



IMO
INTERNATIONAL MARITIME LAW INSTITUTE
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SAFETY OF PLEASURE BOATS BILL 2016
OF
TRINIDAD AND TOBAGO:

A BILL INCORPORATING PROVISIONS OF THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA AND THE CODE OF SAFETY FOR SMALL COMMERCIAL VESSELS OPERATING IN THE CARIBBEAN TO THE EXTENT APPLICABLE TO PLEASURE BOATS

A Legislative Drafting Project submitted in partial fulfilment of the requirements for the award of the Degree of Master of Laws (LL.M.) in International Maritime Law at the IMO International Maritime Law Institute

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Academic Year 2015-2016

DEDICATION

This drafting project is dedicated to all past victims of casualties or fatalities which resulted from unsafe use of pleasure boats in Trinidad and Tobago, as well as to their families and loved ones.

ACKNOWLEDGEMENTS

I am thankful to the International Maritime Organization for sponsorship of my studies, which made this drafting project a reality.

Additionally, I am extremely thankful for my parents, Noel and Kathleen Maxwell, both who served in the maritime sector for more than thirty years and whom shared much of their experience and thoughts on issues related to pleasure boats which were fundamental to the drafting of this Bill.

With every gratitude I also thank, Mr. Brent Williams, Senior Legal Officer at Maritime Services Division, Ministry of Works and Transport, Trinidad and Tobago, who was of great assistance in the facilitation of information necessary for the drafting of this Bill. Also, my gratitude to Justice Allan Mendonca for sharing with me the documented concerns/comments of some of the stakeholders on the first drafted past pleasure craft regulations.

Further, I acknowledge with sincere appreciation my supervisor and reviewer, Ms. Atur Tetty Lubis and Dr. Norman Martinez, for their guidance, review and comments.

I thank God for his blessings.

TABLE OF INTERNATIONAL INSTRUMENTS, NATIONAL LEGISLATION AND CASES

International Instruments (Conventions and Resolutions)

- Convention on the International Maritime Organization 1984
- International Convention for the Safety of Life at Sea 1974, as amended
- International Convention for the Prevention of Collisions at Sea 1972
- International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, as amended

Regional Agreement

- Code of Safety for Small Commercial Vessels Operating in the Caribbean 2014

National Legislation

- Shipping Act (Chapter 50:10) 1987, as amended
 - Shipping (Registration of Ships) regulations LN 223/1987
 - Shipping (Tonnage) Regulations LN 147/1988
 - Shipping (Navigational Aids Dues)(No.2) Regulations LN 221/1989, as amended
 - Shipping (Local Passenger Ship Safety) Regulations 51/1991
 - Shipping (Medical Examination) Regulations LN 1/1991, as amended
 - Shipping (Load Line) Regulations LN 3/1993
 - Shipping (Certification of Seamen) (Deck Ratings) Regulations LN 142/1993
 - Shipping (Provisions and Water) Regulations LN 144/1993
 - Shipping (Training and Certification, Safe Manning, Hours of Work and Watchkeeping) Regulations LN 81/2002, as amended
 - Shipping (Ship and Port Facility Security) Regulations LN 131/2004
- Motor Launches Act (Chapter 50:08) 1926, as amended
- Port Authority Act (Chapter 51:01) 1961, as amended

Port Authority (Tariff) Regulations LN 203/1994

- Motor Vehicles and Road Traffic Act (Chapter 48:50) 1934, as amended
- Occupational Health and Safety Act (Chapter 88:08) 2004, as amended
- Customs Act (Chapter 78:01) 1938, as amended
- Police Service Act (Chapter 15:01) 2006, as amended

Old National Legislation (already Repealed)

- Pleasure Boats Act 1977

National Drafted Legislation

- Shipping Bill (Revised) 2014
- Fisheries Management Bill 2011

Legislation of Other Jurisdictions

- Small Vessel Regulations SOR/2010-91 (Canada)
- Vessel Operation Restrictions Regulations SOR/2008-120 (Canada)
- Merchant Shipping (Life-saving Appliance for ships other than ships of Classes III to IV (A)) Regulations 1999, as amended (United Kingdom)

Cases

- Barry-Laso and anor. v. Tobago House of Assembly and ors. CV.2008-02722 (High Court, Trinidad and Tobago)
- Customs and Excise Officer Clarence Walker v. Iveren Lucy Feese (Magisterial Appeal No.96 of 2009) Trinidad and Tobago

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PART 1: EXPLANATORY NOTE

1.1 Introduction

Internationally, the majority of maritime conventions focus on commercial and large passenger carrying vessels often of more than 500 gross tonnes. However, in most recent time tourism has captured the attention of more States (particularly island States) as a revenue earner, and pleasure, sporting and recreational boating activities on the world seas have become more of a norm than a luxury among persons of various classes and interests. The predominately smaller and non-commercial vessels which are used for these activities, have expanded the use of waterways and perhaps dominated vessel traffic in the more tourist-oriented waterways of some States. Perfect examples of such areas are Chaguaramas and Scotland Bay in Trinidad, and Pigeon Point Beach in Tobago which, as will later be seen, are areas in which fatalities and casualties, due in part to unsafe use of pleasure boats, have been popular.

A lack of laws or regulations applicable to these usually smaller non-commercial pleasure boats, has contributed to a growing phenomenon of fatalities, casualties and damages, which Member States of the International Maritime Organization (IMO) can combat through progressive national laws which take into consideration the application of international safety conventions to pleasure boats, so far as is reasonably practicable. Thus, amidst the rapidly increasing pleasure boat activities, both developed and developing coastal States, have and will be caused to modify international safety conventions to make it applicable to non-commercial pleasure, sporting and recreational vessels.

1.2 General Aim of the Bill

The aim of the *Safety of Pleasure Boats Bill 2016* (hereinafter 'the Bill') is to regulate the safe operation of pleasure boats in Trinidad and Tobago. Pleasure Boats in this context includes all vessels or boats whether propelled by oars, engine, winds or any other means, which are used for sport, recreation or any form of pleasure. It does not include vessels used only for fishing purposes (as opposed to conjointly for both fishing and pleasure boat purposes); vessels used for commercial

purposes not associated with pleasure activities; nor vessels used in services such as Trinidad and Tobago's inter-island ferries and water taxis.

The definition given to pleasure boats in the Bill, is intended to include yachts, sailing boats, speed boats, party boats, jet skis, kayaks or dinghies, canoes, pirogues, motor launches used for pleasure purposes and glass bottom boats. Whether such pleasure boats are used privately or in public events they are to be covered by the Bill.

1.3 The Fundamental Nature and Necessity for this Bill

The Bill is fundamental to the proper development of Trinidad and Tobago's maritime sector and the preservation of safety of the many nationals and tourists that participate in, or who sea-bathe in the vicinity of, the various pleasure boating activities that take place on the waters of Trinidad and Tobago. Further, the necessity of the Bill is increased as the Government of Trinidad and Tobago has *"identified the yachting industry as one of the non-petroleum industries targeted for development to reduce the economy's dependence on the hydrocarbon sector."*¹ This is in light of the fact that the yachting industry has been highlighted as a huge potential revenue earner for Caribbean States such as Trinidad and Tobago. *"In 2002, the United Nations Economic Commission for Latin America and the Caribbean estimated turnover of the yachting industry in the eastern Caribbean to be between TT\$ 129 – 150 million. In Trinidad and Tobago, contribution to GDP was estimated to be between TT\$ 99 – 120 million."*²

Moreover, the Bill is critical at this time because of the many unfortunate casualties and fatalities which have plagued the waters of Trinidad and Tobago in the last few years, partly due to the unregulated operation of pleasure boats in the country. Some of these incidents of casualties and

¹ Trinidad and Tobago. Ministry of Trade, Industry, Investment and Communications. (2015). *Yachting Policy of Trinidad and Tobago*, p.1.

² *Ibid*, p. 3.

fatalities are worthy of mention in detail, particularly as they highlight some major aspects of pleasure boating activity that require regulation. Some of the reported incidents are as follows:

- **In July 2007³** - Yanick Quesnel and his girlfriend Ana Carolina Barry-Laso (a Spanish national), ages 17 and 16 respectively, while swimming at the Pigeon Point Beach in Tobago were hit by a pirogue which was being operated in that sea-bathing area that was popularly designated for beach bathers. The accident left Quesnel paralysed and confined to a wheelchair while Barry-Laso walks with a limp. The couple sued the Tobago House of Assembly (THA) and the Pigeon Point Heritage Park and received judgment in their favour. In her Judgment⁴, Justice Judith Jones stated that the danger posed to sea-bathers was known by both the THA and the operators of the park and that a duty of care to prevent injury was owed.
- **In August 2009⁵** – An unregistered 28-foot pirogue which was being steered by an allegedly intoxicated off-duty soldier collided with a kayak during a kayaking expedition in Scotland Bay, Chaguaramas, Trinidad, seriously injuring three persons, including a 13-year-old girl. The thirteen year old, Paige Welch (an American national) lost her left arm in the accident, her mother Rachel Welch (also American) went into a coma, and family friend Lance Aqui was hospitalized. According to reports, both mother and daughter were paddling in the kayak with their relative Lance Aqui who was sitting in the bow, when the pirogue which was going at high speed and manned by the off duty soldier, ploughed into the kayak,

³ THA appeals decision in Pigeon Point accident (2012, February 9). *Trinidad Express Newspaper*. Retrieved from http://www.trinidadexpress.com/news/THA_appeals_decision_in_Pigeon_Point_accident-139065264.html

⁴ Barry-Laso and anor. v. Tobago House of Assembly and ors. CV.2008-02722 (High Court, Trinidad and Tobago)

⁵ Reported in –

- (i) Silence on boating accident (2009, August 19). *Trinidad and Tobago Newsday*. Retrieved from http://www.newsday.co.tt/crime_and_court/0,105749.html; and
- (ii) Scotland Bay suffering neglect (2011, January 19). *Trinidad Express Newspaper*. Retrieved from http://www.trinidadexpress.com/featured-news/Scotland_Bay_suffering_neglect-114247554.html

splitting it into two and throwing the three in the water. The lack of investigations into the matter was heavily criticised on social media.

- **In September 2009⁶** - The wife of Michael Arneaud (Trinidad and Tobago's former ambassador to Washington, DC and former president of the Trinidad and Tobago Chamber of Commerce), was killed on a Saturday night when a 32-foot pleasure boat (the Sisu) piloted by her husband slammed into a cliff at Monos Island off Trinidad's western peninsula. Mr. Arneaud, 69, suffered serious injuries in the accident. His wife, Sharon Arneaud, 64, died in the crash while three close friends sustained multiple injuries. According to reports, the accident occurred when the Arneauds were returning to their vacation home at Gasparee Island from a church mass at Monos Island via a tiny cove called Balmoral Bay. Witnesses stated that the area was badly lit due to a power outage and further the marker which was made by the sea scouts building was not there as it was destroyed by a fire two weeks prior, those two factors together causing Arneaud to lose proper navigational sight and resulting in grounding of the boat.
- **In July 2011⁷** – Dimitri John (age 22) and Nicholas Simmons (age 14) drowned when an overloaded pirogue carrying 15 occupants sank in the sea at Carenage, Trinidad while on its way to the Red Bull Flugtag event at Pier I, Williams Bay in Chaguaramas. En route to Williams Bay, the pirogue began taking in water and as the choppy seas lashed the vessel, it overturned with the captain and occupants all falling into the sea. A six-year- old who was among the occupants also suffered

⁶ Seuraj, I. (2009, September 21). Golfer killed as boat hits rocks off Monos Island. *Trinidad and Tobago Newsday*. Retrieved from <http://www.newsday.co.tt/news/0,107701.html>

⁷ Reported in –

- (i) Achong, D; Webb, Y. (2011, July 6). Mom agonises over drowned son at Flugtag. *Trinidad and Tobago Guardian*. Retrieved from <http://www.guardian.co.tt/news/2011/07/05/mom-agonises-over-drowned-son-flugtag>;
- (ii) Expert: No laws to control pirogues (2011, July 6). *Trinidad and Tobago Guardian*. Retrieved from <http://www.guardian.co.tt/news/2011/07/05/expert-no-laws-control-pirogues>;
- (iii) Seelal, N. (2011 July 5). 2 missing at sea. *Trinidad and Tobago Newsday*. Retrieved from <http://www.newsday.co.tt/news/0,143348.html>.

injuries. The captain of another pirogue who witnessed the incident contacted the Coast Guard who were able to rescue some of the occupants. Simmons and John were unaccounted for and searches were carried out for the two to no avail. The captain told police he and other boat operators saw the Flugtag Event as a great opportunity to make quick cash by ferrying members of the public who were caught in a massive road traffic gridlock to the Flugtag via the sea in return for payment. A pirogue which was usually used for fishing was in this case used to transport the occupants to the event. According to investigators the pirogue was overloaded and was not equipped with life vests or safety devices for passengers.

- **In June 2013⁸** - 14-year-old Lilly Blaides was ran over by a pirogue in Las Cuevas, Trinidad. According to police, the teenager died of massive head injuries when the pirogue ploughed into her while she was sea-bathing not too far from the shoreline.
- **In August 2013⁹** - The Trinidad and Tobago Coast Guard was caused to rescue over 540 passengers when a pleasure vessel called the ‘Harbour Master’, which was known for the hosting of parties, ran aground on an artificial reef made up of sunken derelict vessels. The artificial reef had been intentionally placed as a break-water for the Port of Port of Spain.

⁸ Reported in –

- (i) Fraser, M. (2013, June 24). Teen dies in accident at Las Cuevas. *Trinidad Express Newspaper*. Retrieved from <http://www.trinidadexpress.com/news/Teen-killed-by-boats-propeller-212705671.html>;
- (ii) Too little, too late (2013, June 24). *Trinidad Express Newspaper*. Retrieved from <http://www.trinidadexpress.com/commentaries/Too-little-too-late-212845481.html>;
- (iii) Klowlessar, G. (2014, June 24). Teen Killed in boating accident. *Trinidad and Tobago Guardian*. Retrieved from <http://www.guardian.co.tt/news/2013-06-24/teen-killed-boating-accident>; and
- (iv) Boating dangers (2013, June 25). *Trinidad and Tobago Newsday*. Retrieved from <http://www.newsday.co.tt/editorial/0,179666.html>

⁹ Reported in –

- (i) Fraser, M. (2013, August 18). 540 rescued - Party boat runs aground. *Trinidad Express Newspaper*. Retrieved from <http://www.trinidadexpress.com/news/540-rescued-220137561.html>; and
- (ii) Maraj, L. (2013, August 20). ‘Harbour Master’ on dry dock after sea drama. *Trinidad and Tobago Newsday*. Retrieved from <http://newsday.co.tt/news/0,182472.html>

- **In April 2015¹⁰** - Kevin Morris, age 40, captained racing boat G-Unit TFT 1690, heading west along the shoreline when he suddenly veered into the path of a pirogue, Teacher driven by Jason Alleyne. In the collision the propeller of Alleyne's vessel struck Morris, hitting him on the left side of his head causing extensive injuries and facial disfiguration. Morris was carried ashore by Alleyne and later rushed to the Scarborough General Hospital via an Emergency Health Service ambulance. However, Morris was pronounced dead on arrival. The boating accident reportedly occurred at about 4:15 pm, during the annual Roxborough Fisherman Association's Easter Regatta sports and family day, at approximately 400 metres from the shoreline.

In addition to these incidents, there have also been complaints from local Pilots¹¹ in respect of the unsafe vessel traffic of pleasure boats, in the part of oncoming ships, as well as the loud playing of music upon party boats which makes it difficult for the officers on the pleasure boats to receive transmissions of navigational warnings of potential hazards particularly from oncoming vessels.

1.4 Steps Taken Towards Realisation of the Safety of Pleasure Boats Bill

The conjoint effect of these casualties, fatalities and complaints as well as the importance of promoting safety of all vessels in the maritime sector, has moved the Government of Trinidad and Tobago to consider appropriate legislation for pleasure boats.

The Maritime Services Division of the Ministry of Works and Transport (hereinafter 'the Maritime Division'), which was established under s. 403 of the Shipping Act,¹² is the administrative and regulatory body charged with the responsibility of administering the Shipping Act¹³ and all related matters governing vessel safety. Since 2010, the Maritime Division in conjunction with the Chief

¹⁰ George, K. (2015, April 7). Freak Deaths. *Trinidad and Tobago Newsday*. Retrieved from <http://www.newsday.co.tt/news/0,209366.html>

¹¹ Information received from the Board of the Pilotage Authority of Trinidad and Tobago.

¹² Shipping Act (Chap. 50:10) 1987, as amended.

¹³ Ibid.

Parliamentary Counsel at the Office of the Attorney General, has been working towards drafting legislation relevant to the operation of pleasure boats.¹⁴

In 2010, the first draft pleasure craft regulations subsidiary to the Shipping Act¹⁵, was presented by the Maritime Division to stakeholders for comments. The stakeholders, finding that draft to be somewhat ‘ambitious’ and concerned with the practicality of the provisions in the draft, summarised their dissatisfaction with that first draft, and emphasised the need for further consideration of the draft provisions before it could be put before Parliament.¹⁶

In July 2013, Cabinet by virtue of Cabinet Minute No. 2005 dated 18th July 2013 (hereinafter ‘the 2013 Cabinet Minute’), proposed that amendments be made to Trinidad and Tobago’s existing Motor Launches Act¹⁷, so as to make provision for the safe use of pleasure boats. Difficulty however arose in the adoption of that proposal as the Motor Launches Act¹⁸ is one of several archaic existing pieces of maritime legislation in Trinidad and Tobago that is due to be repealed with the passage of the revised *Shipping Bill 2014*. In those premises, the proposed amendments for inclusion in the Motor Launches Act¹⁹ was reckoned inappropriate. Thus, the Maritime Division suggested that consideration be given to rescinding the 2013 Cabinet Minute.

1.5 Decision to Implement an Act as Opposed to Regulations Subsidiary to the Shipping Act

A decision had to be made as to whether legislation for the safe operation of pleasure boats should be made either (i) as regulations subsidiary to the revised *Shipping Bill 2014* or (ii) via an

¹⁴ The very first attempt to draft legislation for pleasure boats was made in the year 2010, with the drafting of the Shipping (Pleasure Craft) Regulations 2010, which was put before stakeholders.

¹⁵ Shipping Act; *op. cit.*

¹⁶ Summary of some of the stakeholder comments on the drafted Shipping (Pleasure Craft) Regulations 2010, provided by Justice Allan Mendonca of the Yachting Association of Trinidad and Tobago (document undated).

¹⁷ Motor Launches Act (Chapter 50:08) 1926.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

independent principal Act specific to pleasure boats. The decision was taken to legislate for the safe operation of pleasure boats via an independent principal Act for the following reasons:

- (i) The revised *Shipping Bill* 2014 is intended to focus, for the most part, on ships engaged in international and commercial voyages (that is, revenue earning ships usually over 500 tonnes and domestic ferries, altogether often referred to as convention ships) to which the majority of the IMO conventions relate. However, pleasure boats are by nature usually non-convention vessels, hence the exclusion of pleasure boats from many of the provisions of the existing Shipping Act.²⁰ Thus, the separation of the law concerning the safety of pleasure boats into an individual Act, was seen as an opportunity to provide more comprehensively for the various designs of non-convention pleasure boats;
- (ii) Further, clarity in the law could be achieved through the implementation of separate legislation for pleasure boats. The principal Safety of Pleasure Boat Act could provide much of the authoritative legislation specific to pleasure boats which presently does not exist under the Shipping Act but which is no doubt needed in light of the incidents of pleasure boat casualties and fatalities. Also, the Act could provide more thoroughly for the further making of regulations specific to these mostly non-convention vessels. The citizenry would be able to more easily determine the law relevant to safety of pleasure boats without having to go through the lengthy provisions of the Shipping Act²¹ to determine which provisions were intended for convention vessels and which for the unique designs and uses of pleasure boats;
- (iii) Certainly, the extensive provisions relevant to safety of pleasure boats, in themselves warrant an individual Act which can appropriately cover elements of safety peculiar to their design and use;
- (iv) Additionally, lessons from past legislating errors can be learnt in moving forward. An individual Act on pleasure boats once existed in Trinidad and Tobago through the

²⁰ Shipping Act; *op. cit.*

²¹ Shipping Act; *op. cit.*

Pleasure Boats Act No. 48 of 1977²². Though that Act did not deal sufficiently with issues of safety it could have been used as the basis for development of the law regulating pleasure boats. However, in an attempt to bring laws for convention and non-convention vessels together under one statute, the Pleasure Boats Act No. 48 of 1977 (hereinafter ‘the repealed Pleasure Boat Act 1977’) was repealed when the Shipping Act²³ was passed. The desire to have one statute dealing with convention and non-convention vessels perhaps contributed to the overlooking of safety requirements unique to the design and uses of pleasure boats and thus resulted in patchy and severely inadequate provisions for pleasure boats being made under the Shipping Act,²⁴ and some provision being assumed under the Motor Launches Act.²⁵ The consequence was the creation of *ad hoc* legislation which dealt very piecemeal with the regulating of pleasure boats, leaving that aspect of the maritime sector largely unregulated.

- (v) Lastly, the separation of the *Safety of Pleasure Boats Bill* from the already lengthy provisions of the revised *Shipping Bill 2014*,²⁶ will have the advantage of assisting in the efficient passing of the Bill (which can stand on its own) into law, in circumstances whereby it has been long over-due.

1.6 The Laws which were used as Guidance to Formulate the Bill

1.6.1 International Conventions and Regional Code

In the drafting of the Bill guidance has been sort from the IMO’s International Convention for the Safety of Life at Sea Convention 1974, as amended (SOLAS Convention) and the Code of Safety for Small Commercial Vessels Operating in the Caribbean 2014 (SCV Code). Account has also been taken of relevant provisions of the International Regulations for Prevention of Collisions at

²² See “Document A” in the Appendix.

²³ Shipping Act; *op. cit.*

²⁴ Shipping Act; *op. cit.*

²⁵ Motor Launches Act; *op. cit.*

²⁶ The existing Shipping Act contains 25 Parts, 413 sections and 19 accompanying subsidiary regulations. The length of the Act is expected to double as the revised Shipping Bill 2014 shall be incorporating the provisions of more than 10 maritime conventions to which Trinidad and Tobago is party but which are not yet incorporated under any existing national maritime law.

Sea 1972 (the International Collision Regulations), and consideration given to requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, as amended (the STCW Convention).

- (a) The SOLAS Convention – Trinidad and Tobago acceded to this Convention on 15 February 1979 and to its 1978 and 1988 Protocol on 7 June 2012. It was the most fundamental law in the drafting of the Bill, as it sets widely-accepted standards of safety and forms the basis of the SCV Code as well as the national legislation of the other jurisdictions which were reviewed. The provisions in the SOLAS Convention concerning life-saving appliances and arrangements, radio communications, safety of navigation, safe operation of vessels and safety measures, have informed the provisions of the Bill.

- (b) The SCV Code – This Code was developed with the support of the IMO and other flag administrations, principally the United States Coast Guard. It was incorporated into the law of Trinidad and Tobago through the Shipping Act²⁷ by virtue of the Shipping (Small Commercial Vessels) Regulations LN 13/2008. The Code is extremely useful as it focuses on the predominantly smaller sized vessels that operate in the Caribbean, and it is consistent with the general provisions of the SOLAS Convention. The provisions of the SCV Code in relation to inspections, passenger and seafarer capacity, stability, fire protection, lifesaving equipment, miscellaneous systems and equipment, operational requirements, accommodation and licensing, were considered in determining provisions that would be relevant to the Bill.

- (c) The International Collision Regulations – Trinidad and Tobago acceded to these Regulations on 15 February 1979. Generally, the International Collision Regulations makes provision for rules of steering and sailing of vessels, the conduct of vessels in relation to other vessels, and sound, lights and signalling. These Regulations were an essential consideration in the drafting of provisions in the Bill which were concerned with the safe navigation of pleasure boats.

²⁷ Shipping Act; *op. cit.*

- (d) The STCW Convention – Trinidad and Tobago acceded to this Convention on 3 February 1989. This Convention promotes safety by establishing international standards of training, certification and watchkeeping for seafarers. Although, the STCW Convention is more appropriate for larger convention-type ships and small commercial vessels, it was considered in drafting the Bill as a result of the provisions in respect of the Operator’s Permit. The Convention is not expected to be applied full-scale to the assessment of operators of pleasure boats, but should be considered when determining regulations in respect of alternatively appropriate training and certification criteria, that will be applied to operators under Part III of the Bill (which concerns the Operator’s Permit).

Neither the SOLAS Convention nor the SCV Code could be applied full-scale when legislating for the safety of pleasure boats. This is because the former was generally intended for application to ships engaged in international voyages, which (to the extent relevant to pleasure boat laws) does not unless expressly provided include ships of less than 500 gross tonnage, ships not propelled by mechanical means, wooden ships of primitive build or pleasure yachts not engaged in trade. Whereas the latter expressly excludes application to pleasure vessels and rather was intended for application to vessels which are 5 metres or more in length but less than 24 metres in length and which operate commercially, trading in the Caribbean Trading Area. However, the exclusion of pleasure boats from the full-scale application of those two documents does not prohibit use of their safety provisions as guidance in legislating the provisions of the Bill. In many instances the guiding provisions in those documents can and have been modified to enable appropriate application to pleasure boats.

1.6.2 Comparable Legislation in Other Jurisdictions

Further, laws regulating pleasure boats in other experienced jurisdictions such as Canada and the United Kingdom have been reviewed so as to obtain a sense of some of the practical provisions which can be employed to obtain maximum effectiveness of legislation in Trinidad and Tobago. Among the laws reviewed were the:

- (a) Small Vessel Regulations SOR/2010-91 (Canada) – This was undoubtedly one of the most comprehensive regimes that specified safety standards for various types of small

pleasure vessels. Its provisions positively reflected the provisions of the SOLAS Convention and the International Collisions Regulations in terms of providing for similar areas and standards of safety. It thus provided a useful example of the legislating of the international laws on safety into national laws relevant to non-convention vessels;

- (b) Vessel Operation Restrictions Regulations SOR/2008-120 (Canada) – These regulations provided mainly for the prohibition of certain types of vessels in specified waterways, speed limits and restrictions, and restrictions on certain designs of vessels. Thus, it was of useful consideration to Part VI of the Bill which concerns boating restrictions; and
- (c) Merchant Shipping (Life-saving Appliance for ships other than ships of Classes III to IV (A)) Regulations 1999, as amended (United Kingdom) – These regulations govern pleasure vessels operating in the United Kingdom. It was particularly useful as it provided another example of a legal framework in respect of pleasure vessels, which though different to that of Canada, also contained safety provisions in respect of life-saving appliances which were similar to that considered under the SOLAS Convention, but which were applicable also to non-convention pleasure vessels.

1.6.3 Old (Already Repealed) National Legislation

Additionally, although the provisions of Trinidad and Tobago’s repealed Pleasure Boats Act 1977²⁸ did not deal sufficiently with the issue of safety, there were still a few useful safety provisions in it, which have been modified and re-drafted into the Bill, this time among other relevant, supporting, modern and effective safety provisions. As earlier explained at point 1.5 (iv), it is important to keep in mind, that the repealed Pleasure Boat Act is presently not in force in Trinidad and Tobago as it had long been repealed in 1987 when the Shipping Act²⁹ came into force.

²⁸ See “Document A” in Appendix.

²⁹ Shipping Act; *op. cit.*

PART 2: EXPLANATION OF THE PROVISIONS OF THE SAFETY OF PLEASURE BOATS BILL 2016 OF TRINIDAD AND TOBAGO

2.1 Salient Features of Trinidad and Tobago's Safety of Pleasure Boats Bill 2016

A review of aforementioned SOLAS Convention, SCV Code and laws of Canada and the United Kingdom has revealed key elements that should be legislated for the safe use of pleasure boats.

These elements of safety concern:

- (i) licensing of pleasure boats;
- (ii) inspections and safety certification;
- (iii) licencing of operators;
- (iv) safety of appliances and equipment;
- (v) passenger safety and preparation for emergencies;
- (vi) boating restrictions;
- (vii) offences, penalties and legal proceedings;
- (viii) reporting and investigation of breaches and accidents;
- (ix) treatment of foreign pleasure boats;
- (x) enforcement personnel or authorities; and
- (xi) monitoring and continuous improvement (establishment of a of Pleasure Boats Safety Committee)

Taking into account these elements of safety, *the Bill* contains 109 sections and is divided into twelve parts, each part focusing on a fundamental element of safety. The parts of *the Bill* have been drafted as follows:

- **Part I (Preliminary)** – contains preliminary provisions which are undoubtedly essential to *the Bill*. These provisions, namely: (i) the short title of the Act; (ii) commencement date; (iii) interpretation section; (iv) the administration provision; and (v) scope of application, are the provisions which are traditionally found at the beginning of Trinidad and Tobago's statutes. Though each of these sections are essential, in this case, it is the interpretation section and the scope of application section that stand out.

Interpretation Section: Of particular importance to *the Bill* was the definition of ‘*pleasure boat*’. The term ‘*pleasure boat*’ has been given a broad definition much wider than that found under s.2 of Trinidad and Tobago’s repealed Pleasure Boats Act 1977³⁰ and broader than the ‘*pleasure craft*’ definition under s.2 of the Shipping Act,³¹ which provides:

“pleasure craft” means a ship, however propelled, that is used exclusively for pleasure and does not carry passengers or cargo for hire or reward, but does not include a ship that is provided for the transport or entertainment of lodgers at any institution, hotel, boarding house, guest house or other establishment

This is compared to the definition under *the Bill* which provides that:

“pleasure boat” means all vessel whether propelled by oars, engine, wind or other means which are used for sport, recreation or any form of pleasure and shall include a yacht, sailing boat, speed boat, party boat, jet ski, kayak, dinghy, inflatable watercraft, canoe, pirogue, a glass bottom boat used for pleasure activities and motor launches used for the purpose of pleasure activities

The broader definition under *the Bill* was a matter of necessity in light of the wide range of pleasure boats which have in recent time been creating hazards and threatening safety in Trinidad and Tobago waters. Thus the broader definition under *the Bill* is progressive and facilitates the regulating of the wide range of pleasure boats operating in Trinidad and Tobago waters.

Scope of Application: Yet, in the scope of application section which was also fundamental to *the Bill*, exclusion has been recognised for six categories of vessels, namely: cruise ships, state-owned service vessels such as water taxis and ferries; and vessels holding a valid International Passenger Ship Safety Certificate issued in accordance with the SOLAS

³⁰ See “Document A” in Appendix.

³¹ Shipping Act; *op. cit.*

Convention³², since these convention type vessels are sufficiently provided for under Part XI of the existing Shipping Act³³. Personal inflatable watercraft as defined under *section 3 of the Bill* has also been excluded because its use is limited to sea-bathing areas and it is generally harmless due to design. Additionally, vessels used for fishing activities have been excluded as provisions has already been made for a specialised legal framework for same by virtue of the *Fisheries Management Bill 2011*, which is intended to apply specifically to fishing vessels. Moreover, vessels used *solely* for a purpose that is not related to sport, recreation and pleasure are also excluded because they inherently are not covered by the definition of pleasure boat in *the Bill*. However, the flip-side of that exclusion is that *the Bill will apply* to a vessel which is used for more than one purpose, one of which is pleasure activities consistent with the definition of pleasure boat in *the Bill*.

- **Part II (Pleasure Boat Licence)** – provides for the requirement that all pleasure boats operating on Trinidad and Tobago waters obtain a Pleasure Boat Licence from the Maritime Administration. The establishment of this Pleasure Boat Licence introduces a system of initial safety inspection, interim inspections and random inspections. These inspections are intended to ensure that a pleasure boat is not allowed to operate on Trinidad and Tobago waters unless at all times it fulfils the safety requirements established in *the Bill*.

Furthermore, of importance to the effective enforcement of the Bill, provision is made in part II for the suspension and cancellation of a Pleasure Boat Licence in instances when the maintenance of such licence by a particular owner becomes a threat to safety.

A legal obligation is also imposed on the Maritime Administration to keep a computerised and paper record of all issued Pleasure Boat Licences as well as any inspection certificates, safety warning, pending investigation, or suspension or cancellation of licence made in relation to any particular licensed pleasure boat. Not only is such provision important in

³² Annex Chapter I, Part A, Regulation 12(a)(i).

³³ Shipping Act; *op. cit.*

assisting the Maritime Administration to keep track of pleasure boats which have been licensed, but it is also important as further provision is made which creates a public right to enquire as to the safety status of a pleasure boat and to make complaints regarding safety conditions, if need be. This provides a self-help system for persons who want to ensure safety upon a pleasure boat and it also provides extra monitoring of pleasure boats by the members of the public.

Provisions in respect of renewal, replacement and transfer of a Pleasure Boat Licence are also included, being issues naturally incidental to the issuance of the licence.

- **Part III (Operator's Permit for Pleasure Boat)** - contains provisions relevant to the assessment of operators of pleasure boats, issuance of an Operator's Permit and a prohibition against operating of a pleasure boat without an Operator's Permit. Like the Pleasure Boat Licence, the Operator's Permit may also be suspended or cancelled if upon the conduct of disciplinary proceedings it is found that the operator acts inconsistently with the provisions of *the Bill* and regulations made thereunder. Further, provision is made which requires operator's to undergo continuous training in areas of maritime safety and pollution prevention as approved by the Director from time to time, and each Operator's Permit is only valid for five years after which the operator must apply for renewal and may be subject to an updated assessment.

The medical fitness of the operator is accounted for under this part. Lastly, provision is made for the attainment of a Learner's Permit so as to enable persons to learn the trade under the supervision of a person holding an Operator's Permit approved by the Maritime Administration, so as to foster an increase in trained seafaring persons. Notably, it is intended that the regulations made in support of this part will reasonably take into consideration international standards of certification and training of seafarers.³⁴

³⁴ Though it is recognised that it may be unreasonable to fully apply the STCW Convention to operators of very small non-convention pleasure boats, in light of the fact that Trinidad and Tobago is a contracting party to the STCW Convention, it is expected that consideration will still be given to that convention when determining alternative appropriate and acceptable training and certification of such operators.

- **Part IV (Basic Safety Appliances and Equipment)** – makes provision for basic safety appliances and equipment that all pleasure boats will be required to have. This is essential to *the Bill* and an area of focus both in SOLAS and the SCV Code, and thus naturally formed a part of the Canadian and UK Regulations. The provisions in this part have been adapted mainly from the Small Vessel Regulations SOR/2010-91³⁵ of Canada with additional provisions from SOLAS Convention,³⁶ and the SCV Code.³⁷

- **Part V (Safe Operation of Passenger-Carrying Pleasure Boats)** - focusses on the safe operation of passenger-carrying pleasure boats. In the drafting of the provisions of this part it was borne in mind that the majority of casualties and fatalities noted in Trinidad and Tobago in the last eight years, as previously mentioned, concerned passenger-carrying pleasure boats. Thus Part V focusses on regulating safety matters concerned with the overloading of pleasure boats, accompaniment of minors, passenger preparedness for emergencies, safety specific to party boats or pleasure boats on which large parties are hosted, compulsory insurance and provision for a mandatory log-book to record details of passenger voyages including identification of persons on board and the name and contact number for a next of kin in case of emergencies.

Provision is also made to ensure that all passenger seating, passageways and accommodation is arranged and equipped to provide for the safety of passengers in consideration of the route, modes of operation and speed of the vessel. Many of these provisions are an adaptation of the provisions from the **Small Vessel Regulations SOR/2010-91**³⁸ of Canada and **SCV Code**³⁹.

³⁵ Mainly Part 2 of these Regulations.

³⁶ Annex, Chapter III.

³⁷ Chapter VI (with reference also made to Chapters V, VII, VIII and IX).

³⁸ Mainly Part 4 of these Regulations.

³⁹ Chapters VIII and IX.

- **Part VI (Boating Restrictions)** – provision is made for the fundamental issue of boating restrictions. The Vessel Operation Restrictions Regulations SOR/2008-120 of Canada was considered in drafting this part. Trinidad and Tobago’s waters are full of activity by (i) the abundance of various types of pleasure boats and fishing vessels; (ii) sea-bathers; (iii) industrial water activities in respect of oil drilling and carriage of goods; (iv) port commerce in light of the four major ports presently existing in the country; and (v) water services such as the inter-island ferries and the water taxis. As a result of all these water activities, there is a higher risk of collisions if boating restrictions are not imposed. Thus, boating restrictions in this part are intended to restrict the movement of pleasure boats or certain designs of pleasure boats.

Other boating restrictions which were deemed necessary upon considering the circumstances of the accidents reported, concerned (i) speed restrictions; (ii) age restrictions and (iii) the method of conducting certain pleasure boats for example pleasure boats which tow water skiers. Additionally, provision has been made for prior approval to host sporting, recreational or public party events on waterways. This will enable the Maritime Administration to act in the interest of public safety by imposing any necessary safety conditions or if necessary, issuing Shipping Notices in relation to expected vessel movement or traffic during the activity.

- **Part VII (Offences, Penalties and Legal Proceedings)** – deals broadly with offences, penalties and legal proceedings. The aim of the offences and penalties set out under this Part is to encourage compliance with the Act and to regulate and maintain the integrity of same, as well as discourage acts which generally threaten safe operation of pleasure boats at sea. Offences include: breach of duty to reasonably ensure seaworthiness of pleasure boats before embarking on a voyage; bribery of maritime safety inspectors or personnel of the Maritime Administration; forgery of documents required by *the Bill* and regulations thereunder; use of a pleasure boat without consent of the owner; operating a pleasure boat under the influence of alcohol or drugs; reckless or careless operation of pleasure boats; refusal to cooperate with enforcement officers; and other general criminal offences and

remedies. Some of these offences existed under the repealed Pleasure Boats Act 1977⁴⁰ and have been modified and modernised to ensure effectiveness.

Penalties: Penalties have been provided to reflect the degree of seriousness of the offence committed and includes fines, imprisonment, and suspension and disqualification of a Pleasure Boat Licence, Operator's Permit or Learner's Permit. In deciding the appropriate penalty, consideration was given to: (i) the seriousness of the offence; and (ii) similar offences and their penalties (but for the fact that they occur on land) under the Motor Vehicles and Road Traffic Act⁴¹ and the Occupational Health and Safety Act⁴² (OSHA Act) of Trinidad and Tobago. Additionally, adherence was made to the guidance of the Court of Appeal in the matter of *Customs and Excise Officer Clarence Walker vs. Iveren Lucy Feese*⁴³ that strict liability offences, that is, offences where it is not necessary to prove an intent to commit the offence, should be given fines to a lesser degree than other offences contained within *the Bill*.

Time Limit for Initiation of Proceedings: The time limit provided at *s. 73 of the Bill*, for the initiation of legal proceedings within two years of cause of action arising is also like that under s. 97B of the OSHA Act.

- **Part VIII (Notification and Investigation of Accidents and Breaches of the Act)** – concerns the notification and investigation of accidents and breaches of the Bill. The notification and investigation of accidents is a useful tool not only because it enables the Maritime Administration to monitor compliance by pleasure boats, but also as it can be

⁴⁰ Examples of those offences which previously existed under the repealed Pleasure Boats Act 1977 are: using a pleasure boat without consent, some of the offences relating to forgery, operating a pleasure boat under the influence of drugs or alcohol and reckless or careless operation of pleasure boats: see sections 24 and 26 to 29 of the repealed Pleasure Boats Act 1977, respectively (fn 23).

⁴¹ Motor Vehicles and Road Traffic Act (Chap. 48:50) 1934, as amended. An example of a similar offence under the Motor Vehicles and Road Traffic Act is that of driving under the influence of liquor under s. 70 of that Act, which is like that of operating a pleasure boat under the influence of alcohol or drug under *s. 65 of the Bill*.

⁴² Occupational Health and Safety Act (Chap. 88:08) 2004, as amended. An example of a similar offence found under the OSHA Act is that of forgery of certificates, false entries and false declarations under s. 88 of that Act, which is like *s. 70 of the Bill*.

⁴³ Magisterial Appeal No. 96 of 2009. (Trinidad and Tobago)

used in the production of annual statistics which signal any progress in accident rates upon implementation of *the Bill*, and identification of areas of safety that may still need to be looked at in future. This is the manner in which it has been used by more developed countries such as Canada and the United States of America.⁴⁴

- **Part IX (Foreign Pleasure Boats)** – contains provisions special to foreign pleasure boats. These provisions are aimed at balancing the interests of safe operation of foreign pleasure boats on Trinidad and Tobago shores with the desire to encourage pleasure boat tourism. Thus, this part strikes a compromise by exempting, foreign pleasure boats that operate in Trinidad and Tobago shores for less than two weeks and registered pleasure boats with well-qualified and properly licensed operators, from those provisions of *the Bill* concerned with obtaining a local Pleasure Boat Licence and Operator’s Permit. However, foreign pleasure boats shall be required to ensure safe operation while in Trinidad and Tobago’s internal and territorial waters and must comply with the other safety provisions of *the Bill* and regulations made thereunder.
- **Part X (Enforcement)** – concerns enforcement. The ability to effectively implement *the Bill* is maximised through the work of an organised framework of enforcement bodies. In Part X, the powers and responsibilities of the various enforcement bodies are identified. Provision is made for the following enforcement bodies:
 - (i) The Maritime Administration;
 - (ii) Trinidad and Tobago Police Service (Marine Branch);
 - (iii) Maritime Safety Inspectors;
 - (iv) Trinidad and Tobago Coast Guard;
 - (v) The Court;

The provisions in essence outline which body shall have powers of arrest, powers to detain pleasure boats or give directions as to their anchorage, the power to fine and the powers of

⁴⁴ For example, the US Department of Homeland Security, US Coast Guard (Office of Auxiliary and Boating Safety) issues “Recreational Boating Statistics” on an annual basis.

the maritime safety inspectors during inspection. Other matters provided for are concerned with the interaction between owners/operators of pleasure boats and enforcement officers.

- **Part XI (Pleasure Boats Safety Committee)** – establishes a Pleasure Boats Safety Committee designed for the purpose of ensuring continuous improvements in Trinidad and Tobago in the area of pleasure boat safety. Inspiration for a domestic committee of this type was derived from recognition of the important function which is played by the IMO’s Maritime Safety Committee⁴⁵ and Maritime Environment Protection Committee,⁴⁶ among others. Part XI therefore provides for the constitution of the Committee, period of appointment, resignation or revocation of appointment of a Committee member, remuneration, role or function of the Committee, semi-annual meetings of the Committee and reports of the Committee to be given to the Minister in charge of shipping.

- **Part XII (Miscellaneous Provisions)** – entitled miscellaneous provisions, is the final part in *the Bill*, in which certain clarifications are made in respect of the Act in general. Firstly, it is clarified that the Act does not affect the ability of an owner of a pleasure boat to register under the Shipping Act⁴⁷ (which may be fundamental in terms of financing, mortgages and the like). The Bill deals specifically with the area of safety and therefore there is no need to affect the ability of pleasure boats to register under the Shipping Act,⁴⁸ if they were capable of doing so prior to the Bill.

Additionally, provision is made to enable the Maritime Administration to approve equivalent safety fitting, material, appliance or apparatus to that required under *the Bill*. This offers some flexibility to owners of the various designs of pleasure boats as well as encouragement to an owner who may be facing difficulty in obtaining particular equipment or appliances required by *the Bill* but is able to find an equivalent which is just as effective and safe.

⁴⁵ Established under Part VII of the Convention on the International Maritime Organization 1984.

⁴⁶ Established under Part IX of the Convention on the International Maritime Organization 1984

⁴⁷ Shipping Act; *op cit*.

⁴⁸ Shipping Act; *op cit*.

Moreover, provision is made imposing a duty on the Minister and Maritime Administration to ensure so far as is reasonably practicable the proper placement and continuous maintenance of navigational aids. The enforcement of geographic boat restrictions under *the Bill* is inextricably dependent on proper provisions of navigational aids. Further, safe navigation and prevention of collisions is promoted when navigational aids are properly implemented.

Additional provision is also made for appeals from the decision of the Director of the Maritime Administration who is given wide powers under *the Bill*. This acts as a check and balance on the decisions of the Director.

Moreover, provision is made for the payment of fees, to be prescribed in the Third schedule, many of which have been referred to in the various parts of *the Bill*. These fees as well as the penalties in the form of fines, are intended to be sources of revenue for the Maritime Administration to assist it in gaining financial autonomy.

The final section provides for a moratorium period in respect of Part II and III of the Bill so as to enable owners and operators, upon *the Bill* becoming an Act or law, reasonable time to comply with the requirement of obtaining a Pleasure Boat Licence and Operator's Permit.

- **The Schedules**^{49**} – the Bill contains the following six schedules, which support its substantive provisions:

⁴⁹ **For the purpose of this drafting project, the schedules though mentioned in the Bill, have not been drafted at the end of the Bill. This is because the contents of each of the schedules refers in the main to forms, certificates and fees which are technical in nature and will have to be determined after proper consultation with personnel at the Maritime Administration and office of the Attorney General.

SCHEDULE	SPECIFIC PART OF SCHEDULE	CONTENTS
First Schedule (Contains all documents relevant to <i>Part II of the Bill</i> concerning the Pleasure Boat Licence).	Part A	Contents of application form for the Pleasure Boat Licence.
	Part B	The requirements for inspection of the pleasure boat in order to obtain and maintain the Pleasure Boat Licence.
	Part C	The layout of the Pleasure Boat Licence.
	Part D	Pleasure Boat Safety Certificate.
	Part E	Safety Deficiency Note.
	Part F	Contents of the application form for the renewal of the Pleasure Boat Licence
	Part G	Content of the application form in relation to the transfer of Ownership of a licensed pleasure boat.
Second Schedule (Contains all documents relevant to <i>Part III of the Bill</i> concerning the Operator's Permit).	Part A	The oath to be signed and abided by pleasure boat owners prior to issuance of licence.
	Part B	Contents of application form for Operator's Permit.
	Part C	The layout of the Operator's Permit.
	Part D	Contents of the application form for Renewal of an Operator's Permit.
	Part E	Contents of the application form for Renewal of a Learner's Permit.
	Part F	The layout of the Learner's Permit.
Third Schedule (Fees)	(Not divided into parts)	Contains a list of all fees necessary in the enforcement of the provisions of the Bill. This shall include fees related to applications, inspections, enquiries, renewal or replacement of licences and permits, certified copies of documents and assessments.

Forth Schedule (Related to <i>Part IV of the Bill</i> concerning the basic safety equipment).	(Not divided into parts)	Specifies the materials required to be in a First Aid Kit pursuant to <i>s. 41 of the Bill</i> .
Fifth Schedule (Related to <i>Part VIII of the Bill</i> concerning the notification of accidents and incidents).	(Not divided into parts)	Contents of the form to be used when notifying the Maritime Administration of an accident of incident pursuant to <i>Part VIII of the Bill</i> .
Sixth Schedule (Related to <i>Part IX of the Bill</i> concerning foreign pleasure boats).	Part A	Form to be used, by the owner (or the operator in the owner's absence) of a foreign pleasure boat, to notify the Director of the Maritime Administration of the arrival of the foreign pleasure boat in Trinidad and Tobago.
	Part B	Content of application form for the exemption of a foreign pleasure boat from some of the provisions of <i>Parts I and II of the Bill</i> and <i>s. 36 of Part V of the Bill</i> , pursuant to <i>s.80 of the Bill</i> .
	Part C	The layout of the Certificate of Exemption

2.2 The Effect on Pre-existing Laws in Trinidad and Tobago

At present in Trinidad and Tobago, there exist four Statutes that make reference to 'pleasure crafts'. They are the:

- (i) Shipping Act;⁵⁰
- (ii) Motor Launches Act;⁵¹

⁵⁰ Shipping Act; *op cit*.

⁵¹ Motor Launches Act; *op cit*.

- (iii) Port Authority Act;⁵² and
- (iv) Customs Act.⁵³

The following provisions of those Acts which *may* require amendment to ensure consistency with *the Bill* have been identified as follows:

- (i) Shipping Act⁵⁴: sections 2, 40, 253, 275, 278, and 406
 - Shipping (Registration of Ships) regulations LN 223/1987: regulation 3
 - Shipping (Tonnage) Regulations LN 147/1988: regulations 2 and 12
 - Shipping (Navigational Aids Dues)(No.2) Regulations LN 221/1989, as amended: regulation 4
 - Shipping (Local Passenger Ship Safety) Regulations 51/1991: regulations 2 and 3
 - Shipping (Medical Examination) Regulations LN 1/1991, as amended: regulations 2 and 3
 - Shipping (Load Line) Regulations LN 3/1993: regulation 3
 - Shipping (Certification of Seamen) (Deck Ratings) Regulations LN 142/1993: Fifth Schedule (referring to regulation 13), item 1(1)
 - Shipping (Provisions and Water) Regulations LN 144/1993: regulation 3(2)
 - Shipping (Training and Certification, Safe Manning, Hours of Work and Watchkeeping) Regulations LN 81/2002, as amended: regulation 2 and 3
 - Shipping (Ship and Port Facility Security) Regulations LN 131/2004: regulation 37(1)
- (ii) Motor Launches Act⁵⁵: sections 2 and 17
- (iii) Port Authority Act⁵⁶:
 - Port Authority (Tariff) Regulations LN 203/1994: regulations 2 and 7

⁵² Port Authority Act (Chap.51:01) 1961.

⁵³ Customs Act (Chap. 78:01) 1938.

⁵⁴ Shipping Act; *op cit.*

⁵⁵ Motor Launches Act; *op cit.*

⁵⁶ Port Authority Act; *op cit.*

- (iv) Customs Act⁵⁷: section 2, and sections 57 and 163 to be considered in respect of provisions in *the Bill* made for foreign pleasure boats

An amendment may also be required to the Police Service Act⁵⁸, in order to make specific provision for the resuscitation of a Marine Police Branch that will work directly with the Maritime Division in enforcing the provisions of the Bill. Such resuscitation would be beneficial not only to the Bill, but also to the enforcement of other maritime legislation, particularly as it concerns the investigation and prosecution of offences.

2.3 Infrastructure and Personnel Necessary to Implementation of the Safety of Pleasure Boats Bill

To ensure the proper implementation of the Bill, the following shall be necessary:

2.3.1 Departments in the Maritime Administration

Section 4 of the Bill provides that the Maritime Administration, being the Maritime Services Division under the Ministry of Transport of Trinidad and Tobago, or as may arise in future, that body to which the duties of the Maritimes Services Division have been officially transferred, shall be responsible for the general administration of the Bill.

The proper implementation of *the Bill* will necessitate the introduction of a reports, complaints and investigation department in the Maritime Division, as well as a department of records and enquiries. Though optional it is also recommended that an office be set up that deals specifically with research and statistics so as to promote and track the continuous progress in the implementation of *the Bill*. A section in the Maritime Division can also be arranged to receive applications and issue licences and permits and any matters consequential to same. It will also have to be determined whether a department within the Magistrate's Court shall be set up to deal specifically with the collection of fines in relation to maritime offences (similar to that developed for the collection of fines for traffic offences) or whether such fines can be paid at the Maritime

⁵⁷ Customs Act; *op cit*.

⁵⁸ Police Service Act (Chapter 15:01) 2006, as amended.

Division. Additionally, it is recommended that a communications department or public relations department be set up to promote public awareness, issue notices to the public on the Director's behalf and receive public communications and even suggestions from the media, persons of the public, or other affected bodies. Certainly, the implementation of each of these sections will not only support the effective implementation of *the Bill* but also other maritime legislation.

2.3.2 Enforcement Personnel to support the Maritime Administration

(a) Trainers/Examiners: Prior to the passing of *the Bill* into law the Maritime Division will have to ensure that appropriate links are made with education and training providers such as the University of Trinidad and Tobago and the Caribbean Fisheries Training and Development Institute who can provide the requisite training to prepare potential operators for the assessments required by *the Bill*. Preparation will also have to be made in advance for the conduct of the examinations at the location of those institutions but under the assessment of the Board of Examiners who are to be appointed under *section 24 of the Bill*. Sufficient examiners should be provided in light of the mass of persons that may require the assessment at first instance.

(b) Chief Maritime Safety Inspector and Maritime Safety Inspectors: *The Bill* will require the employment of a trained and qualified Chief Maritime Safety Inspector of perhaps 7 to 10 years' experience in ship inspections as well as at least fifteen junior Maritime Safety Inspectors to fulfil the duties established by *the Bill*. The duties of the Maritime Safety Inspectors are for the most part similar to those of port state inspectors and maritime surveyors though limited to safety aspects of pleasure boats. Thus, the Maritime Division may choose to assign the duties under *the Bill* to persons already employed as port state inspectors or surveyors. However, it is recommended that a separate group of persons be assigned the duties of Maritime Safety Inspectors given the workload that is expected as a result of the fact that there is already a large number of vessels on Trinidad and Tobago's Ship registry that belong to the category of pleasure vessels⁵⁹.

⁵⁹ The size of Trinidad and Tobago's domestic fleet for 2012 was 278, with 84% < 500 GT and a total tonnage of 98,986GT. The majority of vessels belong to the barge and fishing vessels/pleasure craft categories: Kishore, R. (November 2015). *National Ballast Water Status Assessment*. The Republic of Trinidad and Tobago, p. iv.

(c) Trinidad and Tobago Police Service (Marine Branch): It is fundamental that the Marine Branch of the Police Service be resuscitated prior to the introduction of *the Bill*. Such is necessary for the investigation and prosecution of the criminal offences established by *the Bill* and punishable in the main by way of summary conviction before a Magistrate. Notably, the call for the resuscitation of a Marine Branch of the Police Service, required for the prosecution of maritime offences has also been emphasised in local newspaper commentary and may satisfy the effective enforcement of other maritime laws.⁶⁰

2.3.3. Navigational Aids for Boating Restrictions

It goes without saying, that all navigational aids necessary for the effective implementation of *the Bill* should be in place and tested at least six months prior to *the Bill* passing into law. Further maintenance and inspection of such navigational aids should continue in accordance with *the Bill*.

2.4 Recommended Date of Commencement

Section 2 of the Bill provides that once the Bill is passed by Parliament it shall come into operation from 1st September 2017. This is a tentative date, which only suggests that once *the Bill* is passed by Parliament, at least one year should be given to the State to ensure that the infrastructure and personnel necessary to the implementation of *the Bill* (as outlined at 2.3 above) are put into place.

Additionally, *section 109 of the Bill* provides a moratorium period of one year in respect of *Parts II and III of the Bill* which are concerned with the Pleasure Boats Licence and Operator's Permit, respectively. The effect of this moratorium period will be to allow pleasure boat owners and operators one year from the commencement date of the Act, before the end of which they must obtain the requisite pleasure boat licence or operator's permit in accordance with the provisions of *the Bill*. In other words, *Parts II and III of the Bill* will only become enforceable one year following the commencement date that is specified in *section 2 of the Bill*.

⁶⁰ See for example - Alfred, J. K. (2009, March 26) Resuscitation of Police Marine Branch Overdue. *Trinidad and Tobago Newsday*. Retrieved from <http://www.newsday.co.tt/news/0,97403.html>; and Lambie, I. (2014, January 19). Urgent Need to Resuscitate the Police Marine Branch. *Trinidad and Tobago Newsday*. Retrieved from <http://www.newsday.co.tt/commentary/0,189906.html>

PART 3:

SAFETY OF PLEASURE BOATS BILL 2016

SAFETY OF PLEASURE BOATS BILL 2016

Arrangement of Sections

PART I

PRELIMINARY

Section

1. Short Title
2. Commencement
3. Interpretation
4. Administration
5. Application

PART II

PLEASURE BOAT LICENCE

6. Requirement for Pleasure Boat Licence
7. Application for Pleasure Boat Licence
8. Inspection of pleasure boat for Pleasure Boat Licence
9. Issuance of Pleasure Boat Licence by Director
10. Period of validity of Pleasure Boat Licence
11. Subsequent mandatory inspection every two years to sustain Pleasure Boat Licence
12. Provision for random inspections
13. Change in particulars stated in application for Pleasure Boat Licence
14. Cancellation of Pleasure Boat Licence
15. Suspension of Pleasure Boat Licence
16. Surrender of Pleasure Boat Licence
17. Public Record of licensed Pleasure Boats
18. Renewal of Pleasure Boat Licence
19. Replacement of Pleasure Boat Licence
20. Transfer of ownership of pleasure boat

PART III

OPERATOR'S PERMIT FOR PLEASURE BOATS

21. Prohibition against operation of pleasure boat without Operator's Permit
22. Pleasure boat to be operated by person with Operator's Permit
23. Application for Operator's Permit
24. Assessment of applicants for Operator's Permit
25. Validity and renewal of Operator's Permit
26. Continuous Training
27. Application for issuance of Learner's Permit
28. Validity of Learner's Permit
29. Administrative record of permits
30. Replacement of Permit
31. Disciplinary Proceedings
32. Cancellation of Operator's Permit or Learner's Permit

PART IV

BASIC SAFETY APPLICANCES AND EQUIPMENT

33. Duty to ensure safety
34. Boarding and disembarkation device or method
35. Flotation device or lifejacket
36. Visual and distress signals
37. Vessel equipment
38. Navigation equipment
39. Firefighting equipment
40. Radio-communication system
41. First Aid Kit
42. Dedicated reserve of drinking water
43. Additional obligation where pleasure boat tows water skier
44. Exception
45. Duty of the owner and operator under this Part
46. Power to make regulations in respect of safety equipment and procedures

PART V

SAFE OPERATION OF PASSENGER-CARRYING PLEASURE BOATS

47. Authorisation to carry passengers and prohibition against overloading of pleasure boats
48. Prohibition against unaccompanied minors aboard pleasure boats
49. Log Book recording passenger voyages to be safely kept ashore and readily accessible
50. Passenger preparedness for emergencies
51. Passenger seating, passageways and accommodation
52. Additional matters of Safety when a party is hosted on pleasure boat
53. Public liability and third-party insurance
54. Power to make regulations

PART VI

BOATING RESTRICTIONS

55. Minister to make regulations
56. Adherence to restrictions
57. Pleasure boat not to operate in customary sea bathing areas
58. Towing for the purpose of water skiing
59. Prior approval to host sporting, recreational or public party events on waterways
60. Safe operation in light of circumstances
61. Age restriction for Operator's Permit and Learner's Permit

PART VII

OFFENCES PENALTIES AND LEGAL PROCEEDINGS

62. Duty to ensure seaworthiness of pleasure boat
63. Bribery of Maritime Safety Inspector or personnel of the Maritime Administration
64. Using pleasure boat without consent of the owner
65. Operating pleasure boat under the influence of alcohol or a drug
66. Reckless operation of pleasure boat
67. Careless operation of pleasure boat
68. Onus of proving limits of what is reasonable
69. Criminal and other remedies
70. Forgery of licence, permit, certificates, written expressions, false entries and false declarations
71. Refusing to give name or address or giving a false name or address

- 72. Penalty where none is expressly provided
- 73. Time limit

PART VIII

NOTIFICATION AND INVESTIGATION OF ACCIDENTS AND BREACHES OF ACT

- 74. Notification of accidents or incidents
- 75. Preservation of scene
- 76. Reporting breaches of the provisions of this Act and regulations
- 77. Power to make regulations

PART IX

FOREIGN PLEASURE BOATS

- 78. Duty upon arrival of foreign pleasure boat
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SAFETY OF PLEASURE BOATS BILL 2016

An Act to provide for the safe operation of all pleasure boats operating in the waters of Trinidad and Tobago.

PART I

PRELIMINARY

- | | |
|----------------|--|
| Short title | 1. This Act may be cited as the Safety of Pleasure Boats Act. |
| Commencement | 2. This Act shall come into operation from 1 st September 2017. |
| Interpretation | <p>3. In this Act, except where otherwise expressly provided –</p> <p> “Act” means this Safety of Pleasure Boats Act 2016;</p> <p> “Board” means the Board of Examiners appointed under section 24 of this Act;</p> <p> “boarding device” means the specific device or method used to assist a person to board or disembark a pleasure boat;</p> <p> “change of use” means that the use of the vessel that was a pleasure boat has changed in such a manner that the vessel is no longer a pleasure boat;</p> <p> “Chief Maritime Safety Inspector” and “Maritime Safety Inspector” means the person employed into each of those respective positions by the Maritime Administration;</p> <p> “Court” means that court of the Judiciary of Trinidad and Tobago, which has jurisdiction to determine the offence in question;</p> <p> “COLREGS” means the International Regulations for Prevention of Collisions at Sea, 1972;</p> <p> “Committee” means the Pleasure Boats Safety Committee established under Part XI of this Act;</p> <p> “Director” means the Director of the Maritime Administration;</p> <p> “enforcement officer” means a Police Officer from the marine branch of Trinidad and Tobago’s</p> |

Police Service, the Coast Guard of the Defence Force of Trinidad and Tobago, a member of the Customs and Excise Department and a Maritime Safety Inspector of the Maritime Administration;

“foreign pleasure boat” means a pleasure boat which is registered or licensed in another State not being Trinidad and Tobago;

“IMO Resolution MSC.81(70)” means the annex to International Maritime Organization Resolution MSC. 81(70), Revised Recommendation on Testing of Life Saving Appliances;

“LSA Code” means the International Life-Saving Appliances Code adopted by the Maritime Safety Committee of the International Maritime Organization at its sixty-sixth session by Resolution MSC 48(66), as amended;

“Maritime Administration” means the Maritime Services Division under the Ministry of Transport of Trinidad and Tobago, or as may arise in future, that body to which the duties of the Maritimes Services Division have been officially transferred;

“Minister” means the member of Cabinet to whom responsibility for shipping is assigned;

“operator” includes any person actually operating a pleasure boat or any person in charge of or having command of a pleasure boat for the purpose of operating it;

“owner” means the person or company with lawful possession of the pleasure boat by virtue of legal title or equitable interest, and –

(a) in the case of a pleasure boat that is not licenced shall include the operator; and

(b) in the case of a pleasure boat that is registered means the person in whose name the boat is registered;

“passenger” means a person who is onboard a pleasure boat but is not assigned as an operator of it for the purpose of the voyage or event in question and therefore a passenger shall include –

- (a) a guest, family or servant of the owner or operator of the pleasure boat who is onboard the pleasure board with the consent of the owner or operator and without requiring remuneration or any kind of profit;
- (b) the owner of the pleasure boat, in circumstances where he or she is not an operator or does not intend to function as an operator of the pleasure boat for the voyage or event in question;
- (c) In circumstances where a pleasure boat has more than one operator, an operator who is not assigned to participate in the operation of a pleasure boat for a particular voyage or event;
- (d) a person permitted onboard a pleasure boat to participate in a voyage, event or pleasure activity in exchange for remuneration or any kind of profit;

“passenger-carrying pleasure boat” means a pleasure boat licensed under this Act to carry passengers;

“personal inflatable watercraft” means a watercraft capable of being inflated and deflated and not motorised;

“pleasure boat” means all vessel whether propelled by oars, engine, wind or other means which are used for sport, recreation or any form of pleasure and shall include a yacht, sailing boat, speed boat, party boat, jet ski, kayak, dinghy, inflatable watercraft, canoe, pirogue, a glass bottom boat used for pleasure activities and motor launches used for the purpose of pleasure activities;

“readily accessible” means capable of being reached easily and safely under emergency conditions or for inspection without the use of tools or without removal of any elements of the permanent vessel structure;

“SOLAS” means the International Convention for the Safety of Life at Sea 1974, as amended;

“sound-signalling device” means a pealesse whistle or a compressed-gas or electric horn;

“to the satisfaction of the Director” means in accordance with national legislation and having due regard to internationally accepted standards of safety that may be relevant to pleasure boats as may be identified through SOLAS, COLREGS and other applicable IMO conventions to which Trinidad and Tobago is a party to the extent that such international provisions on safety are consistent with the national legislation;

“voyage” includes an excursion, and shall be taken to commence from the moment the operator or passengers have boarded the vessel.

“waters of Trinidad and Tobago” shall mean the internal waters, territorial sea and archipelagic waters of Trinidad and Tobago.

4. The Maritime Administration shall have responsibility for the general administration of this Act Administration

5. Except where otherwise expressly provided by this Act, this Act applies to all pleasure boats operating on the waters of Trinidad and Tobago except – Application

- (a) vessels used solely for fishing activities whether such fishing is done for profit or pleasure;
- (b) vessels used solely for a purpose that is not related to sport, recreation or pleasure;
- (c) personal inflatable watercraft as defined in section 3 of this Act
- (d) cruise ships;
- (e) State-owned service vessels such as water taxis and ferries
- (f) vessels holding a valid International Passenger Ship Safety Certificate issued under the provisions of SOLAS

PART II

PLEASURE BOAT LICENCE

Requirement for
Pleasure Boat
Licence

6. (1) No person shall operate or permit another person to operate a pleasure boat unless –
- (a) a valid Pleasure Boat Licence has been issued in relation to the pleasure boat;
 - (b) a copy of the Pleasure Boat Licence is carried on board;
 - (c) the pleasure boat is operated in accordance with any of the conditions specified in the Pleasure Boat Licence;
 - (d) the owner's name and address on the licence are accurate; and
 - (e) in the case of a foreign pleasure boat visiting Trinidad and Tobago waters, all relevant statutory arrival and departure documentation has been satisfied and the pleasure boat is operated consistent with Part IX of this Act.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on first conviction to a fine of two thousand five hundred dollars and on any subsequent conviction to a fine of five thousand dollars.

Application for
Pleasure Boat
Licence

7. (1) The owner of a pleasure boat shall make an application to the Director for a Pleasure Boat Licence in the manner set out at Part A of the First Schedule and such application shall be accompanied by the prescribed fee specified in the Third Schedule.

(2) Upon receipt of an application and fee, the Director shall appoint a date, time and place at which an inspection of the pleasure boat shall be carried out.

Inspection of
pleasure boat
for Pleasure
Boat Licence

8. (1) At the date time and place appointed for the inspection, a Maritime Safety Inspector shall examine the pleasure boat in accordance with the requirements set out in Part B of the First Schedule and shall thereafter submit a report of the inspection to the Director.

(2) In the report the Maritime Safety Inspector shall also make a recommendation as to –

- (a) whether the pleasure boat is fit to be used for the purpose specified by the owner in the application under section 7 (1);
- (b) the maximum number of passengers if any that should be permitted on the pleasure boat per voyage taking into consideration the number of operators that the owner intends to accompany passengers on each voyage and the number of persons overall that the pleasure boat can safely carry per voyage; and
- (c) any further boating restrictions that should be placed upon the particular pleasure boat to ensure its safe operation bearing in mind the boating restrictions already established at Part VI of this Act and the regulations made thereunder.

9. (1) The Director shall issue a licence to the owner only if on consideration of the report and recommendation made by the Maritime Safety Inspector, the Director is satisfied that the pleasure boat fulfils the requirements set out in Part B of the First Schedule and can be operated in a manner consistent with the provisions of this Act.

Issuance of
Pleasure
Boat Licence
by Director

(2) The Director, having considered the recommendation of the Maritime Safety Inspector, shall specify in any licence to be issued any limits upon the use of the pleasure boat, the maximum number of passengers if any and the overall number of persons that it may carry per voyage and any other operational limits specific to the pleasure boat.

(3) The Pleasure Boat Licence shall be in the form set out in the Part C of the First Schedule.

10. Subject to section 11(8), a Pleasure Boat Licence shall be valid for a period of five years commencing from the day it was issued or renewed unless cancelled by the Director.

Period of
validity of
Pleasure
Boat Licence

11. (1) A pleasure boat for which a Pleasure Boat Licence has been issued or renewed shall be subject to a mandatory safety inspection every two years, the first mandatory inspection being two years from the date of issue of the Pleasure Boat Licence.

(2) For the purpose of subsection (1) the owner of the pleasure boat shall two weeks prior to the anniversary date on which each mandatory inspection becomes due, notify the Chief Maritime Safety Inspector in writing that the pleasure boat is due for its two years mandatory inspection, such notification to be

Subsequent
mandatory
inspection
every two
years to
sustain
Pleasure
Boat Licence

accompanied by the prescribed fee specified in the Third Schedule.

(3) The Chief Maritime Safety Inspector on receipt of a notice and prescribed fee under subsection (2) shall assign a Maritime Safety Inspector to carry out the inspection of the pleasure boat.

(4) Upon inspection the Maritime Safety Inspector once satisfied that the pleasure boat continues to be operated consistent with its Pleasure Boat Licence and with the provisions of this Act shall issue the owner with a Pleasure Boat Safety Certificate in the form set out in Part D of the First Schedule.

(5) If the Maritime Safety Inspector is not satisfied that the pleasure boat is being operated consistent with its licence and the provisions of this Act, the Maritime Safety Inspector shall issue to the owner of the pleasure boat a Safety Deficiency Note in the form set out in Part E of the First Schedule which shall specify the safety deficiency to be remedied and shall allow the owner a period of six months to remedy the deficiency after which the pleasure boat shall be re-inspected upon notice being given again under subsection (2).

(6) Where a pleasure boat has been issued a Safety Deficiency Note under subsection (5), the Pleasure Boat Licence shall be maintained but the pleasure boat is not to be operated until re-inspected and a Pleasure Boat Safety Certificate is issued.

(7) Any person operating a pleasure boat in contravention with subsection (6) shall be guilty of an offence and upon conviction shall be liable to a fine of two thousand five hundred dollars and suspension of the Pleasure Boat Licence for three months.

(8) A Pleasure Boat Licence shall automatically become invalid if the owner of the pleasure boat fails to carry out his or her obligation under subsection (2) before the expiration of six months from the anniversary date on which a mandatory inspection became due.

(9) The owner shall keep each Pleasure Boat Safety Certificate or Safety Deficiency Note which is relevant to the period of an existing Pleasure Boat Licence onboard the pleasure boat or in a place readily accessible that it can be produced on request for verification

Provision for
random
inspections

12. (1) The Director may from time to time give directions in respect of random inspections of any pleasure boat to ensure that pleasure boats continue to be operated in a manner consistent with the provisions of this Act.

(2) Public notice shall be given by the Director of any random inspection to be held under subsection (1).

13. (1) The owner of a licensed pleasure boat shall so far as is reasonably practicable give written notice to the Director of any changes in particulars as stated in the application for the Pleasure Boat Licence prior to the particular change being finalised.

Change in particulars stated in application for Pleasure Boat Licence

(2) If the change in particulars affects the safety or operational limits of the pleasure boat, the Director may exercise discretion in deciding whether upon the change being finalised:

- (a) the operational limits specified in the Pleasure Boat Licence should be amended; or
- (b) the Pleasure Boat Licence should be cancelled in accordance with section 12 (c); or
- (c) the Pleasure Boat Licence should be suspended in accordance with section 13.

14. The Director shall cancel a Pleasure Boat Licence if:

Cancellation of Pleasure Boat Licence

- (a) the licence was issued in error;
- (b) There has been a fundamental change in the particulars related to the pleasure boat which affects its safe use and cannot be remedied;
- (c) the Director believes on reasonable and probable grounds that the applicant has provided false or misleading information to obtain the licence;
- (d) in accordance with section 15(5) of this Act;
- (e) in accordance with section 21(2) of this Act; or
- (f) if there is a change of use of the pleasure boat so as to render it excluded from the provisions of this Act in accordance with section 5.

15. (1) The Director may suspend a Pleasure Boat Licence if the pleasure boat is being operated inconsistent with the provisions of this Act.

Suspension of Pleasure Boat Licence

(2) The Director shall give notice to the owner of the suspension of the Pleasure Boat Licence and in same notice specify the corrective measure(s) required to the pleasure boat to facilitate re-instatement of the Pleasure Boat Licence.

(3) No pleasure boat is to be operated during the period that a Pleasure Boat Licence is suspended.

(4) Where the owner has made corrective measures to the pleasure boat to the satisfaction of the Director upon inspection by a Maritime Safety Inspector, the Director shall re-instate the

Pleasure Boat Licence and, in writing, notify the owner of the pleasure boat of same.

(5) A Pleasure Boat Licence shall automatically become invalid and thus cancelled by the Director if the owner fails within one year of notice being given under subsection (2) to notify the Director that he or she has taken the required corrective measures.

Surrender of
Pleasure Boat
Licence

16. Where the Director suspends or cancels a Pleasure Boat Licence the owner shall surrender the licence to the Director immediately.

Public Record
of licensed
Pleasure Boats

17. (1) A computerized and paper record of the details of all Pleasure Boat Licence which have been issued as well as any inspection certificates, safety warning, pending investigation, suspension or cancellation of licence made in relation to any particular licensed pleasure boat, shall be kept by the Maritime Administration.

(2) A member of the public may make an enquiry as to the safety status of a pleasure boat by providing the name of the owner of the pleasure boat and payment of the prescribed fee specified in the Third Schedule

(3) The Maritime Administration upon receipt of the enquiry and prescribed fee shall deliver a written response to such person, specifying the date of the pleasure boats last inspection, the name of the Maritime Safety Inspector who carried out the inspection and whether the pleasure boat was successful in its safety inspection.

(4) If a person believes that he has experienced less than safe conditions onboard a pleasure boat, a complaint may be made to the maritime administration giving details of the unsafe conditions experienced and that complaint shall be forwarded to the Chief Maritime Inspector who shall investigate the matter further.

Renewal of
Pleasure Boat
Licence

18. (1) The owner of a pleasure boat shall make an application for renewal of a Pleasure Boat Licence utilising the form set out in Part F of the First Schedule, such application to be accompanied by the prescribed fee specified in the Third Schedule.

(2) Upon the application for renewal being made the pleasure boat shall be subject to inspection and the owner shall be required to evidence the most recent Pleasure Boat Safety Certificate or Safety Deficiency Note, whichever or the two has been more recently issued.

(3) An application for renewal can be made up to three months prior to the expiry of an existing Pleasure Boat Licence.

19. (1) The owner of a licensed pleasure boat shall make a written report to the Maritime Administration if the Pleasure Boat Licence is lost or stolen

Replacement
of Pleasure
Boat Licence

(2) The Director shall, on receipt of the fee prescribed in the Third Schedule cause a certified copy of the Pleasure Boat Licence to be issued to the owner.

20. (1) Where the transfer of ownership of a licensed pleasure boat is intended and the new owner intends to maintain the existing operational limits against the pleasure boat, the existing owner of the pleasure boat shall jointly with the intended new owner of the pleasure boat apply to the Director utilising the form set out at Part G of the First Schedule for a transfer of the unexpired period on a Pleasure Boat Licence to the new owner of the pleasure boat.

Transfer of
ownership of
Pleasure
Boat

(2) An application made under subsection (1) shall be accompanied by the prescribed fee specified in the Third Schedule.

(3) Upon receipt of the application and prescribed fee, the Director shall permit transfer of the Pleasure Boat Licence once

- (a) proof has been provided of the name and address of the new owner;
- (b) a certified copy of the executed transfer of ownership document in relation to the pleasure boat has been provided;
- (c) and the Director is satisfied by written oath signed by the new owner, that the new owner intends to operate the pleasure boat within the operational limits of the existing Pleasure Boat Licence and in a manner consistent with the provisions of this Act.

(4) Where subject to subsection (3) the Director is satisfied that the Pleasure Boat Licence can be transferred, an amended Pleasure Boat Licence shall be issued with the new owner's particulars for the unexpired term and the pleasure boat shall be subject to the same operational limits that were applicable to it

under the previous owner and its next mandatory inspection shall be due at the same time it would have come due under the previous owner.

(5) Alternatively, if the new owner wishes for a change in operational limits of the pleasure boat then a fresh application should be made in accordance with sections 7 and 8 of this Act but the application shall be accompanied by a letter from the existing owner stating his commitment to surrender and have immediately cancelled the pre-existing Pleasure Boat Licence effective from the date on which a new Pleasure Boat Licence is to be issued to the new owner.

PART III

OPERATORS PERMIT FOR PLEASURE BOATS

Prohibition
against
operation of
pleasure boat
without
Operator's
Permit

21. (1) No person shall operate a pleasure boat if he or she is not the holder of an Operator's Permit issued by the Maritime Administration under this Part.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on first conviction to a fine of two thousand five hundred dollars and on any subsequent conviction to a fine of five thousand dollars.

Pleasure boat to
be operated by
person with
Operator's
Permit

22. A Pleasure Boat Licence shall not be issued in relation to any pleasure boat unless:

(a) the owner or at least one of the owners (where there is more than one owner) is the holder of an Operator's Permit; and

(b) the owner(s) of the pleasure boat sign and abide by the oath set out at Part A of the Second Schedule to the effect that they will operate the pleasure boat in a manner consistent with their Pleasure Boat Licence and this Act and will not permit any person who is not in possession of an Operator's Permit to operate the pleasure boat at any time.

23. (1) An Application for an Operator's permit shall be in the form set out in Part B of the Second Schedule and shall be accompanied by the prescribed fee specified in the Third Schedule.

Application
for Operator's
Permit

(2) The Director shall, upon receipt of an application and the prescribed fee, issue an Operator's Permit in the form set out in Part C of the Second Schedule if the applicant meets the requirements consistent with subsection (4) herein.

(3) The Director shall determine operational limits in respect of any Operator's Permit based on the training, competence and seafaring experience of an operator.

(4) The following requirements for an Operator's Permit shall be specified from time to time as the Director upon consultation with the Pleasure Boats Safety Committee established under Part XI of this Act shall notify:

- (a) the standards of competence to be obtained including the holding of an equivalent permit;
- (b) the conditions including conditions as to medical fitness and character;
- (c) any exceptions applicable with respect to the required standards or conditions;
- (d) the manner in which the attainment of any standards or the satisfaction of any conditions is to be evidenced; and
- (e) the conduct of any examinations and the conditions of admission to them.

24. (1) The Minister shall, on the advice of the Director appoint suitably qualified persons to a Board of Examiners for the assessment of pleasure boat operators.

Assessment
applicants for
Operator's
Permit

(2) The Board so appointed shall conduct the examinations mentioned at section 23(4)(e) and shall advise the Director as to an applicant's competency to operate a pleasure boat or a class of pleasure boat as the case may be.

(3) The Director shall not grant an Operator's Permit to any person until the person has satisfied the Board that the vision, hearing and mental competency of the person are such as to warrant the grant of the permit.

(4) The Director may authorise the Board to conduct examinations for the Operator's Permit at such places in Trinidad and Tobago and under such conditions as the Director may determine.

Validity and
renewal of
Operator's
Permit

25. (1) An Operator's Permit shall be valid for a period of 5 years from the date of issuance and shall be kept safely on the person of the operator at all times during operation of a pleasure boat.

(2) An application for renewal of an Operator's Permit shall be made utilising the form set out in Part D of the Second Schedule and shall be accompanied by the prescribed fee specified under the Third Schedule.

(3) Upon the application for renewal being made an applicant may be required to fulfill any up-to-date requirements specified under section 23(4) which shall include the submission of an updated Certificate of Medical Fitness and may include the sitting of an updated safety assessment under section 24.

(4) An application for renewal can be made up to three months prior to the expiry of an existing Operator's Permit.

Continuous
Training

26. Operators of pleasure boats shall be required to undergo appropriate and recognised training in the areas of maritime safety and pollution prevention as may be approved by the Director from time to time.

Application and
issuance of
Learner's
Permit

27. (1) The Director upon consultation with the Pleasure Boat Safety Committee shall from time to time specify the requirements for issuance of a Learner's Permit, such requirements to include conditions for medical fitness, mandatory provision of the name of the operator(s) who shall be instructing and supervising the applicant and a written basic safety test to be taken by an applicant.

(2) An application for a Learner's permit shall be made in the form set out in Part E of the Second Schedule and shall be accompanied by the prescribed fee specified in the Third Schedule.

(3) The Director shall, upon receipt of the application and the prescribed fee, issue a Learner's Permit in the form set out in Part F of the Second Schedule if the applicant meets the requirements consistent with subsection (1).

(4) The Director shall not issue a Learner's permit to an applicant if the person named as the operator who shall be instructing and supervising the applicant has within the last three years any conviction or official warning from the Maritime Administration made against him evidencing past conduct inconsistent with the provisions of this Act.

(4) The holder of a Learner's Permit shall at all times during the operation of the pleasure boat be supervised by the operator approved by the Maritime Administration at the time of the issuance of the Learner's Permit and shall keep on his or her person the Learner's Permit.

28. A Learner's Permit shall be valid for a period of 1 year from the date of issuance.

Validity of
Learner's
Permit

29. A computerized and paper record shall be kept by the Maritime Administration of –

Administrative
Record of
permits

(a) Every Operator's Permit and Learner's Permit issued under this Part; and

(b) Every conviction, warning, suspension, cancellation or alteration of and any other matter affecting such permit.

30. (1) The holder of an Operator's Permit or Learner's Permit shall make a written report to the Maritime Administration in the event the Operator's Permit is lost or stolen.

Replacement
of Permit

(2) The Director shall, on receipt of the fee prescribed in the Third Schedule cause a certified copy of the Operator's Permit or Learner's Permit, as applicable, to be issued to the owner.

Disciplinary
Proceedings

31. (1) Where it appears to the Director that a permit holder is unfit to discharge his or her duties, whether by reason of willful misconduct, incompetence or reasons of medical unfitness, he shall cause an inquiry to be held by at least two persons competent in the area and appointed by him.

(2) Where the inquiry recommends the suspension or cancellation of the Operator's Permit, the Director shall give notice to the permit holder of the reasons given for intended suspension or cancellation and if possible the corrective measures to be taken within the specified time, such time not to be unreasonable having regard to all the circumstances.

(3) Where corrective action has been taken, the Director shall not proceed with any further action and notify the permit holder of same in writing.

(4) Where the permit holder fails to take the corrective measures required, the Director shall suspend or cancel the permit and upon recommendation from the persons who were appointed to conduct the inquiry shall specify any conditions necessary to re-instatement of the permit.

(5) Where a permit is suspended or cancelled, it shall be surrendered to the Director immediately.

(6) In this section the term "willful misconduct" means that the operator either by an act or omission knowingly violates a provision of this Act or the regulations thereunder knowing that loss or damage to property or injury to a person will probably result or recklessly disregarding that possibility.

(7) For the purpose of subsection (6) an operator "knowingly violates" a provision of this Act or the regulations thereunder if the owner cannot show that he or she took all so far as is reasonably practicable to avoid the contravention in question.

Cancellation of
Operator's
Permit or
Learner's
Permit

32. The Director shall cancel an Operator's Permit or Learner's Permit if:

- (a) it was issued in error;
- (b) the Director believes on reasonable and probable grounds that the applicant has provided false or misleading information to obtain the permit; or
- (c) in accordance with section 31(4) of this Act.

PART IV

BASIC SAFETY APPLIANCES AND

EQUIPMENT

33. The owner and operator of a pleasure boat shall take all reasonable steps to ensure the safety of the pleasure boat and of every person on board.

Duty to ensure safety

34. The owner and operator of a pleasure boat shall ensure that the device or method used to assist persons in boarding and disembarking the pleasure boat is safe and provides sufficient stability to a person when boarding or disembarking the pleasure boat so as to so far as reasonably practicable minimise any possible danger.

Boarding and disembarkation device or method

35. (1) Every pleasure boat shall carry on board a personal flotation device or lifejacket of an appropriate size for each person on board

Flotation device or lifejacket

(2) If a personal flotation device or lifejacket that must be carried on board a pleasure craft is to be worn by a person less than 16 years of age, it shall be inherently buoyant.

36. A pleasure boat shall carry on board the visual signals set out as follows -

Visual and Distress Signals

(a) where pleasure boat is not more than 6m in length, it shall be equipped with a watertight flashlight or three pyrotechnic distress signals other than smoke signals;

(b) Where pleasure boat is more than 6m but not more than 9m in length, it shall be equipped with a watertight flashlight and six pyrotechnic distress signals other than smoke signals; or

(c) Where pleasure boat is more than 9m in length, it shall be equipped with a watertight flashlight

and twelve pyrotechnic distress signals, not more than six of which are smoke signals

Vessel
equipment

37. A pleasure boat shall carry on board vessel equipment as follows –

(a) where the pleasure boat is no more than 9m in length it shall be equipped with either

- (i) a manual propelling device, or
- (ii) an anchor, and not less than 15m of cable, rope or chain or any combination of them,

and a bailer or a manual bilge pump;

(b) where the pleasure boat is more than 9m but not more than 12 m in length it shall be equipped with

- (i) an anchor, and not less than 30m of cable, rope or chain or any combination of them; and
- (ii) a manual bilge pump or bilge-pumping arrangements;

(c) where the pleasure boat is more than 12m in length it shall be equipped with

- (i) an anchor, and not less than 50m of cable, rope or chain or any combination of them; and
- (ii) bilge-pumping arrangements.

Navigation
equipment

38. A pleasure boat shall carry on board navigation equipment as follows –

(a) where the pleasure boat is not more than 9m in length, it shall be equipped with

- (i) a sound-signalling appliance that meets the requirements of the Shipping (Distress

Signals and Prevention of Collisions)
Regulations LN242/1990 made under the
Shipping Act Chap 50:10;

- (ii) if the pleasure boat is operated after sunset or before sunrise or in periods of restricted visibility, navigation lights that meet the requirements of the Shipping (Distress Signals and Prevention of Collisions) Regulations LN242/1990 made under the Shipping Act Chap 50:10; and
 - (iii) a magnetic compass designed for marine use and capable of being illuminated;
- (b) where the pleasure boat is more than 9m but not more than 12m in length it shall be equipped with
- (i) a sound-signalling appliance that meets the requirements of the Shipping (Distress Signals and Prevention of Collisions) Regulations LN242/1990 made under the Shipping Act Chap 50:10;
 - (ii) navigation lights that meet the requirements of the Shipping (Distress Signals and Prevention of Collisions) Regulations LN242/1990 made under the Shipping Act Chap 50:10; and
 - (iii) a magnetic compass designed for marine use and capable of being illuminated;
- (c) where the pleasure boat is more than 12m in length it shall be equipped with
- (i) A sound-signalling appliance that meets the requirements of the Shipping (Distress Signals and Prevention of Collisions) Regulations LN242/1990 made under the Shipping Act Chap 50:10;

- (ii) Navigation lights that meet the requirements of the Shipping (Distress Signals and Prevention of Collisions) Regulations LN242/1990 made under the Shipping Act Chap 50:10; and
- (iii) A magnetic compass designed for marine use and capable of being illuminated.

39. A pleasure boat shall carry on board the firefighting equipment as follows –

Firefighting
equipment

- (a) where a pleasure boat is not more than 6m in length it shall be equipped with
 - (i) a 5B:C portable fire extinguisher, if the pleasure boat is equipped with an inboard engine, a fixed fuel tank of any size, or a fuel burning cooking, heating or refrigerating appliance
- (b) where the pleasure boat is more than 6m but not more than 9m in length it shall be equipped with
 - (i) a 5B-C portable fire extinguisher if the pleasure boat is a power-driven vessel; and
 - (ii) a 5B:C portable fire extinguisher, if the pleasure boat is equipped with a fuel burning cooking, heating or refrigerating appliance;
- (c) where the pleasure boat is more than 9m but not more than 12m in length it shall be equipped with
 - (i) a 10B:C portable fire extinguisher, if the pleasure boat is a power-driven vessel; and

- (ii) a 10B:C portable fire extinguisher, if the pleasure boat is equipped with a fuel-burning cooking, heating or refrigerating appliance.
- (d) where the pleasure boat is more than 12m but less than 24m in length it shall be equipped with
- (i) a 10B:C portable fire extinguisher at the following locations at each access to a space fitted with a fuel-burning cooking, heating or refrigerating appliance; at the entrance to any accommodation space; and at the entrance to the machinery space;
 - (ii) an axe; and
 - (iii) two buckets;
- (e) where the pleasure boat is 24m or more in length it shall be equipped with
- (i) the equipment set out in section 39 (d)(i);
 - (ii) a power-driven fire pump, located outside the engine space, fitted with a fire hose and a nozzle from which a jet of water can be directed into any part of the pleasure boat;
 - (iii) two axes; and
 - (iv) four buckets.

Radio-
communication
system

40. The owner of the pleasure boat shall establish a radio communication system which shall be approved by the Director upon taking into account the design of the pleasure boat and the requirements of Chapter IV of SOLAS

41. (1) A pleasure boat shall be equipped with a first aid kit approved by the Maritime Administration. The kit shall consist of a watertight container capable of holding all the items specified in the Fourth Schedule, with directions for use, stowed in a suitable container that is marked, "First Aid Kit".

First Aid Kit

(2) A first aid kit shall be easily visible and readily accessible to all persons on board the pleasure boat.

42. The owner and operator shall, bearing in mind the number of persons that will be on board for a particular voyage, ensure prior to each voyage that there is an emergency (dedicated reserve) supply of drinking water on board the pleasure boat.

Dedicated
reserve of
drinking water

43. In the case of a pleasure boat which tows a water skier, the operator shall ensure that before the commencement of the ski activity, the water skier is wearing a lifejacket that is inherently buoyant and carries safely around his or her neck a loud-sounding waterproof whistle.

Additional
obligation
where pleasure
boat tows
water skier

44. (1) Jet skis are excluded from this part but the owner or operator of a jet ski shall ensure that from the time of boarding to the time of disembarking the jet ski:

Exception

- (a) every person upon a jet ski is wearing a lifejacket that is inherently buoyant;
- (b) every person carries safely around their neck a loud-sounding waterproof whistle; and
- (c) that a first aid kit approved by the Maritime Administration is kept in a readily accessible and safe place ashore the area in which the jet ski is being operated at a material time.

45. (1) For the purpose of this Part, it shall be the duty of the owner to provide the proper safety appliances and equipment specified under this Part and the regulations made thereunder

Duty of the
owner and

and it shall be the duty of the operator to ensure the presence of such appliances and equipment prior to each voyage.

operator under
this Part

(2) Where the operator recognises that the requisite safety appliances and equipment are not onboard the pleasure boat, the operator shall not proceed on the voyage until the owner has provided all the proper safety appliances and equipment required under this Part and the regulations made thereunder.

(3) Where a pleasure boat proceeds on a voyage in contravention of the provisions of this Part, both the owner and operator shall each be liable on conviction to a fine of one thousand five hundred dollars, without prejudice to any other claims that may arise from loss, damage, injury or death resulting from breach of the owner or operator's legal duty under this Part.

Power to make
regulations in
respect of safety
equipment and
procedures

46. (1) The Minister shall make regulations in relation to the standard of safety equipment specified in this Act and prescribing other necessary safety equipment which shall be carried on board as well as regulations in respect of safety procedures to be applicable to pleasure boats.

(2) When making regulations under subsection (1) the Minister shall have regard to SOLAS, the LSA Code, IMO Resolution MSC.81(70) and the Shipping (Distress Signals and Prevention of Collisions) Regulations LN242/1990 made under the Shipping Act Chap 50:10.

PART V

SAFE OPERATION OF PASSENGER-CARRYING PLEASURE BOATS

Authorisation
to carry
passengers and
prohibition
against
overloading of
pleasure boats

47. (1) No pleasure boat shall carry passengers unless it has been expressly stated in its Pleasure Boat Licence that it has been so authorised by the Maritime Administration.

(2) A pleasure boat which has been authorised to carry passengers shall not on any single voyage carry more passengers than it has been licensed to carry per voyage.

(3) A person who contravenes either subsection (1) or (2) shall be guilty of an offence and liable on conviction under either of those individual provisions to a fine of three thousand five hundred dollars.

48. (1) No minor under the age of 16 shall be permitted by an owner or operator of a pleasure boat to board a pleasure boat unless that minor is accompanied by –

Prohibition
against
unaccompanied
minors aboard
pleasure boats

- (a) the minor's parent;
- (b) the minor's guardian; or
- (c) an adult over the age of 18 years, provided that the adult gives to the owner or operator
 - a
 - (i) written letter of authorization from the minor's parent or guardian
 - (ii) copy of the minor's birth certificate; and
 - (iii) copy of one form of identification of the parent or guardian.

(2) A person who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine of one thousand five hundred dollars.

49. (1) The owner or operator of a passenger-carrying pleasure boat shall maintain an official log book which records details of the -

Log Book
recording
passenger
voyages to be
safely kept
ashore and
readily
accessible

- (a) time and brief description of each voyage to be taken;
- (b) name(s) of any owner of the pleasure boat that will be aboard for the particular voyage;
- (c) name(s) of the operators of the pleasure boat that will be aboard for the particular voyage;

- (d) name, gender and age of each passenger that shall be aboard the pleasure boat for the particular journey;
- (e) identification card or passport number of all persons that will be aboard the pleasure boat for the particular journey; and
- (f) a name and contact number for a next of kin in case of emergencies.

(2) During the voyage, the official log book referred to at subsection (1) shall be kept in a safe and readily accessible place ashore with an agent of the owner or a person designated by the owner or operator to be responsible for aiding in communication with the owner, operator, search and rescue authorities or other emergency services in the event of any emergency pertaining to the particular pleasure boat.

(3) A person who contravenes either subsection (1) or (2) shall be guilty of an offence and liable on conviction under either of those individual provisions to a fine of two thousand five hundred dollars.

Passenger
preparedness
for emergencies

50. (1) The operator of a passenger-carrying pleasure boat shall before the pleasure boat leaves a place where the passengers embark, ensure that all passengers are briefed and acknowledge that they understand the safety and emergency procedures relevant to the type of pleasure boat including –

- (a) a general explanation of emergency procedures;
- (b) the location of lifejackets and specifically the location of lifejackets for children;
- (c) the proper method of putting on and adjusting lifejackets of the type carried on the pleasure boat;
- (d) the location of survival craft;

- (e) the location and use of other personal life-saving and safety equipment;
- (f) the safety measures to be taken, including those relating to the protection of limbs, the avoidance of ropes and docking lines, and the effect of the movement and grouping of passengers on the stability of the pleasure boat; and
- (g) the prevention of fire and explosions.

(2) During the briefing, the operator of the pleasure boat shall ensure that a demonstration is provided on the manner of donning each type of lifejacket.

51. All passenger seating, passageways and accommodation shall be arranged and equipped to provide for the safety of the passengers in consideration of the route, modes of operation and speed of the vessel.

Passenger
seating,
passageways
and
accommodation

52. (1) The owner and operator of a pleasure boat upon which a party is to be held in conjunction with the organisers of the party shall –

Safety when a
party is hosted
on Pleasure
Boat

- (a) prior to the party ensure that there is a safe means of escape from the pleasure boat in the event of an emergency;
- (b) prior to the disembarking of the pleasure boat or beginning of the party (whichever time is more effective in delivering the caution) that all passengers are made aware of the means of escape in the event of an emergency; and
- (c) during the party that no obstacles are caused which affect the means of escape

(2) For the purpose of subsection (1) “means of escape” refers to a continuous and unobstructed route from any point in the pleasure boat to an embarkation station, and can be both vertical and horizontal including in the route doorways,

passageways, stair towers and public spaces but shall not include in the route machinery spaces, rest rooms, hazardous areas, escalator and elevators.

(3) It shall be the duty of the organisers of a party to ensure that the duty under section 50 is carried out and that passengers are also cautioned against becoming intoxicated during the voyage

(4) The organisers of a party at which there are more than twenty persons shall also ensure that having regard to the number of passengers that will be onboard the pleasure boat to participate in the party that a reasonable number of appropriate persons approved by and briefed by the operator on safety procedures, are hired or otherwise engaged onboard the pleasure boat for the purpose of –

- (a) monitoring the safety of passengers during the voyage;
- (b) ensuring that the means of escape remains unobstructed; and
- (c) communicating and assisting the operator in securing the passengers in the event of an emergency,

and such persons shall be assigned to a particular post in the pleasure boat, shall not drink alcohol and shall not participate in the activities of the party.

(5) The organisers of a party shall ensure –

- (a) the number of passengers admitted onto the pleasure boat does not exceed the total number of passengers that a pleasure boat is licenced to carry, taking into account the number of person hired or engaged under the obligation under subsection (4) and any other persons who shall be on board the pleasure boat to carry out duties during the course of the party with the exception of the operator(s);

- (b) sufficient hand-holds, grabs or rails in the areas to be populated during the party so as to enable safe movement of passengers on the pleasure boat;
- (c) clean and properly working toilet facilities; and that
- (d) the noise and vibration levels onboard shall not be excessive so as to cause hazard to navigation, and in any event appropriate measures are to be taken to minimise noise and vibration levels.

53. (1) The owner of a pleasure boat which has been licenced to carry passengers shall obtain and ensure that at all times that the pleasure boat is being operated that it is covered third-party or public liability insurance.

Public liability
and third-party
insurance

(2) A person who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine of two thousand dollars.

54. The Minister may make regulations in respect to safety procedures and preparedness and requirements relevant to any of the provisions of this Part which shall be specifically applicable to passenger-carrying pleasure boats.

Power to make
regulations

PART VI

BOATING RESTRICTIONS

55. The Minister shall make regulations pertaining to boating restrictions including –

Minister to
make
regulations

- (a) waterways on which all pleasure boats shall be prohibited;
- (b) waterways on which certain types of pleasure boats shall be prohibited;

- (c) waterways on which sporting and recreational events shall be prohibited;
- (d) the maximum speed at which a pleasure boat may operate in a certain area;
- (e) the hours at which certain types of pleasure boats shall be permitted to operate;
- (f) the criteria to be used to determine the limitations which are to be placed on a Pleasure Boat Licence, Operator's Permit or Learner's Permit;
- (g) criteria for determining the total number of passengers and the overall number of persons that a pleasure boat shall be licensed to carry; and
- (h) restrictions in respect of the age of the passengers which shall be allowed to board certain descriptions of pleasure boat

Adherence to restrictions

56. No pleasure boat shall operate in an area or at a time at which it is restricted from operating by virtue of the terms of a valid Pleasure Boat Licence issued to it, the provisions of this Act and supporting regulations made by the Minister pursuant to this Act.

Customary sea bathing areas

57. No pleasure boat shall operate in an area which by custom is utilised as a swimming area for sea bathers.

Towing for the purpose of water skiing

58. (1) No pleasure boat shall be used for the purpose of towing a water skier unless at such time there is present onboard at least one person other than the operator for the purpose of keeping the skier under close observation and such person possesses a valid certificate in life-saving skills and is capable of carrying-out lifesaving skills in the event of an emergency.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine of two thousand dollars

and suspension of their Operator's Permit for a period of three months.

(3) An operator of a pleasure boat which is towing a water skier or is travelling at a speed exceeding five knots shall not approach to within 200 yards of a bathing place or a landing place and shall not in any case approach any area of the sea in which there are bathers.

(4) A person who contravenes subsection (3) is guilty of an offence and liable on conviction to a fine of one thousand five hundred dollars and suspension of their Operator's Permit for a period of three months.

59. (1) No person shall hold a sporting, recreational or public party event or activity on any waterway without first receiving written approval from the Director to host the event in that waterway.

Prior approval
to host
sporting,
recreational or
public party
events on
waterways

(2) Where approval is given the Director may impose conditions of approval which promote the safety of those who shall be participating in the event and which promote adherence to this Act and its supporting regulations.

(3) Where approval is given subject to conditions, the person who sought the approval shall take all reasonable action to ensure adherence to all the conditions of approval.

(4) Where the Director does not approve of the hosting of the event in the specified waterways, the reason(s) shall be given to the person who sought the approval.

60. (1) A person who operates a pleasure boat shall –

Safe operation

(a) take into account any circumstances that could pose a danger to the pleasure boat or to other vessels; and

(b) avoid endangering the safety of persons involved in any activity in any waters.

(2) In order to ensure the safety of persons during a sporting, recreational or public event or activity for which approval by the Director has been granted, a person who operates a pleasure

boat shall do so in a manner that does not interfere with the event or activity.

Age restriction
for Operator's
Permit and
Learner's
Permit

61. (1) No person under the age of eighteen years shall be issued an Operator's Permit under Part III of this Act.

(2) No person under the age of sixteen years shall be issued a Learner's Permit under Part III of this Act.

(3) Any minor who is less than eighteen years of age and who applies for a Learner's Permit under Part III of this Act shall not be issued a Learner's Permit unless a parent, guardian or whosoever has legal custody of the minor gives written consent in favour of the grant of a Learner's Permit to the minor.

PART VII

OFFENCES PENALTIES AND LEGAL PROCEEDINGS

Duty to ensure
seaworthiness
of pleasure
boat

62. (1) It is the duty of the owner of a pleasure boat to ensure the continuous safety of the structural elements or construction of the pleasure boat so as to ensure its seaworthiness.

(2) The operator of the pleasure boat shall make a reasonable inspection of the pleasure boat prior embarking on a voyage and shall not operate the pleasure boat if in reasonable doubt of its seaworthiness.

(3) Where an owner under subsection (1) or an operator under subsection (2) omits to perform the duty under the respective subsections or performs the duty recklessly or with gross negligence, such owner under subsection (1) or operator under subsection (2) shall be guilty of an offence and liable on conviction to a fine of six thousand dollars.

Bribery of
Maritime
Safety
inspector or
personnel of

63. (1) A person who by money or in kind, bribes any Maritime Safety Inspector or other personnel of the Maritime Administration for the purpose of dishonestly obtaining some benefit derived from the provisions of this Act of the regulations

the Maritime Administration

thereunder shall be guilty of an offence and liable on conviction to a fine of eight thousand dollars or imprisonment for a period not exceeding six months or to both such fine and imprisonment.

(2) A Maritime Safety Inspector or personnel of the Maritime Administration who has accepted any bribe under subsection (1) shall be guilty of an offence and liable on conviction to a fine of eight thousand dollars or imprisonment not exceeding six months or to both such fine and imprisonment and shall upon conviction be terminated from employment at the Maritime Administration with immediate effect from

64. A person who uses a pleasure boat without the consent of the owner or other lawful authority is guilty of an offence and liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Using pleasure boat without consent of the owner

65. (1) A person who, when operating a pleasure boat or attempting to operate a pleasure boat, or when in charge of a pleasure boat is under the influence of alcohol or a drug to such extent as to render him incapable of having proper control over the pleasure boat, shall be deemed guilty of an offence (the offence relating to acting under the influence of alcohol being separate from the offence relating to influence by drug) and liable on first conviction for any one offence to a fine of eight thousand dollars or imprisonment for six months and on any subsequent conviction for any one of the same offence to a fine of fifteen thousand dollars and imprisonment for six months.

Operating pleasure boat under the influence of alcohol or a drug

(2) A person convicted for an offence under subsection (1) shall without prejudice to the power of the court to order a longer period of disqualification, on first conviction for any one offence be disqualified from holding or obtaining an Operator's Permit for a period of one year, on second conviction for any one of the same offence be disqualified from holding or obtaining an Operator's Permit for a period of three years and on any third conviction under subsection (1) whether arising out of the same facts or occurring on a separate occasion be permanently disqualified from holding or obtaining an Operator's Permit.

(3) A person on second conviction for the same offence under subsection (1) shall undertake rehabilitation aimed at preventing his or her further abuse of the substance(s) which formed the subject of the conviction.

(4) Where a pleasure boat is being operated by a person under the influence of alcohol or drug so as to render him incapable of having proper control over the pleasure boat, the Maritime Administration or any authorised person may take such steps as to assume control of the pleasure boat and bring it to a convenient place of anchorage.

Reckless
operation of
pleasure boat

66. (1) A person who operates a pleasure boat recklessly or in a manner exceeding safe speed shall be deemed as guilty of an offence and liable upon summary conviction to a fine of two thousand five hundred dollars and in the case of subsequent convictions, to a fine of three thousand five hundred dollars.

(2) A person convicted of an offence under subsection (1) shall without prejudice to the powers of the Court to impose a longer disqualification period, be disqualified by the Director from the date of first conviction for a period of six months from holding or obtaining a permit and upon any subsequent conviction he shall be disqualified from holding or obtaining a permit for a period of two years.

(3) For the purpose of this section “safe speed” shall mean such speed or manner so that the operator of the pleasure boat can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions.

Careless
operation of
pleasure boat

67. (1) Any person who operates a pleasure boat without due care and attention or without reasonable consideration to sea bathers or other persons or vessels, shall be guilty of an offence and liable upon summary conviction to a fine of two thousand five hundred dollars and in the case of subsequent convictions, to a fine of three thousand five hundred dollars.

(2) In addition to any penalty imposed in subsection (1), the Court may disqualify such person from holding or

obtaining a permit to operate a pleasure boat for a minimum three months.

68. In any proceedings for an offence under any of the relevant provisions, of this Act or supporting regulations, consisting of a failure to comply with a duty or requirement to do something so far as is reasonable it shall be for the accused to prove, as the case may be, that it was not reasonable to do more than was in fact done to satisfy the duty or requirement.

Onus of proving limits of what is reasonable

69. (1) Notwithstanding anything contained in this Act, but subject to subsection (2), where a person contravenes a provision of this Act or any Regulations made thereunder or fails to comply with any prohibition, restriction, instruction or directive issued under this Act or any such Regulations, that person commits an offence and is liable to be dealt with in accordance with the provisions of the Summary Courts Act.

Criminal and other remedies

(2) A person only commits an offence under this Act or Regulations made thereunder if it is proved that person failed to take reasonable steps to prevent the commission of the offence.

70. Where a person –

- (a) forges or counterfeits a licence, permit, certificate or any written expression required by or for the purposes of this Act;
- (b) gives or signs a licence, permit, certificate or any written expression required by or for the purposes of this Act, knowing it to be false in any material particular (hereinafter referred to as “a false document”);
- (c) knowingly utters or makes use of a false document;
- (d) knowingly makes use of, as applying to a person, a licence, permit, certificate or any written expression, which does not so apply;
- (e) personates a person named in a false document;

Forgery of licence, permit, certificates and written expressions, false entries and false declarations

- (f) wilfully connives at forging, counterfeiting, giving, signing, uttering or making use of a false document;
- (g) wilfully makes a false entry in a register, notice, certificate or document required by or for the purpose of this Act to be kept, served or sent;
- (h) wilfully makes or signs a declaration required by, or for the purpose of, this Act knowing the contents thereof to be false;
- (i) knowingly makes use of a false entry or false document;
- (j) personates or pretends to be an inspector or surveyor; or
- (k) any other fraudulent act associated with the provisions of this Act,

that person commits an offence and is, without prejudice to any other liability, liable on conviction to a fine of eight thousand dollars or imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Refusing to give name or address or giving a false name or address

71. (1) An operator of a pleasure boat who commits an offence under this Act or the regulations thereunder and who refuses to give his name and address or gives a false name or address to the Maritime Administration or to an enforcement officer is guilty of an offence and liable on conviction to a fine of four thousand dollars.

(2) The owner of a pleasure boat in respect of which an offence is committed under this Act or the regulations thereunder shall if required to do so, give any information which it is within his or her power to give which may lead to the identification and apprehension of the operator of the pleasure boat, and if the owner fails to do so within twenty-four hours of being notified of such request, he is guilty of an offence and liable on conviction to a fine of four thousand five hundred dollars.

Penalty where none is

72. (1) Any person who contravenes this Act is, unless otherwise specifically provided, liable to a fine of four thousand five hundred dollars.

expressly
provided

(2) Any person who contravenes the provisions of any regulations made under this Act is, unless otherwise specifically provided, liable to a fine of four thousand five hundred dollars.

73. All proceedings under this Act shall be initiated no more than two years after the cause of action has arisen. Time limit

PART VIII

NOTIFICATION AND INVESTIGATION OF ACCIDENTS AND BREACHES OF THIS ACT

74. (1) Where a pleasure boat is involved in an accident or incident that causes – Notification of accidents or incidents
- (a) any grounding or collision which creates a hazard to navigation, the environment or the safety of the pleasure boat;
 - (b) loss of main propulsion, primary steering or any associated component or control system, the loss of which causes a reduction of the maneuvering capabilities of the pleasure boat;
 - (c) an occurrence materially and adversely affecting the pleasure boat's seaworthiness or fitness for service or route, including but not limited to fire, flooding, failure of or damage to fixed fire extinguishing systems, lifesaving equipment, auxiliary power generating equipment or bilge pumping systems;
 - (d) loss or damage to the pleasure boat, another pleasure boat or vessel or any other property;
 - (e) injury to any person which requires more than first aid;
 - (f) the death of a person; or

where the condition of a pleasure boat has given rise to an occupational disease being contracted by any person onboard the pleasure boat, the owner or operator of the pleasure boat, whoever of the two if not both, who has witnessed or been notified of the incident, accident or condition causing the occupational disease, shall inform the Chief Maritime Safety Inspector of the accident forthwith by telephone, facsimile, email or other direct means and shall soon as possible thereafter send a written notice of the accident, utilising the prescribed form set out in the Fifth Schedule, to the Chief Maritime Safety Inspector within four days of the owner or operator learning of the accident.

(2) The owner or operator of the pleasure boat, whoever of the two was present at the time of the accident, shall also report the accident to the local police within 24 hours.

(3) Where by some disability or death the owner or operator of the pleasure boat is not able to give the notification required under subsections (1) and (2), or where the owner or operator fails to give such notification, then any person who has witnessed the incident or accident or who is a victim of the occupational disease arising from the condition of the pleasure boat may perform the duty of notification required under subsections (1) and (2).

(4) Where an accident or incident resulting in critical injury occurs and death follows the notification of the accident or incident, a further notice in writing of the death shall be sent to the Chief Maritime Safety Inspector by the owner or operator of the pleasure boat within forty-eight hours of his or her learning of the death.

(5) Every owner or operator of a pleasure boat shall keep a record of each report made to the Chief Maritime Safety Inspector under subsections (1), (2) and (4) and each record of same shall be kept for not less than four years.

Preservation of scene

75. (1) Where a person is killed or sustains a critical injury as a result of an accident or incident caused by a pleasure boat, no person shall, except for the purpose of –

(a) saving life or relieving human suffering;

- (b) maintaining an essential public utility or preventing the disruption of maritime traffic;
- (c) preventing unnecessary damage to equipment or other property,

interfere with, disturb, destroy, alter or carry away any wreckage, article or thing at the scene of or connected with the occurrence until permission so to do has been given by both the Chief Maritime Safety Inspector and the Police Service (Marine Branch).

(2) A person who contravenes subsection (1) commits an offence and is liable, on summary conviction, to a fine of four thousand dollars or to imprisonment for a period not exceeding three months.

76. (1) Where a person witnesses a breach by the owner or operator of any of the provisions of this Act or regulations thereunder, such person may make a report to the Chief Maritime Safety Inspector who shall investigate the report and recommend to the Director the appropriate action that should be taken in light of the findings of the investigation.

Reporting
breaches of
the
provisions
of this Act
and
regulations

(2) Subject to the findings of the investigation under subsection (1), the Chief Maritime Safety Inspector may recommend and the Director may -

- (a) suspend a Pleasure Boat Licence in accordance with section 15;
- (b) cancel a Pleasure Boat Licence in accordance with section 14;
- (c) suspend or cancel an Operator's Permit in accordance with sections 31 or 32;
- (d) impose a fine on the owner or operator in accordance with the provisions of this Act;
- (e) report the matter to the local police if the findings of the investigations necessitate such action.

Power to make
regulations

77. The Minister may make regulations in respect of the procedures to be followed for the reporting and investigation of accidents and breaches, in support of the provisions of this Part.

PART IX

FOREIGN PLEASURE BOATS

Duty upon arrival
of foreign
pleasure boat

78. (1) This Part is made subject to section 6(1)(e) of this Act.

(2) The owner (or the operator in the owner's absence) of a foreign pleasure boat shall upon arrival in Trinidad and Tobago give written notification as set out in Part A of the Sixth Schedule to the Director as to the following particulars, the –

- (a) name and contact number of the owner of the pleasure boat;
- (b) name and contact number of the person operating the pleasure boat while in Trinidad and Tobago and evidence (whether in the form of a permit, certificate or licence) of his or her competence to operate the pleasure boat in question;
- (c) name and registration number of the pleasure boat;
- (d) country of registration; and
- (e) intended period (in days) for which the pleasure boat shall be in Trinidad and Tobago's waters.

(3) The notification required under subsection (2) shall be hand delivered to the Maritime Administration or sent by fax, but if faxed it is the duty of the sender to ensure, immediately upon sending the fax, that the fax has been received by the personnel in the Maritime Administration who's duty it is to receive such fax.

(4) The Maritime Administration shall keep a record of all notifications received under subsection (2).

(5) The notification under subsection (2) shall not be required if a pleasure boat will be in Trinidad and Tobago's waters for a period of no more than twenty-four hours.

79. (1) Where a foreign pleasure boat is intended to be or is in Trinidad and Tobago waters for a period of no more than fourteen days it shall be automatically exempted from the application of the requirements and associated offences related to -

- (a) Part I of this Act (though section 6(1)(e) shall still apply);
- (b) Part II of this Act; and
- (c) section 36 of Part V of this Act,

and Part X shall be applicable only to the extent necessary to ensure compliance of foreign pleasure boats with the remaining provisions of this Act and associated regulations made thereunder which shall still apply to a foreign pleasure boat.

(2) The owner of a foreign pleasure boat to which subsection (1) applies shall nonetheless have a duty to ensure that it is safely operated and operated by a person properly qualified to do so.

80. (1) Where a foreign pleasure boat is intended to be or is in Trinidad and Tobago waters for a period of more than fourteen days, the entirety of this Act shall apply and the owner (or the operator in the owner's absence) of such pleasure boat shall, within seven days from the date of arrival make an application to the Director, in the form set out in Part B of the Six Schedule accompanied by the prescribed fee specified in the Third Schedule, to be exempted from the application of the requirements and associated offences related to Part I of this Act (though section 6(1)(e) shall still apply); Part II of this Act; and section 36 of Part V of this Act.

Automatic exemption from application of certain Parts of this Act if foreign pleasure boats operates in Trinidad and Tobago waters for no more than fourteen days

Procedure to be followed when automatic exemption does not apply

(2) Upon receipt of the application and fee, the Director shall appoint a date, time and place at which an inspection of the pleasure boat shall be carried out and at such date time and place appointed for the inspection, a Maritime Safety Inspector shall examine the pleasure boat in accordance with the requirements set out in Part B of the First Schedule and shall thereafter submit a report of the inspection to the Director.

(3) In the report of the Maritime Safety Inspector referred to under subsection (2), the Maritime Safety Inspector shall make a recommendation as to whether the condition of the pleasure boat or of its equipment is such that the pleasure boat is fit to operate in Trinidad and Tobago waters without presenting an unreasonable threat to the safety of its operators or passengers or to the environment and other vessels.

Authorisation by
Director of
exemption and
Certificate of
Exemption

81. (1) The Director shall authorise the exemption of a foreign pleasure boat in accordance with section 80 if –

- (a) the person operating the pleasure boat while it is in Trinidad and Tobago has evidenced (whether in the form of a permit, certificate or licence) his or her competence to operate the pleasure boat in question; and
- (b) the foreign pleasure boat is one for which its State of registration or licencing has inspection laws approximating those of this Act or through bilateral or multilateral agreement, which has on board a current valid safety certificate, certificate of inspection, or other certificates permitting the carrying of passengers issued by its State,

unless upon consideration of the report of the Maritime Safety Inspector under section 80(3) there are clear grounds for believing that the condition of the pleasure boat or of its equipment does not correspond substantially with the particulars of any of the certificates or is such that the pleasure boat is not fit to operate on Trinidad and Tobago's waters without presenting an unreasonable threat to the safety of its operators or passengers or to the environment and other vessels.

(2) Where the Director authorises the exemption of a foreign pleasure boat under subsection (1), a Certificate of

Exemption in the form set out in Part C of the Sixth Schedule shall be issued in respect of such pleasure boat, such certificate which shall be valid for a period of six months from the date of issue, after which the owner (or the operator in the owner's absence) will have to repeat the process under section 80 in order to obtain a new Certificate of Exemption.

(3) Where the Director does not authorise the exemption of a foreign pleasure boat, the owner (or the operator in the owner's absence) of the foreign pleasure boat shall either –

- (a) be given the opportunity to take corrective measures required by the Director before exemption can be authorised but shall not operate the pleasure boat until the corrective measures have been taken and the Director has authorised exemption; or
- (b) if the owner or operator of the pleasure boat refuses to comply with subsection (3)(a) the Director shall give directions for the pleasure boat to leave Trinidad and Tobago waters within twenty-four hours of such notice being given.

82. A breach by the owner or operator of a foreign pleasure boat of any of the provisions of this Part shall constitute an offence and the owner (or operator in the absence of the owner) shall be liable on conviction to a fine of three thousand five hundred dollars and may be requested by the Director to leave the waters of Trinidad and Tobago within twenty-four hours of such conviction.

Penalty for
breach of
this Part

83. The Minister may make regulations in respect of the procedures in support of the provisions of this Part

Power to
make
regulations

PART X
ENFORCEMENT

- Powers of arrest 84. (1) A member of Trinidad and Tobago Coast Guard and Trinidad and Tobago Police Service shall be entitled to arrest any person who commits an arrestable offence under this Act, with no prejudice to arrestable offences under other laws of Trinidad and Tobago.
- (2) Where a person is arrested by a member of the Coast Guard, the arrested person shall be transferred to the custody of the Trinidad and Tobago Police Service as soon as possible.
- Power to detain pleasure boats 85. (1) The Maritime Administration may detain a pleasure boat which is operated or to be operated in contravention of any of the provisions of this Act or the regulations thereunder until such corrective measures as required by the Maritime Administration are taken and the Maritime Administration is satisfied with same.
- (2) Detention of a pleasure boat under subsection (1) shall not be carried out unless approved by the Director.
- Power to fine 86. (1) The following bodies may issue a fine in accordance with the provisions of this Act –
- (a) Trinidad and Tobago Police Service;
 - (b) the Chief Maritime Safety Inspector; and
 - (c) a Maritime Safety Inspector.
- Powers of enforcement officers 87. An enforcement officer, if he or she has reasonable grounds to believe that an act is being committed in contravention of the provisions of this Act or the regulations thereunder, may –
- (a) prohibit the movement of any pleasure boat or direct it to move as specified by the enforcement officer;

- (b) stop and board any pleasure boat at any reasonable time and
 - (i) direct any person to put into operation or cease operating any equipment on board the pleasure boat,
 - (ii) ask any pertinent questions of, and demand all reasonable assistance from, any person on board the pleasure boat; and
 - (iii) require that any person on board the pleasure boat provide to the enforcement officer, for examination, any document or information that is in the person's possession.

88. (1) A Maritime Safety Inspector who has been authorised by the Director to enter upon a pleasure boat and who shows to an owner or operator evidence of his official barge issued by the Maritime Administration, may –

- (a) go on board a pleasure boat for the purpose of inspecting the pleasure boat or any part thereof;
- (b) stop a pleasure boat which he has reasonable grounds for suspecting is unseaworthy or is operating contrary to this Act or the regulations thereunder and shall, if he is in the opinion that the condition of the pleasure boat is such as to endanger the lives of the passengers thereof remove or cause the passengers to be removed from the pleasure boat and order the owner or operator thereof to proceed to the nearest convenient anchorage for the purpose of determining whether an offence or an attempt to commit an offence has been or is being committed;
- (c) in any case where he has reason to suspect that the hull of a pleasure boat has been damaged to such an extent that it might not be seaworthy,

Powers of
Maritime
Safety
Inspector
upon
boarding
pleasure
boats

require the owner or operator of the pleasure boat to proceed to the nearest convenient anchorage for the purpose of a closer and more thorough inspection.

(2) A person who refuses or fails to obey any order given by the Maritime Safety Inspector under subsection (1) or who obstructs or prevents any such person from going on board a pleasure boat or otherwise impedes the Maritime Safety Inspector in the execution of his or her duty under the said subsection is guilty of an offence and liable on conviction to a fine of two thousand five hundred dollars.

Directions as to anchorage

89. (1) The Maritime Administration or an enforcement officer may, if he thinks it necessary for the safety of other vessels and the convenience of the public, order the operator of any pleasure boat already anchored or moored or arriving at an anchorage or mooring, to come to anchor or to moor at any particular place indicated by the Maritime Administration or enforcement officer.

(2) The operator of a pleasure boat who refuses or fails to obey any order under subsection (1) is guilty of an offence and liable on summary conviction to a fine of two thousand five hundred dollars.

Production and endorsement of licence

90. (1) A court before which a person is convicted of an offence under this Act or the regulations shall, if the person convicted holds a Pleasure Boat Licence or Operator's Permit, cause particulars of the conviction and of any order of the court disqualifying the person for holding or obtaining such licence or permit to be endorsed upon the licence or permit, and also cause a copy of the particulars to be sent to the Maritime Administration.

(2) A person who is convicted before any court of an offence under this Act or the regulations, or who is disqualified for holding or obtaining a Pleasure Boat Licence or Operator's Permit shall if he holds a licence or permit, produce it within such time as the court may direct for the purpose of endorsement thereon of particulars of the conviction, or the order of disqualification and if he is not then the holder of a Pleasure Boat Licence or Operator's Permit, but subsequently

within six months of the conviction obtains a Pleasure Boat Licence or Operator's Permit, shall within five days after so obtaining such licence or permit produce it to the court for the purpose of endorsement.

(3) A person who refuses or fails to comply with subsection (2) is guilty of an offence and liable on conviction to a fine of two thousand five hundred dollars.

91. A court which suspends a Pleasure Boat Licence or Operator's Permit shall forthwith send the suspended licence or permit to the Maritime Administration and the Maritime Administration shall at the expiration of the period of suspension return the licence or permit to the owner on demand.

Custody of
licence

92. A person who by virtue of an order of a court under this Act is disqualified for holding or obtaining a Pleasure Boat Licence or Operator's Permit may appeal against the order, in the same manner as against a conviction, and the court may, if it thinks fit, pending the appeal, suspend the operation of the order.

Right of
appeal

93. A Pleasure Boat Licence or Operator's Permit suspended by the court shall during the period of suspension be of no effect, and a person whose licence or permit is suspended or who is declared by the court to be disqualified for obtaining a licence or permit, shall during the period of such suspension or disqualification, be disqualified from obtaining a licence or permit.

Suspended
licence to be
of no effect

94. In this Part any reference in respect to enforcement powers as regards an Operator's Permit shall be equally applicable in respect of a Learner's Permit issued by the Maritime Administration under Part III.

Enforcement
powers for
Learner's
permit

95. The Minister may make regulations in support of the provisions of this Part.

Power to
make
regulations

PART XI

PLEASURE BOATS SAFETY COMMITTEE

Establishment of
a Pleasure Boats
Safety
Committee

96. There is hereby established a Pleasure Boats Safety Committee which shall consist of fourteen members appointed by the Minister.

Constitution of
the Committee

97. (1) The Minister shall appoint the Director of the Maritime Administration as the Chairperson of the Committee and in the absence of the Director the Deputy Director shall preside.

(2) The remaining 13 members of the Committee shall consist of a representative from each of the following stakeholders, whom shall be appointed by the Minister:

- (a) legal personnel from the legal department of the Maritime Administration;
- (b) the head of the navigational aids department of the Maritime Administration;
- (c) the Chief Maritime Safety Inspector;
- (d) a legal drafter from the office of the Chief Parliamentary Counsel at the Ministry of the Attorney General and Legal Affairs;
- (e) a senior member of the Coast Guard of Trinidad and Tobago;
- (f) a senior member of the Trinidad and Tobago Police Service (Marine Branch);
- (g) two members of the Yachting Association of Trinidad and Tobago;
- (h) senior personnel from the Tourism Development Company;
- (i) a qualified maritime lawyer;
- (j) a member of the Pigeon Point Heritage Park, Tobago or of the Tobago House of Assembly

who is involved in maritime matters affecting pleasure boats in Tobago;

- (k) a representative of the Chaguaramas Development Authority; and
- (l) appropriate personnel from the University of Trinidad and Tobago or Institute of Maritime Affairs.

(3) The Minister may coopt qualified and competent personnel to serve on the Committee on a temporary basis not exceeding six months, as the needs may require, and such persons shall not exceed two persons at any time.

98. The appointment of a member of the Committee shall be for a period not exceeding three years, as the Minister shall specify at the time of appointment, but any member shall be eligible for re-appointment.

Period of appointment

99. A member may at any time resign his office by instrument in writing addressed to the Chairman who shall forthwith cause it to be forwarded to the Minister.

Resignation of a Committee member

100. The Minister may at any time revoke the appointment of a member if he thinks it expedient so to do.

Revocation of appointment

101. The Chairman and the other members of the Committee shall be paid such remuneration and allowances as may be determined by the President.

Remuneration

102. The Committee shall be responsible for:

- (a) reviewing and monitoring the degree of effective implementation of this Act and the Regulations thereunder and making suitable recommendations including proposals for amendments to the Act or Regulations or the making of new regulations, to the Minister and for this purpose the Committee may meet with

Role or functions of the Safety of Pleasure Boat Committee

or create a forum by virtue of which stakeholders' views can be obtained and considered;

- (b) keeping abreast of changes made internationally, including under the International Maritime Organization's safety conventions, which may be applied to pleasure boats and making proposals to the Minister for continuous improvement for the safe use of pleasure boats;
- (c) reviewing complaints and concerns made locally in respect of the safe operation of pleasure boats and making proposals to the Minister in respect of possible solutions;
- (d) securing and reviewing semi-annual reports on the placement and maintenance of navigational aids inclusive of beacons, buoys, waterlines, signs and the like, to ensure the sufficient and effective facilitation of the navigational aids required for the safe operation of pleasure boats and reporting or making proposals on same to the Minister;
- (e) maintaining such close relationship with other bodies and stakeholders as may further the purpose of the committee; and
- (f) promoting the safe use of pleasure boats in Trinidad and Tobago.

Semi-annual
meeting of the
Committee

103. (1) The Committee shall meet at least once every 6 months for the purpose of performing its functions.

(2) The Chairman (or the Deputy Director presiding as the Chairman in the absence of the Director) and nine members of the Committee shall form a quorum.

(2) The Committee shall develop an annual plan to be submitted to the Minister for approval.

(3) The Committee shall adopt its own rules of procedure particularly as it pertains to the creation of the agenda for each meeting as well as the obtaining of information necessary to perform its functions, however the decisions of the Committee shall be by a majority vote of members present and in any case in which the voting is equal, the Chairman (or the Deputy Director presiding as the Chairman in the absence of the Director) shall have the casting vote.

(4) The Committee shall keep a record of the Agenda of each meeting and Minutes shall be taken of all matters discussed

(5) Within 6 weeks of every meeting of the Committee, a detailed report of matters discussed by the Committee shall be submitted to the Minister, such report to include –

- (a) proposals for safety regulations or for amendments to the Act or regulations thereunder;
- (b) recommendations and guidelines which the Committee has developed to improve safety; and
- (c) details on the work of the Committee since its previous meeting.

(4) Upon receipt of the Committee's report the Minister may make request for any further information or work that falls within the function of the Committee, and the Committee shall be obliged to produce any such information or work to the Minister as soon as reasonably possible.

PART XII

MISCELLANEOUS PROVISIONS

104. This Act does not affect the ability of an owner to register a pleasure boat under the Shipping Act Chap. 50:10 of Trinidad and Tobago, though a pleasure boat so registered shall still be require to comply with all the provisions of this

Ability to
register
pleasure boat
under

Act including the obtaining of a Pleasure Boat Licence under Part I for the purpose of ensuring its safe operation.

Shipping Act
Chap. 50:10

Equivalence of fitting, material, appliance, apparatus etc

105. Where this Act or the regulations thereunder require that a particular fitting, material, appliance or apparatus, or type thereof or piece of equipment or machinery shall be fitted or carried in a pleasure boat, the Maritime Administration may permit any other fitting, material, appliance or apparatus or type thereof or piece of equipment or machinery to be fitted or carried in that pleasure boat where it is satisfied by trials or otherwise that the alternative is at least as effective as that required by this Act and the regulations thereunder.

Duty of Minister and Maritime Administration in respect of navigational aids

106. It shall be the duty of the Minister and Maritime Administration shall ensure so far as is reasonably practicable the proper placement and continuous maintenance of navigational aids including lighthouse, buoys, land beams, water-lines, shapes, signs, vessel traffic services, search and rescue assistance and the like, so as to facilitate the safe movement of pleasure boats.

Appeal of decisions of the Director

107.(1) Any person who is aggrieved by a decision of the Director or person so appointed by the Director in respect of his Pleasure Boat Licence, Operator's Permit or Learner's Permit, may appeal such decision to an appeal panel appointed by the Minister for that purpose.

(2) Such panel under subsection (1) shall consist of three neutral persons from the pleasure boat community and shall include a neutral representative from the Pleasure Boats Safety Committee.

Fees

108. The fees prescribed in the Third Schedule shall be paid in respect of licences, documents and examinations specified therein.

Moratorium period in respect of Part II and

109. (1) The owner of a pleasure boat to which this Act applies shall ensure that the pleasure boat shall be inspected

Part III of this
Act

for the issuance of a Pleasure Boat Licence in accordance with Part II of this Act within one year after this Act comes into effect.

(2) The operator of a pleasure boat to which this Act applies shall ensure that he or she obtains an Operator's Permit under Part III of this Act within one year after this Act comes into effect and such operator shall not operate a pleasure boat until obtaining the Operator's Permit unless the operator is the holder of an equivalent certificate of competency which evidences the operator's ability to operate a pleasure boat of the type and design being operated.

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APPENDIX

This Appendix contains material which was mentioned but that cannot be sourced via the reference sources provided on pages 57 to 61.

- Document A - **Pleasure Boats Act No. 48 of 1977 (already repealed by the Shipping Act 1987)**