

Part XV A of The Merchant Shipping (Amendment) Act, 1998

Act No. 9 of 1998

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435A. Application of Part-- Save as otherwise provided, this Part applies to every Indian fishing boat.

435B. Definition-- For the purposes of this Part, "Indian fishing boat" means--

- (a) every fishing vessel, as defined in clause (12) of section 3;
- (b) every sailing vessel, whether or not fitted with mechanical means of propulsion, solely engaged in fishing for profit;
- (c) every boat or craft of any other type used solely for fishing which the Central Government may, by notification in the Official Gazette, specify to be a fishing boat for the purposes of this section,

which is owned wholly by persons to each of whom any of the descriptions specified in clause (a) or in clause (b) or in clause (c), as the case may be, of section 21 applies or which satisfies such other requirements as the Central Government may, by notification in the Official Gazette, specify.

435C. Obligation to register-- Every Indian fishing boat shall be registered under this Part.

Provided that any Indian fishing boat registered at the commencement of this Part under Part V or Part XV of this Act or any other law for the time being in force in India shall be deemed to have been registered under this Part.

Provided further that every Indian fishing boat so deemed to have been registered shall be re-registered under this Part within such period from the commencement of this Part as the Central Government may, by notification in the Official Gazette, specify.

Provided also that registration of non-mechanised sailing vessels will commence in different parts on such dates as the Central Government may, by notification in the Official Gazette, specify.

435D. Port of registry-- (1) The ports at which registration of Indian fishing boats shall be made shall be such ports or places in India as the Central Government may, by notification in the Official Gazette, declare to be ports or places of registry under this Part.

(2) The port or place at which an Indian fishing boat is registered for the time being under this Part, shall be deemed to be her port or place of registry and the port or place to which she belongs.

435E. Registrars of Indian fishing boats-- The Central Government may, by notification in the Official Gazette, appoint an officer to be registrar of Indian fishing boats (hereafter in this Part referred to as registrar) at every port or place declared as a port or place of registry under sub-section (1) of section 435D.

435F. Application for registry-- An application for the registry of an Indian fishing boat shall be made--

- (a) in the case of an individual, by the person requiring to be registered as owner or by his agent;
- (b) in the case of more than one individual requiring to be so registered, by one or more of the persons so requiring or by his or their agent or agents, as the case may be; and
- (c) in the case of a company or a co-operative society requiring to be so registered, by its agents;

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and the authority of the agent shall be testified in writing, if appointed by an individual under the hand of the person appointing him and, if appointed by a company or a co-operative society under its common seal.

435G. Certificate of registry-- (1) The owner of every Indian fishing boat required to be registered under this Part shall make an application in the prescribed form to the registrar for the grant to him of a certificate of registry in respect of the fishing boat.

(2) The owner of every Indian fishing boat in respect of which an application under sub-section (1) is made, shall cause the tonnage of the fishing boat to be ascertained in the prescribed manner.

(3) The registrar may make such inquiry as he thinks fit with respect to the particulars contained in such application shall enter in a register to be kept for the purpose (hereinafter referred to as fishing boats register) the following particulars in respect of the Indian fishing boat, namely:--

(a) the name of fishing boat, the place where she was built and the port to which she belongs;

(b) the rig, type and tonnage of the fishing boat;

(c) the number assigned to the fishing boat;

(d) the name, occupation and residence of the owner of the fishing boat;

(e) the mortgages, if any, effected by the owner in respect of the fishing boat; and

(f) such other particulars as may be prescribed.

(4) After the particulars in respect of the Indian fishing boat have been entered in the fishing boats register under sub-section (3), the registrar shall grant to the applicant a certificate of registry in the prescribed form.

(5) The owner of every Indian fishing boat shall pay for each certificate of registry a fee according to such scale as may be prescribed by the Central Government having regard to the tonnage of the fishing boat, but in no case exceeding one rupee per ton of its gross tonnage.

(6) An Indian fishing boat required to be registered under this Part but not so registered may be detained by a proper officer until the owner, skipper, tindal or other person in charge of the fishing boat produces a certificate of registry in respect of the fishing boat.

435H. Particulars relating to Indian fishing boats to be painted-- The owner of every Indian fishing boat so registered shall, before commissioning the fishing boat into service, paint or cause to be painted permanently in the prescribed manner on some conspicuous part of the fishing boat, the name by which the fishing boat has been registered, the number assigned to the fishing boat by the registrar and the port or place to which she belongs, and shall take all steps to ensure that the fishing boats remains painted as required by this section.

435I. Change of name of Indian fishing boat-- A change shall not be made in the name of an Indian fishing boat registered under this Part except in accordance with rules made in this behalf.

435J. Special provision for Indian fishing boats-- Every Indian fishing boat registered under this Part shall carry on board such life saving appliances and fire appliances as are prescribed by rules made under section 288, 289 and 457

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or under any other provision of this Act, subject to such exemptions as may be specially granted in respect of such fishing boat.

435K. Certificate of inspection-- (1) No Indian fishing boat shall ply or proceed to sea unless there is in force in respect of that fishing boat a certificate of inspection granted under this Part.

(2) A certificate of inspection in respect of an Indian fishing boat shall specify--

- (a) the name and tonnage of the fishing boat;
- (b) the name of skipper, tindal or other person in charge of the fishing boat;
- (c) the maximum number of members of crew the fishing boat is certified to carry;
- (d) the safety equipments and appliances the fishing boat is required to carry on board;
- (e) such other matters as the Central Government may think fit to specify.

and shall contain a statement to the effect that her hull, rigging, equipment and machinery where fitted are in good condition.

(3) Every certificate of inspection shall be in force from the date of issue for a period of one year or for such shorter period as may be specified therein.

Provided that when an Indian fishing boat is at sea at the time of expiry of the certificate, the certificate shall continue to be valid until her first arrival at a port or place in India.

435L. Cancellation, re-issue etc. Of certificate of inspection-- (1) Where at any time subsequent to the issue of a certificate of inspection in respect of an Indian fishing boat, the registrar has reason to believe that the fishing boat is not fit to proceed to sea, he may, after giving the owner an opportunity of making a representation, cancel such certificate.

(2) Where at any time subsequent to the issue of a certificate of inspection an Indian fishing boat has undergone material alteration or has met with accident or, where the certificate of inspection has been cancelled under sub-section (1) and the application is made for the re-issue of such certificate or for the grant of a fresh certificate, the registrar may, before re-issuing the certificate or issuing a fresh certificate, as the case may be, cause such fishing boat to be inspected; and if the authority inspecting the fishing boat reports that she is not fit to proceed to sea or that her hull, rigging or equipment are defective, such certificate shall not be reissued or issued until the fishing boat is, in the opinion of such authority, fit to proceed to sea or the defect is rectified to the satisfaction of that authority.

435M. Inspection of safety equipments and appliances-- (1) Any surveyor appointed under section 9, any registrar appointed under section 435E or any other officer appointed by the Central Government in this behalf by notification in the Official Gazette may at any reasonable time inspect any Indian fishing boat for the purpose of seeing that she is properly provided with safety equipments and appliances in conformity with the rules referred to in section 435J.

(2) If the surveyor, or, as the case may be, the registrar or other officer appointed under sub-section (1) finds that the Indian fishing boat is not provided with the aforesaid equipments and appliances, he shall give to the owner, skipper or tindal or any other person in charge of the fishing boat a notice in writing pointing

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out the deficiency and also what in his opinion is requisite to remedy the said deficiency.

(3) No Indian fishing boat served with a notice under sub-section (2) shall proceed to sea until it obtains a certificate signed by the surveyor, registrar or other officer appointed under sub-section (1) to the effect that it is properly provided with safety equipments and appliances in conformity with the aforesaid rules.

435N. Registration of alteration-- When an Indian fishing boat is so altered as not to correspond with the particulars relating to her entered in the certificate of registry, the owner of such fishing boat shall make a report of such alterations to the registrar of the port or place where the fishing boat is registered, and the registrar shall either cause the alterations to be registered, or direct that the fishing boat may be registered anew, in accordance with such rules as may be made in this behalf.

435O. Transfer of registry-- The registry of an Indian fishing boat may be transferred from one port or place to another port or place in India on the application of the owner of the fishing boat, in accordance with such rules as may be made in this behalf.

435P. Closure of registry-- If an Indian fishing boat is lost, destroyed or rendered permanently unfit for service, the owner of such fishing boat shall, with the least possible delay, report the fact to the registrar of the port or place where the fishing boat is registered and also forward to him certificate of registry in respect of the fishing boat; and thereupon the registrar shall have the registry of the fishing boat closed.

435Q. Restriction on transfer of Indian fishing boats-- No person shall transfer or acquire any Indian fishing boat registered under this Part or any interest therein without the previous approval of the Central Government; and any transaction effected in contravention of this section be void and unenforceable.

435R. Mortgage of Indian fishing boats-- (1) Every mortgage of an Indian fishing boat or any interest therein effected after the date on which this Part comes into force shall be registered with the registrar.

(2) Every mortgage of an Indian fishing boat or any interest therein effected before the date on which this Part comes into force shall, if subsisting on that date, be registered with the registrar within three months from that date.

(3) The registrar shall enter every such mortgage in the fishing boats register in the order in which it is registered with him.

(4) If there are more mortgages than one recorded in respect of the same Indian fishing boat or interest therein, the mortgages shall, notwithstanding any express, implied or constructive notice, have priority according to the date on which each mortgage is registered with the registrar and not according to the date of each mortgage itself.

Provided that nothing contained in this sub-section shall effect the relative priorities as they existed immediately before the date on which this Part comes into force as between mortgages of the same fishing boat or interest therein

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effected before such date which are registered in accordance with the provisions of sub-section (2).

435S. Fraudulent use of certificate of registry or certificate of inspection, etc., prohibited-- (1) No person shall use or attempt to use the certificate of registry of the certificate of inspection granted in respect of an Indian fishing boat for any purpose other than the lawful operation of that fishing boat.

(2) No person shall use or attempt to use for the operation of an Indian fishing boat, a certificate of registry or a certificate of inspection not granted in respect of that fishing boat.

(3) No person who has in his possession or under his control the certificate of registry or the certificate of inspection of an Indian fishing boat shall refuse or omit without reasonable cause to deliver such certificate on demand to the owner of the fishing boat.

435T. Statement relating to crew of Indian fishing boat to be maintained-- (1) Every owner, sipper, tindal or other person in charge of a mechanised Indian fishing boat of 25 registered tons and above shall maintain or cause to be maintained in the prescribed form a statement of the crew of the fishing boat containing the following particulars with respect to each member thereof, namely:--

- (a) his name;
- (b) the wages payable to him;
- (c) the names and addresses of his next-of-kin;
- (d) the date of commencement of his employment ; and
- (e) such other particulars as may be prescribed.

Provided that the Central Government may, if it is of opinion that it is necessary or expedient so to do, and for reasons to be recorded in writing, exempt, by general or special order, any Indian fishing boat or class of Indian fishing boats from the provisions of this sub-section.

(2) Every change in the crew of the Indian fishing boat shall be entered in the statement under sub-section (1).

(3) A copy of such statement and of every change entered therein shall be communicated as soon as possible to the registrar of the port or place or registry of the Indian fishing boat concerned.

435U. Power to make rules respecting Indian fishing boats-- (1) The Central Government may make rules to carry out the provisions of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: --

- (a) the form in which applications for certificates of registry shall be made and the particulars which such applications should contain;
- (b) the manner in which tonnage of an Indian fishing boat shall be ascertained;
- (c) the form in which fishing boats register shall be maintained;
- (d) the forms in which certificates of registry and certificates of inspection may be issued;
- (e) the fees which may be levied for the issue of the re-issue of certificates of registry or certificates of inspection and for all other purposes of this Part;

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- (f) the manner in which the name, number assigned to the Indian fishing boat and name of the port or place to which she belongs shall be painted;
- (g) the manner in which any change may be made in the name of an Indian fishing boat;
- (h) any exemption from the requirements relating to carriage of safety equipment and appliances by an Indian fishing boat that may be specially granted under section 435J in respect of such fishing boat;
- (I) the manner in which alterations in Indian fishing boats shall be reported and applications for the registry of such alterations in the certificates of registry of Indian fishing boats shall be made, the endorsement of the particulars of alterations on the certificates of registry, the grant of provisional certificates in cases where Indian fishing boats are directed to be registered anew, cases in which Indian fishing boats shall be registered anew, the period for which provisional certificates shall be valid and all other matters ancillary to the registry of alterations;
- (j) the manner in which registry of an Indian fishing boat may be transferred from one port or place in India to another port or place in India;
- (k) the form in which statement of members of crew of an Indian fishing boat may be maintained;
- (l) any other matter which has to be or may be prescribed.

435V. Application to India fishing boats of other provisions relating to ships-- The Central Government may, by notification in the Official Gazette, direct that any provisions of this Act other than those contained in this Part which do not expressly apply to Indian fishing boats shall also apply to Indian fishing boats subject to such conditions, exceptions and modifications as may be specified in the notification.

435W. Fishery data to be furnished by Indian fishing boats-- The Central Government may, by notification in the Official Gazette, require every Indian fishing boat or any specified class of Indian fishing boats to furnish such fishery data to the registrar in such form and at such periodical intervals as may be specified in that notification.

435X. Power of exempt-- Notwithstanding anything contained in this Part, the Central Government may, by order in writing, and upon such conditions as it may think fit to impose, exempt any Indian fishing boat or class of Indian fishing boats or skipper, tindal or member of crew of such fishing boat or class of fishing boats from any specified requirement contained in or prescribed by any rules made in pursuance of any provision of this Part or from any other requirement of this Act extended to Indian fishing boats or to personnel employed on Indian fishing boats by a notification issued under section 435V, if it is satisfied that the requirement is substantially complied with or the compliance with the requirement may be impracticable or unreasonable in the circumstances attending the case.]