unless he has asked the contracting party to pay additionally the difference in premium according to article 702 of this Law.

If, under the insurance so concluded, the insurer has paid a claim for indemnity to an insured of bad faith he

is entitled to require from the insured to return to him the amount which he has paid.

The provisions of article 702, paragraphs 2 and 3, of this law shall also apply in appropriate manner to the circumstances set out in paragraph 1 of this article.

The insurer shall be entitled to collect and to hold the premium notwithstanding that the contract of insurance has been avoided in accordance with the provisions of this article.

#### Article 704

The insurer shall be bound to issue a dully signed insurance policy to the contracting party upon his request.

Where on the demand of the contracting party an insurance policy is issued in two or more original copies, on each of the copies it shall be stated in how many originals the policy has been issued.

The policy shall contain all the provisions of the contract of insurance relative to the obligation of the insurer to pay an indemnity for any loss.

Where the policy is issued and delivered to the contracting party the insurer is not bound to fulfil his obligation under the insurance before the policy is presented to him or if the insured shows reasonable balance of probability that the policy has been lost or destroyed, before he receives adequate assurance from the insured.

The insurer shall be discharged from his obligation under the insurance if he pays to the holder of policy in good faith, or where the policy has been issued in several original copies, to the bearer of one original copy who shows reasonable balance of probability that he is entitled to the indemnity thereunder.

#### Article 705

The insured may transfer his rights under the insurance prior to the occurrence of a loss, but only to a person who can be an insured in accordance with article 698, paragraph 1, of this Law.

Where a policy is issued, the right under the insurance may be transferred by endorsement on the policy or in any other appropriate manner.

The insurer is entitled to raise the same defences under the insurance against the transferee as he would have been able to enforce against the original insured.

Notwithstanding the provisions of paragraph 3 of this article, the insurer shall not be entitled to raise against a transferee of good faith defences contesting the contents of the policy which has been issued by him except in the case of patent error of which the transferee should have been aware.

The assignment of rights in the subject-matter insured does not also transfer the rights under the insurance unless there is an express or tacit agreement between the insured and the assignee to that effect.

The insured shall not be liable to transfer his rights under the insurance according to paragraph 1 of this article if the possibility of such transfer be expressly excluded in the contract of insurance.

Article 706

The subject matter insured must be specified in the contract of insurance and in the policy if issued in a number which enables its identification.

Where the subject-matter insured is insufficiently or incorrectly specified so that it cannot be established even indirectly whether it was exposed to the perils insured against and suffered loss, the insurer shall not be bound to indemnify for the loss which has occurred.

Article 707

The value of the subject-matter insured stipulated in the contract of insurance or in the policy of insurance (agreed value) is conclusive between the insurer and the insured.

The insurer is entitled to contest the agreed value only in the case of fraud or of a patent error.

Article 708

Unless otherwise expressly provided, the value of the subject- matter insured is its real value at the commencement of the insurance.

The real value of the subject-matter insured shall be considered its commercial value at the commencement of the insurance.

The real value of the subject-matter insured need not to be designated in the contract of policy of insurance.

Article 709

Unless otherwise provided by this Law or the contract, the insurer shall be bound to pay the indemnity for the loss covered by the insurance only up to the amount stated in the contract of insurance for which the insurance has been concluded (hereinafter called "the amount insured").

Unless otherwise expressly provided the amount insured shall not be deemed at the same time the agreed value of the subject matter insured.

Article 710

Should the amount insured exceed the agreed or real value of the subject-matter insured, only the agreed or real value, as the case may be, shall be taken into account in the settlement of the claim.

Article 711

Should the amount insured be less than the agreed or real value of the subject- matter insured, the insurer shall be liable to pay the indemnity for the loss only in such proportion as the amount insured bears to the agreed or real value, as the case may be.

Article 712

Where the subject matter is insured against the same risks, for the same period of time and for the benefit of the same insured with two or more insurers, and the amounts insured in the aggregate are in excess of the agreed or real value of that subject matter, the insured may elect whether to claim in full or in part and from which insurers, provided that the aggregate of the indemnities received do not exceed the amount of the loss which may be covered by the insurance.

An insurer who has paid the indemnity for the loss upon the request of the insured in accordance with paragraph 1 of this article shall be entitled to a contribution from other insurers in proportion to their liabilities under the contract of insurance.

Notwithstanding the provisions of paragraph 2 of this article an insurer who, according to the provisions of the contract of insurance or of the law applicable thereto, is not bound in cases of double insurance to pay an indemnity for a proportional part of the loss paid by the other insurer, shall not be entitled to a contribution from these insurers for losses for which he has paid the indemnity directly to the insured.

Unless otherwise provided, an insurer is entitled to the full premium for the insurance in the circumstances mentioned in paragraph 1 of this article, whether they occurred unintentionally or intentionally

When submitting a claim to one insurer, the insured shall inform him of all other contracts by which the same subject matter is insured for his benefit against the same risks and for the same period of time

Article 713

Unless otherwise provided the contracting party shall pay the premium to the insurer immediately upon the conclusion of the contract of insurance.

The insurer is not bound to deliver the issued policy to the contracting party until the premium has been paid.

When settling the claim the insurer is entitled to deduct from the indemnity the amount of any premium which is still due to him.

Unless otherwise provided, non payment of the premium in due time shall not discharge the insurer from his liability under the contract of insurance nor shall entitle him to rescind the contract of insurance.

Where the contract of insurance is concluded subject to a condition that the insurance premium be determined afterwards, the premium shall be fixed in an adequate amount in proportion to the gravity of the risk.

The contracting party shall pay the premium to the insurer for the insurance even when the subject-matter insured has ceased to be exposed to the risks insured against before the conclusion of the contract of insurance, provided that the insured had no knowledge of that fact when concluding the contract of insurance.

#### Article 714

The insurer shall be bound to return the premium already paid to the contracting party if the subject-matter insured has not been exposed to risks insured against or if the contract of insurance has been cancelled without fault on the part of the contracting party or the insured.

Where the policy of insurance is issued the insurer shall return the premium to the authorized holder of the policy.

When returning the premium, the insurer is entitled to withhold the part of the premium in the customary or stipulated amount to cover his expenses in connection with the insurance.

#### Article 715

In a voyage insurance, if by reason of the action of the insured or with his consent there has been a substantial alteration of the insured voyage (change of voyage, deviation, unjustifiable delay and so on), the insurer shall not be bound to pay the indemnity for any loss which may occur after such alteration.

The provisions of paragraph 1 of this article shall also apply when the loss occurs after the ship regains the route set.

The provisions of paragraph 1 of this article shall not be applied to the alteration of insured voyage made in the interest of the insurer or for the purpose of saving property and life at sea or in inland waters or if rendering medical assistance or if the alteration did not substantially affect the occurrence or extent of the loss.

#### Article 716

In a time insurance, the insurance commences at zero-zero hours of the first day and terminates at 24 hours of the last day provided in the contract of insurance

The time referred to in paragraph 1 of this article is calculated according to the official local time of the place where the policy has been issued, or if there is no policy, according to official local time at the place where the contract of insurance has been concluded.

#### Article 717

Unless the contract of insurance otherwise provides, the marine insurance shall cover the risks to which the subject-matter insured is exposed in the course of navigation, i.e. maritime accidents, natural disasters, explosion, fire and robbery.



The contract of insurance may also cover other risks to which the subject-matter insured is exposed during the currency of the insurance, such as theft and non-delivery, handling risks, land transport risks, war and political risks, etc.

#### Article 718

The alteration of the risk after the conclusion of the contract of insurance from causes beyond the control of the insured shall not affect the validity of the insurance and the liability of the parties

Where by reason of the action of the insured or with his consent, the risk has been substantially increased, the insurer shall not be bound to the indemnity for the loss attributable to such alteration of the risk.

Where by reason of the action of the insured or with his consent the risk is substantially decreased the insurer shall not be liable to refund a proportional part of the premium to the insured or to reduce the premium already agreed.

#### Article 719

Unless otherwise provided the insurance shall cover the loss caused by risks insured against:

1. Total loss of the subject-matter insured;
2. Partial loss of the subject-matter insured;
3. Salvage expenses and expenses resulting directly from the appearance of the event insured against,
4. General average;
5. Salvage rewards;
6. Expenses of ascertaining and adjusting the loss cover by the insurance.

Unless the contract of insurance otherwise provides, the insurance shall not cover the liability of the insured for the losses caused to third parties.

#### Article 720

The insurance may cover also losses occurring before the conclusion of the contract of insurance, provided that at the time when the contract was concluded the contracting party and the insured did not know and ought not to know that the insured event had happened, or at the time the contract was concluded both parties to the contract knew that the insured event had happened, but they had no knowledge of the extent of the loss.

#### Article 721

The insurance shall not cover the losses arising directly or indirectly from the wilful misconduct of the

insured.

Unless the contract of insurance otherwise provides, the insurance shall also exclude the losses arising directly or indirectly from:

1. Gross negligence of the insured;
2. Wilful misconduct or gross negligence of persons for whose conduct the insured is responsible by law;
3. The presence of war and political risks.

The provisions of paragraph 2 of this article shall not be applied to losses arising from the wilful misconduct or gross negligence of the ship's crew, nor to losses arising from acts or omissions of an insured - the ship's master or other member of the ship's crew or of a pilot in navigation and ship handling.

#### Article 722

A total loss of a subject-matter insured shall be deemed according to this Law when the entire subject-matter insured has sunk without the possibility of being re-floated, or destroyed or missing, or the insured has been permanently deprived thereof, and also when it has sustained such a damage as it cannot be repaired and by reason of it has ceased to be a thing of the particular kind insured.

In case of total loss of the subject-matter insured the indemnity shall be paid in full amount of its real value or, where the value has been agreed upon, the amount of the agreed value, but not exceeding the amount insured.

By payment of the indemnity in accordance with paragraph 2 of this article all rights of the insured in the subject-matter insured shall be transferred to the insurer if he does not renounce his claim. If the subject-matter was underinsured, the rights to it shall be transferred to the insured in accordance with paragraph 3 of this article only in such proportion as the amount insured bears to the agreed or real value of the subject-matter insured, as the case may be.

#### Article 723

Where the insured decides to claim the indemnity under paragraphs 1 and 2, he shall submit a justify claim in writing to the insurer for payment of the indemnity.

The insured is entitled to claim the indemnity as for a total loss according to article 722 of this Law where total loss of the subject-matter insured is unavoidable or where the cost of salvage and necessary repairs exceed the agreed or real value of the subject matter insured, as the case may be.

The insured may claim to be indemnified for total loss if he is unable to dispose with or to use fully the insured subject-matter due to the risk insured for a period of consecutive 12 months.

The insured forfeits his right under paragraphs 1 and 2 of this article if he does not submit a claim within two months from the date on which he learned of the circumstances upon which his right is based or in case set out in paragraph 2 immediately after the period quoted has expired..

The insured's claim according to the provisions of paragraph 3 of this article must be unconditional and

must relate to the entire subject matter insured.

Where the insurer accepts the insured's claim submitted in accordance with paragraph 3 of this article or where he does not contest it within one month from the date on which he has received it, the indemnity for the loss shall be paid in accordance with article 722, paragraphs 2, 3 and 4 of this Law.

If the insurer contests a claim submitted in accordance with paragraph 4 of this article and a dispute arises between the insurer and the insured, the court will judge whether the requirements of paragraph 1 of this article have been fulfilled in the circumstance which existed on the date on which the insured submitted the claim in accordance with paragraph 2 of this article.

#### Article 724

The ship shall be deemed lost if three months have elapsed from its last report. In that case the day of total loss of the ship shall be considered to have occurred on the day she was last heard of.

Where other expenses are insured together with the ship in accordance with article 739, paragraph 2, of the Law, the expenses insured which have been saved by the insured because of the loss of the ship shall be deducted from the indemnification for the total loss.

#### Article 725

In the event of damage to or loss of an integral part of the subject matter insured, the indemnity for the loss shall be necessary cost of repairing and restoring the subject matter insured to its former condition, but not exceeding the amount insured.

Where the subject matter is underinsured the cost of repairing according to paragraph 1 of this article is recoverable in such proportion as the amount insured bears to its agreed or real value, as the case may be.

Where the subject matter insured cannot be repaired and/or restored to its former condition and also in the case of a loss of a part of the subject matter insured (partial-loss) The indemnity for the loss shall be the percentage of the depreciation of the subject matter insured applied to the amount insured.

Where the subject matter is over-insured the percentage of the depreciation according to paragraph 3 of this article shall be applied to its agreed or real value, as the case may be.

#### Article 726

In case of general average arising in connection with the perils insured against, the indemnity shall be paid for losses of and damages to the subject matter insured and expenses incurred by the insured in connection with the subject-matter which are allowed in a valid general average adjustment and also for contributions to general average which are fixed for the subject matter insured in such adjustment.

When ascertaining the amount of the indemnity provided in paragraph 1 of this article, the provisions of articles 725 and 728 of this Law shall be applied in appropriate manner irrespective of the value of the subject-matter insured in the valid general average adjustment.

By payment of the indemnity for losses, damages and expenses according to paragraph 1 of this article the right of the insured to receive the contribution to general average is transferred to the insurer, but only up to the amount of the indemnity paid together with the corresponding amount of interest and commission approved in the valid general average adjustment.

#### Article 727

The indemnity shall be paid for salvage awards for saving the subject-matter insured from perils covered by the insurance which the insured is bound to pay and also for the costs of proceedings in assessing the award.

Where the subject matter is under-insured the provisions of article 711 of this Law shall be applied to the indemnity provided in paragraph 1 of this article irrespective of the value which served as the basis for the assessment of the amount of the salvage award.

#### Article 728

Expenses incurred by the insured in order to avert a loss from imminent danger or to reduce a loss which has already occurred (salvage expenses) are recoverable from the insurance if incurred reasonably or by an agreement with the insurer and provided that the loss is covered by the insurance.

The expenses mentioned in paragraph 1 of this article shall be recovered from the insurance irrespective of success, even when the expenses, together with the indemnity for the loss exceed the amount insured, but the indemnity for the losses shall not exceed the amount insured.

Expenses incurred by the insured arising directly from the occurrence of the event insured against shall be recoverable from insurance only up to the amount insured.

Where the subject matter is underinsured, salvage expenses and expenses arising directly from the occurrence of the event insured against shall be recovered in such proportion as the amount insured bears to the agreed or real value of the subject matter, as the case may be.

As an exception to paragraph 4 of this article, salvage expenses incurred at the demand of the insurer in spite of reasonable opposition of the insured shall be recoverable in full notwithstanding the provision relating to underinsurance.

#### Article 729

Expenses incurred by the insured that are necessary for the ascertainment and settlement of losses covered by the insurance shall be recoverable from the insurance in full even in case of under-insurance.

#### Article 730

The insurer shall be bound to indemnify for successive losses which occur during the currency of the same insurance even where the aggregate amount of the indemnities for the losses covered by the insurance exceeds the

amount insured.

Where, during the currency of the same insurance, a partial loss or damage is followed by a total loss of the subject-matter insured, the insurer shall be bound, in addition to the indemnity for the total loss, to indemnify only for the expenses covered by the insurance which were incurred by the insured in connection with the partial loss or damage.

#### Article 731

Where specifically stipulated conditions which were essential to the decision whether or not to accept the risk are not fulfilled, the insurer is entitled to demand the annulment of the contract of insurance.

Where specifically stipulated conditions which were of importance only as to the gravity of the risk or the extent of the loss are not fulfilled, the insurer is entitled to deduct from the indemnity such proportion as is attributable to the non-fulfilment of these conditions.

#### Article 732

During the currency of the insurance the insured shall take care of the subject-matter insured with the diligence of a prudent businessman and do nothing that would prejudice any right to recover from a third party responsibility for the loss.

In the event of the operation of a peril insured against, the insured shall:

1. Take all reasonable measures necessary to avert or minimize the loss, in agreement with the insurer, if possible,
2. Advise the insurer or his authorized representative of the loss as soon as he learns thereof,
3. Secure any right to recover in respect of the loss from a third party responsible for it.

Should the insured wilfully or through gross negligence fail to take care during the currency of the insurance of the subject-matter insured or to perform the duty provided by paragraph 2, point 1, of this article, the insurer is not obliged to pay the indemnity for the loss resulting therefrom.

Where the insured wilfully or through gross negligence has prejudiced during the currency of the insurance any right to recover from a third party responsible for the loss, or fails to perform the duties provided by paragraph 2, points (2) and (3), of this article, the insurer is entitled to deduct from the indemnity a sum corresponding to the amount of the loss he has suffered thereby.

#### Article 733

When submitting the claim, the insured shall when required by the insurer, provide such information, documents and other evidence available to him as are necessary to establish the nature, cause and extent of the loss and any other circumstances whereby his right to the indemnity can be ascertained or at least presumed.

Where the insured wilfully or through gross negligence fails to ascertain the loss in time in the stipulated

manner or, where there is no stipulation, in the customary manner, the insurer shall pay the indemnity for the loss only if the insured submits conclusive proofs of the nature, cause and extent of the loss and also of circumstances essential for ascertaining that the loss is covered by the insurance.

Article 734

The insured shall pay the indemnity within one month after the insured has submitted to him the claim in accordance with article 733 of this Law with all information and documents as are necessary to establish the obligation of the insured under the contract of insurance.

Article 735

Where in a contract of insurance concluded with several insurers their respective shares are designated, each insurer shall pay the indemnity for the loss only in proportion to his share.

Article 736

By payment of the indemnity all rights of the insured against third parties in respect of the loss for which the indemnity has been paid shall be transferred to the insurer, but only up to the amount paid.

Where the subject matter is under-insured, the rights of the insured under paragraph 1 of this article shall be transferred to the insurer only in such proportion as the sum insured bears to the agreed or real value of the subject-matter, as the case may be.

It is the duty of the insured to give the insurer on his demand every assistance to effect any rights against third parties and to provide him with a certificate on cession of his rights duly filled in and signed.

Article 737

Claims under a contract of insurance fall under of a five years statute of limitation.

The period of limitation provided in paragraph 1 of this article shall start to run:

1. For indemnity claims for contribution to general average and for salvage awards - from the date on which the contribution or award payable by the insured has been assessed;
2. For indemnity claims for losses caused to third parties - from the date on which the insured has received the claims from the third party;
3. For other claims - from the first day after the end of the calendar year during which the claim has arisen.

Article 738

The provisions of article 698, article 705, paragraph 1, article 712, paragraph 5 and article 721, paragraph 1, of this Law shall not be modified even by express stipulation in the contract of insurance.

2. Ship Insurance

Article 739

Ship insurance covers the hull, machinery, installations and outfit, ordinary stores of fuel, lubricants and other material, provisions of food and drink necessary for the crew.

Extraordinary stores of fuel, lubricants and other material, provisions of food and drink which are not necessary for the ordinary need of the crew and also outfitting expenses and insurance changes are covered by an insurance on ship only if expressly stipulated.

Article 740

A voyage insurance attaches at the commencement of the cargo loading in the port of departure named in the contract of insurance and continues until the completion of discharge in the port of destination named in that contract but not more than 21 days after the arrival of the ship in that port.

Where before the completion of discharge of cargo according to paragraph 1 of this article the loading of cargo for a new voyage commences in the port of destination the insurance terminates upon the commencement of loading of the new cargo.

Where no loading of cargo takes place in the port of departure, the insurance commences when the ship raises the anchor or unberths in that port for the departure on the insured voyage.

Where no discharge of cargo takes place in the port of destination the insurance terminates when the ship drops anchor or moors in that port.

When the voyage is interrupted before the port of destination the insurance terminates at the place where the voyage was interrupted, but the provisions of paragraphs 1, 2 and 4 of this article continue to apply in appropriate manner.

The ship remains insured while urgent repairs of damage covered by the insurance are effected without unjustified delay at an intermediate port immediately after the termination of the insured voyage, provided that the ship cannot be employed in commercial or other purposes at the same time.

Article 741

Where the time insurance terminates while the ship is on a voyage, the insurance shall be extended until she arrives at the first port of destination provided that the insured has not waived such extension before the expiration of

the insurance.

In respect of the termination of the insurance in the first port of destination the provisions of article 740 of this Law continue to be applied in appropriate manner.

The insurance shall be extended during urgent repairs of damage covered by the insurance which began during the currency or immediately after the expiration of the insurance and are effected without unjustified delay, if the ship cannot be employed for commercial purposes at the same time.

When the insurance is extended in accordance with paragraph 1 of this article the insurer is entitled to an additional premium in proportion to the period for which the insurance has been extended.

#### Article 742

Losses resulting directly or indirectly from the defect or unseaworthiness of the ship shall be excluded from the insurance on ship if the insured knows of them or could have learnt of them by exercising the diligence of a prudent ship operator and could have prevented the consequence thereof.

The provisions of paragraph 1 of this article shall not apply to losses arising from the defect or unseaworthiness of the ship of which the insurer has been advised or has knowledge of when concluding the contract of insurance.

Unseaworthiness of the ship, according to this article, means its general seaworthiness, as well as unseaworthiness for a particular voyage and carriage by the ship arising from technical defects, its insufficient equipment, inadequate crew, overloading or irregular loading of cargo, embarkation of passengers in excess of permitted number or by other reasons.

Losses sustained outside the limits of navigation according to the insurance contract arising from direct or indirect risk shall be excluded from the time insurance contract.

#### Article 743

Where the damaged ship is repaired, or parts of the hull, machinery, installations, outfit or stores which have been lost are replaced, the indemnity is paid for the loss in the amount of the actual cost necessary for repairing the ship or replacing parts, but not for any loss resulting from the depreciation of the ship notwithstanding the repairs effected and parts replaced.

Where by reason of the repairs of the ship or the replacement of parts the actual value of the ship is considerably increased, the enhancement in value arising therefrom shall be deducted from the indemnity.

When the damaged ship is not repaired or lost parts are not replaced during the currency of the insurance or immediately thereafter, and the insured claims an indemnity for the loss before repairs or replacements are carried out, the indemnity shall be paid for the loss in the percentage of depreciation in the value of the ship applied to the amount insured, but not exceeding the estimated cost of repairing the ship or replacing the parts.

### 3. Goods Insurance



Article 744

Within the same agreed value or, where the value has not been agreed, within the same amount insured, the charges of insurance, freight, customs duty and other expenses relating to the carriage and delivery of the goods as well as expected profit, may be insured in addition to the value of the goods at the place of departure and it is not necessary to mention expressly in the contract such expenses or expected profit which are covered by the same contract of insurance.

Article 745

A voyage insurance on goods shall be attached at the commencement of loading on the first means of conveyance at the place named in the contract of insurance for the purpose of performing the voyage and it shall continue until the goods are discharged from the last means of conveyance at the destination named in the contract of insurance.

If a voyage is interrupted at any place on its route the insurance shall be terminated at the moment of discharging the goods from the last means of conveyance in that place.

The provisions of this article do not affect the provisions of article 715 of this Law regarding the deviation from the insured voyage.

Article 746

Unless otherwise provided, losses resulting from the vice of nature of the goods shall be excluded from the insurance.

The provisions of paragraph 1 of this article shall also apply to a loss occurring in consequence of delay of the means of conveyance caused by perils insured against.

Article 747

In case of total loss of goods, the indemnity shall be paid for the value of the goods at the place of departure, together with the value of any other interests covered by the same agreed value or by the same amount insured, in accordance with article 744 of this Law.

Where because of the total loss of goods or for other reasons the insured has saved some expenses which were insured together with the value of the goods at the place of departure, such expenses saved shall be deducted from the indemnity for the total loss.

Article 748

In an insurance on goods the percentage of depreciation according to article 725, paragraph 3, of this Law is

ascertained by comparing the value of the goods in sound and damaged condition at the place where the insured voyage terminates.

Where damaged goods are sold before arrival at a destination by agreement with the insurer in order to avoid a greater loss, the indemnity shall be paid for the difference between the net proceeds of the sale and the amount insured or, if the goods are overinsured, for the difference between the net proceeds of the sale and the agreed or real value of the good, as the case may be.

#### Article 749

Where by reason of occurrence of the event insured against, the goods are discharged from the ship before their destination, the indemnity shall be paid in accordance with article 728, paragraph 3, of this Law for the expenses for discharging the goods and also for the storage and extra cost of forwarding the goods to destination which are to be borne by the insured.

#### Article 750

In addition to the cases mentioned in article 723, paragraph 1, of this Law, the insured is entitled to claim the indemnity as for a total loss of the insured goods in accordance with the provisions of article 722 of this Law, as follows:

1. Where by the operation of perils insured against the ship becomes unseaworthy during the voyage and the goods cannot be forwarded to their destination within six months, or where the expenses borne by the insured to forward the goods would exceed the agreed or real value of the insured interests, as the case may be;
2. Where by reason of the damage the goods have lost four fifths of their value and cannot be repaired and /or restored to their former condition;
3. Where the necessary cost of salvage, reconditioning and forwarding the damaged goods to their destination which would have been incurred by the insured exceeds the agreed or real value of the insured interests, as the case may be.

#### Article 751

Where a number of successive shipments are insured under one contract only in general terms (general contract of insurance) The contracting party shall declare all such shipments to the insurer upon forwarding them together with all information necessary for the final ascertainment of the obligations of the parties in accordance with the general contract of insurance.

Where in general contract of insurance the scope of cover given or the value for which particular shipments are insured are not fixed, the contracting party shall declare his requirements in that respect to the insurer if possible before the commencement of the voyage.

Where the contracting party fails to perform his duty under paragraph 2 of this article for some shipments before the loss occurs or, if there is no loss, before the termination of the insured voyage, these shipments shall be considered to be insured against the risks mentioned in article 717, paragraph 1, of this law for their real value in

accordance with article 708 of this Law, in addition to the amount of freight borne by the insured and insurance charges.

Where the contracting party wilfully or through gross negligence fails to perform his duty under paragraph 1 of this article the insurer is entitled to rescind the general contract of insurance and to decline to pay the indemnity for losses occurred to the undeclared shipments.

The insurer is entitled to the premium of insurance for undeclared shipments even if they were exposed for only a short time to the risks covered by the general contract of insurance, notwithstanding that the contract has been rescinded in accordance with paragraph 4 of this article.

The insurer shall deliver the policy on demand of the contracting party in accordance with article 704 of this Law for each shipment declared.

#### 4. Freight Insurance

##### Article 752

Unless otherwise provided, a freight insurance shall cover the gross amount of freight.

##### Article 753

In case of total loss of freight resulting from the total loss of goods for which the freight has been or is due to be paid, the indemnity for the loss shall be paid in accordance with article 722, paragraph 2, of this Law, but the rights of the insured on goods shall not be transferred to the insurer of freight.

##### Article 754

Where the freight which has been or is due to be paid for particular goods is insured, the indemnity for loss caused by perils insured against shall be ascertained, if it cannot be done otherwise, in the same proportion as the indemnity for the loss sustained by the goods to which the freight relates.

##### Article 755

Unless otherwise provided by the Law, the provisions relating to insurance on freight for the carriage of particular goods, and the provisions relating to insurance on ship shall apply to insurance on other freight.

#### 5. Insurance against Liability

##### Article 756

In a liability insurance for losses caused to third parties the indemnity shall be paid for such amounts as the insured is bound to pay to third parties in connection with his liabilities covered by the insurance and also for

expenses necessary for the ascertainment of his obligation.

Third parties, as is the case in paragraph 1 of this article, may claim an indemnity directly from the insurer for the damage and/or loss sustained in an event for which the insured is liable, but only up to the amount insured.

The indemnity shall also be paid for the cost of measures taken on demand of the insurer and his representatives or in the agreement with them to contest unjustified or excessive claims by third parties., and also for the cost of reasonable measures taken by the insured for the same purpose without the agreement of the insurer or his representatives where such agreement could not be obtained in time.

Where the contract of insurance provides the amount for which liabilities are insured, the indemnity shall be paid only up to the amount insured in accordance with paragraph 1 of this article.

#### Article 757

Where the liability of the ship operator is covered under the same contract under which the ship is insured, the indemnity for the losses in accordance with article 748 of this Law shall be paid independently of the amount of the indemnity for other losses covered by the insurance on ship.

Where the contract does not provide a separate amount for the insurance against ship operator's liability, his liability shall be considered to be insured to the same amount as the ship.

#### Article 758

In case of collision between the ship belonging to the same insured, the provisions relating to the insurance against ship operator's liability shall apply as if the ship belonged to different persons.

The provisions of paragraph 1 of this article shall also apply in appropriate manner when the insured ship has caused loss or damage to other assets or property belonging to the same insured.

### 6. Various Insurance

#### Article 759

In case of total loss of expected profit resulting from the total loss of goods, the loss shall be recoverable in accordance with article 722, paragraph 2, of this Law but the rights of the insured on goods shall not be transferred to the insurer of expected profit.

The provisions relating to insurance on goods shall apply in an appropriate manner to insurance on expected profit connected with the carriage of goods.

Article 760

The charges of insurance can be insured by inclusion in the agreed value or, where the value has not been agreed, by inclusion in the amount insured for the subject matter of the insurance for which such charges have been or are due to be paid, and it is not necessary to mention the cost thereof expressly in the contract of insurance.

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**PART NINE**  
**MARITIME ACCIDENTS**

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Chapter I  
COLLISION BETWEEN SHIPS

Article 761

The provisions of this chapter shall be applied to every waterborne craft irrespective of its purpose, including boats and hydroplane when at sea.

Article 762

The provisions of this chapter shall be applied to liability for damages:

1. Caused to the ship, persons or things on board in a collision;
2. Caused by one ships to another due to manoeuvring, non-enforcement of a manoeuvre or by non-observance of regulations, even if no collision has actually taken place;
3. Caused by or to a ship at anchor;
4. Caused by one ship to another while navigating together in the same towing or pushing unit.

The provisions of articles 850 and 866 of this Law shall be applied when establishing the liability for the damage in collision between two ships caused by radioactive, radioactive and toxic, and /or explosive or other dangerous properties of nuclear fuel or radioactive waste.

Article 763

The liability for the damages set out in article 762 of this Law shall be borne by the ship or ships proved to have caused the damage by their fault.

Within the meaning of this Article the liability of a ship shall mean the liability of both the shipowner and

the ship operator.

Article 764

In accordance with the provisions of this chapter, the ship operator shall be liable for the damages caused by a pilot's action or non-execution of an action, no matter the pilotage was compulsory.

Article 765

If two or more ships are in fault, the liability of each ship shall be in proportion to the degree of the fault respectively committed.

If it is not possible to establish the degree of the respective faults, the liability shall be apportioned equally.

Article 766

The profit loss shall be also made good for a damage sustained in collision regardless the degree of the fault.

Article 767

If death or injury to a person is caused by collision, the liability for the loss sustained shall be borne by the ship which has caused the collision.

Article 768

In respect of the damages set out in article 767, the ship which has paid larger part than it ought to bear proportionally to its fault, shall have the right to claim from the other ship the amount paid in excess to his degree of the fault committed.

If for the reasons beyond its control the ship cannot repay the amount due from other ship, or the amounts due from other ships in accordance with paragraph 1 of this article the ship may claim the reimbursement from other ships in fault proportionally to their respective faults.

Article 769

If the collision is accidental, if it is caused by *force majeure*, or if the causes of the collision are in doubt, the damages shall be borne by those who have suffered them.

Article 770

After a collision, the master of each ship in collision shall be bound, so far as he can do so, make known to the other ship the names of the ports from which she comes and to which she is bound to.

A breach of the provision set out in paragraph 1 shall not of itself impose any liability on the shipowner or on the ship operator.

Article 771

Actions for the raising of damages shall be barred after an interval of two years from the date of the casualty.

The limitation of the action to enforce the right of recourse (article 768) shall be one year.

When the recourse has been instituted, the limitation allowed by paragraphs 1 and 2 of this article may be extended by an agreement in a written form.

The right of recourse in paragraph 2 of this article shall run from:

1. The date of coming into effect of the judicial verdict;
2. The date of payment, if the legal proceedings has not been instituted;
3. The date the creditor was made known about his debtor's insolvency, but bearing in mind that the limitation cannot be longer than two years from the date of payment and the date of coming into effect of the judicial verdict, respectively - when a request for payment of an insolvent debtor's part is instituted (article 768, para. 2).

Article 772

The provisions of this chapter shall not affect the provisions of the Law on limitations of liability of ship operators or rights and liabilities deriving from the Contracts for the Employment of Ships or any other agreements.

Article 773

The provisions of this chapter of the Law shall also apply to ships of war, except for article 770, paragraph 1, of this Law.

Chapter II  
SALVAGE

Article 774

The provisions of this chapter shall be applied to salvage of persons, ships and things on board. Within the provisions of this Law, "salvage" shall also include "rendering of assistance".

Article 775

The provisions of this chapter shall apply to all waterborne craft irrespective of their purpose, including boats and aircraft rendering salvage or being themselves the subject matter of a salvage at sea. The provisions of this chapter shall also apply to ships of war. Except as provided in paragraph 2 of this article, the provisions set out in articles 796 to 799 and article 800, paragraph 2, of the Law shall not apply to ships of war.

Article 776

Every master who has been informed about persons found at sea in danger, including his enemies in case of war, shall be bound to proceed to their assistance at a maximum speed and to inform them about his arrival, if the circumstances admit.

Having consulted the master of the ship who has acknowledged his request for assistance, if that was made possible, the master of the ship in danger shall have the authority to select one or more ships found to be the most appropriate for the salvage operations.

The master or the masters of the selected ships shall accept their choice and proceed to render assistance to the persons in serious danger, at highest possible speed.

The master shall render assistance to persons in life danger even if they fail to accept it or if the master of the ship in danger objects to it.

Article 777

Exceptionally from the provisions in article 776 of this Law, the master of a ship is neither bound to proceed to assistance nor to carry out salvage operations:

1. If the salvage may seriously threaten the safety of his ship or persons on board;
2. If it is justifiably considered that the operations would not have a useful result;
3. If it is made known that another ship has been selected for the salvage and has acknowledged his acceptance;



4. If informed by the master of the ship in danger, or immediately by the persons who were in danger, or by the master of another ship that has come to persons in danger that the assistance is no longer required.

Article 778

In case of a collision the master shall carry out the salvage operations of the persons on board the other ship and of the ship itself, if possible, provided his ship and persons on board are not seriously endangered by such an operation.

Article 779

The master of the ship who has failed to proceed to assistance of the persons in danger and to carry out rescue operations, or who failed to carry out salvage operations of the ship after the collision (articles 777 and 778), shall enter arguments for his action into the log book.

Article 780

The shipowner or the ship operator shall not be liable for damages caused by the master's infringement of his obligations set out in articles 776 and 778 of the Law.

Article 781

The salvage of a Croatian ship of war shall not be carried out if explicitly rejected by its master.

Article 782

The provisions of articles 776 and 778 of the Law shall also apply to warships.

Notwithstanding paragraph 1 of this article, the Minister of Defence shall make provisions for the cases when the master of a Croatian ship is not bound to carry out salvage operations as set out in articles 776 and 779 of the Law.

Article 783

No payment shall be due for the persons whose lives are saved.

Except as provided by paragraph 1 of this article, if several salvors took part in salvage operations and some of them have not succeeded to save only the persons, or the ship or the things thereon, each salvor shall be entitled to a justifiable apportionment of the salvage reward recognised to the salvor for saving both the ship and things on board.

Article 784

Unless otherwise provided by a salvage contract, the provisions of this Law shall apply to salvage of the ships and things thereon.

The master or the operator of the ship in danger shall have the authority to conclude salvage contracts on behalf of the owner of the property on board ship.

The contracting parties shall not prevent or minimize their liability for damage the environment set out in article 786, or to contradict the provisions of article 787 of this Law.

Article 785

Each act of assistance or salvage which has had a useful result gives a right to equitable remuneration.

The amount of the reward cannot exceed the value of the ship or goods salvaged.

Article 786

The salvor shall exercise due diligence in salvage operations and in preventing or minimizing damage to the environment. If necessary, he shall also request and accept the intervention from other salvors when reasonably requested to do so by the master or operator of the ship, or the owner of property on board.

The master of the ship, the ship operator or the owner of other property in danger shall owe a duty to the salvor during the course of the salvage operations, pay due care to prevent or minimize damage to the environment, and when the ship or other property has been brought to a place of safety, to accept care about them when reasonably requested by the salvor to do so.

Article 787

At the request of a party the court may annul or modify the contract of salvage the ship and goods thereon;

1. If the contract has been concluded during the danger or under the influence of danger and if proved that the terms of the contract are inequitable;
2. If it is proved that a party has been forced to enter into the contract by fraud or intentional concealment;
3. If it is proved that the reward under the contract is in excessive degree to large or too small for the services rendered.

Article 788

If the parties have not concluded the agreement of salvage of ship or property on board, or if such an

agreement has been concluded but the reward has not been fixed, in case of dispute this shall be done by the court.

The salvage reward shall be fixed by the court taking into account the following criteria:

1. The salvaged value of the ship and other property;
2. The skill and efforts of the salvors in preventing or minimizing damage to the environment;
3. The measure of success obtained by the salvor;
4. The nature and degree of the danger;
5. The skill and efforts of the salvors in salvaging the ship, life and other property;
6. The time used and losses incurred by the salvors;
7. The risk of liability and other risks run by the salvors or their equipment;
8. The promptness of the service rendered;
9. The availability and use of ships or other equipment intended for salvage operations;
10. The state of readiness and efficiency of the salvors' equipment and the value thereof;

Payment of the stipulated award set out in paragraph 2 of this article shall be applied if the court changes the stipulated award according to article 787 of the Law.

#### Article 789

If the salvor has carried out salvage operations in respect of a ship which by itself or its cargo threatened damage to the environment and has failed to earn a reward under article 788, paragraph 2, of this Law at least equivalent to the special compensation assessable in accordance with this article he shall be entitled to special compensation from the owner of that ship equivalent to his expenses as herein defined.

If, in the circumstances set out in paragraph 1, the salvor by his salvage operations has prevented or minimized damage to the environment, the special compensation payable by the owner to the salvor may be increased up to a maximum of 30 per cent of the expenses incurred by the salvor. However, the tribunal, if it deems it fair and just to do so and bearing in mind the relevant criteria set out in article 788, paragraph 2, of the Law, may increase such special compensation further, but in no event shall the total increase be more than 100 per cent of the expenses incurred by the salvor.

Salvor's expenses for the purpose of paragraphs 1 and 2 means the out-of-pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in article 788, paragraphs 2, 8, 9 and 10, of this Law.

The total special compensation under this article shall be paid only if and to the extent that such compensation is higher than any reward raiseable by the salvor under article 788 of this Law.

If the salvor has been negligent and has thereby failed to prevent or minimize damage to the environment, he may be deprived of the whole or the part of any special compensation due under this article.

Nothing in this article shall either prejudice or affect any right of recourse on the part of the owner of the ship who has caused damage to the environment.

Article 790

If the salvage has been carried out by several salvors and the apportionment of their rewards for the ship and goods thereon have not been fixed, this shall be made by the court following the provisions of article 788 of this Law.

If there are more salvors, each of them may also effect his share of payment individually.

Article 791

The court may deprive the salvors of all remuneration, or may award a reduced remuneration, if it appears that the salvors have by their fault rendered the salvage necessary or have been guilty of theft, fraudulent concealment or other acts of fraud.

Article 792

Services rendered by the salvors notwithstanding the express and reasonable prohibition of the master, owner of the ship, ship operator, or the person authorized to dispose of the goods on the ship salvaged, shall not give rise to payment.

Article 793

Except as otherwise provided, if the salvage of the ship and property thereon is based on a salvage agreement signed by the master or the operator of the ship in danger, the salvage reward shall be paid by the operator of the salvaged ship .

If the salvage agreement has been concluded the owner of the property saved or the persons who may dispose of the property thereof shall be liable, together with the person bound to pay the salvage award, but only for the apportionment referring to the property saved.

If the salvage agreement has not been concluded, the operator of the salvaged ship shall pay salvage reward for the ship, whereas the reward for the goods salvaged shall be paid by the owner or the person liable to dispose of it.

Article 794

Upon the request of the salvor, a person liable for a payment due under the provisions of article 793 of this Law shall provide satisfactory security for the claim, including interest and expenses of the proceedings.

Without prejudice to paragraph 1, the owner and the operator of the salvaged ship shall use their best

endeavours to ensure that the owners or the persons liable to dispose of the goods on the ship salvaged provide satisfactory security for the claims against them, including possible interest and expenses of the proceedings.

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

Article 795

The amounts of a salvage award and/or of a special award (article 789) established by an effective verdict may be claimed directly from the insurer of the ship and the property thereon or from the insurer of the ship's liability, if he has provided such security for the claim.

Article 796

The amount of the salvage award remaining after the deduction of salvors' expenses incurred during the salvage operation and/or the expenses caused by the salvage operation shall be the amount of net reward.

A certain apportionment of the net reward belongs to the crew of the salvor's ship.

Article 797

The salvor shall not deprive the crew of their apportionment of the salvage award without their consent.

Article 798

After the expiry of one year from the termination of the salvage operations, each crew member of the salvaging ship may take legal action against the ship operator, claiming his salvage apportionment of the award, provided the salvor itself has not instituted the claim.

Article 799

The provisions of this chapter concerning the salvage award shall also apply to the ships of the same owner or operator of the ship.

Article 800

Any claim to salvage award shall be time-barred to a period of two years from the termination of the salvage operations.

The claim under article 798 of this Law shall be time-barred to a period of one year.

After the claim has been instituted, the parties may agree in writing to extend the limitation period in paragraphs 1 and 2 of this article, by a declaration to the claimant.

### Chapter III RAISING OF SUNKEN OBJECTS

#### Article 801

The provisions of this chapter shall apply to the raising of ships, boats, other waterborne craft, aircraft, their parts and cargoes and other objects (hereinafter referred to as sunken objects) sunk in the internal and territorial waters of the Republic of Croatia.

Except for salvage operations, the provisions of this chapter shall also apply to grounding of ships and boats.

#### Article 802

The salvage provisions of this Law shall apply to the raising of objects sunken in course of salvage operations, or immediately before the salvage has begun.

#### Article 803

Except as provided in articles 804 and 805 of this Law, sunken objects may be raised either by a domestic or a foreign person being the owner of the object or having the right to dispose of it (authorized person).

Sunken objects may be raised on the basis of a permit issued by the competent harbourmaster's office.

The request for a raising of a sunken object shall include the details about the subject matter of the raising, techniques and facilities to be used in the raising, evidence on the ownership of the sunken object and the estimated time to commence and terminate the raising operations.

Safety measures to be undertaken and the time to commence and terminate the operations shall be specified in the raising permit issued by the harbourmaster's office, under paragraph 2 of this article.

A raising permit for a subject matter of military importance shall be issued by the harbourmaster's office upon a consent received by the Ministry of Defence.

A raising permit for the object being or assumed to be cultural property, shall be issued by the Institute for the Protection of Cultural Property of the Ministry of Culture and Education.

The person authorized for the raising shall immediately inform the harbourmaster's office about commencement, interruption, continuation or suspension of the raising operations.

#### Article 804

If the sunken object lies in such a position so as to present danger to navigation, utilization of seawater, natural resources, including those in territorial waters, or if it causes pollution or may give rise to pollution of the marine environment, the competent harbourmaster's office shall order the authorized person to raise or to remove the sunken object in a reasonable period of time.

If the authorized person fails to comply with the ordinance under paragraph 1 of this article, the harbourmaster's office shall have the sunken object raised or removed from the fairway through a competent legal or physical person from Croatia, on account and risk of the authorized person.

If the sunken object presents immediate danger or obstruction to navigation, the harbourmaster's office may decide to have the sunken object raised or removed through a competent legal or physical person from Croatia, even without the ordinance under paragraph 1 of this article.

The appeal to the ordinance in paragraphs 2 and 3 of this article shall not arrest the implementation of the ordinance. The appeal is lodged to the Ministry within 15 days from the receipt of the ordinance.

If the sunken objects are owned by a foreign person, the ordinance under paragraph 1 of this article shall be sent to the Ministry of Foreign Affairs.

#### Article 805

The raising may be carried out by a competent Croatian legal or physical person in the cases if the sunken object presents immediate danger or obstruction to navigation and the person authorized for its raising is unknown to the competent harbourmaster's office (article 803, para. 1), or if the person is known but has no intention to raise the sunken object, or if he interrupts or suspends the commenced raising operations.

The known person shall be deemed to have desisted from the raising, to have interrupted or suspended the operations, provided he has not lodged an official statement for the raising of sunken object within 90 days from the occurrence, or if after the expiry of 90 days from the date of obtaining the raising permit the operations are not commenced or continued if interrupted or suspended without justifiable reason.

An unknown person shall be deemed to have desisted from the raising of the sunken object if within 90 days he has not submitted a request for the raising and the evidence to prove his right to raising.

Article 806

A legal or physical person who has commenced raising the sunken object in accordance with article 804, paragraph 1, of this Law shall not suspend the raising or desist from it without just reason, if this could cause damage to the authorized person.

Article 807

The expenses due for the raising of the object under article 805, paragraph 1, of this Law and the expenses for its custody shall be paid out from the national budget.

If the authorized person becomes known, he shall reimburse the national budget for the amount paid both for the raising and for the custody of the object under article 805, paragraph 1, of this Law.

Article 808

If special navigational means, technical facilities and particular skills are required, the domestic or foreign authorized person who does not dispose of them shall have the object raised by a fully competent domestic physical or legal person.

Except as provided in paragraph 1 of this article, a foreign authorized person shall be allowed to raise the sunken object with the assistance of another foreign person who complies with the requirements under paragraph 1 of this article.

The sunken object which is or may be deemed to be cultural property can be raised by either a competent domestic or foreign physical or legal person, subject to the approval of the Ministry of Education and Culture.

No appeal shall be lodged against the decision issued by the Ministry of Education and Culture, but an administrative lawsuit may be instituted.

Article 809

The owner who has not raised his sunken object within a period of 10 years from the date of its sinking shall cease his right of ownership and the sunken object shall become the property of the Republic of Croatia.

If the sinking date cannot be established, the ship, other waterborne craft, aeroplane or their respective parts, as well as cargo and other objects thereon, shall be deemed to have sunk on the next day from the receipt of last information about the ship, waterborne craft or aircraft, whereas the other objects shall be deemed to have sunk on the day of their location.



Article 810

The contractor who ventures upon the raising of a sunken object on the basis of the ordinance of a competent body (articles 804 and 805), or on the basis of a contract concluded with the authorized person, if not stated by this contract otherwise, shall be liable for the damage caused by his operations, if he fails to prove that the damage could not have been avoided in spite of due care exercised.

The contractor shall be also liable for the damage incurred in course of the raising under paragraph 1 of this article, if he fails to prove that the damage has been caused by either the authorized person, or by the person under the authorized person's responsibility.

Article 811

The contractor shall be remunerated for the raising, except where the raising has been taken against an explicit prohibition of the authorized person.

If otherwise is not stipulated, the raising remuneration shall not exceed the value of the object raised.

The limitation under paragraph 2 of this Article shall not apply to the raising, removal or destruction of the sunken object carried out upon the ordinance of the competent body (article 803, para. 2) and for the objects being or deemed to be cultural property.

Article 812

If otherwise is not stipulated, the contractor shall have right of pledge over the object raised as his remuneration guarantee for raising and custody of the object. The contractor may keep the object until he is remunerated, except for the object being cultural property.

Article 813

The claim for the raising, removal or destruction of the sunken object shall be barred after a period of 3 years from the date the operation was completed.

Chapter IV  
GENERAL AVERAGE

1. General Provisions

Article 814

In the adjustment of general average the provisions of this chapter shall be applied.

The provisions of this chapter shall also apply to boats, if that has been explicitly agreed upon by the parties.

#### Article 815

The particular expressions employed in this chapter of the Law have the meaning set out below:

1. "General average act" is any extraordinary sacrifice or expenditure reasonably made or incurred by the master or a person relieving him, for the purpose of preserving the property involved in a common maritime adventure;
2. "Party in a maritime adventure" is the owner or operator of the ship or the person authorized to dispose of the cargo on board;
3. "Maritime adventure" is a voyage of each party's ship from the time of its loading commencement to its unloading termination of cargo for each particular party in the adventure;
4. "Contributory value" is the property value taken as a basis for computing the amount admitted for loss or damage in general average;
5. "Claiming value" is the amount allowable for loss or expenditures sustained in general average, and reimbursed from contributory value;
6. "Port of voyage termination" is the port in which the last portion of cargo on board was discharged at the time of general average.

#### Article 816

Within the provisions of this Law, the amount for loss or damage allowable as general average shall be contributed by all the parties involved in a maritime adventure in proportion to their respective contributory values (article 820, para. 1).

#### Article 817

Unless otherwise stated by this Law or by the agreement between the parties, general average act shall include sacrifices, damages and expenditures arising immediately or inevitably from general average allowable as such according to generally adopted maritime customs.

#### Article 818

Any extra expense in place of another expense which would have been allowable as general average shall be deemed to be general average and so allowed without regard to the saving, if any, to other interests, but only up to the amount of the general expense avoided.

## 2. Contribution to General Average

### Article 819

The obligation to contribute to general average shall exist even though the damage or the expenditure has been caused by the fault of one of the parties to the adventure.

The provision under paragraph 1 of this article shall not affect the right of any party in a maritime adventure having contributed in general average against the persons who have caused the damage or expenditure by their fault.

### Article 820

Unless otherwise provided by this Law:

1. The contributory value shall include the property saved in general average, the value of the property sacrificed and the reduced value of the property damaged;

2. Claiming value in general average shall include the sacrificed value, reduced value of the property damaged and the expenses admitted in general average together with the expenses for general average adjustment.

### Article 821

Except as provided in article 820 of this Law:

1. Personal effects and passengers' luggage without luggage receipt or bill of lading shall not be admitted as contributory value;

2. Loss or damage to jettisoned cargo which has not been carried in accordance with recognized customs or loaded without the ship operator's consent, or falsely declared cargo shall not be admitted as claiming value.

The saved cargo loaded without the ship operator's consent, or wilfully misdescribed shall be liable to contribute.

### Article 822

Except for the expenses, both claiming and contributory values shall be admitted upon the basis of values at the time and in port at the time and location of the common adventure, if not provided otherwise by this Law.

The expense shall be determined in actual value.

Article 823

Repairs to be allowed in general average shall not be subject to deductions in respect of "new for old", where old material or parts are replaced by new unless the ship is over 15 years old, in which case there shall be a deduction of one third. The deductions shall be regulated by the age of the ship from 31 December of the year of completion of construction to the date of the general average act, except for insulation, lifeboats and similar boats, communications and navigational instruments and equipment, machinery and boilers, for which deductions shall be regulated by the age of the particular parts to which they apply.

The deductions shall be made only from the cost of the new material or parts when finished and ready to be installed in the ship.

No deductions shall be made in respect of provisions, stores, anchors and chain cables.

Dry-dock and slipway dues and costs of shifting the ship shall be allowed in full.

The costs of cleaning, painting or coating of the ship's bottom shall not be allowed in general average unless the bottom has been painted or coated within the 12 months preceding the date of the general average act, in which case one half of such costs shall be allowed.

No deductions in respect of "new for old" shall be made from the cost of temporary repairs allowable as general average.

Article 824

The amount to be made good as general average for the total loss of a ship shall be computed on the basis of the ship's estimated value in a sound state, less the deduction for the estimated amount for the repairs not admitted in general average and a possible amount gained from the sale of the ship.

Article 825

The amount to be made good as general average for damage to cargo shall be the loss which has been sustained thereby based on the value and at the time of discharge, ascertained from the commercial invoice rendered to the receiver or if there is no such invoice from the shipped value. The value at the time of loading shall include the cost of insurance and freight except in so far as such freight is at the risk of interests other than the cargo.

When cargo so damaged is sold, the loss to be made good in general average shall be the difference between the net proceeds of sale and the net proceeds of sound value on the last day of discharge in the port of destination or on the day of the adventure termination if it ended in another port.

Except as provided in paragraph 1 of this article, the cargo faulty declared on shipment at a value which is lower than the real value, as under paragraph 1, shall contribute upon its declared value.

Article 826

If the sacrificed cargo has been saved afterwards, its value shall be based on the commercial price on the day, at the place and time of its saving, less necessary salvage expenses.

The provisions of article 825, paragraph 2, of this Law shall also apply to the cargo under paragraph 1 of this article.

Article 827

A commission of 2 per cent on general average disbursements, other than the wages of master, officers and crew and fuel and stores not replaced during the voyage shall be allowed in general average. When the funds are not provided by any of the parties in the maritime adventure, but by the sale of the cargo, the necessary cost of obtaining the funds required by means of bottomry bond or otherwise, or the loss sustained by the person entitled to dispose of the cargo, the expenses caused by providing the necessary funds for the purpose, shall be allowed as a part of the amount to be made good.

Article 828

Interest shall be allowed on claiming value at the rate of 7 per cent per annum, until the date of general average adjustment.

Due allowance will be made for interests starting from the date of general average settlement.

Article 829

The contributory values shall be computed on the following basis:

1. For the ship: net value of the ship at the end of the voyage termination, less taking into account the detrimental effect of any demise or time charter to which the ship may be committed;
2. For the cargo: the value in accordance with article 825, paragraph 1, of this Law, less the amount of loss or damage to cargo arising in course of or before loading;
3. For the freight or transport charges: the value of the freight or transport charges less all expenses, including the crew wages that would not have been paid for the freight or transport charges if the ship and its cargo had been totally lost at the time of general average occurrence and were not allowed as general average;
4. For the claiming value: the amount established in accordance with articles 823 to 826 of this Law.

Deductions from the values under paragraph 1 of this article shall be made from extra charges incurred in respect thereof subsequently to the general average act, except that such charges are allowed in general average.

Where cargo is sold short of destination, it shall contribute upon the actual net value of sale. This value

shall be added for the amount made good as general average.

#### Article 830

The amount to be allowed as general average for damage or loss to the ship, its machinery and/or gear caused by general average act shall be as follows:

1. When repaired or replaced, the actual reasonable cost of repairing or replacing such damage or loss, subject to deduction, in accordance with article 824 of this Law;
2. When not repaired or replaced, the reasonable depreciation arising from such damage or loss, but not exceeding the estimated cost of repairs.

Where the ship is an actual total loss or when the cost of repairs of the damage would exceed the value of the ship when repaired, the amount to be allowed as general average shall be the difference between the estimated sound value of the ship after deducting therefrom the estimated cost of repairing the damage which is not general average and the value of the ship in its damaged state. This may be measured by the net proceeds of sale, if any.

#### Article 831

In accordance with article 820 of this Law, the ship operator may retain the cargo, making part of the contributory value until he is provided with a security for payment of his share in general average.

The ship operator shall retain the cargo and provide a security for contribution of other parties in the maritime adventure and to protect their interests, acting with due care.

Where the ship operator fails to comply with provisions under paragraphs 1 and 2 of this article, he shall have to pay out to the contributing party that share which could not have been repaid from the party liable to dispose of the cargo.

The provisions of paragraphs 1, 2, and 3 shall not affect the rights of ship operators and other parties involved in a maritime adventure to be remunerated by the party liable to dispose of the cargo and whose cargo has been sold without obtaining any security.

#### Article 832

The contributing party who has not obtained a security for his refund shall have the right to keep the ship and the cargo thereon in order to ensure the contribution to general average.

### 3. Time Limit of General Average

#### Article 833

The claim for the payment of general average contribution shall be time limited to a period of one year from

the ship's arrival in the first port of common adventure termination during which the accident occurred and which presents the basis for contribution in general average.

The period under paragraph 1 of this article shall not include the time from nominating an adjuster to the time the final statement of adjustment has been prepared.

## Chapter V NON-CONTRACTUAL LIABILITY OF THE SHIP'S OWNER AND SHIP OPERATOR

### 1. General Provisions

#### Article 834

The provisions of this chapter shall apply to non-contractual liability in claims arising from damage or loss caused to persons or property not carried on board and to the environment.

Except as provided in paragraph 1 of this article, the provisions of this chapter shall not apply to collision of ships and nuclear damages.

#### Article 835

The provisions of this chapter shall apply to boats and other waterborne craft irrespective of their size and purpose, and to hydroplanes on sea.

The provisions of this chapter shall also apply to ships of war with the exception of the provisions contained in articles 839 to 849 of the Law.

### 2. Liability for Loss of Life and Personal Injury

#### Article 836

The owner of a ship, the ship operator and the person controlling the ship at the time of occurrence shall be liable for:

1. Loss of life of, or a personal injury to, any person being within the sea area considered as a swimming beach, or in an area prohibited to navigation, unless it is proved that the claimant has caused the damage by his own act or neglect;

2. Loss of life of, or a personal injury to, any person being in a sea belt of 150 metres offshore, with the exception of areas under points 1, 3, and 4 of this paragraph, unless it is proved that loss of life or personal injury has resulted from *force majeure*, act or neglect of the person that lost his life or sustained injury;

3. Loss of life of, or a personal injury to, any person being in a port basin, port approach, navigable waterway, sports or similar purpose areas (e.g. rowing, sailing or water-skiing areas) including the sea area

exceeding the limit of 150 metres offshore, except the area under point 4 of this paragraph, if it is proved that the ship itself is liable for loss of life or personal injury;

4. Loss of life of, or a personal injury to, any person being in a restricted sea area (e.g. in which skimming, water-skiing or overspeed is prohibited) at the time of occurrence, unless it is proved that the person has lost his life or sustained injury by his own act or neglect.

The Ministry shall provide for conditions to narrow down or to widen the sea belt under paragraph 1, point 2, of this article.

The decision on the sea belt width shall be made by the Ministry.

In accordance with paragraph 1 of this article, the owner and the ship operator shall be entitled to limit their liabilities if their ship has been unlawfully taken away.

In the case under paragraph 3 of this article, both the person controlling the ship at the time of occurrence and the person who has unlawfully taken the ship away shall be liable for the occurrence.

### 3. Liability for Damage Caused to Property and Environment

#### Article 837

The ship shall be liable for damage caused to wharves, breakwaters, harbour installation and facilities, floating objects (navigational marks, anchorage buoys, underwater cables or pipelines, etc.) and other objects in port and at sea.

The ship may limit its liability for the damage under paragraph 1 of this article to the extent to which the damage has been caused by a port managing company or a port authority, or by the state of wharves, breakwaters, harbour installation and facilities.

The liability set out in paragraph 1 of this article means the owners' or the ship operator's liability.

#### Article 838

Except as provided in article 840 of this Law, the provisions of article 837 shall also apply to damages caused by escape or discharge of dangerous or harmful substances from it (oil, bilge water and its mixtures, waste water and other waste substances and objects).

### 4. Liability for Pollution Damage caused by Ships carrying Oil as Cargo

#### Article 839

For the purpose of this chapter of the Law:



1. "Ship" means any seagoing ship and any seaborne craft of any type whatsoever carrying oil in bulk as cargo. The ship shall be deemed a ship capable of carrying oil or other cargo only if it actually carries oil in bulk as cargo and during any subsequent voyage after such carriage, unless it is proved that no residues of such oil carried in bulk have remained thereon;

2. "Oil" means any persistent oil such as crude oil, fuel oil, heavy diesel oil, lubricating oil, whether carried on board ship as cargo or in the bunkers of such a ship;

3. "Pollution damage" means loss or damage caused outside the ship by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur, and includes the costs of preventive measures and further loss or damage caused by preventive measures;

4. "Incident" means any occurrence, or series of occurrences having the same origin, which causes pollution damage.

#### Article 840

The owner of the ship shall be liable for any pollution damage caused by oil carried as cargo which has escaped or been discharged from the ship as a result of the incident, unless he proves that the incident:

- (a) Resulted 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 of a third party done with intent to cause damage, or
- (c) Was wholly caused by the negligence or other wrongful act of any government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.

If the owner proves that the pollution damage resulted wholly or partially either from an act or omission done with intent to cause damage by the person who suffered the damage, or from the negligence of that person, the owner may be exonerated wholly or partially from his liability to such person.

No claim for compensation for pollution damage shall be made against the owner otherwise than in accordance with this Law.

Except as provided in paragraph 5 of this article, no claim for pollution damage can be made under this Law against:

- (a) The persons serving to the owner, the agents or the crew,
- (b) The pilot or the person other than a crew member who rendered service to the ship,
- (c) The charterer (whatever called, including the demise charterer), the ship operator or the owner,
- (d) The person rendering salvage service upon the owner's consent, or following directions issued by a public authority.
- (e) The person taking protective measures,
- (f) All persons serving to the owner, mentioned under items (c), (d) and (e) except if it is proved that the

incident has occurred as a result of act or failure of the above-mentioned persons, either done with intent to cause damage or from negligence of the person who knew that the damage might occur.

Nothing in this Law shall prejudice any right of recourse of the owner against third parties.

#### Article 841

When oil has escaped or has been discharged from two or more ships, and it is not possible to state which ship has caused the particular part of the damage, the owners of all the ships concerned shall be jointly liable for the damage.

The provisions set out under paragraph 1 of this article shall not prejudice any liabilities in article 840.

#### Article 842

The owner of a ship shall be entitled to limit his liability in respect of any incident under article 840 of this Law to the amounts in paragraph 2 of this article, by constituting a limited liability fund for pollution damages.

For the purpose of availing himself of the benefit of limitation provide for in article 840, the owner shall limit his liability to an aggregate amount of 133 accounting units of Special Drawing Rights for each ton of the ship's tonnage. However the aggregate amount shall not in any event exceed 14 million accounting units of Special Drawing Rights.

If the incident has occurred as a result of the actual fault or omission of the owner or if the owner has done it with intent to cause damage, or from his negligence, the owner shall not be entitled to avail himself of the limitation provided for in paragraphs 1 and 2 of this article.

#### Article 843

Claims in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimize pollution damage shall be paid out from the fund mentioned in article 842.

#### Article 844

For the purpose of this Law, the ship's tonnage in article 842 shall be established in accordance with the provisions of article 441.

#### Article 845

In accordance with article 846 of the Law the insurer or other person providing financial security shall be entitled to constitute a fund mentioned in article 842.

The fund under paragraph 1 of this article shall be constituted on the same conditions and shall have the

same effect as if it were constituted by the owner.

In accordance with provisions of article 842, paragraph 3, of the Law, the fund under paragraph 1 may be constituted even in the event the owner is not liable to limit his liability, but in that case its constitution shall not prejudice the rights of any claimants against the owner.

#### Article 846

The ship carrying more than 2.000 tons of oil in bulk as cargo shall be required to maintain insurance or other financial security, such as a bank or a certificate delivered by any international compensation fund in the sums fixed by applying the limits of liability, prescribed in article 842 of the Law, to cover its liability for pollution damage.

The insurance or other financial security in force, in accordance with the provisions of paragraph 1 of this article, shall be unconditional and irrevocable.

The insurance validity or other financial security shall not terminate before three months have elapsed from the date on which notice of its termination is given to the Ministry, if at the same time one financial security has not been substituted by the other.

#### Article 847

Any claim for compensation for pollution damage may be brought directly against the insurer or other person providing financial security mentioned in article 846.

The insurer or guarantor may avail himself of the same defence as the owner of the ship, other than the bankruptcy or winding up of the owner.

Except as provided in paragraph 2 of this article, the insurer or the guarantor may avail himself of the defence that the pollution damage has resulted from the wilful misconduct of the owner himself.

The defendant shall have the right to require the owner to be joined in the proceedings.

#### Article 848

The courts of the Republic of Croatia shall exclusively competent to determine all matters relating to the apportionment and distribution of the fund.

#### Article 849

Right of compensation under articles 840 to 848 shall be extinguished unless an action is brought thereunder within three years from the date the damage occurred.

In no case shall the right of compensation under articles 840 to 848 of the Law be brought after six years from the date of the incident which caused the damage.

Where the incident consists of a series of occurrences, the six years' period mentioned in paragraph 2 of this article shall run from the date of the first such occurrence.

Chapter VI  
LIABILITY OF NUCLEAR SHIP OPERATOR

Article 850

The particular expressions employed in this Law have the meaning set out below:

1. "Operator of a nuclear ship" means the person authorized by the State to operate a nuclear ship, or the State itself where a contracting State operates the nuclear ship;
2. "Nuclear damage" means loss of life or personal injury and loss or damage to property which arises out of or results from the radioactive properties or a combination of radioactive properties with toxic, explosive or other hazardous properties of nuclear fuel or radioactive products or waste;
3. "Nuclear incident" means any occurrence or series of occurrences having the same origin which has caused nuclear damage.

Article 851

The ship operator of a nuclear ship shall be exclusively liable for nuclear damage.

Article 852

Whenever both nuclear damage and damage other than nuclear damage have been caused by a nuclear incident or jointly by a nuclear incident and one or more occurrences and the nuclear damage and such other damage are not reasonably separable, the entire damage shall be deemed to be nuclear damage exclusively caused by the nuclear incident.

Article 853

The provisions of this chapter shall not cover the liability of the nuclear ship operator for the damage caused to the nuclear ship itself, its equipment, fuel or stores.

Article 854

No liability shall attach to a ship operator of a nuclear ship in respect to nuclear damage caused by a nuclear incident directly attributable to an act of war, hostilities, civil war or insurrection.

Article 855

If the ship operator of a nuclear ship proves that the nuclear damage resulted wholly or partially from an act or omission done with intent to cause damage by the individual who suffered the damage, the competent court may exonerate the ship operator of a nuclear ship wholly or partially from his liability to such individual.

Article 856

In accordance with provisions of this Law, the ship operator who compensated the nuclear damage shall have a right of recourse:

1. Against the person who has caused the nuclear damage with intent;
2. If the nuclear incident occurred as a consequence of any wreck-raising operation, against the person who carried out such operation without the authority of the ship operator or of the State whose flag flies the ship or of the State in whose waters the wreck is situated;
3. If recourse is expressly provided for by contract with a person against whom the recourse is set.

Article 857

The liability of the ship operator as regards one nuclear ship shall be limited to 100 million accounting units of Special Drawing Rights in respect of any one nuclear incident.

The provisions of paragraph 1 of this article shall also apply, notwithstanding that the nuclear incident may have resulted from any fault of privity of the ship operator.

Where a foreign State whose flag the nuclear ship flies provides for a higher limit of liability, other than mentioned in paragraph 1 of this article, the ship operator shall be liable to the higher limit.

The ship operator shall compensate not only the claim for nuclear damage provided for in paragraph 1 or 3 of this article, but also costs awarded by a court action and interest in full amount.

Article 858

The ship operator shall be required to maintain insurance, or other financial security covering his liability for nuclear damage, in such amount as is provided in article 857 of this Law.

Article 859

Where nuclear damage is the liability of more ship operators of nuclear ships and the damage attributable to each ship operator is not reasonably separable, the ship operators involved shall be jointly liable for such damage.

In case of joint liability according to the provisions of paragraph 1 of this article, each ship operator shall have a right of contribution against the others in proportion to the fault attaching to each of them. Where circumstances are such that the degree of fault cannot be apportioned, the total liability shall be borne in equal parts.

#### Article 860

In the case of a nuclear incident where the nuclear damage is caused by more than one nuclear ship of the same ship operator, the ship operator shall be liable in respect of each ship up to the limit laid down in article 843 of this Law.

#### Article 861

Any person who claims to have suffered nuclear damage shall be entitled to bring an action for compensation against the insurer of the nuclear ship operator, or against the person who provided security to cover the ship operator's liability.

#### Article 862

Right of compensation under the provisions of this chapter shall be extinguished if an action is not brought within 10 years from the date of the nuclear incident.

Where nuclear damage is caused by nuclear fuel, radioactive products or waste which was stolen, lost or jettisoned, or abandoned, the period established under paragraph 1 of this article shall be computed from the date of the nuclear incident causing the nuclear damage, but the period shall in no case exceed a period of 20 years from the date of the theft, loss, jettison or abandonment.

#### Article 863

In accordance with the provisions under this chapter, the rights of compensation against the ship operator shall be extinguished after three years from the date on which the person who claims to have suffered the nuclear damage had knowledge or ought to have had knowledge of the damage and of the person responsible for the damage.

The provisions of paragraph 1 of this article shall not affect the period established in article 862 of this Law.

#### Article 864

The sums provided by insurance or by other financial security in conformity with article 857 of this Law shall be exclusively available for compensation of a nuclear damage.

Article 865

The provisions set out in articles 421 to 447 of this Law shall apply to constitution of the limited liability fund, mentioned in article 857 of this Law, to the apportionment and distribution of the fund among the claimants.

Article 866

The provisions of this chapter shall apply to a nuclear ship from the date of its launching. Between its launching and the time it is authorized to fly a flag, the nuclear ship shall be deemed to be operated by the owner and to be flying the flag of the State in which it was built.

According to paragraph 1 of this article, the owner of the nuclear ship shall be deemed to be the ship operator, but he shall not be entitled to limit his liability under article 857 of this Law.

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**PART TEN**  
**ENFORCEMENT AND SECURITY MEASURES ON SHIPS AND THEIR CARGO**

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Chapter I  
GENERAL PROVISIONS

Article 867

The provisions of this part of the Maritime Code lay down the enforcement proceedings and security measures on a ship and its cargo, when the said ship is found within the internal waters and the territorial sea of the Republic of Croatia.

The provisions of this part of the Maritime Code pertaining to the enforcement proceedings and security shall also apply to ships outside the inland sea waters and the territorial sea of the Republic of Croatia, but which have been entered in any Croatian register of ships. With reference to the cases covered by this Maritime Code, the provisions of this part of the Code shall also apply to any ship outside the internal waters and the territorial sea of the Republic of Croatia, but which has not been entered in a Croatian register of ships.

Enforcement and security on a floating facility which by virtue of article 5 of this Law is not deemed to be a ship shall be effected in accordance with the rules of general enforcement proceedings.

Unless stipulated otherwise by the provisions of the security proceedings set forth in this Law, the provisions of the enforcement proceedings herein shall appropriately apply.

Unless stipulated otherwise by the provisions of this Law on enforcement proceedings and security measures on ships and cargo, the same proceedings shall be subject appropriately to the provisions of general enforcement proceedings concerning the proceedings on enforcement and security. In the enforcement proceedings

on a ship conducted in order to secure payment of monetary claims, appropriate rules of general enforcement proceedings pertaining in particular to immovable property shall apply for the recovery of monetary claims, whereas in the enforcement proceedings conducted in order to effect delivery of a ship, rules of general enforcement proceedings on the delivery of immovable assets shall be applicable.

Enforcement and security on ships and cargo on board shall be decided and conducted by commercial courts in charge of maritime disputes.

#### Article 868

The provisions of this part of the Maritime Code shall also apply to the enforcement proceedings and security on shares in ships and on enforcement and security on ships under construction.

#### Article 869

The following may not be subject to enforcement or security:

1. Warships or, equated to them, ships in public service;
2. Foreign ships on innocent passage through the territorial sea of the Republic of Croatia;
3. Foreign ships staying in the internal waters of the Republic of Croatia because of *force majeure* or for reasons of safe navigation, as long as *force majeure* or needs of navigation are in present.

Ships referred to in paragraph 1, points 2 and 3, of this article may be subject to enforcement or security if the proceedings are conducted for the enforcement or security on claims arising during the passage or stay of the ship in the area of the Republic of Croatia.

#### Article 870

The court deciding on the proposals for the enforcement of judicial rulings on a ship entered in a register of ships, or a register of ships under construction, shall be the court having territorial jurisdiction over the area where the register of ships or ships under construction is kept and where the ship or the ship under construction is registered.

If, in respect of paragraph 1 of this article, enforcement is to be effected by an appropriate entry into a register of ships or ships under construction, the enforcement shall be conducted by the authority keeping the register of ships or register of ships under construction. If in respect of paragraph 1 of this article no enforcement be required by means of an appropriate entry in a register of ships or ships under construction, the court having jurisdiction over such executions shall be the local court in whose area the ship, or the ship under construction, is actually found at the time when the action for enforcement is taken.

#### Article 871

The competent court deciding on proposals for enforcement and for the conduct of enforcement on a



foreign and domestic ship, or on a ship under construction, which has not been entered in a register of ships or ships under construction, shall be the local court having jurisdiction over the area in which the ship, or ship under construction, is found at the time of filing the proposal for enforcement.

#### Article 872

If, at the time of instituting the proposal for enforcement which is not performed by an appropriate entry in a register of ships, it is unknown whether the ship is found within the territorial sea or internal waters of the Republic of Croatia, or if the ship has not been entered in a Croatian register of ships, the creditor may propose that any court having jurisdiction over the area where the register of ships is kept and where the ship has been registered, or if the ship is not entered in a Croatian register of ships, any (*rationae materiae*) competent court in the Republic of Croatia, may render a ruling on enforcement. In such a case the creditor may submit this ruling to any (*rationae materiae*) competent court having jurisdiction over the area where the ship may be found in order to execute the same.

#### Article 873

The competent court deciding on the proposal for enforcement through the establishment or through a pre-emption entry of a court hypothec, or a ship under construction, entered in a register of ships or a register of ships under construction, shall be the court having local jurisdiction over the area where the register of ships or ships under construction is kept, and where the ship, or ship under construction, is registered.

The authority keeping the register of ships or ships under construction where the ship or ship under construction is entered shall exercise jurisdiction over the execution of security measures through the establishment or a pre-emption entry of a judicial hypothec on the ships referred to in paragraph 1 of this article.

#### Article 874

The court deciding on the proposal for securing maritime monetary claims by establishing a court hypothec on a ship or a ship under construction, on the basis of mutual consent of the parties involved, shall be the court having local jurisdiction over the area where a register of ships or ships under construction is kept and where the ship is registered.

The security measure decided shall be conducted by the authority keeping a register of ships or ships under construction.

If a ship or a ship under construction is not registered in a register of ships or ships under construction, the proposal, based upon mutual consent of the parties involved, for the settlement of monetary claims by means of establishing a judicial hypothec on a ship or a ship under construction shall be decided and executed by a court having jurisdiction over the area in which the ship, or the ship under construction, is found at the time of the submission of the proposal for instituting the security measure.

Article 875

If a provisional measure is to be taken by entering the same in a register of ships or a register of ships under construction, before filing a lawsuit or any other judicial proceedings, the proposal for enforcement by means of a provisional measure shall be decided by the court having jurisdiction over the area where the ship, or ship under construction, is entered in the register of ships or register of ships under construction. The above provisional measure shall be executed by the authority keeping the register of ships or register of ships under construction.

If in respect of paragraph 1 of this article a lawsuit or any other judicial proceedings are instituted, territorial jurisdiction over proposals for establishing security by means of a provisional measure shall be exercised by the court before which the proceedings are instituted. The provisional measure decided by the court shall be executed by the authority keeping the register of ships or register of ships under construction.

If it is not necessary to take the provisional measure by an appropriate entry in a register of ships, before instituting a lawsuit or any other judicial proceedings for deciding on the proposal for establishing a provisional measure on a ship, the court having jurisdiction over such executions shall be the local court in whose area the ship, or the ship under construction, is actually found at the time of submission of the proposal for the provisional measure. If a ship which is entered in a Croatian register of ships is not found or located in the territorial or internal waters of the Republic of Croatia, territorial jurisdiction in deciding on the enforcement of a provisional measure shall be exercised by the court in whose area the register of is kept and where the ship has been entered.

If it is not necessary to conduct a provisional measure by way of its entry in the register of ships, after filing a lawsuit or other judicial proceedings, such provisional measure may also be decided upon by a court before which the proceedings are instituted.

In respect of cases referred to in paragraphs 3 and 4 of this article, the competent court for the conduct of the provisional measure shall be the court having jurisdiction over an area in which the ship is located in the course of conducting such a measure.

If in the course of submitting the proposal for instituting a provisional measure that is not required to be entered in the register of ships, it is unknown whether the ship is located within the territorial sea or internal water of the Republic of Croatia, the creditor may propose for the court in whose area of jurisdiction the register of ships is kept and where the ship is registered, or any (*rationae materiae*) competent court in the Republic of Croatia if the ship is not entered in a Croatian register of ships, to render a ruling on instituting such a provisional measure. The creditor may in such a case submit the ruling on instituting a provisional measure to any competent court in whose area of jurisdiction the ship is located, proposing that the enforcement be conducted by the same court.

Article 876

Territorial jurisdiction over enforcement or security on the cargo on board the ship on which enforcement or security is being conducted shall be exclusively exercised by the court conducting the enforcement or security on the ship.

Article 877

Territorial jurisdiction over deciding on the proposal for the enforcement of decisions rendered by foreign courts and for conducting such enforcement measures shall be determined by the application of the rules appertaining to the territorial jurisdiction of a court over executions arising out of decisions rendered by the Croatian courts.

The provisions of article 873 of this Law shall equally apply to cases when security by establishing a judicial hypothec on a ship is sought on the basis of a foreign court's decision.

Chapter II  
ENFORCEMENT FOR THE SETTLEMENT OF MONETARY CLAIMS ON SHIPS

1. Restrictions on Enforcement

Article 878

The provisions of general proceedings on the restrictions of enforcement shall not apply if enforcement is undertaken for the purpose of settlement of claims secured by the right of pledge on ships.

The provisions of general proceedings on the restrictions of enforcement shall apply neither to enforcement through sale of a ship nor to enforcement whereby settlement is demanded of the following claims:

1. Damages arising from a collision of a ship on which enforcement is being conducted or damages otherwise caused by the aforementioned ship;
2. Loss of life or personal injury caused by any ship on which enforcement is being conducted or damages occurring in relation to the operation of the same ship;
3. Salvage operations;
4. Contract for the employment of the ship subject to enforcement;
5. General average;
6. Pilotage;
7. Supplying of a ship subject to enforcement, for the purpose of maintenance or employment of such a ship;
8. Construction, conversion, repair, outfitting or docking of the ship subject to enforcement;
9. Labour-related rights of the ship's crew;
10. Disbursements related to the ship made by the master, shipper, charterer or agent on behalf of the ship, shipowner or ship operator.

Article 879

No sale shall be allowed of any ship which is an exclusive or predominant source of income of the debtor who is a physical person, if such a sale would jeopardize the support of the debtor and of any person who the debtor is under legal obligation to take care of.

Should the circumstances as specified in paragraph 1 of this article obtain in the process of deciding, the court shall, after taking particularly into account the age of the debtor, his health conditions and working ability, as well as the number and age of the persons the debtor is under legal obligation to take care of, ascertain as to whether or not the debtor will be able, through employment or in some other ways, to earn sufficient income required for his support.

No sale of a ship shall be allowed which in respect of the contract of a lifetime support, upon the owner's death passes into the ownership of the provider of such support, if such a right of support has been entered in the register of ships prior to the right on the basis of which the creditor demands the sale of the ship.

The provision of paragraph 1 of this article shall apply in the proceedings for the sale of foreign ships, provided that the principle of reciprocity is applied.

Article 880

The provisions of article 879 of this Law shall not apply if enforcement through sale is undertaken in order to cover the claims secured by the right of pledge.

The provisions of article 879, paragraph 1, of this Law shall also not apply if the sale is demanded for the settlement of claims referred to in article 878, paragraph 2, herein.

2. Proposal for Sale

Article 881

A proposal for the sale of a ship shall in particular contain:

1. Name or firm, occupation, habitual residence, or principal place of business, and nationality or citizenship of the creditor;
2. Name and firm, occupation, habitual residence or principal place of business, and nationality or citizenship of the debtor;
3. Name and call sign of the ship, the type of ship, port of registry, and ship's nationality;
4. Register of ships where the Croatian ship is entered;
5. Place where the ship is currently located;
6. Currency and amount of the claim for which sale is sought;

7. Indication of the document(s) upon which enforcement is demanded;
8. A list of known pledge creditors;
9. A statement as to whether any security is allowed in respect of the ship subject to enforcement;
10. If possible, volume and type of cargo, and number of crewmembers on board.

#### Article 882

In addition to the proposal specified in article 881 of this Law, the creditor shall also enclose:

1. The original or a certified copy of the document (enforceable document) upon which enforcement is demanded (e.g. excerpt from the register of ships);
2. A document attesting the existence of a hypothec on the ship and the cargo and of the pre-emption rights which have been entered in the register of ships, complete with information on known maritime liens in respect of the ship subject to enforcement.

If enforcement is being conducted on a Croatian ship, the proposal should also be accompanied by an excerpt from the register of ships attesting the debtor's ownership, or, if such ship is not entered in the register of ships, a document shall be attached attesting that the ship subject to enforcement is in actual possession of one or more debtors.

If a foreign ship on which enforcement is sought had already been arrested at the time of the submission of the proposal for enforcement, attached to the proposal shall also be a certified copy and Croatian translation of the document, in compliance with the Constitution of the Republic of Croatia and the relevant laws, by means of which document the ownership and nationality of the ship is proved in observance of the law of the country to which the ship belongs.

If, at the time of submitting the proposal for the ship's sale, a foreign ship subject to enforcement had not been yet arrested, the creditor shall assume that the ship is owned by the debtor.

If a foreign ship on which enforcement by sale is claimed is arrested, the court shall summon the creditor to submit within three days the documents referred in paragraph 3 of this article.

Should the creditor fail to act in accordance with paragraph 5 of this article, the court shall issue a ruling whereby the enforcement proceedings are stayed.

#### 3. Rulings on Enforcement by Sale

#### Article 883

The court's ruling on a ship's sale shall be served in conformity with the provisions of the Civil Procedure Act pertaining to personal serving of notes of sale to the parties and to any person who, as specified in the relevant document, has a right of pledge, right to settlement or the right of pre-emption in respect of the ship being subject to enforcement.

In addition to serving the ruling referred to in paragraph 1 of this article, the court shall also separately notify the persons on whose behalf the right of pre-emption is entered that in the course of the sale proceedings they shall not be allowed to invoke their right of pre-emption.

Should the debtor's residence be unknown, or should the debtor be abroad, the court shall ex officio appoint the Master of the ship as a temporary representative of the debtor and serve on him the ruling on the enforcement through the sale of the ship. If the master has disembarked the ship, the court shall appoint another appropriate person as a temporary representative for the performance of this duty.

#### Article 884

Upon rendering a ruling on the sale of a ship which is entered in a register of ships, the court shall ex officio order that a notice of the ruling be recorded in a register of ships.

When rendering a ruling on the sale of a ship which is not entered in a register of ships, the court shall ex officio order that an inventory of the ship be taken accordingly.

The effect of the notice referred to in paragraph 1 of this article, or of the inventory referred to in paragraph 2, is manifested in the fact that the sale of a ship for the purpose of covering the creditor's claim may be undertaken against any person who may subsequently acquire the right of ownership over the ship subject to sale (right to settlement) and that the creditor in whose favour such a notice or inventory has been made shall have priority in the settlement of his enforcement claim, or any subsidiary claims, over any other person who may later acquire the right of any right of pledge on the ship or over any person acquiring the right to settlement.

The decisive time for ranking the settlement of claims in favour of creditors shall be the moment at which such a proposal for the sale of a ship is submitted to the authority keeping a register of ships.

If the subject matter of enforcement is not entered in a register of ships, the ranking shall be decided in accordance with the actual moment when the application for taking the inventory has reached the court having jurisdiction over the enforcement of the claim, or if such a court is competent for rendering a ruling on the enforcement by sale, which shall be in accordance with the exact moment when this court has received the proposal for the ship's sale.

#### Article 885

If the inventory of the ship subject to sale has been taken in any previous procedure, and if such a ship is not entered in a register of ships, the notice of the ruling on enforcement by sale shall be entered in the record of the previous inventory.

#### Article 886

Upon entering the notice of the ruling on enforcement by sale, or upon drawing up the ship's inventory and until the sale procedure is discontinued, no separate sale proceedings in favour of other enforcement claims in respect of the same ship may be carried out.

The creditors in whose favour a ruling on enforcement by sale is rendered in the course of the sale proceedings referred to in paragraph 1 of this article and until the ruling on the adjudication of the ship becomes final shall join the initiated sale proceedings and shall take delivery of the ship in the same condition as it was at the moment when they joined the proceedings.

The court shall notify all the persons referred to in article 883 of this Law on any accession of new creditors in the sale proceedings.

#### 4. Implementation of Enforcement

##### Article 887

After rendering a ruling, or when receiving a ruling on the enforcement, the court executing the same shall, without delay:

(1) Order arrest of the ship (see article 974) and accordingly call upon the local competent harbour master's office to seize its certificate of registry, or ship's certificate, crew list, and documents pertaining to the ship's seaworthiness, and, in the case of a foreign ship, documents equivalent to the Croatian documents;

(2) If appropriate order watching of the ship;

(3) Draw up a full inventory of the ship and its appurtenances, the value of which shall be separately determined in accordance with article 912 of this Law;

(4) Draw up a list of officers, crew members and passengers remaining on board, and make a list of the types and quantities of the cargo remaining on board.

##### Article 888

The court may entrust the watching of the ship to the Master of the ship, authorizing him to retain the necessary number of officers and crew members for the same purpose. The court may also order that the officers and crew members, including the Master, be disembarked, and appoint other watch personnel.

In deciding whether to entrust the ship to the custody of the Master of the ship or to another person, the court shall, while taking into account the creditors' proposals, take into consideration the safety of the ship, watchkeeping expenses and other pertinent circumstances.

##### Article 889

Upon request of the parties involved, the Master or watch personnel, the court may order that the ship be moved to another place if this is found necessary for the purpose of the ship's safety, or for any other reason, in particular for the sake of reducing the cost of watching and maintaining the ship.

The place where the ship is to be moved, in compliance with paragraph 1 of this article, need not be located within the area under jurisdiction of the court conducting the enforcement.

Article 890

Should a person authorized to dispose of the cargo on board the ship which is subject to enforcement fail to report to the court within three days of the arrest of the ship, the court shall appoint ex officio a temporary representative for the same person.

While the cargo is found on board it shall be under the custody of the Master of the ship or any person appointed by the court as watchman.

Upon request of the person authorized to dispose of the cargo, or his/her provisional representative, of the debtor or the Master of the ship, and, should there be justifiable grounds, also upon the proposal of the ship's watchman, the court shall allow the cargo to be discharged and placed for custody in a public warehouse or in any other appropriate place.

The court shall allow the person authorized to dispose of the cargo or his provisional representative to dispose freely of the cargo, provided that this is not contradicted by the ship operator, master of the ship or any other ship operator's agent.

If the Master of the ship disembarks by order of the court or wilfully, this fact shall not affect his authority to represent the ship operator, or entrepreneur in respect of the cargo on board at the time of the ship's arrest.

The provisions of paragraphs 1 to 5 of this article shall not prejudice the rights and duties of the parties arising out of the contract of the carriage of goods by sea.

Article 891

Passengers and their luggage shall be disembarked from the ship subject to enforcement.

Notwithstanding the provision of paragraph 1 of this article, the court shall upon request of the debtors allow the passengers to remain on board with their luggage provided that this is not opposed by the creditor or ship's watchman, and if the debtor advances the expenses for the passengers' subsistence (support).

The provisions of paragraphs 1 and 2 shall not prejudice the rights and liabilities of the parties arising out of the contract of carriage.

Article 892

The expenses of conducting the enforcement, watching and maintenance of the ship shall be preliminarily borne by the creditor.

The court may order that the amount required to cover the costs of conducting the enforcement be advanced by the creditor.

Should the creditor fail to deposit the advance money within the time limit decreed by the court, the court shall by a ruling discontinue the enforcement proceedings.



Article 893

If there are particularly justifiable grounds for it, the court may, upon request of the person concerned, after hearing the parties and known creditors having any proprietary encumbrance on the ship, allow the ship to undertake one or several voyages in the course of the enforcement proceedings.

The court shall not allow any voyage referred to in paragraph 1 of this article to be undertaken unless an insurance contract for the ship has been made under terms and conditions which the court may consider appropriate, and unless the party proposing the voyage provides for a satisfactory security, available to and transferable in favour of the creditor, covering damages arising from such a voyage.

For the purpose of hearing of the parties and other creditors referred to in the provision of paragraph 1 of this article, the court shall fix a hearing of the case or shall serve on the persons authorized a written proposal containing the conditions under which the permission for undertaking the voyage is demanded, and shall call upon the parties to declare themselves thereon within three days of the service of the proposal.

Should any of the persons summoned fail to attend the hearing, or should they fail to declare their view on the proposal as specified in paragraph 3 of this article, it shall be deemed that such a party agrees to the undertaking of the proposed voyage.

The person proposing the admitted voyage shall, upon request of the court, advance the costs of such a voyage. If the same person fails to do so within the period of time determined by the court, the voyage shall not be undertaken.

5. Determining the Value of the Ship, Drawing up the Inventory  
and Evaluation of the Ship's Appurtenances

Article 894

When the ruling on the enforcement by the sale of the ship becomes final, the enforcement court shall determine the value of the ship and its appurtenances.

A separate inventory and evaluation shall only be made of those appurtenances that are not regularly carried on ships of a similar type as the ship subject to enforcement, and of those that are of a higher value, or the parts that are temporarily separated from the ship.

The value of a ship shall be determined in an amount corresponding to its market price valid on the day of its sale.

In determining the value of a ship it is necessary, on the one hand, to state which value the ship subject to enforcement has if the proprietary encumbrances on the ship still remain in force, and, on the other, which value the same ship has without such rights and encumbrances and, in particular, the value of the proprietary encumbrances.

If the value of a ship subject to enforcement was determined in a previous enforcement or bankruptcy proceeding, and if there has been no significant change since then, the court may decide the value of the ship determined in these previous court proceedings to be taken as the value of the ship. Before rendering the ruling the

court shall hear both parties on the same.

On the proposal of any of the parties, which must be submitted no later than eight days before the sale hearing, at the sale hearing the court may decide to determine a new value of the ship if any party makes it likely that the value of the ship has changed considerably from the date of the previous determination until the date of its sale.

#### Article 895

The court shall notify the parties involved in the hearing to be held for drawing up an inventory and determining the value of the ship.

The hearing for drawing up the inventory and for determining the value of the ship shall, as a rule, be held at the place in which the ship is actually located.

The court shall appoint one or more experts to determine the value of the ship.

The ruling whereby the value of the ship is determined shall be rendered at the court's own discretion, taking into account the findings and opinion of the experts as well as other data presented in the course of the proceedings.

The ruling on the appointment of the expert as referred to in paragraph 3 of this article is not appealable.

In addition to the parties involved, any person having the right to satisfy his claims from the proceeds of the ship's sale shall have the right of lodging an appeal against the determination of the value of the ship subject to enforcement.

### 6. Terms of Sale

#### Article 896

When the ruling on the determination of the value of the ship subject to enforcement becomes effective, the court shall call upon the creditor to submit within a specified period of time a draft of the terms of sale, unless the creditor has already done the same.

If the creditor does not submit the draft of the terms of sale within the period specified in paragraph 1 of this article, it shall be deemed that he admits that the sale be carried out under the provisions of this Law.

Should the terms of sale proposed by the creditor correspond with the provisions on the terms of sale of the present Maritime Code, the court executing the same shall approve of the above terms of sale without any prior hearing.

If the creditor proposes the terms of sale which deviate from the provisions of this Law, the court shall fix a hearing for determining the terms of sale.

The court shall summon to the hearing referred to in paragraph 4 of this Law all the parties and persons in whose favour, according to the information resulting from the documents in possession of the court, there exist any proprietary encumbrances on the ship subject to enforcement.

For those persons on whom it will most likely not be possible to serve the summons, the court shall appoint a temporary representative, who shall be called upon to attend the hearing.

#### Article 897

Any person called upon to attend the hearing on the proposed terms of sale may make proposals to change the terms proposed.

On the basis of the results of such considerations at the hearing the court shall determine the terms of sale complying with the provisions of this Law.

If at the hearing for determining the terms of sale it is proposed that the sale be discontinued or deferred, the consideration of the terms of sale may only commence after such a proposal has been rejected.

The court shall decide whether or not to defer the decision on the terms of sale until the ruling on the rejection of the proposal referred to in paragraph 3 of this article becomes effective.

#### Article 898

The terms of sale shall contain:

- (1) The name, or firm, place of business, or residence and nationality of the creditor;
- (2) The name, or firm, place of business, or residence and nationality of the debtor;
- (3) The name or call sign, type, port of registry and nationality of the ship, gross and net tonnage, or displacement, deadweight tonnage, boundaries of navigation, data required for determining the condition and usability of the ship such as design and purpose of the ship, year of construction, materials used in the construction of the ship, type and power of the propelling machinery and special-purpose equipment; in the case of ships under construction data on the building stage reached, as well as an inventory and value of the materials not yet built into the ship but which will be included in the sale;
- (4) Specification of proprietary encumbrances to be assumed by the buyer, without inclusion of the same in the purchase money;
- (5) The determined value of the ship;
- (6) Indication of the lowest acceptable offer;
- (7) Provisions concerning the method of granting and amount of the security to be offered by offerers;
- (8) Provisions concerning the method of payment of the purchase money;
- (9) Notification of the moment when the risks and benefits pass to the buyer;
- (10) Provisions in respect of the time when and the terms under which the ship is to be delivered to the buyer, particularly if the cargo on board was not discharged before the ruling on adjudication has come into effect, and enter the his right of ownership in the register of ships;

(11) As applicable, provisions in respect of the sale of the co-owner's share in the ship.

Article 899

Only those persons having deposited a caution money may take part in an oral public auction.

Unless the court decides otherwise at the request of the parties, the caution money to be deposited by the offerers shall amount to one tenth of the determined value of the ship subject to enforcement.

The caution money shall be deposited in cash, negotiable instruments or other real property values available and freely transferable.

The creditor who has proposed the enforcement, as well as the pledge creditors, if their claims reach the amount of the caution money, shall be exempted from the obligation to deposit caution money and, if in respect of the ranking and the established value of the ship subject to enforcement, such an amount could be recovered from the price obtained from the sale of the ship.

The Republic of Croatia, its units of local self-government and their bodies shall also be exempted from depositing the caution money.

Article 900

The caution money given by the offerer whose offer has been accepted shall remain deposited with the court until the offerer has met all his obligations as per terms of sale or until a relevant ruling of the court on refusing the adjudication of the ship subject to enforcement becomes final.

The caution money deposited with the court shall be reimbursed to other offerers after the termination of the hearing for the sale.

The caution money deposited by the best offerer shall serve as a pledge for all the obligations arising against him out of the sale proceedings.

Article 901

Unless, upon proposal made by parties and with the consent of the authorized person, the court decides otherwise, the buyer shall take over the adjudicated ship subject to enforcement free of any proprietary encumbrances.

Article 902

The lowest bid acceptable shall, as a rule, amount to at least a half of the determined value of the ship.

Upon proposal made by the creditor, whose claim has been secured by the right of pledge, or upon proposal made by the debtor, if agreed so by the creditor seeking enforcement, the court may order a higher sum as the lowest

acceptable offer.

Article 903

Unless upon proposal of the parties involved the court orders otherwise, the buyer shall within 15 days of the date of the adjudication provide sufficient evidence that he has deposited with the court the purchase money for the adjudicated ship subject to enforcement.

The Buyer shall be exempted from depositing the purchase money or a part thereof in cash if the creditors whose claims are secured by the right of pledge agree to the buyer assuming these debts.

If the Buyer has satisfied all the requirements arising out of the terms of sale, the cash deposited with the court as a guarantee may be used as a part of the purchase money.

Article 904

The risks in respect of the sold ship subject to enforcement shall pass to the buyer on the date when the ship is adjudicated by a final judgement. As of the same date the Buyer shall bear all the encumbrances in respect of the right of ownership on the ship.

The adjudicated ship shall be delivered to the buyer complete with the appurtenances sold and the buyer's right of ownership shall be registered after he has satisfactorily met all the terms of the sale.

Sale Hearing

Article 905

The sale of the ship shall be effected by public oral auction at the hearing for the ship's sale.

Article 906

When the court has established the value of the ship subject to enforcement and when the terms of sale are decided upon, the hearing for the sale shall be called by a public notice, provided that a period of a minimum of 15 days and no more than 30 days shall have expired from the date of the first publication of such notice until the actual date of the hearing.

The sale hearing shall not be held before the ruling on the enforcement by sale and the relevant ruling on determining the terms of sale come into effect.

Article 907

The notice of sale hearing shall contain in particular:

- (1) Designation of the ship and its appurtenances which will be offered for sale and the value of the ship subject to enforcement;
- (2) Name, or firm, place of business, or residence and nationality of the parties involved;
- (3) Time and place where the sale hearing is to be held;
- (4) Indication of the lowest acceptable offer and sum of the caution money;
- (5) Notification that the terms of sale and the documents relating to the ship which is subject to enforcement can be examined at the court of enforcement;
- (6) A summons to the pledge creditors whose rights are not entered in a register of ships to submit their claims at the sale hearing at the latest, with a warning to the effect that their rights shall only be taken into consideration in the proceedings if the same arise out of the enforcement documents (titles);
- (7) A summons to any person claiming any right on the ship which is subject to enforcement, and in consequence of which the aforesaid sale is not permissible, to submit his claim to the court at the latest at the sale hearing but before the commencement of the oral public auction, together with a warning to the effect that, to the disadvantage of a scrupulous buyer, it will be impossible to accomplish such a right with respect to the ship which is subject to enforcement;
- (8) A notice indicating that a person having any right or encumbrance on the ship subject to enforcement shall be furnished with the information as to the future course of the proceedings on condition only if that person's residence is in the Republic of Croatia or if he/she has an assignee in the Republic of Croatia or a person authorized to receive court submissions.

Article 908

The court shall serve the notice of sale on the parties involved and on all persons who, according to the documents maintained by the court, have any proprietary encumbrance or claim on the ship or any pre-emptory right.

Concurrently, the court shall summon the creditors having claims covered by a right of pledge to declare themselves at least five days prior to the hearing for the sale whether their claims should be settled in cash payment or whether they agree that the buyer assume the debt and thus free the previous debtor from the debt. If the same creditors do not declare themselves within the specified term, it shall be assumed that their claims are to be settled in cash payment.

If any credit or cautionary hypothec is inscribed on the ship subject to enforcement, the creditors shall be called to submit, at the latest before the commencement of the sale, the amounts of their claims arising from the legal relations secured by such right of pledge.

The notice of the sale shall be served in accordance with the provisions of the Civil Procedure Act

pertaining to personal serving of notices on the parties.

The person on whom the notice of sale cannot be duly served, or in case of the failure of the attempt to serve the notice, the court shall appoint a temporary authorized representative on whom the notice of sale shall be served.

#### Article 909

The court shall publish the notice of sale in the Official Gazette of the Republic of Croatia (“Narodne Novine”) on the court's notice board, as well as on the notice board of the competent harbour master's office and in any other suitable manner.

The parties may demand that the sale notice be published at their own expense or in any other way proposed by them.

#### Article 910

Should the sale be conducted on a domestic ship, the court shall order that the sale hearing be entered in the register of ships where the ship is registered

#### Article 911

The debtor shall, within the period between the public notice and the holding of the sale hearing, make it possible for any person interested in participating in the aforementioned sale to inspect the ship subject to enforcement and to examine the ship's papers.

The court shall specifically determine by decree the days and hours when the ship may be inspected, taking into consideration the requirement for unhindered operation of the ship.

#### Article 912

The sale hearings shall be public and shall be held, as a rule, in the court building.

The court may order that the sale hearing be held in the place where the ship subject to enforcement is actually found.

At the sale hearing the court shall present to the parties involved for inspection the terms of sale and other documents pertinent to the sales proceedings.

Should only one offerer attend at the sale hearing, the court shall decide by decree whether the hearing is to be deferred or whether to hold the hearing.

Article 913

After establishing that there are no obstacles to the holding of the sale hearing, the court shall disclose the terms of sale, data on the claims of creditors having the right of remuneration from the purchase money thus obtained, statements made by the creditors having claims secured by the right of pledge on the ship with respect to the method of the settlement or acceptance of their claims, statements of claims secured by credit or cautionary hypothecs and statements on other circumstances of relevance for holding the sale proceedings.

Representatives of offerers are bound to provide evidence as to their powers of attorney at the hearing by means of a public document or a publicly certified power of attorney.

Article 914

The court may order that the sale and payment of the purchase money obtained from the sale of a foreign ship be effected in foreign currency, as provided by a separate law.

The provision of paragraph 1 of this article may also apply when the sale is conducted in order to settle the claims on a Croatian ship made by foreign creditors, and in cases when foreign physical or legal persons participate in public auction in the capacity of offerers.

At the request of a foreign hypothecary creditor, in conformity with a separate law, the court shall allow the sale of a ship in foreign currency provided that such a hypothecary claim has been inscribed as a foreign currency claim.

Article 915

The offer shall be binding upon the offerer until a higher offer is made (article 916).

Article 916

The court shall call upon all the parties present at the hearing to make their offers only after a period of half an hour has elapsed from the time determined for the commencement of the sale hearing.

The oral public auction shall continue as long as higher offers are made.

In order to provide for the submission of higher offers, the court may, upon request of any offerer, allow for a brief period for deliberation.

The oral public auction shall be terminated if after a second call no higher offer has been made within a period of five minutes. The court shall particularly warn those attending the public auction thereof.

Prior to the closure of the sale the court shall once again announce the last offer and shall thereupon pronounce the sale closed.



Article 917

When the court has closed the sale, it shall call upon those present immediately at the sale hearing to raise objections to the adjudication.

Objections to the adjudication in favour of the most favourable offerer may only be based on the following grounds:

- (1) That a period of no more than 15 days has elapsed from the date of the notice to the date of the holding of the sale hearing (article 906);
- (2) That the notice of the sale was not correctly drawn up or published;
- (3) That not all persons whom the court was bound to notify were notified of the sale hearing;
- (4) That the sale proceedings were continued although a ruling was rendered whereby the sale proceedings are discontinued;
- (5) That at the aural public auction the provisions of this Law pertaining to auctions were violated;
- (6) That the conditions under which the highest offer was made were not in compliance with the determined terms of sale;
- (7) That the highest offerer or his representative was not qualified to participate in the sale of the particular ship subject to enforcement;
- (8) That the highest offer was not sufficient to fully settle the claim secured by the right of pledge together with the subsidiary claims of the creditor who raised the objection and whose claim ranks ahead of the claim of the creditor who proposed the enforcement.

Article 918

The deficiencies referred to in article 917, paragraph 2, points (4), (6) and (7), of this Law shall be taken care of by the court ex officio. The court shall decide on other deficiencies only if they are timely mentioned in the objections raised.

The court shall ex officio investigate and determine the facts on which the objections are based.

Article 919

The court shall, as a rule, decide on the objections raised at the sale hearing.

If in complying with the objections raised the court refuses to render the adjudication, the court shall, after hearing those present whom it was bound to notify of the sale hearing, decide whether to continue the sale at once or to fix a new sale hearing.

If the court decides that the sale be continued at once, the offerers who have taken part in the sale shall be bound by their previous offers if these have not lost validity owing to higher offers.

If the objections are not decided upon at the hearing itself, the court shall deliver its ruling on the objections to the highest offerer, the parties and to all persons entitled to lodge an appeal against the ruling rendered.

#### Article 920

If no objections are raised and if it is established that there are no deficiencies in respect of article 917, paragraph 2, points (4), (6), and (7), of the present Code, the court shall already at the sales hearing render a ruling on the adjudication of the ship subject to enforcement to the highest offerer, whose offer the same court has found to be the most acceptable. The above ruling shall be announced at the hearing and shall be delivered to the persons concerned in respect of article 927, paragraph 1, of the present Code as well as to all other participants in the sale.

The ruling on the adjudication shall be announced in public within a period of eight days on the court's notice board and shall be entered in the form of a notice in a relevant register of ships. This entry shall have the effect that any subsequent entries in the register of ships will give rise to the establishment of rights against the theretofore owner of the ship, only if such a ruling on the adjudication is set aside. The ruling made known to the public shall contain the highest offer price as well as the indication of the period of time limit for the submission of a superior offer bearing the lowest sum of such a new offer.

Any person whom the court was bound to notify on the hearing for the ship's sale may demand that the ruling referred to in paragraph 2 of this article be published at his/her expense in the Official Gazette of the Republic of Croatia ("Narodne Novine") or in some other way.

The ruling referred to in paragraph 2 of this article is unappealable.

#### Article 921

An adjudication on the ship which is subject to enforcement may not be rendered unless the offers made at the hearing reach the lowest acceptable amount of offer (see article 902).

The court shall by a ruling refuse to render the adjudication, if it establishes that the objections raised are justified, if the existence of any deficiencies is found which the court is bound ex officio to guard against or if it finds that the sale was held before the ruling on the enforcement by sale and the ruling on the determination of the terms of sale became effective.

The ruling on the refusal of the adjudication shall be recorded as a notice in the relevant register of ships.

Should an appellate court, when reviewing appeals against the ruling in respect of paragraphs 1 and 2 of this article, render a ruling on the above adjudication, the notice of the adjudication shall become legally effective as of the date when the notice of the refusal of the adjudication was entered (paras. 1 and 2).

#### Article 922

The ruling on the adjudication can be contested by means of an appeal based on the grounds specified in article 917, paragraph 2, and article 921, paragraph 1, of the present Code and on the grounds that the ruling is not in accordance with the content of the court documents on which it is founded.

The person to whom the court has adjudicated the ship which is subject to enforcement may contest this on the grounds that the court was bound to refuse the adjudication, or to render an adjudication ruling under the terms and conditions other than those indicated in the ruling on the adjudication.

The ruling whereby the adjudication is refused may be contested on account of its failure to comply with the contents of the court documents on which it is founded, or for the absence of legal grounds for refusing the adjudication.

The person raising an objection to the adjudication in the course of the hearing for the ship's sale shall not be entitled to appeal against the ruling whereby the rendering of the adjudication is refused.

#### 8. Second Sale Hearing

#### Article 923

If the adjudication has been effectively refused because the lowest acceptable offer was not cited, the court shall fix a new sale hearing, provided that such a proposal is made by the creditor who had requested the enforcement within the period of eight days of the date of the unsuccessfully held hearing.

Before fixing a new sale hearing, the court may order that the value of the ship subject to enforcement be re-examined and may then order a hearing for considering the changes in the terms of sale.

A period of no less than 30 days shall elapse between the first and the second sale hearing.

Should the creditor proposing the enforcement fail to file a proposal for a new sale hearing within the period referred to in paragraph 1 of this article, the court shall render a ruling whereby the enforcement proceedings are discontinued.

If the court refuses to render the adjudication on grounds other than those given in article 923 of this Law, and if there are no deficiencies that make the continuation of the proceeding inadmissible, the court shall ex officio decide upon a new hearing for the ship's sale.

The sale at the new hearing shall be conducted on the basis of the previously determined terms.

## 9. Final Validity of the Ruling on Adjudication

### Article 924

If the court refuses to render the adjudication on grounds other than those given in article 923 of this Law, and if there are no deficiencies that make the continuation of the proceeding inadmissible, the court shall ex officio decide upon a new hearing for the ship's sale.

The sale at the new hearing shall be conducted on the basis of the previously determined terms.

### Article 925

When a ruling on the refusal of adjudication comes into effect, the court shall return the deposited caution money to the highest offerer.

### Article 926

When the ruling on the adjudication of the ship comes into effect, the court shall, on the proposal of the buyer or cargo assignee or of his temporary representative, order that the cargo be discharged from the ship. Respectively, upon the request of the buyer, the persons on board including their personal effects shall also be disembarked.

The expenses of discharging cargo referred to in paragraph 1 of this article shall, upon the request of the court, be paid in advance by the person requesting the discharge, unless otherwise specified in the terms of sale.

If a person acting as a ship operator prior to the sale of the ship, or his representative, objects to the delivery of the cargo to the free disposal of the cargo assignee, the court shall order that the cargo be delivered, at the expense of the ship operator, to the custody of a public warehouse or to any other place convenient.

The provisions of paragraphs 1 to 3 of this article shall not be prejudicial to the rights and liabilities of the parties arising out of the contract of carriage of goods.

The ruling whereby the discharge of the cargo is ordered, disembarkation of persons and their effects, and placing of the cargo under the custody of a public warehouse or in any other convenient place, shall not be appealable.

### Article 927

The owners of the ship's appurtenances who were not included in the sale of the ship are entitled, after the adjudication becomes effective, to take such appurtenances away from the ship at their own risk and expense.

Article 928

The rights acquired by the buyer on the basis of the final adjudication of the ship subject to enforcement shall not be contested on the ground that after the adjudication became final the enforceable document upon which the ruling on the enforcement by ship's sale is based was set aside or modified.

10. New Sale

Article 929

If the buyer does not prove that he has paid the purchase money within the period specified in article 903, paragraph 1, of this Law, the court shall upon request of an authorized person declare and pronounce invalid the final ruling on the adjudication and order the performance of a new sale at the expense and risk of the buyer.

The proposal for a new sale may be made by the parties, creditors whose claims are secured by a hypothec on the ship subject to enforcement and by creditors for whose maritime liens there exists no enforceable document.

The person requesting a new sale shall make a request for a new sale within a period of no later than 10 days of the expiry of the term referred to in article 903, paragraph 1, of this Law. Should no request for a new sale be made within the above period, the court shall by a ruling discontinue the enforcement proceedings and release the ship which is subject to enforcement.

A new sale shall be effected in accordance with the provisions holding for the first sale and with the terms of sale determined previously.

Upon request of any authorized person, the court may decide that in the event of a new sale even those offers amounting to less than a half of the value of the ship subject to enforcement determined for the first sale be admitted at the new sale.

A new sale shall not be held if the buyer who delayed the payment of the purchase money proves, before the expiry of the period of appeal against permission for a new sale, that he has paid delayed purchase money together with the interest and the sum required for covering damages incurred until then.

Article 930

If the price achieved at the new sale is lower than the price achieved at the preceding sale, the buyer who was late in paying the purchase money shall be liable, with his caution money, the deposited portion of the purchase money, and by other assets or property of his own, to cover the balance thus caused, the expenses of the new sale, and any damage caused by such delay.

The enforcement court shall ex officio determine the sum of the balance in respect of the price achieved as well as the amount of the expenses referred to in paragraph 1 of this article.

On the basis of the final ruling as referred to in paragraph 2 of this article, the court shall carry out enforcement on the caution money deposited, the paid-off portion of the purchase money, and, if appropriate, on any

other assets or property of the buyer. The enforcement shall be carried out upon request of any person entitled to cover their claims from the purchase money.

The enforcement shall be performed in favour of the distribution money. The difference between the price achieved at the new sale and the previous sale shall also accrue to this estate.

The buyer delaying to pay the purchase price shall not be entitled to the amount by which the purchase money attained at the new sale exceeds the same price achieved at the previous sale.

## 11. Discontinuation of the Proceedings

### Article 931

In addition to the grounds for discontinuing the enforcement arising from the provisions of the general provisions for enforcement proceedings, and other grounds as provided for in this Law, the sale proceedings shall be discontinued:

(1) If a third person, not later than eight days before the date fixed for the sale hearing by providing an appropriate security declares that he is willing to take delivery of the ship subject to enforcement at a price exceeding the determined price of the ship by at least one fourth, and if such a person declares that he will bear all the expenses that would otherwise have to be borne by the debtor;

(2) If so required by the pledge creditor who no later than before the commencement of the auction at the sale hearing buys off the claims on account of which the sale is allowed, and if he compensates the expenses which should otherwise be borne by the debtor;

(3) If before the commencement of the sale the creditor waives on the sale proceedings, in such a case it will not be possible to propose with respect to the same claim the continuation of the sale proceedings before the expiry of the period of six months of the date of the discontinuation of the sale proceedings;

(4) If, before the commencement of the sale, the debtor deposits with the court the sums necessary for the full settlement of the enforceable claims as well as of the costs of the proceedings incurred by all the creditors having demanded the enforcement;

(5) If no lowest acceptable offer is made at the second sale hearing (see article 943, paragraph 1, and article 944 herein).

### Article 932

If the court accepts the proposal for the discontinuation of the sale as referred to in article 931, paragraph 1, of this Law, the court shall render a ruling whereby the sale proceedings are postponed.

If the person proposing the discontinuation as per article 931, paragraph 1, of this Law fails to deposit an appropriate security within a specified time, the court shall ex officio continue the suspended proceedings.

The security deposited by the proposer shall, in the event of the continuation of the proceedings referred to in paragraph 2, of this article, accrue to the distribution money.

The method of collecting the price for which the proposer has accepted to take delivery of the ship subject to enforcement shall be governed appropriately by the provisions of article 930, paragraphs 2, 3, and 4, of this Law.

The court shall discontinue the sale proceedings after the proposer has paid the sums referred to in article 931, paragraph 1, of this Law .

#### Article 933

The court shall notify all the persons referred to in article 908, paragraph 1, of this Law, on the suspension or discontinuation of the sale proceedings.

The court shall at the same time advise the creditor proposing the enforcement on the rights appertaining to him in respect of the provision of article 920 of this Law.

Upon expiry of a period of 15 days from the date when the ruling on the discontinuation of the proceedings became final, the court shall order that all the notices in the register of ships or in the inventory which relate to the sale proceedings be erased.

#### Article 934

The creditor in whose favour a notice of the sale permission has been entered in the register of ships may, within the period of 15 days from the date the ruling on the discontinuation of the sale proceedings became final, propose to the court in charge of the enforcement that, according to the ranking of the above said notice in favour of his enforceable and subsidiary claims, a hypothec be inscribed on the ship subject to enforcement.

The fact that in the meantime the debtor alienated or encumbered the ship subject to enforcement shall in no way be prejudicial to the inscription of a hypothec.

The proposal made in accordance with paragraph 1 of this article may not be accepted if the sale proceedings have been discontinued in consequence of the enforcement being altogether inadmissible, or because the enforceable document had been effectively set aside by a ruling or proclaimed ineffective, because the claim for which enforcement is being conducted has been settled or because it has been established by a final ruling that the claim does not pertain to the creditor.

### 12. Distribution of the Purchase Money

#### Article 935

After the purchase money is paid and the ruling on the adjudication becomes final, the court shall fix a hearing for the distribution of the purchase money.

The court shall summon all the persons referred to in article 908, paragraph 1, of this Law to the hearing, and shall notify the buyer allowing him to participate in the hearing.

In the summons to the hearing as referred to in paragraph 1 of this article the court shall warn the creditors

that the claims made by the creditors who do not attend at the hearing shall be taken into consideration only as per condition arising from the register of ships and the relative enforceable documents, and that at the hearing for the distribution of the purchase money at the latest they may contest the existence of the claims made by other persons, the amount of such claims, and the ranking according to which these claims may be settled.

The decision on fixing the hearing shall be announced on the court's notice board.

#### Article 936

Only those claims shall be considered at the hearing that should be taken into account for the distribution of the purchase money and the ranking of their settlement.

The debtor shall submit to the court all the necessary explanations in order to determine the accuracy of the ranking of claims covered from the purchase money.

The creditor whose claims on the occasion of the distribution of the purchase money would obtain rank if the contested claim had not been taken into account, may at the latest at the hearing for the distribution of the purchase money raise objections against the claims reported, or the claims arising from the enforceable documents. The objection may refer to the existence of the claims, their amount and settlement ranking.

The debtor shall be entitled to raise objections only in respect of those claims for which, according to the debtor's assertion, there exist no grounds whatsoever for their settlement.

The claims which could not be settled from the purchase money even if the contested claims enjoying a better ranking had not been taken into account, shall not be admitted for consideration by the court.

#### Article 937

The distribution money shall consist of:

- (1) Purchase money;
- (2) Caution money deposited by the buyer delaying in the payment of the purchase money, part of the purchase money deposited by him, or any other amount compensated by the buyer;
- (3) The revenue and income obtained from the ship subject to enforcement, which the buyer is bound to restitute;
- (4) Revenue from the ship's voyage undertaken in the course of the sale proceedings;
- (5) The sums referred to in paragraphs 2 and 3 of this article.

The purchase money which refers to the ship subject to enforcement, the ship's accessories subject to enforcement, and the freight or passage money shall constitute separate distribution money, depending on to which of these sums the rates of maritime liens or hypothecs claimed by the creditors requesting enforcement are related.

The freight, passage money, and the sums relating to the ship's accessories which were paid by the time of the closure of the hearing for the distribution of the purchase money shall be distributed together with the purchase money obtained from the sale of the ship subject to enforcement.



Article 938

The creditors' claims covered from the distribution money shall be settled in accordance with the following ranking:

- (1) Creditors whose claims are secured by maritime lien;
- (2) Creditors whose claims are secured by a hypothec on the ship;
- (3) Other creditors.

The ranking of the creditors as specified in paragraph 1, points (1) and (2), of this article shall be determined, within separate payment rank classes, in accordance with the provisions of the Law on Maritime Liens and Hypothecs on Ships.

Exercising the right of the arrest of a ship referred to in article 456 of this Law shall not prejudice the ranking of the settlement of claims secured by maritime liens.

The expenses arising in the course of the ship sale proceedings shall be settled before the distribution of the purchase money and shall even rank before the settlement of the claims secured by maritime liens.

Article 939

The rank attaching to the capital shall also attach to the interest charges which are not in arrears for a period longer than three years of the date of the adjudication, and to litigation and enforcement expenses incurred for the purpose of the settlement of any of these claims.

Recursive payments which have not been in arrears for a period longer than three years prior to the date of the adjudication shall have the same rank as the rights underlying such payments.

Should the distribution money be insufficient to cover the creditors' claims, the costs and subsidiary claims shall be settled before the capital.

Article 940

If the distribution estate is insufficient to cover the creditors' claims of the same payment rank (article 938, paras. 1 and 2, of this Law), their claims, including the costs and subsidiary claims, shall be settled proportionate to the overall amount of such claims.

Article 941

The surplus of the distribution estate remaining after the settlement of all the claims in respect of article 938 of this Law shall be assigned by the court to the debtor.

Article 942

Unless otherwise decreed by the court, on the proposal and with the consent of the parties at the hearing, recursive payments shall be settled so that first the sums in arrears on the day of the adjudication shall be paid, whereafter as much of the capital shall be invested at an interest rate as necessary to settle the payments becoming due after the date of the adjudication.

The capital remaining free in consequence of the extinguishment of the rights to payment shall be assigned by the court, in advance, if possible, to those assignees whose claims have not been fully settled from the distribution money, in accordance with the respective ranks of these claims, or to the debtor in the event that no such assignees exist.

Article 943

The claims arising out of a cancelling condition shall be settled by way of cash payment only if the creditor provides security that, in the event that the accomplishment of the above condition, he will return the sum received.

If the creditor does not deposit the security within 15 days of the date of serving the ruling on the settlement of the claim, the sum required to cover his claim shall be submitted as a savings deposit with the bank.

When it becomes obvious that the condition above will not be accomplished, the relative claim shall be paid to the creditor.

If the cancelling condition is accomplished, the sum returned by the creditor or deposited by him with a bank shall be paid in favour of those creditors whose relative claims have not been wholly settled from the sum obtained from the sale, and, if there are no such creditors, the same sum shall be handed over to the debtor.

Article 944

If the payment of the claims is subject to any deferrable condition, these claims shall be settled in such a manner that an appropriate sum shall be set aside and deposited with a bank as a savings deposit which shall be made payable to the creditor when such a condition has been accomplished.

If this condition is not accomplished, the deposited sums shall be paid to those creditors whose claims have not been wholly settled from the sum obtained from the sale. Should there be no such creditors, the said sum shall be handed over to the debtor.

Article 945

If, with respect to proprietary encumbrances on the ship subject to enforcement, a notice of dispute or a notice to the effect that a lawsuit for the erasure of such rights has been entered in the register of ships, claims or compensations arising from such rights shall be made good in the same way as claims depending on a cancelling condition.

If a pre-emption entry of a proprietary encumbrance on the ship subject to enforcement has been made in the register of ships, and if the beneficiary of such a right proves that proceedings are under course for the justification of the pre-emption entry or that the time-limit for the institution of such proceedings has not yet expired, the claim or compensation for such a right shall be settled in the same way as claims depending on the deferrable condition.

#### Article 946

Claims secured by a joint hypothec shall be settled in cash from the distribution state.

If in the sale proceedings all ships which are undividedly liable for a claim are being sold, the distribution money estate of each individual ship shall contribute to the settlement of the claims secured by a joint hypothec, proportionate only for the sum which, in respect of the same claims together with subsidiary dues and expenses, stands in the same proportion as does the residue of the distribution estate of each individual ship subject to enforcement to the sum total of the balance of all distribution monies. This balance is obtained by deducting the amounts of the claims ranking ahead of the claim secured by joint hypothec.

If the creditor whose claim is secured by a joint hypothec seeks settlement of the claim in another proportion, the creditors whose claims rank behind the claims by the above creditor, and who in consequence of the same obtain an amount lower than they would obtain if the creditor was settled in accordance with paragraph 2 of this article, may demand that from the individual distribution estates the sum be paid to them which, if the distribution had been carried out according to paragraph 2 of this article, would have accrued to the claim secured by joint hypothec, if this is necessary to cover the deficit.

If in the course of the sale proceedings not all ships which are undividedly liable are sold, in order to determine compensations due to creditors ranking behind the creditors whose claims are secured by joint hypothec, the value of individual ships encumbered with joint hypothec, instead of the distribution monies, shall be taken as the basis for computation. The creditors' claim for compensation shall be entered in the form of inscription in their favour on the ships not sold, with the rank attaching to the wholly or partially settled claim of the creditor who was secured by joint hypothec. The court shall ex officio erase this joint hypothec on the unsold ships.

#### Article 947

Beneficiaries of servitudes which the buyer does not take over shall be settled by a compensation for their right from the sum obtained from the sale.

If the beneficiaries of the servitudes fail to reach an agreement with the creditors who rank behind them in settlement regarding the amount of compensation referred to in paragraph 1 of this article, the amount of compensation shall be determined by the court, taking particularly into account the time for which the servitude could still last, their value, the benefits of the beneficiaries of servitudes and the age of the beneficiaries.

The buyer and the beneficiaries of servitude, and creditors ranking in settlement behind them may agree that the buyer take over the servitudes and that a specific sum as indemnity for the taking over of the servitudes be deducted from the purchase money.

Article 948

The claim of a pledge creditor which has not come due before the rendering of a ruling on the settlement shall be paid even before it becomes due, together with the amount of stipulated interest charges computed until the date of the rendering of the ruling on the distribution of the purchase money.

If interest charges for such a claim have not been specified, a sum shall be deducted which corresponds to legal interest rates charged from the date the ruling on the settlement was rendered to the date the claim became due.

Article 949

If it is unknown who the present holder of the hypothecary claim which would according to its rank be covered by the distribution estate is, or if his residence is not known, the court shall deposit the sum relating to this claim with a bank as a savings deposit, and shall specify in the ruling on the distribution of the purchase money to whom this sum will go if the creditor does not collect it.

If the creditor in whose favour the sum referred to in paragraph 1 of this article is deposited does not collect the sum within a period of three years from the date when it was deposited with a bank, any creditor who would be entitled to this sum or a part thereof may demand that the sum which corresponds to his claim be paid to him. If there are no such creditors, the payment may be demanded by the debtor.

Article 950

If the pledge creditors seeking settlement from the purchase money cannot be fully settled, the court shall, on the proposal of any one of them or of the creditor who has proposed the enforcement, order the persons to whose debts the maritime liens or hypothec on the ship extend, to have the proposer, and those who have a more favourable settlement ranking, deposit the sums due with the court within a specified term, if this is necessary to settle the claims of the proposer and those who have a more favourable settlement ranking.

The proposal referred to in paragraph 1 of this article shall be submitted in the course of the enforcement proceedings, at the latest at the hearing for the distribution of the purchase money.

The orders issued to the debtor's debtors on the basis of paragraph 1 of this article shall cause that any payment that they would make to a debtor or a third party which is contrary to the court's decision shall have no legal effect against pledge creditors.

If within the term determined by the court these sums are not deposited, the court shall, on the proposal of the creditors to whom the payment relates, act in accordance with the provisions on the enforcement on monetary claims, and shall specify to which pledge creditors individual claims attach and in which amount.

### 13. Sale of Shares in the Ship

#### Article 951

If enforcement is carried by the sale of shares in a ship, the provisions of this Law concerning the sale of a ship shall apply, with the following differences:

(1) The arrest of a ship may only be allowed if the enforcement is demanded on shares which exceed half of the total value of the ship on which enforcement is being carried out or if the creditor who has proposed the enforcement makes it credible that there is a danger that without it the settlement of the claims may be frustrated or greatly hindered;

(2) If the enforcement is carried out on more than a half of the shares in the ship subject to enforcement, the creditor who has proposed the enforcement may demand that the whole ship be sold and that his claim be settled only from the part of the purchase money relating to the share of the debtor;

(3) Any co-owner of the ship subject to enforcement shall be entitled before the commencement of the sale hearing to settle the claim of the creditor who has proposed the enforcement together with subsidiary claims and thus take his rank;

(4) Under equal conditions the co-owners shall have priority in the adjudication of the ship subject to enforcement over other participants at the auction;

(5) If several co-owners offer the same purchase terms, the court shall adjudicate the share subject to enforcement to the co-owners in equal parts.

### 14. Ruling on the Distribution of the Purchase Money

#### Article 952

The court shall decide on the settlement of creditors and other persons claiming the right to settlement by a ruling after the hearing for the distribution of the purchase money, taking into account the situation arising from the register of ships, the documents of the enforcement proceedings and the results of the hearing for the distribution of the purchase money.

In the ruling on the distribution of the purchase money the court shall decide on any objections raised during the proceedings by individual creditors and other participants if the objections relate to a legal issue.

If the decision on an objection depends on the establishment of controversial facts, the court shall instruct the participant who has raised the objection within 15 days to file a lawsuit or institute administrative proceedings to determine the well-foundedness of the objection. If the person making the objection does not act in accordance with the court's order, it shall be deemed that the objection has not been raised.

The court shall postpone the decision on the settlement of the creditor whose claim is the subject matter of a lawsuit or administrative proceedings, and shall deposit the amount of the distribution estate relating to the contested claim with a bank as a savings deposit.

The court shall submit the ruling on the distribution of the purchase money to all the persons who must be summoned to the hearing for the distribution of the purchase money (see article 935, para. 2).

The provision of paragraph 3 of this article shall not be prejudicial to the right of the person who has contested a particular claim but who has not filed a lawsuit within the given time limit, to file a lawsuit against the person whose claim he has contested after the termination of the sale proceedings.

#### Article 953

A decision rendered in a dispute on the objections raised in the proceedings for the distribution of the purchase money shall be effective against all the creditors and assignees to whom the distribution attaches and against the debtor.

#### Article 954

When the ruling on the distribution of the purchase money becomes final, the court shall order erasure from the register of ships of all the rights and encumbrances entered on the ship sold, with the exception of those which remain after the sale.

#### Article 955

When the ruling on the distribution of the purchase money becomes final, the court shall hand over to individual creditors the sums due in cash if no lawsuit or administrative proceedings in connection therewith are in course, or if the time limit fixed for filing a lawsuit or instituting administrative proceedings has expired without success.

With respect to the sums which by the court's order must be deposited with a bank as a savings deposit, the court shall issue the necessary orders, unless otherwise specified by mutual agreement by the persons to whom these sums and interests are intended.

If the ruling on the distribution of the purchase money cannot be effected because a lawsuit or administrative proceedings thereon are in progress, the sum relating to this part of the ruling on the distribution shall be deposited with a bank as a savings deposit until the decision on the distribution becomes final.

### Chapter III ENFORCEMENT FOR THE PURPOSE OF DELIVERY OF THE SHIP

#### Article 956

In the enforcement proceedings for the purpose of delivery of a ship which is entered in a domestic register of ships, the provisions of articles 884, 890, and 891 of this Law shall apply as appropriate.

The proposal for rendering a ruling on the enforcement by delivery of the ship shall contain data as referred to in article 881 of this Law, with the exception of the data referred to in point (6) of that article.

The enforcement for the purpose of delivering a ship shall be governed in a suitable manner by the provisions of the general enforcement proceedings on the enforcement for the purpose of handing over movable property, unless otherwise specified in this Law .

#### Article 957

The enforcement for the purpose of delivering a ship which is in possession of the debtor shall be carried out so that the official person shall take the ship from the debtor and shall hand her over to the creditor, against a receipt.

The enforcement by delivery shall be carried out in accordance with the provisions of paragraph 1 of this article even when the ship is in possession of a third person who agrees to the ship being handed over to an official person.

If the third person does not agree to the ship being handed over to the official person, the creditor may propose to the executory courts to transfer to him the claim of the debtor towards the third person for the delivery of the ship.

#### Article 958

The court shall notify the creditor whose claims are secured by a judicial hypothec on the ship, and also those creditors about whom there exist data in the documents of the enforcement proceedings on the effected delivery of the ship.

#### Article 959

If the enforcement by means of delivery of the ship is carried out on a ship of foreign nationality, the court shall, instead of acting according to the provisions of article 884 of this Law, undertake what is necessary to notify the foreign body which keeps the register of ships in which the foreign ship on which the enforcement is being carried out is entered of the institution of proceedings for the delivery of the ship, unless otherwise provided for by an international agreement.

Chapter IV  
SECURITY

1. Establishment of a Judicial Hypothec

Article 960

In order to secure monetary claims on the basis of an enforceable document, the creditor may propose to the court the establishment of a judicial hypothec on the ship of the debtor.

Article 961

The establishment of a judicial hypothec as referred to in article 960 of this Law on ships entered in a register of ships shall be effected by inscription.

The establishment of a judicial hypothec, as referred to in article 960, on a ship which is not entered in a register of ships shall be effected by a pledgewise inventory of such ship,

The establishment of a judicial hypothec by means of pledgewise inventory as referred to in paragraph 2 of this article shall be entered in a temporary navigation certificate.

Article 962

In the ship register in which a judicial hypothec is entered there shall be designated the enforceability of the claim in whose favour the judicial hypothec is to be entered.

If for a claim a judicial hypothec has already been inscribed or a pre-emption entry of the judicial hypothec has already been made, the court shall order that a notice of the enforceability of the claim be entered in the register of ships.

For ships which are not entered in a register of ships, the enforceability of the claim shall be entered in the pledgewise inventory of the ship.

With respect to the effect of the inscription or notice or the pledgewise inventory of the ship made, the provisions of article 884, paragraph 3, of this Law shall apply.

Article 963

The provisions of article 884 of this Law pertaining to the submission of proposals for carrying out sale proceedings shall also correspondingly apply, as appropriate, to the procedure for the establishment of judicial hypothec.



Article 964

For ships which are not entered in a register of ships, the court may order that the enforceability of the claim, in addition to being entered in the pledgewise inventory of the ship according to the provision of article 962, paragraph 3, of this Law, also be entered in the temporary navigation certificate.

Article 965

A pledgewise inventory of a ship may only be made if the ship is in the possession or co-possession of the debtor.

If the latter is not known to the executory court, nor can this be made credible by the documents submitted, before ordering the pledgewise inventory the court shall hear the debtor thereon.

Article 966

The court shall notify the debtor of the ordered pledgewise inventory and denote the place and time of the description.

The pledgewise inventory of the ship shall be made on the spot by the specification of the items of the pledgewise inventory, which shall be recorded in a protocol.

If at the making of the pledgewise inventory a document is found on which the debtor's right of ownership on the ship is based, or this right or ownership is proved by this document, the court shall denote on the document that the pledgewise inventory has been made. When the judicial hypothec on the ship subject to enforcement has extinguished, the court shall upon proposal make a note on this document that the judicial hypothec has extinguished.

The court shall notify the parties of the pledgewise inventory.

Article 967

Until it has been established that the pledgewise inventory made is incorrect, security on the same ship in favour of another claim of the same or another creditor for whom the establishment of a judicial hypothec subsequently is sought on the same ship shall not be effected by a new pledgewise inventory, so that this subsequent security shall be effected only by a notice in the existing protocol on the pledgewise inventory of the ship.

Article 968

An appeal against a ruling allowing security by the establishment of a judicial hypothec shall not stay the enforcement of the ruling.

## 2. Pre-emption Entry of a Judicial Hypothec

### Article 969

A creditor may demand to have his monetary claims secured by means of a pre-emption entry of a judicial hypothec (or a maritime lien) on the basis of a domestic court decision which has not yet become final or enforceable, or on the basis of a court settlement for which the time limit for the voluntary performance of his obligation has not expired, if he makes credible that without this security the settlement of his claim would be in danger of being frustrated or greatly hindered.

### Article 970

The security referred to in article 969 of this Law shall be effected on ships entered in a ship register by a pre-emption entry in the register of ships in which the ship is entered.

The security referred to in article 969 of this Law on ships which are not entered in a register of ships shall be effected by an inventory of the ship.

### Article 971

A ruling ordering the preliminary measure referred to in article 969 of this Law shall, among other things, specify the amount of the claim being secured together with interest and costs and the time of the duration of this security.

If the time referred to in paragraph 1 of this article expires before the decision or the court settlement on the basis of which the preliminary measure was ordered becomes enforceable, the court shall, on the proposal of the creditor, extend the duration of the security, provided that the circumstances under which the preliminary measure was ordered have not changed.

The court shall discontinue the proceedings and set aside enforcement acts if within a term of 15 days from the date of the expiration of the time for which the preliminary measure was ordered conditions have not been met for enforcement for the purpose of the settlement of the creditor's claim or for securing by means of inscription of the judicial hypothec (article 960).

The court shall, even before the expiration of the time referred to in paragraph 3 of this article for which the security was ordered, discontinue the proceedings or set aside the acts done:

(1) If the debtor deposits in the court the sum of the claim which is being secured together with interest and expenses;

(2) If the debtor makes it credible that at the time when the ruling referred to in paragraph 1 of this article was ordered the claim had already been settled or sufficiently secured;

(3) If it is established by a final decision that the claim never arose or that it has extinguished;

(4) If the proposer of the security fails within 15 days from the date of the enforceability of the decision or court settlement on the basis of which the preliminary measure was ordered to propose security through the inscription of the judicial hypothec (article 960) or enforcement by sale of the ship for the purpose of settlement of his claim.

#### Article 972

In the proceedings for security by means of the preliminary measure of the pre-emption entry of a judicial hypothec, the provisions of article 961, paragraph 3, article 962, paragraph 4, and articles 963 to 968 of this Law pertaining to security by the establishment of a judicial hypothec shall apply.

2a. Establishment of a Judicial Hypothec on a Ship on the basis of the Agreement of the Parties

#### Article 973

The provisions of the general enforcement proceedings on security by establishing a judicial hypothec on immovable and movable property based on the agreement of the parties involved shall also correspondingly apply to the establishment of a right of pledge on a ship, a ship under construction, ship's appurtenances and on the cargo on board, if so agreed by the parties, unless otherwise provided by this Law.

The provisions on the restriction of enforcement shall not apply in the proceedings referred to in paragraph 1 of this article if the sale of property is carried out for the purpose of the settlement of a claim secured by a judicial hypothec established in the course of such proceedings.

3. Provisional Measures

#### Article 974

Before the institution of, or in the course of, civil-law, enforcement or administrative proceedings the court may, for the purpose of securing the creditor's monetary claim, order at the proposal of the creditor any provisional measure whereby the purpose of such security is achieved, in particular the prohibition of the alienation or other kind of the disposal of the ship, watching and arrest of the ship, in accordance with the requirements of the general enforcement proceedings, unless otherwise specified by the provisions of this Law.

Provisional measures for securing the proposer's non-monetary claims shall also be allowed by the court in accordance with the requirements determined by the provisions of general enforcement proceedings, unless otherwise specified by the provisions of this Law.

#### Article 975

The provisional measure of arresting a ship shall consist in prohibiting the ship's departure from a port.

Article 976

Temporary arrest of a ship may be ordered only for the claims referred to in article 878, paragraphs 1 and 2, of this Law.

The provisions on the limitation of the temporary arrest of a ship only to the claims referred to in paragraph 1 of this article shall apply to foreign ships only if there is reciprocity between the State whose flag the ship flies and the Republic of Croatia.

Article 977

Any ship may be arrested on which there exists the right of ownership, or which is owned by the same personal debtors, or which, for the claim for which arrest is sought, is encumbered by a maritime lien or a hypothec or another right of pledge based on a foreign law and for other claims as referred to in article 878, paragraph 2, of this Law which relate to the ship.

If the debtor is a charterer by demise of the ship or a charterer who according to the law applicable to the contractual relation between him and the shipowner or ship operator is alone liable to third persons, this ship may be arrested or any other ship which is owned by the charterer by demise or charterer.

The provision of paragraph 2 of this article shall also apply in all other cases when the ship operator or charterer who is a personal debtor, and who is not the owner of the ship, is himself liable for the claims for which the arrest of the ship is sought.

At a request which relates to the right of ownership, co-ownership and the right of pledge on the ship, only the ship to which this request relates may be arrested.

Article 978

If provisional measures are ordered to secure monetary claims, the court will free the ship from arrest or watching if securities and other property values are sufficient to cover the total amount of the claims for which the arrest is sought, on condition that these securities or other property values are available and transferable in favour of the creditor.

If claims are involved for which the debtor may limit his liability, the amount of the securities or other property values referred to in paragraph 1 of this Article need not be higher than the amount of limited liability.

When one of the courts on the territory of the Republic of Croatia frees a ship from arrest, on the basis of the provision of paragraph 1 of this article, no other court on the territory of the Republic of Croatia may order arrest either of this ship or of any other ship for the same claim and for the same creditor, provided that the securities or other property values given are still available and transferable in favour of the creditor.

Article 979

The court shall not order the arrest of a ship, and shall set aside an already allowed arrest, if the debtor proves that he has given in another State an adequate security or other property value for the same claim and for the same creditor, on condition that:

(1) The security or other property value meets the requirements referred to in article 978, paragraph 1, of this Law;

(2) The State on whose territory the security or other property value was given treats in the same way securities and other property values deposited in the Republic of Croatia.

Article 980

Giving a security or other property value shall not imply recognition of liability for the claims for which the security or other property value was given, nor renouncing the possibility of the limitation of liability.

Article 981

In a ruling ordering a provisional measure the court shall specify the time of its duration.

If the arrest of a ship is allowed before the institution of civil-law, enforcement or administrative proceedings, the creditor is bound to prove within 15 days that he has instituted civil-law, enforcement or administrative proceedings.

If the creditor, within the term referred to in paragraph 2 of this article, does not prove that he has instituted civil-law, enforcement or administrative proceedings, the court shall on the proposal of the creditor set aside the allowed provisional measure.

If the time referred to in paragraph 1 of this article expires before the requirements for enforcement or security through inscription or pre-emption entry of a right of pledge are met, the court shall on the proposal of the creditor extend its duration provided that the circumstances under which this measure was ordered have not changed.

If the time referred to in paragraph 1 of this article has expired and the conditions for the prolongation of the provisional measure ordered referred to in paragraph 4 of this article have not been met, the court shall discontinue, at the proposal of the debtor, the security proceedings and set aside the acts done.

Article 982

The security proceedings shall also be discontinued and the ordered provisional measure set aside if some of the requirements referred to in article 971, paragraph 4, points 1 to 3, of this Law have been met.

Article 983

The costs of the maintenance of the ship and of the maintenance of the crew during the time of the ship's arrest shall be borne by the owner of the ship, or the ship operator.

If the funds for the maintenance of the crew are not sufficient, the court shall order the creditor to advance the sum necessary for the maintenance of the crew.

The costs of watching the ship shall be advanced by the creditor.

The provisions of paragraphs 1 and 3 of this article shall not be prejudicial to the final bearing of these costs.

Article 984

The provisional measure of arrest of the ship shall not be prejudicial to the rights and duties of the parties arising from a contract for the carriage of goods or a contract for the carriage of passengers.

Article 985

When the court orders a provisional measure on the ship, the provisions of article 887 of this Law shall, without delay, appropriately apply according to the nature of the measure it has ordered.

Article 986

When the court allows the provisional measure of prohibition of the alienation or of disposal of the ship, it shall at the same time order that a notice thereof be entered in the register of ships in which the ship is entered.

When the court sets aside by a final ruling the provisional measure referred to in paragraph 1 of this article, or when this measure is terminated by force of law, the court shall order that the notice referred to in paragraph 1 of this article be erased.

Article 987

When the court has ordered a provisional measure on a ship under a foreign flag, the court shall, on the proposal of the creditor and at his expense, advise the competent foreign body on such a measure and on the setting aside of the same measure.

Article 988

In order to secure monetary claims and to secure non-monetary claims of the creditor against the person

authorized to dispose of the cargo on board a ship, the court may allow the provisional measure in that it shall order the discharge of the cargo from the ship and its storage in a public warehouse or in another suitable place if the creditor pays to the ship operator the entire stipulated freight which has not yet been paid and makes good to him all the expenses he has incurred and which are not included in the freight.

If the delivery of the cargo on the basis of paragraph 1 of this article is demanded in a port in which according to the contract for the carriage of goods it was not to have been delivered, the court shall allow the provisional measure referred to in paragraph 1 of this article on condition only that the cargo can be discharged without endangering the safety of the ship and of other cargo, that the discharge does not cause any major delay in the arrival of the ship or a disturbance in its sailing schedule, that this does not cause damage to other persons who are authorized to dispose of the cargo, and that the discharge is not at variance with other important reasons.

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## **PART ELEVEN**

### **ON THE APPLICABLE LAW AND COURT JURISDICTION OF THE REPUBLIC OF CROATIA**

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#### Chapter I GENERAL PROVISION

##### Article 989

The provisions of this part of the Law shall apply to all relations in seagoing navigation.

#### Chapter II ON THE APPLICABLE LAW AND EXCLUSIVE JURISDICTION OF COURTS IN THE REPUBLIC OF CROATIA FOR RELATIONS OF INTERNATIONAL CHARACTER (ELEMENT)

##### Article 990

The provisions of this chapter of the Law shall be applicable to any waterborne craft which is a ship according to Croatian law, as well as to any waterborne craft which is a ship according to the law of the State of its nationality.

##### Article 991

According to the law of the ship's nationality, the following shall be assessed:

- (1) The duties and rights of the shipmaster with regard to ship management and the establishment of the rights and obligations of the shipowner or ship operator;
- (2) The proprietary rights in the ship;

(3) The legal consequences of the events on shipboard to which the law of the place where the event has occurred shall be applied.

The provision of paragraph 1, point 3, of this article shall be applied to the events occurring on foreign ships in the territory of the Republic of Croatia, on condition that the State of the ship's nationality deals in the same way with ships of Croatian nationality.

#### Article 992

Croatian law shall be applied to the proprietary rights and interests in the ship under construction in the Republic of Croatia.

#### Article 993

The law of the ship's nationality shall be applicable to labour relations of members of the ship's crewmen.

#### Article 994

The law of the ship's nationality shall be applicable to the limitation of the ship operator's liability or of that of any other physical or legal person considered his equal pursuant to this Law.

Notwithstanding paragraph 1 of this article, this Law shall be applied if its provisions concerning the limitation of liability are stricter than the regulations of the State of the ship's nationality.

#### Article 995

The law of the parties' choice shall be applied to the navigational relations agreements.

#### Article 996

Notwithstanding the provision of article 995 of this Law, this Law shall be applied to the contracts of the employment of ships:

(1) Relating to the ship operator's liability for the damage, shortage or loss of cargo provided by the provisions of this Law the application of which cannot be excluded by the consent of the parties if the port of shipment or destination is in the Republic of Croatia;

(2) If the passenger would by the application of another law be put into a more disadvantageous position than by the application of the provisions of this Law;

An agreement concluded contrary to the provisions of paragraph 1 of this article shall have no legal effect.



Article 997

If the law of the parties' choice for application to the contract of employment of ships cannot be applied to the contract as a whole or to any of the relations arising from the contract, or if the parties have not expressly stated the law to be applied and their intention as to the application of a certain law cannot be determined by the circumstances of the case, the law that is in the closest relation with it shall be applied.

If it is not possible to establish which is the law that is the most closely related one with the contracts of employment of ships, the law to be applied shall be:

- (1) The law of the place where the contract has been concluded - for the appraisal of the main rights and obligations of the contracting parties;
- (2) The law of the State of the ship operator's citizenship or nationality, if the contract of passage or the contract of carriage of goods has been concluded on the basis of the ship operator's general conditions established in advance;
- (3) The provisions of this Law, for the contract of towage.

In the case mentioned in paragraph 2 of this article the law to be applied to the manner of performing the subsidiary rights (such as the manner of loading and delivery of cargo, calculation of lay time and demurrage, the manner of freight payment and the like) shall be the law of the place where the actions in question have been performed or where they had to be performed.

Article 998

If the law the application of which the parties to the salvage agreement have selected cannot be applied to the contract in its entirety or to some of the relations arising from this contract, or if the parties have not expressly indicated the law to be applied, and their intention is not evident from the conditions of the case either, the contract or contractual relation shall be subject to the application of the law in the closest relation with it.

If it is not possible to establish which law is the most closely related one to the contract of salvage, the law of the State of the port or harbour in which the salvage operation has been completed shall be applied, or the law of the first port to which the salvaged ship arrived after the completion of the salvage operation.

In all other cases the provisions of this Law shall be applied.

Article 999

Notwithstanding the provisions of article 998 of this Law, application shall be made of:

- (1) The provisions of this Law, if persons were being rescued without the simultaneous salvage of the ship or things on board, if all the persons were citizens of the Republic of Croatia or Croatian legal persons, or if the salvaging or salvaged ship, and in case there were a number of ships one of them being a Croatian warship or Croatian public ship;

(2) The provisions of article 652 paragraphs 1 and 2, articles 787 to 792, and article 796 and article 799 of this Law;

(3) The provisions of the law regulating the treatment of debts barred by the statute of limitations and provisions of this Law concerning the limitation period for claims (article 800);

(4) The law of the salvaging ship's nationality, for the sharing out of salvage money among the shipowner or ship operator of the salvaging ship and the crew of that ship.

An agreement concluded contrary to the provisions of paragraph 1 of this article shall have no legal effect.

#### Article 1000

Applicable to the compensation for damage in consequence of the collision of ships shall be:

(1) The law of the State in whose coastal sea or in whose internal waters the collision has taken place;

(2) The provisions of this Law, if the collision has occurred on the high seas.

As an exception to the provisions mentioned in paragraph 1 of this article, applicable to damages arising from the collision of ships shall be:

(1) If all the ships in collision are of the same nationality, the law of the State of their flag;

(2) If the ships in collision are of different nationalities and their States sharing the same law, the law of their States.

#### Article 1001

Except for the provisions of article 1000 of this Law referring for damages arising from the collision of ships to the application of foreign laws, application shall be made of:

(1) The provisions of this Law, if all the interested persons are citizens of the Republic of Croatia or Croatian legal persons, or if one of the ships in collision is a Croatian warship or a Croatian public ship;

(2) The provisions of article 762, paragraph 2, article 63, paragraph 1, and articles 764 to 769 of this Law;

(3) The provisions of the law regulating the statute of barred debts and the provisions of this Law concerning the period of limitation (article 771).

An agreement contrary to the provisions of paragraph 1 of this article shall have no legal effect.

#### Article 1002

In the case of general average, if the law chosen by the parties cannot be applied to the contract in its entirety, or to some of the relations attaching to the contract, or if the parties have not expressly indicated the law to be applied and their intention as to the application of a particular law cannot be ascertained on the basis of the

circumstances of the event either, the law of the port in which the last part of the cargo which was on board at the moment of the performance of the act of general average was discharged, shall be applied.

If all the parties in the case of general average are citizens of the Republic of Croatia or Croatian legal persons, in the cases mentioned in paragraph 1 of this article, the Croatian law shall be applied.

#### Article 1003

To the relations from the contracts of construction, conversion or repair of ships the law of the location of the shipyard shall be applied if the contracting parties have not indicated the law to be applied in these contracts or part of them, or if the law indicated cannot be applied in its entirety or in parts only.

#### Article 1004

To the contract of marine insurance and relations attaching to it the law indicated by the contracting parties shall be applied. If the parties have not contracted an applicable law, the law of the insurer's domicile shall be applied.

Except for the provision of paragraph 1 of this article, Croatian law shall be applied to the relations attaching to the contracts of marine insurance if all the interested parties are citizens of the Republic of Croatia, with permanent residence in the Republic of Croatia, and the insured objects in question are exposed to the risks covered exclusively in the territory of the Republic of Croatia.

#### Article 1005

The form of the legal act in the navigational relation shall be assessed according to the law of the place where the act has been performed, or where it had to be performed, or according to the law applicable to the navigational act in its entirety.

#### Article 1006

The provisions of this Law concerning the raising of sunken objects shall be adequately applied also to the salvage of objects sunk outside the coastal sea and the internal waters of the Republic of Croatia if a Croatian legal person or citizen of the Republic of Croatia has a claim to the property right of the objects in question and the objects are salvaged by a Croatian commercial company, another Croatian legal person or a citizen of the Republic of Croatia.

#### Article 1007

If this Law does not contain provisions concerning the law applicable to any relation in this part of the law, these relations shall in an adequate way be dealt with by applying the provisions and principles of other laws regulating the relations of international character, the principles of this Law, provisions and principles of the legal

order of the Republic of Croatia and the generally accepted principles of international civil law.

Article 1008

The foreign law which would be applicable according to the provisions of this Law, if its application would serve only in order to avoid the laws of the Republic of Croatia, shall not be applied.

Article 1009

The Croatian court has the exclusive jurisdiction in:

- (1) Court proceedings concerning the salvage money for Croatian warships and public ships, the damages arising from the collisions of ships one of them being a Croatian warship, or a Croatian public ship;
- (2) Court proceedings mentioned in articles 430, 431 and 432 of this Law arising in the course of and in connection with the procedure of dealing with the limited liability of the ship operator conducted by a Croatian court (article 434);
- (3) Proceedings arising in the course of and in connection with a court executive action concerning ships conducted by the Croatian court (articles 870-873).

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**PART TWELVE**  
**MARITIME OFFENCES**

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Chapter I  
COMMON PROVISIONS

Article 1010

A maritime offence is the violation of the regulations governing relations in the internal waters and the territorial sea, on their shores, in the ports and ships in connection with the safety of navigation and the protection of human life and the surroundings, as well as traffic on the sea.

The maritime offences proceedings shall be conducted according to the regulations on offences.

Article 1011

The Commission for Offences at the harbourmaster's office shall conduct the maritime offences proceedings.

The Commission for Offences mentioned in paragraph 1 of this article may be set up also for the area of

two or more harbourmasters' offices.

#### Article 1012

The ruling reached by the Commission for Offences at the harbourmaster's office may be appealed against by lodging a complaint with the Commission for Offences at the Ministry.

#### Article 1013

The Commission for Offences shall consist of the Chairman and two members. Deputies shall be appointed for the Chairman and members of the Commission.

The Chairman of the Commission and his deputy, as well as the members of the Commission and their deputies, shall be appointed from among the specialists of the harbourmaster's office, or the Ministry, or of other bodies and commercial companies in the shipping trade.

The Chairman, members of the Commission and their deputies shall be appointed for a period of two years and may be reappointed, but may be relieved also before the expiry of their term of office.

The Commission for Offences shall be appointed by the harbourmaster, and the Commission for Offences at the Ministry shall be appointed by the Minister.

The Commission for Offences mentioned in article 1011, paragraph 2, of this Law shall be appointed with the consent of the harbourmasters.

### Chapter II OFFENCES

#### Article 1014

The foreign legal person shall be fined with a pecuniary penalty ranging from 800 to 2,000 DEM in national currency counter-value for a maritime offence:

(1) If the foreign merchant ship enters the internal waters without the intention of entering a port of the Republic of Croatia open to international seaborne traffic, or a port in which the shipyard where the ship is to be repaired is situated (article 8);

(2) If the foreign yacht sails without permission in the internal sea waters of the Republic of Croatia, omitting to enter port in order to be given such permission (article 12);

(3) If the foreign merchant ship sailing in the internal waters in order to make a port of the Republic of Croatia open to international traffic or leaving that port or sailing between the ports of the Republic of Croatia open to international traffic does not use for this purpose the prescribed traffic lanes (article 8, para. 2);

(4) If the foreign ship carries things or persons in the internal waters or the territorial sea of the Republic of Croatia without the permission of the competent body (article 9, para. 3, point (2));

(5) If the foreign ship enters the internal waters of the Republic of Croatia without permission;

(6) If the foreign ship enters the prohibited zone in the internal waters of the Republic of Croatia without the approval of the competent body (article 16, para. 3);

(7) If due to *force majeure* or distress at sea the foreign ship has taken refuge in the internal waters of the Republic of Croatia without informing the harbourmaster's office or the harbourmaster's branch office of the fact (article 17);

(8) If the foreign ship sails in the security zone surrounding the facility or installation for the exploration and exploitation of natural and other resources of the economic zone or continental shelf of the Republic of Croatia through which navigation is prohibited (article 38);

(9) If the foreign fishing ship while passing the internal waters or the territorial sea of the Republic of Croatia catches fish or if the catch, fishing tackle and equipment serving for fishing or catching other marine animals in the sea or on the seabed is not kept in the ship's holds or under seal, or does not sail following the prescribed sea lanes, or in passing sails at a speed under 6 knots, or in passing stops and anchors in the internal waters or in the territorial sea of the Republic of Croatia, and this stopping and anchoring is not caused by *force majeure* or distress at sea, or has no visibly displayed fishing ship mark (article 26, paras. 2 and 3).

The person in the foreign legal entity responsible for the offence mentioned in paragraph 1, points (1) to (9), of this article shall be fined with a pecuniary penalty ranging from 800 to 2,000 DEM in national currency counter-value.

The shipmaster of the foreign ship or the person substituting for him on the ship shall be fined with a pecuniary penalty ranging from 800 to 2,000 DEM in national currency counter-value for the maritime offence mentioned in paragraph 1, points (1) to (9), of this article.

#### Article 1015

The legal person exploiting the ship that has entered the prohibited zone in the internal waters or sails through the prohibited zone in the internal waters in violation of the conditions prescribed (article 16) shall be fined for the maritime offence with a pecuniary penalty ranging from 800 to 2,500 DEM in national currency counter-value.

The responsible person in the legal entity's employ shall be fined with a pecuniary penalty ranging from 800 to 1,200 DEM in national currency counter-value for the maritime offence for the acts mentioned in paragraph 1 of this article.

The shipmaster or any other person acting in his stead on this ship shall be fined with a pecuniary penalty ranging from 800 to 1,200 DEM in national currency counter-value for the offence for the acts mentioned in paragraph 1 of this article.

#### Article 1016

The person engaging in activities with means in his private ownership who commits the offence mentioned in article 1035, paragraph 1, point 1, of this Law shall be fined with a pecuniary penalty ranging from 650 to 2,500

DEM in national currency counter-value.

The crew member of the foreign warship who at the time his ship is undergoing repairs leaves the precincts of the port without the permission of the internal affairs body competent for the frontier crossing control shall be fined for the offence with a pecuniary penalty of 1,200 DEM in national currency counter-value.

#### Article 1017

The legal person shall be fined with a pecuniary penalty ranging from 1,000 to 15,000 DEM for the marine offence:

- (1) If they use the maritime demesne or exploit it commercially without permission (article 51, para. 3);
- (2) If they build, add to the building or reconstruct it on the maritime demesne or expand the land area into the sea by filling up without the approval of the competent body (article 73);
- (3) If they deposit materials into the sea or on the seashore without the approval of the competent body (article 14);
- (4) If in case of *force majeure* or distress at sea while these circumstances last they forbid other persons access to the maritime demesne (article 54, para. 2);
- (5) If notwithstanding the prohibition they order or permit the ship to leave port regardless of the fact that the security for the compensation of the damage caused by the pollution of the sea has not been deposited (article 78).

The physical person and the responsible person in the employ of the legal person shall be fined for the maritime offence mentioned in paragraph 1 of this article with a pecuniary penalty ranging from 500 to 5,000 DEM in national currency counter-value for the maritime offence mentioned in paragraph 1 of this article.

#### Article 1018

The legal person shall be fined with a pecuniary penalty ranging from 500 to 2,000 DEM in national currency counter-value for the maritime offence:

- (1) If while unloading, transshipment or loading mineral or other oils no measures are taken for efficient prevention of the discharge or leakage of oil, or in a proper manner prevented the spreading of the oil escaped into the sea (article 80, para. 1);
- (2) If in the maritime demesne activities are undertaken that may endanger the life and health of people, cause damage to ships and other facilities or pollute the maritime demesne (article 76);
- (3) If solid materials are dumped or liquid or gaseous materials discharged into the sea thereby polluting the maritime demesne (article 75, para. 1).

The responsible person in the legal entity's employ shall also be fined with a pecuniary penalty ranging from 250 to 1,200 DEM in national currency counter-value for the maritime offence mentioned in paragraph 1 of this article.

#### Article 1019

The shipmaster or the person acting in his stead shall be fined with a pecuniary penalty ranging from 200 to 950 DEM in national currency counter-value for the maritime offence:

(1) If he ignores the order given by the harbourmaster's office to put out to sea to render assistance to the ship on fire or in distress of any kind (article 97),

(2) If regardless of the banning order of the harbourmaster's office he leaves port neglecting the fact that the security for the indemnification for the damage caused by pollution has not been deposited (article 78).

The shipmaster or the person acting in his stead shall be fined with a pecuniary penalty if he commits the maritime offence mentioned in article 1017, paragraphs 1, 2, 3 and 4, of this Law.

#### Article 1020

The owner or leader of the boat shall be fined with a pecuniary penalty ranging from 120 to 400 DEM in national currency counter-value for the maritime offence mentioned in article 1021 and article 1019, point (1), of this Law.

#### Article 1021

The citizen who fails to inform the nearest harbourmaster's office or its branch office, or the competent body of the County that the marine public demesne has been polluted (article 75, para. 3) shall be fined for the maritime offence with a pecuniary penalty ranging from 400 to 2,000 DEM in national currency counter-value.

The citizen who commits the offence mentioned in article 1017, points (1), (2) and (3), of this Law shall also be fined with the pecuniary penalty mentioned in paragraph 1 of this article.

#### Article 1022

The shipmaster or the person acting in his stead who, in violation of the provision of article 778 of this Law, does not render assistance to the ship in collision with the ship under his command, shall be fined with a pecuniary penalty ranging from 300 to 2,500 DEM in national currency counter-value.

#### Article 1023

The commercial company or any other legal person shall be fined for the maritime offence with a pecuniary penalty ranging from 300 to 2,500 DEM in national currency counter-value:

(1) If they fail to submit the request for revised tonnage measurement of the Croatian ship before the completion of the reconstruction work altering the gross or net tonnage of the ship, or fail to submit such request on



the arrival of the ship in the first Croatian port if the reconstruction work on the ship has been carried out in a foreign country, and the tonnage measurement of the ship has not been carried out abroad in compliance with the provisions of this Law (article 127);

(2) If they open trade or continue to trade with a ship lacking in any of the ship's papers or books prescribed by this Law or regulations brought in on the basis of this Law (articles 130-145);

(3) If they engage in the capacity of the ship's commander a person not in possession of a seaman's book (article 15, para. 1);

(4) If the ship has no name and does not show the name of the port of registration, or if the technical waterborne craft and floating facility have no mark and do not bear the name of the port of registration, or if they show these marks although not having the right to do so (article 197 and 198);

(5) If they salvage sunken things although not entitled to do so (article 803);

(6) If they do not take or do not take within the time given adequate measures or complete the necessary work ordered by the decision of the safety of navigation inspection (articles 187, 188, 189 and 190).

For the offences mentioned in paragraph 1, points (1) to (5), of this article a fine of a pecuniary penalty ranging from 300 to 1,200 DEM in national currency counter-value for the maritime offence shall be imposed also on the responsible person in the commercial company or other legal entity.

#### Article 1024

With a pecuniary penalty in national currency counter-value ranging from 300 to 2,500 DEM and a prison term of up to 60 days shall be punished for the maritime offence the shipmaster of the foreign nuclear ship or the person acting in his stead if the ship enters without permission a Croatian port (article 95, para. 2).

#### Article 1025

With a pecuniary penalty in national currency counter-value of 300 to 2,500 DEM shall be fined for the maritime offence the shipmaster of a foreign ship or the person acting in his stead:

(1) If pilotage is carried out in the internal waters and the territorial sea of the Republic of Croatia (article 103);

(2) If the ship, without the approval of the competent body, engages in the towage that begins and finished in Croatian ports without calling at foreign ports (article 645).

#### Article 1026

A pecuniary penalty in the national currency counter-value ranging from 300 to 2,500 DEM for the maritime offence shall be imposed upon:

(1) The shipmaster of a foreign ship or the person acting in his stead, of a ship carrying more than 2,000 tons of oil if the ship has no insurance certificate or other financial security covering the liability for the damage

caused by oil pollution when entering or leaving a port in the Republic of Croatia or loading or unloading oil in these ports (article 96);

(a) If he does not take or does not take within the given time adequate measures he has been ordered to take by the decision of the safety of navigation inspector;

(2) The shipmaster of the Croatian ship or the person acting in his stead;

(a) If the ship carrying a radio-station does not organize a round-the-clock listening watch in compliance with the radio regulations (article 89);

(b) If he leaves port in a ship with an insufficient number of duly qualified crew members (article 148);

(c) If he does not lead the ship in person when the safety of the ship calls for it, and especially when the ship is entering port, a channel or river or leaving them and in any other case when called for by the safety of the ship and navigation (article 165, para. 2);

(d) If in case of impending danger of war or setting in of a state of war between the Republic of Croatia and another State he does not take every measure that seems imperative with regard to the ship, persons and cargo on board (article 171, paras. 1 and 2);

(e) If in case of the onset of a state of war between other States, in which the Republic of Croatia is a neutral party, the ship happens to be in the port of a belligerent State or heading for the port of a belligerent State or has to pass through the internal waters and territorial sea of a belligerent State he does not ask for instructions from the ship operator, and if this is not possible - from the competent Croatian bodies (article 171, para. 3);

(f) If during the ship's voyage he does not take the necessary measures against the crew member, passenger or other person on board who has committed a criminal offence to prevent or mitigate the occurrence of untoward consequences of the offence and does not call the offender to account (article 177, paras. 1, 2 and 4);

(g) If he does not inform the competent harbourmaster's office of the shortcomings mentioned in article 159, paragraph 1, point (2) (article 150, para. 2);

(h) If he does not take, or does not take within the given time, adequate measures he has been ordered to take by the decision of the safety of navigation inspector (articles 186, 191 and 192).

#### Article 1027

The crew member of the ship or the crew member of the boat who by a breach of his duty prescribed by this Law fails to act in compliance with the rules of navigation and thereby endangers the safety of traffic or damages the ship or the cargo in it or endangers the safety of the passengers aboard or of the other crew members shall be fined for the maritime offence with a pecuniary penalty ranging from 300 to 2,500 DEM in national currency counter-value (article 150).

#### Article 1028

The shipmaster, or the shipmaster of the foreign ship or the person acting in his stead, if the ship coming from abroad communicates with other ships, physical and legal persons on land before he receives *free pratique* from

the competent bodies in the port, shall be fined for the maritime offence with a pecuniary penalty ranging from 300 to 2,500 DEM in national currency counter-value (article 100).

#### Article 1029

The shipmaster or the person acting in his stead shall be fined for the maritime offence with a pecuniary penalty ranging from 300 to 2,500 DEM in national currency counter-value:

- (1) If the ship does not sail within the prescribed limits of navigation or in violation of the prescribed intention, or if he undertakes a voyage for which the ship is not rated as seaworthy (article 110);
- (2) If in violation of the provisions of article 122 of this Law he carries passengers in a ship that is not a passenger ship;
- (3) If in violation of the provisions of article 110, paragraph 1, point (3), of this Law he takes on board a larger number of passengers than the allowed number;
- (4) If he loads and trims the cargo on board in violation of the provisions of article 110, paragraph 1, point (4), of this Law;
- (5) If the ship is not in possession of any of the ship's documents and books mentioned in articles 128 to 135 inclusive of this Law or in the rules passed on the basis of this Law and/or if the data in compliance with article 128, paragraph 2, of this Law are not entered in the ship's books;
- (6) If he refuses to produce the ship's documents and books at the request of the competent bodies (article 130);
- (7) If he fails to perform the boat and other drills with life-saving means and installations for detecting, preventing and fighting fires within the prescribed periods of time (article 174, para. 2);
- (8) If he fails to maintain in working order the machinery, installations and equipment on board or neglects to take care of the safety of the ship's installations for the embarkation and landing of passengers, dangerous and other cargo, and the correct embarkation, accommodation and debarkation of passengers (article 164, para.1);
- (9) If he is not on board during the voyage (article 164, para. 3).

#### Article 1030

The shipmaster or the person acting in his stead shall be fined with a pecuniary penalty ranging from 300 to 2,000 DEM in national currency counter-value for the maritime offence:

- (1) If he signs on as a crew member a person who is not in possession of a seaman's book or permission to sign on (article 153, para.1);
- (2) If every measure taken to save the ship in danger has remained futile and if the loss of the ship in unavoidable he fails to take every measure necessary to save the ship's logbook and if the circumstances of the event permit it, also measures to save other ship's books, ship's papers, sea charts of the voyage in question and cash in the ship's strongbox (article 167);

(3) If in case of an occurrence on board during the voyage endangering the safety of the ship, the towed or pushed ship or the safety of navigation or of an exceptional incident occurring on the ship, the towed or pushed ship, affecting the passengers, other persons or things on board or on the towed or pushed ship, he fails to submit a report together with the extract from the logbook to the competent body in the country or abroad (article 168, paras. 1, 2 and 3);

(4) If he fails to inform the Croatian Register of Shipping or the adequate bodies of the maritime administration of the accidents or defects mentioned in article 170, paragraph 1, points (1) and (2);

(5) If he fails to put on record in the prescribed form the fact of the birth and death and of the receiving of the last will deposition and to submit it to the competent body in the first domestic port, and in a foreign country, to the nearest diplomatic or consular mission of the Republic of Croatia (article 168, para. 5);

(6) If he fails to transmit by radio-communication information of any imminent danger for the safety of navigation he comes across (article 69);

(7) If he fails to submit a report on the criminal offence committed on the ship while in a foreign country to the diplomatic or consular mission of the Republic of Croatia in the country at whose port the ship first calls after the criminal offence has been committed, or if he fails to deal with the perpetrator of the criminal offence in compliance with the instructions of that diplomatic or consular mission (article 177, para. 3);

(8) If he fails to report the arbitrary abandonment in a foreign country of the crew member who is a citizen of the Republic of Croatia to the body mentioned in article 178 of this Law;

(9) If he fails to enter in the ship's logbook within the given time and in the prescribed form the description of the events, actions and measures taken that he is obliged to record in the ship's logbook (article 168, paras. 2 and 4, article 169, para. 2, article 174, para. 3, article 176, para. 2, article 177, para. 5, and article 178, para.3);

(10) If he fails to enter in the ship's logbook the reasons why he had neglected to go to the assistance of persons in danger and to undertake their salvage, or the reasons why he has failed to undertake the salvage of the ship and things on board (article 779);

(11) If he fails, although he has been able to do so, to make known to the ship in collision with the ship under his command, the name of the last port from which he has sailed and the name of the port he is bound for (article 770).

#### Article 1031

The crew member of the ship shall be fined for the maritime offence with a pecuniary penalty ranging from 300 to 2,000 DEM in national currency counter-value if he dumps overboard on the navigable waterway things or materials that may obstruct or endanger navigation or present danger from pollution (article 99, para. 2).

Article 1032

A person shall be fined for maritime offence:

- (1) With a pecuniary penalty ranging from 300 to 2,500 DEM in national currency counter-value:
  - (a) Who as the contractor of the ship commits the offence mentioned in article 1037, paragraph 1, Point (3), of this Law;
  - (b) Who as the shipowner commits the offence mentioned in article 1023, paragraph 1, Point (5), of this Law;
  - (c) Who commits the offence mentioned in article 1023, para. 1, point (2) of this Law;
- (2) With a pecuniary penalty ranging from 300 to 2,500 DEM in national currency counter-value:
  - (a) Who as the shipowner commits the offence mentioned in article 1023 , points (1), (3) and (4), of this Law;
  - (b) If he commits the offence mentioned in article 1018 of this Law.

Article 1033

In addition to the penalty for the maritime offence mentioned in article 1026, point (2) (a), article 1027 and article 1022 of this Law the crew member of the ship or boat may as a precautionary measure be suspended from performing all or some of the jobs covered by his certificate on any ship, for the duration of two years.

Article 1034

In addition to the penalty prescribed for the maritime offence mentioned in article 1014, point (9), the foreign legal person shall be subjected to the precautionary measure of confiscation of the ship, catch and fishing gear and equipment used in fishing or catching seabed inhabitants:

- (a) If the same offence had before been committed by the same ship and for which offence the competent body in the Republic of Croatia has pronounced a penalty, or if the shipmaster has during the past five years been punished for the same offence;
- (b) If the fishing or catching of other animals in the sea or on the seabed is carried out by means of the fishing gear and equipment for fishing or catching other animals in the sea and on the seabed the use of which is prohibited or restricted by the Croatian regulations;
- (c) If the fishing or catching of other animals in the sea or on the seabed is carried out in the fishing reservation or if kinds of fish or other animals in the sea or on the seabed are being caught during the close season for that kind of animals;
- (d) If the shipmaster or crew member of the ship ignores the order of the body of the Republic of Croatia

authorized to stop the ship, offers active resistance to the bodies carrying out the inspection of the ship, or by some other action endangers the life of people or property.

#### Article 1035

The legal person shall be fined with a penalty ranging from 650 to 19,000 DEM in national currency counter-value:

(1) If they explore or exploit the natural or other resources of the economic zone or continental shelf of the Republic of Croatia in a way that it unjustifiably obstructs navigation, fishing, protection of the resources of the sea or basic oceanographic or other scientific research work of public interest (article 45, para. 1);

(2) If they, contrary to the conditions envisaged by this Law or the rules brought in on the basis of this Law, explore or exploit the natural resources and other resources in the economic zone or continental shelf of the Republic of Croatia (article 46);

(3) If they fail to mark with the permanent prescribed lights or other signals the equipment and installations erected in the economic zone or continental shelf of the Republic of Croatia for the purpose of exploring or exploiting the natural and other resources, or fail to remove these installations and equipment when they cease to be employed or exploited for the purpose for which they have been built, or if they fail to make known in due time the necessary data concerning them (article 46);

(4) If they fail to take adequate measures for the protection of the sea, or of the seabed and marine environment from noxious waste when exploring or exploiting the natural and other resources in the economic zone or continental shelf of the Republic of Croatia and in the safety zones established around the equipment and installations for exploring and exploiting the natural and other resources in these areas (article 42);

(5) If they install the equipment or installations for the exploration or exploitation of the natural or other resources in the economic zone or continental shelf of the Republic of Croatia in places where they could impede the use of the recognized international navigable waterway (article 39).

For the offences mentioned in paragraph 1 of this article shall be fined also the responsible person in the legal entity with a pecuniary penalty ranging from 650 to 1,200 DEM in national currency counter-value.

#### Article 1036

The commercial company or other legal person shall be fined with a pecuniary penalty ranging from 650 to 19,000 DEM in national currency counter-value:

(1) If they fail to organize the control of the work intended to provide for the safety of navigation (article 82, point (1));

(2) If they fail to ensure the permanent control intended to provide for the safety of navigation (article 82, point (2));

(3) If they fail to remove from the navigable waterway at the request of the competent body the damaged, stranded or sunken waterborne craft obstructing or endangering the safety of navigation or presenting potential danger from pollution (article 99, para. 1).

For the offences mentioned in paragraph 1 of this article shall be fined also the responsible person in the commercial company or other legal entity with a pecuniary penalty ranging from 300 to 1,200 DEM in national currency counter-value.

Article 1037

The commercial company or other legal entity shall be fined for the offence with a pecuniary penalty ranging from 500 to 15,000 DEM in national currency counter-value:

- (1) If they fail to keep records of the prescribed data important for the safety of navigation (article 82, point (3));
- (2) If they fail to maintain the port in a condition ensuring safe navigation (article 92);
- (3) If they fail to submit for approval the technical documentation on the basis of which the ship is being built or reconstructed (article 112).

For the offences mentioned in paragraph 1 of this article shall be fined also the responsible person in the commercial company or other legal entity with a pecuniary penalty ranging from 300 to 1,200 DEM in national currency counter-value.

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**PART THIRTEEN**  
**AUTHORIZATIONS; TRANSITIONAL AND FINAL PROVISIONS**

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Article 1038

If after entry into force of the Law on the Maritime and Water Estate Public Demesne, Ports and Harbours (Official Gazette/" Sluzbeni list" Nos. 19/74, 30/75, 17/77 and 18/81) proprietary law or other proprietary interest in the maritime demesne existed, the person who had acquired that interest on account of a valid legal title and manner of acquiring it and that interest still obtained on the day of entry into force of this Law, the competent public legal officer shall institute proceedings to the expropriation of property in the facility in question, on the understanding that the former owner shall obtain the right of using the facility on the strength of the concession without paying compensation for the period when the amount of the established compensation for the use of the maritime demesne has reached the amount of compensation for the expropriated ownership of the facility.

The provision of the preceding article shall not apply to facilities of cultural, humanitarian, religious, historical or other public significance. The part of the maritime demesne in which these facilities are located shall be excluded by the decision of the Government of the Republic of Croatia from public use as maritime demesne to the extent which limits the public use of the neighbouring parts of the maritime demesne in the slightest degree.

If the owner of a certain maritime demesne or holder of a proprietary interest in the maritime demesne is not in a position to prove a rightful title and manner of acquiring it, the competent legal officer shall through regular court proceedings demand the estate in question to be declared maritime demesne. This person shall have no claim

on compensation for damage and may remove the new facilities and buildings constructed if this is by the nature of things possible to do without damaging the maritime demesne.

#### Article 1039

After the entry into force of this Law the County Office for Maritime Affairs on whose territory the maritime demesne is situated shall publish three times in the official gazettes and in the major daily papers, as well as on the notice boards in the Communes on whose territory the maritime demesne is situated, an invitation addressed to every user of the maritime demesne who has acquired this right according to the Law on the Maritime and Water Estate Public Demesne, Ports and Harbours (Official Gazette/"Narodne novine" Nos. 19/74, 39/75, 17/77 and 18/81) to report within six months from the date of the third notice in the Official Gazette the decision on the right of the maritime demesne utilization.

The decision on the right of the maritime demesne utilization that has not been reported in due time shall be no longer in force.

The concessionaire who reports the decision as mentioned in paragraph 1 of this article shall submit proof of the acquired right of maritime demesne utilization, its extent and legal title of the acquisition. If the concessionaire fails to produce valid proof he shall be considered as not having acquired the right of maritime demesne utilization.

The lessor (i.e. authority) granting concession for the use of the maritime demesne shall exchange the decision on the right of maritime demesne utilization for a decision and agreement concerning the concession in compliance with this Law.

#### Article 1040

The decision on the right of maritime demesne utilization issued before the entry into force of this Law offending the provisions of the special rules on the protection of the environment shall cease to be valid after a period of two years according to the programme worked out in a year's time from the entry into force of this Law by the Ministry. The buildings erected on the basis of this decision shall be removed from the maritime demesne at the expense of the income realized from the royalties for the concessions.

#### Article 1041

The Government of the Republic of Croatia, besides the authorization to pass regulations in compliance with the provisions of this Law, shall regulate within a year's time from the day of entry into effect of this Law:

- (1) The conditions for the arrival and stay of foreign yachts and boats intended for pleasure and sports in the internal waters and territorial sea of the Republic of Croatia;
- (2) The access to, passage through and stay of foreign warships and exploration ships in the internal waters and territorial sea of the Republic of Croatia;
- (3) The conditions to be complied with by the ports;
- (4) The status of the ports, or part of the port, intended for international traffic or exclusively for military



requirements and their limits.

Article 1042

The Parliament of the Republic of Croatia shall decide on the declaration of the economic zone of the Republic of Croatia.

The provisions of article 33 to article 42 of this Law shall apply when the Parliament of the Republic of Croatia has made the decision mentioned in paragraph 1 of this article.

Article 1043

The Minister in the Ministry competent for maritime affairs, besides the authorization to make the rules envisaged in this Law, shall within three years from the day of entry into force of this Law make regulations relating to:

- (1) The minimum number of crew members required for safe navigation obligatory on seagoing ships of the mercantile marine of the Republic of Croatia;
- (2) The display and flying of the flag of the mercantile marine of the Republic of Croatia;
- (3) The marks on the navigable waterways and internal waters and the territorial sea of the Republic of Croatia;
- (4) The qualifications, occupations, conditions and ways of obtaining certificates of crew members of the mercantile marine of the Republic of Croatia;
- (5) The special certificates of the crew members on board the ships of the mercantile marine of the Republic of Croatia and the examination programme to obtain these certificates;
- (6) The prevention of collisions at sea;
- (7) The registry of ships in the appropriate register books, with the data to be entered in sheet A of the main ship register, the set of documents, auxiliary books kept in connection with the ship register books and specimen forms of these documents and books;
- (8) The documents and books that shall be in possession of the ships of the mercantile marine of the Republic of Croatia, the conditions and manner of their issuing, the contents and forms and manner of entering data in these documents and their record-keeping;
- (9) The giving of names and identity marks of the ships and record-keeping of the ships' names;
- (10) The seamen's discharge books and approvals to sign on;
- (11) The performance of the trial trip;
- (12) The investigation of ship accidents;
- (13) The trade category of seagoing ships;

- (14) Compulsory pilotage in designated areas of the internal waters and territorial sea of the Republic of Croatia;
- (15) The ban on navigation in the Pelješac and Kolocep channels and parts of the Srednji kanal, the Murter sea and Žirjanski kanal;
- (16) The conditions to be complied with by the commercial company engaging in the business of pilotage;
- (17) The qualifications, certificates and other conditions and obligations to be complied with by the pilot;
- (18) The pilot's identification mark;
- (19) The manner of marking pilot ships and boats and the pilotage signal letters;
- (20) The amount of pilotage fees;
- (21) The qualification, examination and other conditions to be complied with by the safety of navigation inspector;
- (22) The manner of the entering of boats in the boat record book, or the boat registration form, conditions and manner of ascertaining the seaworthiness of boats and the manner of designating the name and mark of boats;
- (23) The examination of vocational ability and issuing of certificates to crew members of mercantile marine ships;
- (24) The setting up and marking of pontoon bridges and conditions of navigation through the openings in these bridges;
- (25) The procedure in case of childbirth or death, discovery of abandoned newborn child, last will and testament taking and procedure with the property of the deceased on shipboard;
- (26) Navigation in entering the port of Šibenik, passing the Pašman Strait, Mali Ždrelac and Vela Vrata, and the Marlera Cape region;
- (27) The navigation on the Neretva and Zrmanja rivers;
- (28) The competency of harbourmasters' offices in the matter of issuing seamen's books;
- (29) The competency of harbourmasters' offices in the matter of the registry of ships;
- (30) The minimum number of qualified workers manning the floating facilities on the sea;
- (31) The conditions and manner of maintaining order in the ports and other parts of the internal waters and territorial sea of the Republic of Croatia and limits of navigation of ships and boats outside the ports;
- (32) The kinds of bathing sea beaches and the conditions they have to comply with;
- (33) The criteria for determining the amount of port dues;
- (34) The performance of the meteorological service on seagoing ships;
- (35) Navigation on the territorial sea and internal waters of the Republic of Croatia;

(36) The discharge of duties and watchkeeping of the crew members in seagoing ships of the mercantile marine of the Republic of Croatia;

(37) The safety of navigation and protection of human life at sea;

(38) The engagement in underwater activities in the internal waters and territorial sea of the Republic of Croatia;

(39) The amount of the charges for issuing to foreign waterborne craft approval for engaging in coastal trade in the internal waters and territorial sea of the Republic of Croatia;

(40) The conditions under which and manner in which to undertake the loading and unloading of dangerous materials, bulk and other cargoes in ports and the manner of preventing the diffusion of spilled oil;

(41) The conditions for the engagement in shipping agency activities;

(42) The conditions under which foreign physical and legal persons may engage in exploration, examination, photographing and surveying the sea, seabed or marine subsoil of the internal waters and territorial sea of the Republic of Croatia;

(43) The conditions under which foreign physical and legal persons may engage in scientific research work in the economic zone of the Republic of Croatia;

(44) The amount of compensation for the safety of navigation paid by foreign yachts and boats intended for pleasure or sports.

#### Article 1044

The Minister in the Ministry competent for maritime affairs shall in agreement with the Minister of Defence within a year's time from the entry into force of this Law pass regulations:

(1) Relating to the use of navigable waterways by foreign warships, foreign tankers, foreign nuclear ships and other foreign ships carrying nuclear or other dangerous or noxious materials during innocent passage through the territorial sea of the Republic of Croatia.

The Minister in the Ministry competent for maritime affairs shall in agreement with the Minister or Defence, the Minister of the Interior, the Minister of Agriculture and Forestry and the Minister of Health pass:

(1) Regulations relating to the handling of dangerous materials in ports and harbours.

The Minister of Agriculture and Environmental Protection in agreement with the Minister shall pass:

(1) Regulations relating to the dumping of waste materials into the sea.

#### Article 1045

Within two years' time from the entry into force of this Law in agreement with the Minister in the Ministry competent for maritime affairs,

(1) The Minister of Health shall pass:

(a) Regulations relating to the establishment of conditions of physical fitness of crew members of seagoing ships;

(b) Regulations relating to the minimum equipment and content of the ship's dispensary.

(2) The Minister of the Interior shall issue:

(a) The decree relating to the establishment of prohibited zones in the Croatian internal waters.

The Government of the Republic of Croatia shall make a plan of interventions in case of sudden pollution of the sea in the Republic of Croatia.

#### Article 1046

The Minister in the Ministry competent for maritime affairs shall designate in the regulations mentioned in articles 1043, 1044 and 1045 the maritime offences and prescribe fines for these offences.

#### Article 1047

Boats permitted to carry more than 12 passengers entered in the boat record book before the entry into force of this Law shall be registered in the register of ships within three years from the day of entry into force of this Law.

#### Article 1048

Before the enactment of the regulations mentioned in articles 1041, 1043, 1044 and 1045 of this Law, if they are not in contradiction with the provisions of this Law, the following enactments shall remain in force for seagoing navigation:

(1) Regulations relating to the conditions to be satisfied by the ports or harbours open to international traffic and the navigable waterways subject to the international regime or bilateral regime of navigation (Official Gazette No. 53/91);

(2) Regulation relating to the arrival and stay of foreign yachts and boats intended for pleasure and sports on the coastal sea, rivers and lakes of the Republic of Croatia (Official Gazette No. 31/92);

(3) Regulations relating to the access, passage and stay of foreign warships and research ships in the coastal sea (Official Gazette No. 52/91);

(4) The decision relating to the designation of ports and harbours open to international traffic (Official Gazette no. 53/91);

(5) Regulations relating to the minimum number of crew members necessary for safe navigation obligatory for seagoing ships of the mercantile marine of the Republic of Croatia (Official Gazette No. 34/92);

(6) Regulations relating to the exhibition and display of the national colours of the mercantile marine of the Republic of Croatia and the display of identification marks on the seagoing ships of the mercantile marine of the Republic of Croatia (Official Gazette no. 16/92);

(7) Regulations relating to the marks on the navigable waterways in the coastal sea (Official Gazette No. 53/91);

(8) Regulations relating to the occupations, conditions for acquiring occupations and certificates of the crew members of the mercantile marine (Official Gazette No. 53/91);

(9) Regulations relating to special certificates of crew members of seagoing ships and the examination programme for acquiring special certificates (Official Gazette No. 53/91);

(10) Regulations relating to the prevention of collisions at sea (Official Gazette No. 53/91);

(11) Regulations relating to the registration of ships in specified register books, data to be entered in sheet A of the main ship register book, set of documents, auxiliary books kept in connection with the ship registers and blank forms of these documents and books (Official Gazette No. 53/91);

(12) Regulations relating to the content, blank forms and manner of keeping the ships' books and documents in the mercantile marine (Official Gazette No. 53/91);

(13) Regulations relating to the name, marks and identity signs of ships and recording of the names of ships (Official Gazette No. 53/91);

(14) Regulations relating to the seamen's books, continuous discharge books and approvals to sign on (Official Gazette No. 53/91);

(15) Regulations relating to the trial trips of ships (Official Gazette No. 53/91);

(16) Regulations relating to investigations of ships' accidents (Official Gazette No. 53/91);

(17) Regulations relating to the qualifications and other conditions to be complied with by the pilot of seagoing pilotage (Official Gazette No. 31/74);

(18) Regulations relating to the mark and identity sign of the pilot of seagoing pilotage (Official Gazette No. 31/74);

(19) Regulations relating to the vocational examination for the safety of navigation inspector (Official Gazette No. 2/81);

(20) Regulations relating to the boats (Official Gazette Nos. 39/91 and 76/92);

(21) Regulations relating to the vocational examinations and issuing of certificates to the crew members of mercantile marine ships (Official Gazette No. 11/84);

(22) Regulations relating to the setting up and marking of pontoon bridges and conditions of navigating through the openings in these bridges (Official Gazette Nos. 41/80, 10/89, 18/90);

(23) Regulations relating to the procedure in case of childbirth or death, discovery of abandoned newborn child, receiving of last will and testament and procedure with the property of the deceased on shipboard (Official Gazette No. 41/80);

- (24) Regulations relating to the minimum number and kind of installations and equipment obligatory for floating facilities on the sea and on internal waters (Official Gazette No. 11/70);
- (25) Regulations relating to the minimum number of qualified workers on floating facilities on the sea and internal waters (Official Gazette Nos. 11/70, 15/70);
- (26) Regulations relating to the maintenance of law and order in ports and harbours and in other parts of the coastal sea and internal navigable waterways (Official Gazette Nos. 23/75, 31/84, 10/89, 18/90);
- (27) Regulations relating to the handling of dangerous materials in ports and harbours (Official Gazette Nos. 2/82, 55/85);
- (28) Regulations relating to the establishment and keeping of the maritime demesne land register (Official Gazette No. 1/76);
- (29) Decree relating to the trade categories of seagoing ships (Official Gazette No. 53/91);
- (30) Decree relating to compulsory pilotage in certain areas of the coastal sea (Official Gazette No. 53/91);
- (31) Decree relating to the navigation ban in the Pelješac and Koločep channels and parts of the Srednji kanal and the Murter Sea and Žirjanski kanal (Official Gazette No. 53/91);
- (32) Decree relating to the manner of marking pilot ships and boats and to the pilotage call sign (Official Gazette No. 31/74, 18/90);
- (33) Decree relating to the navigation in the Šibenik port entrance, in the Pašman Strait, Mali Ždrelac and Vela Vrata passages, and in the Marlera cape region (Official Gazette Nos. 47/79, 10/89, 18/90);
- (34) Decree relating to the navigation on the Neretva, Zrmanja and Sava rivers (Official Gazette Nos. 25/80, 21/85, 10/89, 18/90);
- (35) Decree relating to the competency of harbourmasters' offices or their branch offices for issuing of seamen's books or discharge books (Official Gazette No. 43/81);
- (36) Decree relating to the competency of harbourmasters' offices or their branch offices for the registration of ships (Official Gazette No. 43/81);
- (37) Decree relating to the use of navigable waterways by foreign warships, foreign tankers, foreign nuclear ships and other foreign ships carrying dangerous or noxious materials during innocent passage through the territorial sea (Official Gazette No. 53/91);
- (38) Decree relating to the establishment of prohibited zones in Croatian internal waters (Official Gazette No. 53/91);
- (39) Instruction relating to the keeping of records of floating facilities and of the floating facilities safety certificate blank form (Official Gazette No. 12/70).

Article 1049

The documents and books issued on the basis of the technical survey made before the entry into force of

this Law to ships on behalf of the Republic of Croatia by the Croatian Registry of Ships shall remain in force not more than up to the expiry of their validity.

Article 1050

Up to the beginning of the application of the Law on Commercial Companies (Official Gazette No. 111/93) the provisions of this Law on Commercial Companies shall refer to the companies established according to the provisions of the Law on Enterprises (Official Gazette Nos. 53/91, 58/93).

Article 1051

The provisions of this Law from article 267 to article 404 shall begin to be applied one year after the entry into force of this Law.

Up to the beginning of the application of the provision mentioned in paragraph 1 of this article, the provisions of article 239 to article 377 of the Law on Seagoing and Inland Navigation shall be applied.

Article 1052

The provisions of article 1018 to article 1022 of the Law on Seagoing and Inland Navigation shall be applied up to the entry into force of the Penal Law of the Republic of Croatia.

Article 1053

On the day of entry into force of this Law the validity shall terminate of the:

- (1) Law on the Coastal Sea and Continental Shelf (Official Gazette No. 53/91);
- (2) Law on the Maritime Demesne and Water Resources, Ports and Harbours (Official Gazette Nos. 9/74, 39/75, 17/77, 18/81) in the part referring to the maritime demesne and excluding articles 67, 68, 69, 71, 73, 76, 77, 79, whose validity shall terminate with the enactment of the relevant pieces of legislation mentioned in article 1043 of this Law;
- (3) Law on Seagoing and Inland Navigation (Official Gazette No. 53/91) in the part referring to seagoing navigation;
- (4) Pilotage Law (Official Gazette No. 15/74) with the exception of article 4, paragraphs 2 and 3, article 6, article 7, article 8, article 9, article 10, article 11, article 12, article 13, article 14, article 15, article 16, article 17 and article 18, which shall terminate with the enactment of the relevant pieces of legislation mentioned in article 1043 of this Law. The legal and physical persons engaged in seagoing pilotage up to the entry into force of this Law may continue to engage in this activity up to the time of the enactment of the relevant by-laws mentioned in article 1043 of this Law;
- (5) Law on the Safety of Navigation on the Sea and on Inland Waters (Official Gazette No. 55/90 - revised text) with the exception of article 13, article 17, article 18, article 19, article 20, article 21, article 22, article 23,

article 24, article 40, paragraphs 2, 3, 4 and 5, article 42, article 43, article 44, article 45, article 46, article 51, paragraph 3 and 4, article 53, article 54, article 55, article 56, article 57, article 58 and article 59, the validity of which shall terminate with the enactment of the relevant pieces of legislation mentioned in article 1043 of this Law;

(6) Law relating to the Establishment of Seaworthiness of Floating Facilities on the Sea and on Inland Waters (Official Gazette No. 18/69), with the exception of article 15, article 16, article 17 and article 18, the validity of which shall terminate with the enactment of the relevant pieces of legislation mentioned in article 1043 of this Law;

(7) Article 12 of the Law relating to the Designation of Activities included in the Self-governing Sphere of Action of Local Self-government and Administration Units (Official Gazette No. 75/93).

The validity of the other provisions of the Law mentioned in paragraph 1, points (2) to (7), of this article shall terminate with the enactment of the relevant by-laws in compliance with article 1043 of this Law.

#### Article 1054

Article is erased (see Narodne Novine, i.e. Official Gazette of the Republic of Croatia, No. 74/94).

#### Article 1055

To the relations having originated before the entry into effect of this Law the regulations that have been in force at the time of the beginning of these relations shall apply if not provided otherwise by this Law.

#### Article 1056

This Law shall come into force within 15 days from the day of its publication in the Official Gazette.

Class: 342-01/93-01/04

Zagreb, 27 January 1994

Chamber of Deputies of the Parliament  
of the Republic of Croatia

Chairman of the Chamber of Deputies  
of the Parliament

Stjepan Mesic, m.p.



## Endnotes

### 1 (Popup - Popup)

<sup>2</sup>

Note by the editor: Article 1042 of the Maritime Code (to be published in Bulletin 43) stipulates: "The Parliament of the Republic of Croatia shall decide on the declaration of the economic zone of the Republic of Croatia. The provisions of articles 33 up to article 42 of this Law shall apply when the Parliament of the Republic of Croatia has made the decision mentioned in paragraph 1 of this article."