

# REPRINT

## **POR TS ACT (CAP. 161)**

**As in force at: 1 October 2009**

**STATUS: HISTORICAL**

This version is that in force at the date stated above. It does not include amendments made since that date.

For list of amendments see Endnotes

**AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A CORPORATION TO BE KNOWN AS THE SOLOMON ISLANDS PORTS AUTHORITY, FOR THE TRANSFER TO THE AUTHORITY OF CERTAIN OF THE PORT AND HARBOUR UNDERTAKINGS OF THE GOVERNMENT, FOR THE FUNCTIONS OF THE AUTHORITY AND FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID**



## **PORTS ACT (CAP. 161)**

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# **PORTS ACT (Cap. 161)**

**As in force at: 1 October 2009**

## **PART I PRELIMINARY**

### **1 Short title**

This Act may be cited as the *Ports Act*.

### **2 Interpretation**

In this Act, unless the context otherwise requires:

**“animals”** means animate things of every kind except human beings;

**“approach to a port”** means any navigable channel declared to be an approach to a port under section 5;

**“Authority”** means the Solomon Islands Ports Authority established under the provisions of this Act;

**“Authority Pilot”** means a pilot appointed by the Authority;

**“ballast”** includes every kind of gravel, sand and soil and every commodity or thing commonly used for the ballasting of ships;

**“beacon”** means any light, mark or sign used as an aid to navigation, other than a lighthouse or buoy;

**“buoy”** includes any floating light, mark or sign used as an aid to navigation, other than a lighthouse;

**“cargo”** includes all kinds of movable personal property, other than animals;

**“dues”** includes ships’ dues and harbour dues;

**“ferry”** means any ship plying from one side of a waterway to the other for the purposes of the carriage of passengers or goods;

**“goods”** includes baggage, animals (whether alive or dead) and all other movable property of any kind whatsoever;

**“licensed pilot”** means a pilot licensed by the Authority;

**“lighthouse”** includes a lightship;

**“master”** means when used in relation to any ship the person having command or charge of the ship for the time being, but does not include a pilot;

**“navigable channel”** means any channel where navigation is possible;

**“pilot”** means a person not belonging to a ship who has conduct thereof;

**“pilotage district”** means a pilotage district established by the Authority under section 36;

**“port”** means a port declared under section 5 to be a port;

**“rates”** means rates levied by the Authority by virtue of section 60;

**“ship”** includes any ship, vessel, tug, lighter, canoe or boat of any kind whatsoever whether propelled by steam or otherwise or towed;

**“trains”** includes locomotives, engines, tenders, motors, coaches, wagons, trolleys and rolling stock of all kinds used whether separately or in conjunction on a railway;

**“vehicle”** means any vehicle, other than a train or ship;

**“warehouse”** includes any building, place, wagon, ship or vehicle when used by the Authority for the purpose of warehousing or depositing goods.

### **3 Power conferred on Authority exercisable by servants and agents**

When powers are conferred or duties imposed by or under this Act on the Authority, such powers may be exercised or such duties discharged by or through any servant or agent of the Authority

authorised in that behalf by the Authority.

#### **4 Power to amend First Schedule**

The Minister may, by order, add to or delete from or amend the First Schedule.

### **PART II DECLARATION OF PORTS**

#### **5 Power to appoint ports, their limits and approaches**

- (1) The Minister may, by order:
  - (a) declare any place in Solomon Islands and any navigable channel leading into such place to be a port within the meaning of this Act;
  - (b) declare the limits of any port appointed in accordance with paragraph (a) of this subsection;
  - (c) declare any navigable channel leading into any port to be an approach to such port within the meaning of this Act.
- (2) The places specified in the First Schedule shall be deemed to be ports.

### **PART III THE SOLOMON ISLANDS PORTS AUTHORITY**

#### **6 Establishment of the Solomon Islands Ports Authority**

- (1) So soon as may be after the coming into force of this Act there shall be established a public authority to be known as the Solomon Islands Ports Authority.
- (2) The Authority shall be a body corporate with perpetual succession and a common seal, and shall have power to sue and be sued in its corporate name and to acquire and hold and dispose of lands.

#### **7 Constitution of Authority**

- (1) The Authority shall consist of a Chairman and not less than two other members appointed by the Minister all of whom shall hold office during such period as may be specified in their respective

instruments of appointment.

(2) The Authority shall pay to the members thereof such salaries, gratuities and allowances as may be determined by the Minister:

Provided that no such salaries, gratuities and allowances, other than such allowances as may be expressly authorised by the Minister, shall be paid to any person who holds an office of profit under the Crown.

(3) The provisions contained in the Third Schedule shall have effect with respect to the constitution and proceedings of the Authority.

## **8      Temporary Chairman**

(1) The Minister may appoint a person to act in place of the Chairman of the Authority during his temporary incapacity from illness or during his absence from Solomon Islands.

(2) A person appointed to act as temporary Chairman shall be deemed for all the purposes of this Act to be the Chairman of the Authority.

## **9      Duties of the Authority**

(1) It shall be the duty of the Authority:

(a) to provide and operate in the ports specified in the First Schedule such port facilities as appear to the Authority best calculated to serve the public interest;

(b) to maintain, improve and regulate the use of the ports specified in the First Schedule and the port facilities transferred to the Authority under this Act, to such extent as may appear to the Authority expedient in the public interest;

(c) to provide for the ports specified in the First Schedule, the approaches to such ports, and the territorial waters of Solomon Islands such pilotage services and such lights, marks, and other navigational services and aids as appear to the Authority best calculated to serve the public interest;

(d) subject to the provisions of section 10 to provide and operate such other services as the Minister may require.

(2) The policy of the Authority shall be directed to secure that:

- (a) the annual revenues of the Authority are, taking one financial year with another, sufficient to meet all charges properly chargeable to revenue;
- (b) no particular person is given any undue preferences or subjected to any undue disadvantages.

(3) In this section:

**“charges properly chargeable to revenue”** mean charges chargeable to revenue in accordance with the provisions of section 19;

**“navigational services”** includes the cleaning and improving of any waterway;

**“port facilities”** means facilities for berthing, towing, mooring, moving or drydocking of ships on entering or leaving a port or its approaches, for the loading and unloading of goods or embarking or disembarking of passengers in or from any such ship, for the lightering or the sorting, weighing, warehousing or handling of goods and for the carriage of passengers of goods in connection with any such facilities.

## 10 Powers of the Authority

(1) Subject to the provisions of this Act, the Authority shall have power to carry on such activities as appear to the Authority to be advantageous, necessary, or convenient for it to carry on for or in connection with the discharge of its duties under section 9 and, without prejudice to the generality of the foregoing power the Authority may:

- (a) acquire, construct, manufacture, maintain or repair anything required for the purposes of the Authority;
- (b) carry on the business of carrier by land or sea, stevedore, wharfinger, warehouseman or lighterman or any other business recommended as desirable for the purposes of the Authority;

- (c) load or unload any ship at any wharf for the time being vested in, or in the possession of the Authority;
- (d) clean, deepen, improve or alter any port or its approaches or, if so required by the Minister any other waterway;
- (e) provide and use both within Solomon Islands and on the high seas ships and appliances for the towage or protection or salvage of life and property or for the prevention of fire;
- (f) determine and impose charges for any services performed by the Authority and for the grant to any person of any licence, permit or certificate;
- (g) acquire any undertaking affording or intending to afford facilities for the loading and unloading or warehousing of goods in any port;
- (h) appoint, license and manage pilots;
- (i) supply water to shipping, and generate and supply electricity;
- (j) insure goods in the custody of the Authority;
- (k) control the erection and use of wharves in any port or its approaches;
- (l) sell, let, or otherwise dispose of, any property which appears to the Authority to be unnecessary for the purposes of the Authority;
- (m) enter into agreement with any person:
  - (i) for the supply, construction, manufacture, maintenance or repair by that person of any property, movable or immovable, necessary or desirable for the purposes of the Authority;
  - (ii) for the operation or the provision of any of the port facilities which may be operated or provided by the Authority;
- (n) appoint, license and regulate weighers and meters of goods in

any port;

- (o) reclaim, excavate, enclose or raise any part of the lands vested in them;
- (p) do anything for the purpose of advancing the skill of the persons employed by the Authority, or of the efficiency of the equipment of the Authority, or of the manner in which that equipment is operated, including the provision by the Authority and the assistance of the provision by others, of facilities for training, education and research;
- (q) provide houses, hostels and other like accommodation for persons employed by the Authority;
- (r) make loans to persons employed by the Authority for purposes specifically approved by the Authority as likely to increase the effectiveness of such persons in their services to the Authority, or otherwise for the purpose of the functions of the Authority;
- (s) make loans to any person employed by the Authority for the purpose of building a house, purchasing a plot of land on which to build a house or purchasing a house, for the employee's use or for the residential use of his family;
- (t) promote the welfare of persons employed by the Authority;
- (u) engage in any other activity, whether similar to those heretofore specified or not, which may be sanctioned by order of the Minister.

(2) For the avoidance of doubt it is hereby declared that the preceding provisions of this section relate only to the capacity of the Authority as a statutory corporation, and nothing in the said provisions shall be construed as authorising the disregard by the Authority of any enactment or rule of law.

(3) The provisions of this section shall not be construed as limiting any power of the Authority conferred by or under any subsequent provisions of this Act.

**11                   Power of the Minister in relation to the Authority**

- (1) The Minister may, after consultation with the Authority, give to the Authority directions of a general character as to the discharge by the Authority of its functions in relation to matters appearing to the Minister to affect the public interest, and the Authority shall give effect to such directions.
- (2) The Minister may, after consultation with the Authority give to the Authority specific directions for the purposes of remedying any defect which may be disclosed in the general arrangements of the Authority for the discharge of its functions under this Act, and the Authority shall give effect to any such directions.
- (3) The Authority shall afford to the Minister facilities for obtaining information with respect to the property and functions of the Authority, and shall furnish him with returns, accounts and other information with respect thereto and afford to him facilities for the verification of information furnished in such manner and at such time as he may require.

**PART IV           TRANSFER OF ASSETS**

**12                   Transfer of assets**

The assets described in the Second Schedule shall vest in the Authority by virtue of this Act and without further assurance.

**13                   Minister may add assets to Second Schedule**

The Minister may by order add any assets to the assets described in the Second Schedule, and any assets so added by an order made under this section shall be deemed to vest in the Authority by virtue of this Act, and without further assurances from the date the order comes into force.

**14                   Advance account for working capital**

- (1) So soon as may be after the vesting day the Authority shall, in respect of any moneys advanced by the Government to the Authority to provide for working capital, create an advance account in favour of the Government equivalent to the total amount of such advances.

(2) The advance account created under subsection (1) shall be subject to such conditions as to interest and repayment as the Minister may from time to time determine.

**15 Pending proceedings and causes of actions**

Any proceeding or cause of action pending or existing immediately before the vesting day by or against the Government in respect of the assets transferred under the provisions of this Act, may be continued or enforced by or against the Government as if this Act had not been enacted.

**PART V PROVISIONS RELATING TO STAFF**

**16 Employment of servants and agents**

The Authority shall employ such servants and agents as it may think necessary for the due discharge of its functions under this Act, upon such terms as to remuneration or otherwise as it may determine.

**17 Power to make rules relating to staff**

(1) The Authority may make rules generally relating to the conditions of service of servants of the Authority, and in particular but without prejudice to the generality of the foregoing, may make rules relating to:

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given by, such servants;
- (b) appeals by such servants against dismissals or other disciplinary measures;
- (c) the grant of pensions, gratuities and other retiring allowances to such servants and its dependants; and the grant of gratuities to the estates or dependants of deceased servants of the Authority;
- (d) the establishment and maintenance of medical benefit funds, superannuation funds and provident funds, and the contributions payable thereto and the benefits receivable therefrom.

(2) The Authority may further make rules:

- (a) with respect to the good conduct of its officers and servants;
- (b) restricting the rights of, or prohibiting its officers and servants from engaging during the Authority's official working hours or hours during which the officer or the servant is engaged in the business of the Authority, in political activities, trade union activities (other than strikes) or other activities unrelated to official work;
- (c) restricting the rights of, or prohibiting, persons from:
  - (i) engaging in any trade, employment or other business; or
  - (ii) accepting gifts, presents or other items,while the person is an officer or servant of the Authority; and
- (d) generally for the proper performance of the functions of the Authority under this or any other Act.

## **18 Officers seconded from Government to be employed**

- (1) The Authority shall, subject to the provisions of this section, employ such officers, being officers on the established staff of the Government, as may be seconded by the Secretary for the Public Service from the service of the Government at any time.
- (2) The Secretary for the Public Service may at any time determine the secondment of an officer who has been seconded to the service of the Authority under the provisions of this section, but no request by the Authority to the Secretary for the Public Service for the determination of the secondment of any such officer shall be made unless the Authority shall first have given to the officer written notice of the intention to make such request.

## **PART VI FINANCIAL PROVISIONS**

### **19 Special application of revenues**

- (1) The Authority shall make proper provision for the renewal of wasting assets, for payments of interest and sinking fund charges where

appropriate, and for contributions to such reserve and other funds as may be required.

(2) Any excess of the revenues of the Authority for any financial year over the total sums (including sums provided under subsection (1)) properly chargeable by the Authority against its revenues for that year shall be applied by the Authority in such manner as the Minister, after consultation with the Authority, may direct.

## **20 General Reserve Fund**

(1) The net annual profit of the Authority for each financial year shall, subject to the directions of the Minister under section 19 (2), be carried to a general reserve fund.

(2) The application of the reserve fund so formed shall be as the Authority may, with the approval of the Minister of Finance, determine:

Provided that no part of the moneys comprised in the general reserve shall be applied otherwise than for the purpose of the Authority.

## **21 Power to borrow money**

The Authority may, with the consent of or in accordance with any general authority given by the Minister of Finance, borrow by way of loan, overdraft or otherwise such sums as the Authority may require for meeting its obligations and discharging its functions under this Act, and the moneys aforesaid may be borrowed from the Government or from such other person and upon such terms and conditions as may be approved by the Minister of Finance.

## **22 Miscellaneous financial powers of the Authority**

In addition to the powers otherwise expressly or impliedly authorised by or under this Act it shall be lawful for the Authority:

(a) to establish and operate in the name of the Authority such bank accounts as it deems necessary or convenient;

(b) to invest and deal with any moneys of the Authority in and upon such investments and securities allowed by the law for the time

being applicable in Solomon Islands for the investment of trust funds or such other investments or securities as may be approved by the Minister of Finance for the purpose of this paragraph;

- (c) to draw, make, accept, endorse, discount, execute and issue bills of lading and other negotiable or transferable instruments or securities;
- (d) with the approval of the Minister of Finance to pay compensation to any person damaged by the exercise of any powers or the performance of any duties by or under this Act.

## **23 Accounts**

- (1) The Authority shall:
  - (a) cause proper accounts and other records in relation thereto to be kept; and
  - (b) shall prepare an annual statement of accounts in such form and containing such particulars, compiled in such manner as the Minister may from time to time direct.
- (2) The said annual statement of accounts shall present a true and fair view of the financial position of the Authority and of the results of the Authority's operations for the year to which it relates, and the Minister shall exercise his powers under this section accordingly.
- (3) The accounts of the Authority shall be audited by an auditor or auditors to be appointed annually by the Authority with the approval of the Minister.
- (4) As soon as the accounts of the Authority have been audited as aforesaid the Authority shall send a copy of the statement of accounts referred to in paragraph (b) of subsection (1) to the Minister together with a copy of the report made by the auditor or auditors thereon.
- (5) The Minister shall cause every such statement and report to be published in such manner as he may think fit.

**24                   Annual Report and periodical returns**

- (1) The Authority shall, as soon as possible after the end of each financial year, make to the Minister a report dealing with the activities of the Authority during that year.
- (2) The Minister shall cause every such statement and report to be published in such manner as he may think fit.
- (3) The Authority shall furnish to the Minister such financial and statistical returns as he may from time to time require.

**PART VII           PROVISIONS RELATING TO LAND**

**25                   Restriction on alienation of land**

The Authority shall not, without the approval in writing of the Minister, alienate, mortgage, charge or demise any immovable property which has been vested in the Authority under any of the provisions of this Act or in respect of which a right of occupancy has been granted to the Authority.

**26                   Power to enter land to erect beacons and make surveys**

The Authority may, by its servants or agents, together with all necessary workmen:

- (a) enter on any land for the purpose of erecting or maintaining any beacon, or of examining, repairing, altering or removing any beacon, and there remain for such reasonable time as may be necessary for such purpose;
- (b) erect and maintain beacons upon or in any land, swamp, embankment, wharf, or the shore or bed of any tidal or other waters, and alter or remove any beacon so erected:

Provided that no beacon shall be so placed on any road as to hinder or interfere with free passage along such road; and

- (c) for the purposes of its functions under this Act survey and take levels of any land, and cut and remove all trees and underwood which may interfere with such surveys.

**27 Power to remove obstruction to visibility of lighthouse and beacons**

An authorised servant of the Authority together with all proper assistance may enter on any land and cut and remove all trees, underwood and vegetation which may interfere with the visibility of any lighthouse or beacon.

**28 When notice of entry on land to be given**

The Authority shall, when practicable, give notice to the occupier of any land upon which it is intended to enter in exercise of any of the powers conferred by section 27 or section 28 and shall inform the Provincial Secretary of the province wherein the land is situate.

**29 Compensation for damage**

In the exercise of any of the powers conferred upon the Authority by section 26 or section 27 the Authority shall do as little damage as may be, and compensation shall be paid by the Authority for any damage done to any crops or economic trees but not otherwise.

**30 Disputes as to amount of compensation**

Any dispute as to the amount of compensation payable under section 29 shall be determined by a Magistrate exercising jurisdiction in the place where the land is situate.

## **PART VIII REGULATION OF PORTS**

**31 Power to appoint harbour masters**

The Authority may appoint a harbour master in respect of any port.

**32 Power of Authority to make port rules**

(1) The Authority may make rules for the maintenance, control and management of any port and for the maintenance of good order therein, and, in particular and without prejudice to the generality of the foregoing power, may make rules for all or any of the following purposes:

(a) regulating traffic within the limits of a port or the approaches to

a port;

- (b) regulating the berths and stations to be occupied by ships and the removal of ships from the berth, station or anchorage to another berth, station or anchorage, and the time within which such removal shall be effected;
- (c) regulating ships whilst taking in or discharging ballast or cargo;
- (d) keeping free passages of such width as is deemed necessary, within any such port and along or near to the piers, jetties, landing places, wharves, quays, docks, moorings, and other similar works in or adjoining the same; and for marking out the spaces so to be kept free;
- (e) regulating the anchoring, fastening, mooring, and unmooring and warping of all ships and the use of warps, mooring buoys, chains and other moorings;
- (f) regulating traffic, preventing obstruction and keeping order on piers, jetties and wharves, and for ensuring the safety of piers, jetties and wharves and any cargo thereon;
- (g) regulating the use of fires and lights, and the signals to be used and measures to be taken in case of fire in a port by day or night;
- (h) enforcing and regulating the use of navigating lights, or signals and of signal lights by ships;
- (i) regulating the flags and signals to be used by ships arriving at, lying in and departing from a port;
- (j) regulating the manner in which ships arriving shall be boarded by the harbour master and the information to be supplied to him by the master of the ship;
- (k) regulating the use by ships of steam whistles, steam sirens and other like instruments;
- (l) prohibiting chipping, scaling or noisy repairs on ships except at such anchorage or places and at such times as may be

prescribed or as the harbour master may appoint;

- (m) prohibiting or regulating the erection, maintenance and working of fishing stakes, prescribing the nature of the nets or stakes which may be used, and providing for the licensing of persons authorised to erect and maintain the same, and prescribing the fees which shall be paid for such licence;
- (n) regulating, whether by way of prohibition or otherwise, the floating of timber, casks or other objects in any port or the approach to any port and the casting or depositing of any dead body, ballast, rubbish or other thing into any port or the approach to any port and providing for the forfeiture of anything found in any port or the approach to any port in contravention of this Act and for the redemption on payment of expenses and a penalty, within a time limit to be fixed, of anything so forfeited;
- (o) prescribing the duties of masters of ships carrying gunpowder or other explosive or dangerous cargo, and of persons engaged in or supervising the shipping, unshipping, landing and transport of any such cargo;
- (p) regulating the placing and maintaining of moorings or buoys;
- (q) regulating and licensing weighing and metering of goods;
- (r) regulating and licensing porters and carriers and other labourers employed in the working of port facilities.

(2) For the breach of any rule made under this section the Authority may prescribe as a penalty a fine not exceeding 5,000 penalty units, and in the case of a continuous breach, a further fine not exceeding 500 penalty units a day for every day after the first during which such breach continues, or a term of imprisonment not exceeding three months, or both such term of imprisonment and fine.

### **33 Power of harbour master in relation to ships**

Subject to the provisions of any rules made under this Part, the harbour master of a port may:

- (a) direct where any ship shall be berthed, moored or anchored and

- the method of anchoring within the port;
- (b) direct the removal of any ship from any berth, station or anchorage to another berth, station or anchorage and the time within which such removal is to be effected within the port;
- (c) regulate the moving of ships within the port.

## **PART IX REGULATION OF AUTHORITY'S WHARVES AND PREMISES**

### **34 Authority to set apart customs area**

Where any part of the wharves or premises vested in or in the possession of the Authority is appointed a custom area for the purposes of the *Customs and Excise Act* the Authority shall set apart and maintain such area, and provide office accommodation therein, in such manner as the Comptroller of Customs and Excise requires.

### **35 Power of Authority to make by-laws**

- (1) The Authority may make by-laws for the control and management of the wharves and premises vested in or in possession of the Authority and the maintenance of good order therein and, in particular, and without prejudice to the generality of the foregoing power, may make by-laws for all or any of the following purposes:
  - (a) regulating, declaring and defining the wharves, docks, piers and places vested in or in the possession of the Authority on and from which goods shall be landed and shipped;
  - (b) regulating the manner in which and the conditions under which the loading and discharge of ships shall be carried out;
  - (c) regulating the use of any sheds, warehouses and railways vested in or in the possession of the Authority;
  - (d) the exclusion and removal from the premises of the Authority of idle or disorderly or other undesirable persons and trespassers;
  - (e) regulating the conduct of persons employed on wharves and premises vested in or in the possession of the Authority;

- (f) regulating any ferry service maintained by the Authority;
- (g) the management of lighthouses of the Authority.

- (2) For the breach of any by-law made under this section the Authority may prescribe as a penalty a fine not exceeding 5,000 penalty units, and, where the breach is a continuous breach a further fine not exceeding 500 penalty units for every day after the first day during which the breach continues.
- (3) A copy of the by-laws made under this section and for the time being in force shall be kept at the office of the Authority in each port and the Authority shall allow any person to inspect it free of charge at all reasonable times.

## **PART X PILOTAGE**

### **36 Authority may establish pilotage districts**

- (1) The Authority may, by order, establish a pilotage district in any port, the approaches to any port or in territorial waters.
- (2) An order made under subsection (1) may:
  - (a) provide that in any pilotage district or in any part of a pilotage district pilotage shall be compulsory;
  - (b) define the limits of any pilotage district, distinguishing, when pilotage is compulsory in part of such district, the part of the district in which pilotage is compulsory.
- (3) An order under this section shall not take effect unless it has been submitted to the Minister and approved by him.

### **37 Obligations where pilotage compulsory**

- (1) Every ship other than any excepted ship, while navigating in a pilotage district in which pilotage is compulsory for the purpose of entering, leaving or making use of the port in the district shall be under the pilotage of:
  - (a) an Authority pilot; or

- (b) a licensed pilot of the district.
- (2) For the purposes of this section the following ships are excepted ships:
  - (a) ships belonging to Her Majesty;
  - (b) ships owned or operated by the Authority;
  - (c) pleasure yachts;
  - (d) ferry boats plying as such exclusively within the limits of a port;
  - (e) ships not exceeding two hundred tons gross tonnage;
  - (f) tugs, dredges, barges, or similar vessels whose ordinary course of navigation does not extend beyond the limits of a port;
  - (g) ships exempted from compulsory pilotage by rules as hereinafter provided in this Part.
- (3) A ship while being moved within a port which is or forms part of a pilotage district shall be deemed to be a ship navigating in a pilotage district, except so far as may be provided by rules made as hereinafter provided by this Part.

### **38 Power of Authority in relation to pilots**

Subject to the provisions of this Part the Authority may license pilots for a pilotage district, and may do all such other things in relation to pilots as are necessary or expedient for carrying into effect the Authority's powers and duties conferred or imposed by or under this Part.

### **39 Pilotage boards**

The Authority may by order establish a pilotage board for a pilotage district, and in a pilotage district in which or in any part of which pilotage is compulsory, the Authority shall establish a pilotage board for that district.

## **40        Membership of pilotage boards**

- (1) A pilotage board shall consist of:
  - (a) the harbour master of the port; and
  - (b) not less than one or more than four persons appointed by the Authority with the approval of the Minister.
- (2) An appointed member of a pilotage board may be appointed for a period not exceeding three years, and may be reappointed.
- (3) An appointed member may at any time resign from membership of a pilotage board by sending his resignation in writing to the Authority.
- (4) The harbour master of the port shall be the Chairman of the pilotage board.

## **41        Duties of pilotage board**

It shall be the duty of a pilotage board to:

- (a) hold inquiries concerning the conduct of pilots in the discharge of its duties in the pilotage district;
- (b) license pilots for the pilotage district on behalf of the Authority;
- (c) hold examinations in connection with the licensing of pilots for the pilotage district.

## **42        Meetings of pilotage boards**

- (1) A pilotage board shall meet for the despatch of business at such time and place as the Chairman may from time to time appoint.
- (2) Two members of a pilotage board shall form a quorum.
- (3) The Chairman, if present, shall preside at every meeting of a pilotage board, and in his absence the pilotage board shall appoint one of its members present to preside.
- (4) Every question which comes before a pilotage board at any meeting shall be decided by a majority of votes of the members present and

voting.

- (5) The member presiding at any meeting shall have a vote and, in the case of an equality of votes, a second or casting vote.
- (6) Minutes shall be kept of the proceedings of a pilotage board, and such minutes shall be signed by the person presiding at the meeting to which the minutes relate.

#### **43 Inquiries into conduct of a pilot**

A pilotage board may, and when directed by the Minister shall, hold an inquiry into the conduct of a pilot against whom any allegation of misconduct is made, or a pilot in charge of a ship which:

- (a) touches the ground; or
- (b) runs foul of any other ship; or
- (c) runs foul of any wharf, buoy, mole or beacon.

#### **44 Power to take evidence on oath and summon witnesses**

A pilotage board holding an inquiry under section 43 may summon witnesses and examine witnesses on oath and may call for any documents in any matter before the board.

#### **45 Misconduct of a witness**

When any person:

- (a) on being summoned as a witness before a pilotage board fails to attend;
- (b) refuses to take an oath or to affirm when required to do so by a pilotage board during an inquiry;
- (c) refuses to produce any document in his power or control legally required by the pilotage board during an inquiry;
- (d) refuses to answer any question to which a pilotage board may legally require an answer;

- (e) during an inquiry is, in the opinion of the pilotage board, guilty of contempt towards the board;

the chairman of the pilotage board may make a written complaint concerning the conduct of the person to any court which has power to punish persons if guilty of like conduct in that court, and the court may thereupon inquire into such alleged conduct, and after examination of any witnesses who may be produced for or against the person complained against, and after hearing any statement that may be offered in defence, the court may if it seems just punish the person complained against as if he had been guilty of such conduct in a proceeding in that court.

#### **46 Punishment of pilot by pilotage board**

- (1) Where a pilotage board after due inquiry in accordance with the provisions of this Part finds that a pilot has:

- (a) been guilty of misconduct affecting his capability as a pilot; or
- (b) failed in or neglected his duty as a pilot; or
- (c) become incompetent to act as a pilot;

the pilotage board may, in a case under paragraph (a) or paragraph (b) of this subsection, impose a fine not exceeding 1,000 penalty units or severely reprimand or reprimand the pilot and may, in any case, whether in addition to any such fine or reprimand or not, suspend the pilot from duty.

- (2) Where a pilot is suspended from duty by a pilotage board under subsection (1) the board shall make such recommendations to the Authority concerning the future exercise of the pilot's duties in the pilotage district, as the board considers appropriate in the circumstances of the particular case.
- (3) Copies of the record of an inquiry held under section 43 or a recommendation made under subsection (2) shall be supplied by the pilotage board to the Authority, the Minister and the pilot concerned.

## 47 Appeal to Minister against decision of pilotage board

- (1) If a pilot is aggrieved by a decision or recommendation of a pilotage board he may within thirty days from the date of the decision or recommendation appeal to the Minister.
- (2) The Minister after considering the appeal may:
  - (a) confirm or reverse the finding of the board; or
  - (b) subject to the provisions of section 46, alter the nature of the punishment; or
  - (c) in the case of a recommendation to the Authority under subsection (2) of section 46, support, comment on or oppose the recommendation;

and the decision of the Minister shall be final.

## 48 Revocation of pilot's licence by Authority

- (1) The Authority shall consider any recommendation made by a pilotage board concerning any pilot who has been suspended by the board under section 46, and having considered the recommendation and the record of the inquiry may:
  - (a) suspend or revoke the pilot's licence; or
  - (b) inform the pilot and the pilotage board that the pilot may resume his duties as a pilot in the pilotage district.
- (2) No pilot's licence shall be suspended or revoked under subsection (1), or action taken by the Authority in relation to any pilot as a result of a recommendation made by a pilotage board unless:
  - (a) no appeal has been made by the Authority pilot or licensed pilot to the Minister within the time prescribed by section 47; or
  - (b) in the case of an Authority pilot he has informed the Authority in writing that he does not intend to exercise his rights of appeal; or
  - (c) an appeal has been made to and determined by the Minister in

accordance with the provisions of section 47.

**49 Authority's power to make rules for pilotage districts**

Subject to the provisions of this Part, the Authority may make rules for any pilotage district for all or any of the following purposes:

- (a) exempting any class of ship from compulsory pilotage;
- (b) prescribing the occasions upon which a ship being moved within a port which forms part of a pilotage district in which pilotage is compulsory shall not be deemed to be navigating in the port;
- (c) providing that in respect of any class of ship prescribed in such rules only Authority pilots shall undertake pilotage;
- (d) determining the qualifications to be required of licensed pilots, and for the grant of licences to pilots;
- (e) providing generally for the good government of Authority pilots and pilots licensed by the Authority;
- (f) providing for the punishment of any breach of any rules made by the Authority for the good government of pilots by the infliction of fines not exceeding 2,000 penalty units;
- (g) prescribing the fees which shall be payable upon the grant or renewal of a licence;
- (h) providing for bonds (the penalty of which shall not in any case exceed 10,000 penalty units) being given by pilots for the purpose of the provisions of section 51 limiting a pilot's liability; and
- (i) generally regulating pilotage in a pilotage district.

**50 Liability of the master or owner in the case of a ship under pilotage**

The master or owner of a ship navigating in circumstances in which pilotage is compulsory shall be answerable for any loss or damage caused by the ship or by any fault of the navigation of the ship in the

same manner as he would if pilotage were not compulsory.

**51 Limitation of pilot's liability when bond is given**

- (1) A pilot who has given a bond under rules made under this Part, shall not be liable for neglect or want of skill beyond the penalty of the bond and the amount payable to him on account of pilotage in respect of the voyage in which he was engaged when he became so liable.
- (2) Any bond given by a pilot in accordance with rules made under this Act shall not be liable to stamp duty.
- (3) Where any proceedings are taken against a pilot for any neglect or want of skill in respect of which his liability is limited as provided by this section, and other claims are apprehended in respect of the same neglect or want of skill, the court in which the proceedings are taken may determine the amount of the pilot's liability and upon payment by the pilot of that amount into court, may distribute that amount rateably among several claimants, and may stay any proceedings pending in any other court in relation to the same matter, and may proceed in such manner and subject to such directions as to making persons interested parties to the proceedings, and as to the exclusion of claimants who do not come in within a certain time, and as to requiring security from the pilot, and as to payment of any costs as the court thinks fit.

**PART XI DUES AND RATES**

*(a) Harbour Dues*

**52 Levy of harbour dues**

Subject to the provisions of this Part, the Authority may levy upon every ship entering or leaving a port such harbour dues in respect of the passengers, animals or cargo carried in such ship as the Authority may by rules made under section 72 prescribe.

**53 Master to supply information on arrival**

- (1) The master of any ship arriving in a port shall produce to the Authority:

- (a) the ship's register and the ship's papers;
- (b) a list of all inward passengers and animals, the name of the consignee of the cargo intended to be unshipped; and
- (c) if the whole cargo be intended to be unshipped, a copy of the bill of lading or manifest of the cargo; or
- (d) if part only of the cargo be intended to be unshipped, the best account in writing in his power of the kinds, weights and quantities of the cargo intended to be unshipped;

and shall also supply such other information in relation to the ship, passengers, animals and cargo thereof as may be prescribed.

- (2) The particulars required by subsection (1) shall be produced or supplied in such form and within such time as may be prescribed.

#### **54 Master to supply information on proceeding outward**

- (1) When applying for the clearance of his ship outwards from a port, the master shall produce to the Authority:
  - (a) a list of all outward passengers and animals;
  - (b) the best account in writing, in his power, of the kinds, quantities and weights of all cargo shipped on board in such port;

and shall also supply to the Authority such other information in relation to the ship, passengers, animals or cargo thereof as may be prescribed.

- (2) The particulars required by subsection (1) shall be delivered to such officer of the Authority, and in such form as may be prescribed.

#### **55 When harbour dues payable**

- (1) Harbour dues payable in respect of passengers, animals and cargo inwards shall be paid before the discharge of such passengers, animals and cargo from the port area.
- (2) Harbour dues payable in respect of passengers, animals and cargo outwards shall be paid before the said passengers, animals and

cargo are placed on board the vessel.

**56 Who is liable for payment of harbour dues**

The following persons shall be liable for the payment of harbour dues:

- (a) the master or owner of the ship;
- (b) as to harbour dues payable in respect of passengers, animals or cargo inwards, the consignee of the animals or cargo or in the case of passengers, the passengers themselves;
- (c) as to harbour dues payable in respect of passengers, animals and cargo outwards, the consignee of the animals or cargo or in the case of passengers, the passengers themselves.

*(b) Ships' Dues*

**57 Levy of ships' dues**

Subject to the provisions of this Part, the Authority may levy on any ship:

- (a) in relation to any port such ships' dues by way of light, buoyage, anchorage, mooring buoy, berthing or other ships' dues;
- (b) in relation to any pilotage district such ships' dues by way of pilotage dues,

as the Authority may by rule made under section 72 prescribe.

**58 Who is liable to pay ships' dues**

(1) The following persons shall be liable to pay ships' dues levied on a ship under paragraph (a) of section 57:

- (a) the master or owner;
- (b) every consignee or agent who shall have paid or made himself liable to pay any dues on account of such ship in the port of her arrival or discharge.

(2) The following persons shall be liable to pay ships' dues levied on a ship under paragraph (b) of section 57:

- (a) the master or owner;
- (b) as to pilotage inwards, every consignee or agent who shall have paid or made himself liable to pay any dues on account of such ship in the port of her arrival or discharge;
- (c) as to pilotage outwards, every consignee or agent who shall have paid or made himself liable to pay any dues on account of the ship in her port of departure.

**59 Consignee or agent may retain ship's dues out of owner's moneys**

When any ships' dues are paid by any person, not being the master or owner of the ship, who is made liable by paragraph (b) of subsection (1) or paragraph (b) or paragraph (c) of subsection (2) of section 58 that person may retain, out of any moneys in his hands received on account of such ship or her owner, the amount of dues paid by him together with any reasonable expenses he may have incurred by reason of such payment or liability.

*(c) Levy of Rates*

**60 Levy of rates**

Subject to the provisions of this Part, the Authority may levy such rates as the Authority may by rule made under section 72 prescribe for the use of any works or appliances provided, or any service to be performed in respect of any ships or goods by the Authority, in pursuance of the powers conferred by this Act, and, without prejudice to the generality of the foregoing, for any of the following:

- (a) the landing, shipping, wharfage, craneage, storage, carriage or demurrage of goods;
- (b) the carriage of passengers;
- (c) the use by any ship or person of any wharf in the possession of the Authority;

- (d) the use of any gear, tackle, tools, instruments or staging supplied by the Authority for the purpose of any ship using any wharf in the possession of the Authority;
- (e) the use of any ship or lighter, or any engine or boat for the extinction of fire, belonging to or maintained by the Authority;
- (f) the towing of, and rendering assistance to, any ship, whether leaving or entering the wharves in possession of the Authority or not, being within or without any port;
- (g) water supplied by the Authority.

## **61 Authority to have lien for certain rates**

- (1) For the amount of all rates leivable under this Act in respect of any goods, the Authority shall have a lien on such goods, and shall be entitled to seize and detain the same until such rates are fully paid.
- (2) Rates in respect of goods to be landed shall become payable immediately on the landing of such goods.
- (3) Rates in respect of goods to be removed from the premises of the Authority, or to be shipped, shall be payable before such goods are removed or shipped.
- (4) The lien for such rates shall have priority over all other liens and claims, except claims for money payable to Her Majesty.

## **62 Lien for freight preserved after landing if notice given**

- (1) If the master or owner of any ship, or his agent, or the person by whom the goods are landed, at or before the time of landing from such ship any goods at any wharf or other premises of the Authority, gives notice in writing that such goods are to remain subject to a lien for freight, primage or general average, or charges to an amount to be mentioned in such notice, such goods shall continue liable to the same lien, if any, for such charges as they were subject to before the landing thereof.
- (2) The Authority shall retain such goods at the risk and expense of the owner of the goods until the lien is discharged as hereinafter

mentioned, or until it is entitled under the provisions hereinafter contained to sell them.

**63 Discharge of lien by payment or release**

Upon production to the Authority of a document purporting to be a receipt for the amount claimed as due, or a release for the amount of any lien to which goods are liable under section 62 from the person by or on whose behalf such notice has been given, the Authority may permit such goods to be removed without regard to the lien, provided it has used reasonable care in respect to the authenticity of such document.

**64 Power for Authority to sell if rates not paid or lien not discharged**

- (1) If the rates payable to the Authority in respect of any goods are not paid, or if the lien for freight, primage, general average or charges, when such notice as aforesaid has been given, is not discharged, the Authority may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage, general average or charges, at the expiration of ninety days from the time when the goods were placed in its custody, or if the goods are of a perishable nature at such earlier period, not being less than twenty-four hours after the landing of the goods, as the Authority thinks fit, sell by public auction or similar the said goods or so much as is necessary to satisfy the duty, expenses, rates and other claims hereinafter directed to be paid out of the proceeds of such sale.
- (2) Before making such sale ten days' notice of the same shall be given by publication thereof in such manner as the Minister may specify, unless the goods are of so perishable a nature as, in the opinion of the Authority, to render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits.
- (3) If the address of the owner of the goods or of his agent has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the Authority, or is otherwise known and such address is within Solomon Islands, notice shall also be given to the owner of the goods by letter delivered at such address or sent by post; but the title of a *bona fide* purchaser shall not be invalidated by

reason of the omission to send the said notice, nor shall any such purchaser be bound to inquire whether such notice has been sent.

**65 Application of proceeds of sale**

- (1) The proceeds of any sale in accordance with the preceding section shall be applied as follows, and in the following order:
  - (a) first in payment of any customs and excise duties and Queen's warehouse rent owing in respect thereof; then
  - (b) in payment of the expenses of the sale; then
  - (c) in payment of the rates and expenses due to the Authority in respect of the goods; then
  - (d) in payment of the freight and other claims or lien of which such notice as aforesaid has been given;

and the surplus, if any, shall be paid to the owner of the goods on demand.

- (2) In case no such demand is made within one year from the sale of the goods, the surplus shall be paid to the general account of the Authority, whereupon all rights to the same of the owner shall be extinguished.

*(d) General Provisions as to Dues and Rates*

**66 Power of entry to ascertain dues, etc.**

The Authority may, either alone or with any other person, enter into any ship within the limits of any port, in order to ascertain the dues or rates payable in respect of the ship.

**67 Weighing and measuring of goods in event of dispute**

If any difference arises between the Authority and the master of any ship or the owner of any goods, concerning the weight or quantities of the goods in respect of which any harbour dues or rates are payable, the Authority shall cause all such goods to be weighed and measured and may, if necessary, detain the ship containing such goods until they have been weighed or measured.

**68      Payment of expenses of weighing and measuring**

- (1) If the weight or measurement of such goods be more than that shown by the particulars delivered by the master in accordance with section 53 or section 54, the expenses of such weighing or measuring shall be paid to the Authority by the master of the ship, and shall be recoverable in the same manner as dues leviable under this Part.
- (2) If the weight or quantity of such goods be the same as or less than that shown by the particulars so delivered, the Authority shall pay all the expenses of such weighing or measuring and of any unreasonable delay of the ship.

**69      Power to distrain for non-payment of dues and rates**

- (1) If the master of any ship in respect of which any dues or rates are payable refuses or neglects to pay such dues or rates on demand, the Authority may distrain or arrest the ship and the tackle, apparel or furniture, thereof and may detain it until the amount so due is paid.
- (2) If for a period of fourteen days following such distrain or arrest:
  - (a) any such dues or rates; or
  - (b) any of the expenses of distrain or arrest or the detention of the ship, tackle, apparel or furniture,

remain unpaid, the Authority may cause the ship or other things distrained or arrested to be sold.

- (3) Out of the proceeds of such sale the Authority may retain the amount of dues, rates or costs which are owing and the Authority shall deliver the balance to the master of the ship, on demand.

**70      Clearance to be withheld until dues or rates are paid**

- (1) If the Authority gives to the proper officer of the Customs Department a notice stating that an amount, therein specified, is due in respect of dues or rates leviable under this Act against any ship, or the master or owner of such ship, the proper officer shall not give any discharge clearance outwards until:
  - (a) the amount of such dues or rates has been paid; or

- (b) security has been given to the satisfaction of the Authority for the payment of such dues or rates.
- (2) In this section "**proper officer**" means the officer whose duty it is to grant clearance outwards from a port of the ship in respect of which notice is given.

**71 Authority may recover dues, rates, etc. by suit**

Notwithstanding anything contained in sections 61 to 70, the Authority may recover by civil suit any dues, rates, expenses, costs or, in the case of sale, the balance thereof, when the proceeds of sale are insufficient.

**72 Power of Authority to make rules for levy of dues and rates**

- (1) Subject to the provisions of this Part, the Authority may make rules:
  - (a) for the levying of dues and rates for the purposes of sections 52, 57 and 60;
  - (b) prescribing the conditions upon which any work or services in respect of which a rate is levied will be performed or provided by the Authority;
  - (c) prescribing the officer of the Authority to whom any return or information required by this Part shall be delivered and the place of such delivery and the time within which it shall be made;
  - (d) prescribing the officer of the Authority to whom such dues or rates shall be paid, the place of payment and the time within which payment shall be made;
  - (e) providing for the exemption of any ship, or class of ship, passenger, animal or goods from all or any dues or rates or the remission thereof or any part thereof;
  - (f) prescribing anything required to be prescribed by this Part;
  - (g) generally for giving effect to the provisions of this Part.
- (2) For the avoidance of doubt it is hereby declared that rules made

under this section may:

- (a) prescribe different dues or rates for different ports;
- (b) prescribe different dues or rates for different classes of ships, passengers, animals or goods;
- (c) provide that the Authority may enter into special agreement in respect of any matter referred to in section 60 instead of charging the rate in accordance with the rate prescribed by rule.

**73 Approval and publication of rules as to dues and rates**

- (1) Rules made under section 72 shall not have effect until approved by the Minister of Finance.
- (2) The Authority shall keep at the office of the Authority in each port a book specifying the dues and rates for the time being in force and shall allow any person to inspect it free of charge at all reasonable times.

**74 Exemptions from provisions of Part XI**

The provisions of this Part shall not apply to any ship belonging to the armed force of Her Majesty or of the Government of any part of the Commonwealth.

**75 Part XI applicable to Government goods**

The provisions of this Part shall apply to goods the property of the Government.

**PART XII THE LIABILITY OF THE AUTHORITY**

*(a) As a Carrier of Passengers*

**76 Liability of Authority for loss of life or injury to passengers**

- (1) The Authority shall not be liable for the loss of life, or personal injury to, any passenger, except where the loss of life, or personal injury is caused by want of ordinary care, diligence or skill on the part of the Authority or any of its servants.

(2) The Authority shall not be liable for the loss of life or personal injury to any passenger who is carried by the Authority when the loss of life or injury occurs during carriage by ship and arose from:

- (a) act of God;
- (b) act of war or the Queen's enemies;
- (c) fire, or accident from machinery, boilers or steam;
- (d) any peril or accident of the seas, inland waters, or navigation, of whatsoever nature or kind and from whatsoever cause arising,

but, subject thereto and to any condition expressed in the contract of carriage, the Authority shall be liable for any such loss of life or personal injury which occurs during the carriage by ship to the extent to which they would be liable under the *Merchant Shipping Act, 1894*, and any Acts amending that Act, as if the ship were registered under that Act and the Authority were the owner of that ship and not to any greater extent.

(3) Where the Authority seeks to avoid liability under the provisions of the foregoing subsection the burden of proving that any such loss of life or injury occurred during the carriage by ship shall lie upon the Authority.

(4) For the purposes of this section the expression "**passenger**" includes every person, other than a servant of the Authority on duty, lawfully travelling on any ship, vehicle or train owned or operated by the Authority.

## 77      **No liability for delay to passengers**

The Authority shall not be liable for any loss arising from the delay to any passenger caused:

- (a) by the failure of any ship, vehicle or train to start on any journey;
- (b) by the late starting or late arrival of any ship, vehicle or train, from whatsoever cause arising.

*(b) As a Carrier of Goods by Ship*

**78 Liability for delay of goods**

The Authority shall not be liable for any loss arising from delay to, detention of, or deviation in the carriage of goods unless such delay, detention or deviation is caused by want of reasonable foresight and care on the part of the Authority or of any servant:

Provided that the Authority shall not in any circumstances be liable for any loss arising from delay to, detention of, or deviation in the carriage of goods:

- (a) where there has been fraud on the part of the consignor; or
- (b) unless a document acknowledging the receipt of such goods for carriage by the Authority has been given; or
- (c) which at the time when such delay, detention or deviation occurred were being carried by any transport service other than one provided by the Authority or under the control of the Authority; or
- (d) where there is a loss in a particular market whether held daily or at intervals; or
- (e) where such delay, detention or deviation arises from:
  - (i) insufficient or improper packing;
  - (ii) riots, civil commotions, strikes, lock-outs, stoppage or restraint of labour from whatever cause, whether partial or general.

**79 Limitation of liability for loss of animals**

- (1) The liability of the Authority in respect of any animal shall not in any case exceed:
  - (a) in the case of a horse, one hundred dollars;
  - (b) in the case of any cattle, ten dollars;

(c) in the case of any other animal, two dollars;

unless at the time of acceptance of such animal by the Authority for carriage the consignor or his agent declared that the value of the animal exceeded the appropriate amount and paid, or agreed to pay, such additional charge as may be prescribed in respect of such excess value, and the liability of the Authority shall not in any case exceed such declared value.

- (2) In any proceedings against the Authority for the recovery of the sum in respect of any animal, the burden of proving the value of the animal, and where the animal has been injured the extent of the injury, shall be upon the claimant.
- (3) The Authority may by order vary the provisions of paragraphs (a), (b) and (c) of subsection (1).

*(c) As a Lighterman, Wharfinger and Warehouseman*

## **80 Liability for loss of goods**

Subject to the provisions of this Act or any contract, the Authority shall not be liable for the loss, misdelivery or detention of or damage to, goods:

- (a) delivered to, or in the custody of, the Authority otherwise than for the purpose of carriage;
- (b) accepted by the Authority for carriage, where such loss, misdelivery, detention or damage occurs otherwise than when the goods are in transit,

except when such loss, misdelivery, detention or damage is caused by want of reasonable foresight and care on the part of the Authority or any servant of the Authority and it is proved that such goods have been delivered to the Authority in good condition:

Provided that the Authority shall in no case be liable for such loss, misdelivery, detention or damage arising from:

- (i) act of God;
- (ii) act of war or the Queen's enemies;

- (iii) arrest or restraint of princes or rulers, or seizure under any legal process;
- (iv) act or order of the Government;
- (v) act or omission of the consignor, consignee, or depositor, or of the servant or agent of any such person;
- (vi) fire, flood, tempest, riots, civil commotions, strikes, lock-outs, stoppage or restraint of labour from whatever cause, whether partial or general;
- (vii) inherent liability to wastage in bulk or weight, latent or inherent defect, vice or natural deterioration;
- (viii) deficiency in the contents of unbroken packages;
- (ix) insufficient or improper packing, or leakage from defective drums, containers or packages.

*(d) In Connection with Pilotage*

**81 Liability of the Authority in connection with pilotage**

- (1) Any liability of the Authority in relation to its duties in connection with pilotage under Part X or any rule made thereunder shall not, where without their actual fault or privity any loss or damage is caused to any ship or to any merchandise or other things whatsoever on board any ship or to any other property or rights of any kind, whether on land or on water or whether fixed or movable, be liable to damages beyond the amount of two hundred dollars multiplied by the number of Authority and licensed pilots entitled to pilot ships in the pilotage district where the loss or damage occurred on the date when the loss or damage occurred.
- (2) Nothing in this section shall be construed to impose a liability on the Authority for any loss or damage as aforesaid, where no liability would have existed but for this section.

**82 Limitation of liability where several claims on one occasion**

The limitation of liability under section 81 shall relate to the whole of any loss or damage which may arise upon any one distinct occasion,

although such loss and damage may be sustained by more than one person, and shall apply whether the liability arises at common law or under any Act or law, and notwithstanding anything contained in any such Act or law.

**83 Power of court to consolidate claims**

Where any liability is alleged to have been incurred by the Authority in respect of any loss or damage to which section 81 applies, and several claims are made or apprehended in respect of that liability, then the Authority may apply to the High Court, and that Court may determine the amount of the liability of the Authority, and may distribute that amount rateably among the several claimants, and may proceed in such manner and subject to such directions as to making persons interested parties to the proceedings, and as to the exclusion of any claimants who do not come in within a certain time and as to requiring security from the Authority and as to the payment of any costs, as the court thinks fit.

**84 Liability in connection with pilotage when Authority is a shipowner**

In a case where the Authority is entitled to limit its liability as the owner of a ship, the provisions of sections 81, 82 and 83, shall not apply to any loss or damage the liability for which can be so limited by the Authority.

**85 Licensing of pilots does not involve liability**

- (1) The grant or renewal of a licence to a pilot by the Authority under the powers conferred upon the Authority by this Act shall not impose any liability on the Authority for any loss occasioned by any act or default of the pilot.
- (2) The Authority shall not be liable for any loss occasioned by any act or default of any Authority pilot.
  - (e) *As a Supplier of Stevedoring Labour*

**86 Liability for loss of goods, etc.**

Notwithstanding any other provision of this Act, the Authority shall

not be liable:

- (a) for loss or damage to goods whilst such goods are being stevedored on to or from any vessel by servants of the Authority;
- (b) for loss or damage to goods due to faulty or inadequate stowage in any vessel occasioned by servants of the Authority; or
- (c) for faulty or inadequate trimming of bulk cargo or the rearrangement of other cargo stevedored on to any ship by servants of the Authority.

## **PART XIII        LEGAL PROCEEDINGS**

### **87        Limitation of suits against the Authority**

- (1) When any suit is commenced against the Authority or any servant of the Authority for any act done in pursuance or execution, or intended execution of any Act or law, or of any public duties or authority, or in respect of any alleged neglect or default in the execution of such Act, law, duty or authority, such suit shall not lie or be instituted in the High Court unless it is commenced within twelve months next after the act, neglect, or default complained of, or in the case of a continuance of injury or damage, within twelve months next after the ceasing thereof.
- (2) No suit shall be commenced against the Authority until one month at least after written notice of intention to commence the same shall have been served upon the Authority by the intending plaintiff or his agent. Such notice shall state the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims.

### **88        Service of documents**

The notice referred to in section 87 and any summons, notice or other document required or authorised to be served upon the Authority in connection with any suit by or against the Authority may be served by delivering the same to, or sending it by registered post addressed to the Chairman or the Secretary of the Authority.

89

### **Restriction on execution against the property of Authority**

In any action or suit against the Authority no execution or attachment or process in the nature thereof shall be issued against the Authority, but any sums of money which may be the judgment of the court be awarded to the plaintiff shall be paid by the Authority from the funds of the Authority.

90

### **Stay of arrest in certain cases**

A person connected with the direct working of the Authority shall not be removed under arrest when his immediate removal from duty might result in danger to life or goods, whether in execution of a warrant or otherwise, while actually engaged in the performance of his duties until the head of the department in which he is employed or the officer in immediate charge of the work in which such person is engaged has been given an opportunity of providing a substitute.

91

### **Representation of Authority at hearing of suit**

- (1) In any suit pending before a court the Authority may be represented in court at any stage of the proceedings by any servant of the Authority who shall satisfy the court that he is duly authorised in writing by the Authority in that behalf.
- (2) For the purposes of this Part:

“**suit**” includes action, means a civil proceeding commenced by writ of summons or in such other manner as may be prescribed by rules of court and does not include a criminal proceeding.

## **PART XIV**

## **OFFENCES**

### *(a) Offences in connection with Lighthouses, etc.*

92

### **Injury to lighthouses, buoys and beacons**

Any person who shall wilfully or negligently:

- (a) injure any lighthouse or any light exhibited therein or any buoy or beacon;
- (b) remove or alter any lighthouse, buoy or beacon; or

(c) ride by, make fast to, or run foul of any lighthouse, buoy, or beacon,

shall be liable to a fine of 5,000 penalty units in addition to his liability to make good damage thereby occasioned.

93

### **Power to prohibit false lights and penalty for failure to extinguish**

- (1) Whenever any fire or light is burned or exhibited at any place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse, buoy, or beacon, the Authority may serve a notice upon the owner or occupier of the place where the fire or light is burned or exhibited, or on the person having the charge of the fire or light, directing the owner, occupier, or person, within a reasonable time to be specified in the notice, to take effectual means for extinguishing or effectually screening the fire or light and for preventing the same or any similar fire or light being burned or exhibited thereafter.
- (2) The notice may be served either personally or by delivery of the same at the place of abode of the person to be served, or by affixing the same in some conspicuous spot near the fire or light to which the notice relates.
- (3) Any owner or person, on whom a notice is served under this section, who fails, without reasonable cause, to comply with the directions contained in the notice, shall be liable for each offence to a fine of 10,000 penalty units.
- (4) If any owner or person on whom a notice under this section is served neglects for a period of twenty-four hours to extinguish or effectually screen the fire or light mentioned in the notice, an authorised servant of the Authority, with workmen or other assistants may enter upon the place where the fire or light is, and forthwith extinguish the same, doing no unnecessary damage, and may recover the expenses incurred by him in so doing from the owner or person on whom the notice has been served in the same manner as fines may be recovered under this Act.

**94      Penalty for obstructing authorised entry, etc.**

Any person who wilfully obstructs any person in doing any of the acts authorised by sections 26, 27 and 93 shall be liable on conviction to a fine of 5,000 penalty units or to imprisonment for six months or to both such fine and imprisonment.

*(b) Offences in connection with Pilotage*

**95      Penalty in respect of ship entering compulsory pilotage district without pilot**

- (1) If any ship enters, leaves or changes her berth in any pilotage district in which pilotage has been made compulsory under this Act, not being in charge of a pilot authorised to pilot such ship, the pilotage dues which would have been paid if an Authority pilot had been employed shall nevertheless be paid together with a penalty of 40 penalty units.
- (2) The said dues and penalty shall be payable by the persons declared by this Act to be liable to pay the pilotage dues, and shall be recoverable before a court of competent jurisdiction.

**96      Penalty on pilot endangering a ship**

Any pilot who, when in charge of a ship:

- (a) by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction or serious damage of such ship or tending immediately to endanger the life or limb of any person on board such a ship; or
- (b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from loss, destruction or serious damage, or preserving any person on board such ship from danger to life or limb,

shall be guilty of an offence and liable on conviction to imprisonment for two years.

**97      Penalty for illegal piloting**

Any person who holds himself out as a pilot authorised to pilot a ship in a pilotage district which he is not authorised to pilot under this Act, or pilots any ship in a pilotage district which he is not so authorised to pilot, shall be guilty of an offence and liable on conviction to a fine of 3,000 penalty units.

*(c) Offences in connection with Dues, Rates, Returns, etc.*

**98      Evasion of dues and rates**

Any master or owner of any ship, or any owner or consignor or consignee of any goods who, by any means whatsoever evades, or attempts to evade any of the dues or rates leivable under this Act shall be guilty of an offence and shall be liable on conviction to imprisonment for six months or to a fine of 5,000 penalty units or to both such fine and imprisonment, and shall in addition be liable to pay to the Authority as penalty double the amount of the dues or rates he evaded or attempted to evade.

**99      Failure to comply with sections 53 and 54**

Any master of a ship who contravenes any of the provisions of sections 53 and 54 shall be guilty of an offence and shall be liable on conviction to imprisonment for six months or to a fine of 5,000 penalty units or to both such fine and imprisonment.

**100     False returns**

Any person who makes, either knowingly or recklessly, any statement which is false in any material particular in any return, claim or other document which is requested or authorised to be made by or under the provisions of this Act, shall be guilty of an offence and shall be liable on conviction to imprisonment for six months or to a fine of 5,000 penalty units or to both such imprisonment and fine.

*(d) Offences in connection with Ships*

**101     Penalty for unlawfully loosing moorings**

Any person who for the purpose of obtaining salvage, or for any other

purpose, wilfully sets adrift, or cuts, breaks or unfastens the mooring of any ship shall be guilty of an offence and liable on conviction to a fine of 5,000 penalty units or to imprisonment for six months or to both such fine and imprisonment.

**102      Wilfully sinking vessels**

Any person who wilfully sinks any ship in a port or in the approach thereto without the permission in writing of the harbour master, shall, in addition to paying the expenses incurred by the Authority in removing such vessel, be guilty of an offence and be liable on conviction to a fine of 10,000 penalty units.

*(e) Offences by servants of the Authority*

**103      Demanding improper amounts**

Any servant of the Authority who, with intent to defraud, demands or receives from any person liable to pay any dues or rates imposed under the provisions of this Act in respect of any matter any greater or lesser amount than is authorised to be levied by the rules for the time being in force in respect of that matter, shall be guilty of an offence and shall be liable on conviction to imprisonment for twelve months or a fine of 10,000 penalty units or to both such imprisonment and fine.

**104      Behaviour of servants**

- (1) If a servant of the Authority is in a state of intoxication while on duty he shall be guilty of an offence.
- (2) Any person convicted of an offence under sub-section (1) shall be liable:
  - (a) if the improper performance of his duty would be likely to endanger the safety of any person, to imprisonment for one year or a fine of 10,000 penalty units;
  - (b) in any case, to a fine of 1,000 penalty units.

## **PART XV MISCELLANEOUS PROVISIONS**

### **105 Saving of powers under customs laws**

Nothing in this Act shall be deemed to derogate from the powers conferred upon any person under the customs laws as defined in the *Customs and Excise Act*.

### **106 Publication of rules, etc.**

Notwithstanding the provisions of any Act or law, the Minister shall prescribe the manner in which by-laws, rules or orders made by the Authority under the provisions of this Act shall be published, and such by-laws, rules or orders shall come into force on publication in the prescribed manner unless otherwise provided therein.

## **FIRST SCHEDULE**

(Sections 4 and 5)

1. Honiara.

## **SECOND SCHEDULE**

(Section 12)

1. The interests of the Crown in and to all the improvements situate within the area known as Honiara Port Area which area is bounded on the West by Cruz Creek, on the North by the Sea, on the East by the western boundary of registered Crown Lease No. C48 and on the South by a line parallel to and 100 feet from the northern boundary of Mendana Avenue, as more particularly delineated and coloured pink on the Sketch Plan signed and dated the 28th day of May, 1956, which Sketch Plan is filed in the office of the Commissioner of Lands and Surveys at Honiara in Drawer A as Folio No. 26.
2. The interest of the Crown in all those dumb craft which appear on a list prepared and agreed between the Government and the Authority.
3. The interest of the Crown in the vessel known as the "Baruku".
4. The interest of the Crown in all buoys, beacons and other navigational aids within the limits of Honiara Port and the approach to such Port.
5. The assets described in this Schedule shall be deemed to have been vested in the Authority on the fifteenth day of June, 1956.
6. 62m Deep water berth of steel pile and concrete decking construction including caseway and bollard.
7. Two 6 tonne Caterpillar V130 Forklifts (Serial Nos. 6PG155 & 6PG 156).
8. Two 3 tonne Caterpillar V60E Forklifts (Serial Nos. 37W08355 & 37W08356).

9. One JCB 423 front end loader.
10. One York 2 axle flat-bed draw-bar 20 ft Container trailer Model DB25/4.
11. One Arbilift Container mover model MK/111.
12. Six 9kg dry powder fire extinguishers, branchpipes, fire hoses, standpipes and six cabinets.
13. One Cummins diesel powered salt water pump model 4BT3.9 & Serial No. 21019140 and fittings.
14. Pharos Navigation lights
  - two 10.3V Marine lanterns and 240 V converts units.
  - one 10.3 V marine lantern and matching solar power system.
  - two 10.3 V range lamps and matching solar power systems.
15. Pharos Navigation towers
  - two off 3 m towers
  - one off 7m tower
  - two off 10 m towers
16. One Perkins M30 marine diesel 30 HP engine.
17. One 900 m<sup>2</sup> transit shed and workshop.
18. One 11.2m port workboat M.V. Tunguvilli Yanmar Engines model 6HA (M)E/6HA(M)-HTE 165-364 HP.

## **THIRD SCHEDULE**

(Section 7)

### *Constitution and Proceedings of the Authority*

1. The Chairman and members, subject to the provisions of this

Schedule, shall hold and vacate their offices in accordance with the terms of the instrument appointing them to be Chairman or members.

2. A member of the Authority may at any time resign from membership of the Authority by sending his resignation in writing to the Minister.
3. A member of the Authority who has ceased to be a member shall be eligible for re-appointment.
4. If the Minister is satisfied that a member of the Authority:
  - (a) has been absent from two consecutive meetings of the Authority without the permission of the Authority; or
  - (b) is incapacitated by physical or mental illness; or
  - (c) is otherwise unable or unfit to discharge the functions of a member,the Minister may declare the office of such member to be vacant and the declaration shall be notified in such manner as the Minister thinks fit; and upon notification being made the office shall become vacant.
5. No act or proceeding of the Authority shall be questioned on account of any vacancy among its members, or on account of the appointment or election of any members having been defective.
6. When it appears to the Minister that a member, other than the Chairman, is temporarily incapacitated by illness or is temporarily absent from Solomon Islands, the Minister may appoint a suitable person to be temporarily a member of the Authority in his stead during the period of such incapacity or absence.
- 7.—(1) The Authority shall ordinarily meet for the dispatch of business at such times and places as the Chairman may from time to time appoint but not less than three times in any one year.

- (2) Three members of the Authority shall form a quorum at any meeting.
- (3) At every meeting of the Authority the Chairman, if present, shall preside, but in his absence the Authority shall appoint one of the members present to preside.
- (4) Every question which comes before the Authority at any meeting shall be decided by a majority of the votes of the members present and voting.
- (5) The member presiding at any meeting shall have a vote and, in the case of an equality of votes, a second or casting vote.

8. If a member of the Authority is directly or indirectly interested in any contract, proposed contract or other matter and is present at a meeting of the Authority at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on, any question with respect to that contract or other matter.

9. Minutes shall be kept of the proceedings of the Authority, and any such minutes shall, if signed by a person purporting to have acted as Chairman of the meeting to which the minutes relate, or of a meeting at which they were read, be evidence of the proceedings of the first-mentioned meeting.

10. Subject as aforesaid, the Authority shall, with the approval of the Minister, make standing orders with respect to the holding of meetings of the Authority, the notices to be given of such meetings, the proceedings thereat, the custody of and the production for inspection of the minutes of such proceedings.

11. Subject to the provisions of this Act and of any standing orders made under paragraph 10, the procedure of the Authority shall be such as the Authority may determine.

12. The affixing of the Seal of the Authority shall be authenticated by the signature of the Chairman, or some other member of the Authority authorised, either generally or specially by the

Authority to act in his stead for the purpose, and of some other person authorised, either generally or specially, by the Authority to act for the purpose.

13. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under Seal, may be entered into or executed on behalf of the Authority by any person generally or specially authorised by the Authority for that purpose.
14. Every document purporting to be a document duly executed or issued under the Seal of the Authority or on behalf of the Authority shall be received in evidence and be deemed to be so executed or issued without further proof, until the contrary is shown.

## HISTORICAL ENDNOTES

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### KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
It = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

### NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 161 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act since that date.

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### LIST OF LEGISLATION

#### *Ports Act (Cap. 161)*

Constituent legislation:	6 of 1956 (Commenced 4 June 1956)
	7 of 1957
	13 of 1959
	8 of 1965
	6 of 1967
	18 of 1967
	4 of 1968
	LN 46A of 1978
	LN 88 of 1978
	LN 69 of 1987
	13 of 1988
	LN 18 of 1990

#### *Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)*

Assent date	29 July 2009
Gazetted	1 October 2009
Commenced	1 October 2009

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### LIST OF AMENDMENTS

s 32	amd by Act No. 14 of 2009
s 35	amd by Act No. 14 of 2009

s 46	amd by Act No. 14 of 2009
s 49	amd by Act No. 14 of 2009
s 92	amd by Act No. 14 of 2009
s 93	amd by Act No. 14 of 2009
s 94	amd by Act No. 14 of 2009
s 95	amd by Act No. 14 of 2009
s 97	amd by Act No. 14 of 2009
s 98	amd by Act No. 14 of 2009
s 99	amd by Act No. 14 of 2009
s 100	amd by Act No. 14 of 2009
s 101	amd by Act No. 14 of 2009
s 102	amd by Act No. 14 of 2009
s 103	amd by Act No. 14 of 2009
s 104	amd by Act No. 14 of 2009