

# REPRINT

## SHIPPING ACT 1998

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

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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 CONSOLIDATE AND AMEND THE LAW RELATING TO SHIPPING AND SEAMAN AND TO CONTROL THE REGISTRATION, SAFETY AND MANNING OF SHIPS, AND TO GIVE EFFECT TO CERTAIN INTERNATIONAL MARITIME CONVENTIONS, AND FOR OTHER PURPOSES CONNECTED THEREWITH.**



## SHIPPING ACT 1998

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# SHIPPING ACT 1998

As in force at: 1 October 2009

## PART I PRELIMINARY

### 1 Short title and commencement

- (1) This Act may be cited as the *Shipping Act 1998*.
- (2) This Act shall come into force on a date to be appointed by the Minister by notice published in the *Gazette*, provided that different Parts of this Act may come into force on different dates.

### 2 Interpretation

In this Act unless the context otherwise requires:

**“Administration”** means the ministry for the time being charged with responsibility for shipping;

**“aid”** means a marine navigation aid;

**“air-cushioned vehicle”** means a vehicle designed to be supported when in motion wholly or partly by air expelled from vehicle and forming a cushion of air, the boundaries of which include the water and other surface below the vehicle;

**“casualty”** in relation to a vessel, means:

- (a) loss, or presumed or loss, stranding, grounding, foundering or abandonment of, or damage to, the vessel or a boat belonging to the vessel;
- (b) damage caused by a vessel or by a boat belonging to the vessel; or
- (c) loss of life or serious injury caused by:
  - (i) a fire on board;

- (ii) an accident to the vessel; or
- (iii) an accident occurring on board the vessel or a boat belonging to the vessel;

**“Certificate of Competency”** means a certificate issued by the Superintendent of Marine on behalf of the Administration to a seaman under Part V of this Act which entitles the seaman to serve in a vessel in the designation or grade stated in that certificate;

**“Code”** means the South Pacific Maritime Code, published by the Forum Secretariat, as amended from time to time, where that amendment has been accepted by Solomon Islands;

**“Collisions Convention”** means the Convention on the International Regulations for Preventing Collisions at Sea, 1972, together with the *International Regulations for Preventing Collisions at Sea, 1972*, constituted by the Rules, and other Annexes attached to that Convention, as corrected by Process-Verbal of Rectification dated 1 December 1973, as amended from time to time, unless that amendment has been objected to by Solomon Islands;

**“Corporation”** means any body corporate registered under the laws of Solomon Islands and includes any company, partnership, sole proprietorship, association, institution, statutory authority or other entity whether incorporated and registered or not;

**“Court”** means the High Court of Solomon Islands;

**“crew”** means those persons employed or engaged in any capacity on board a vessel, but does not include a master, or pilot or other person temporarily employed on board the vessel while it is in port;

**“dangerous goods”** means any goods classified and dealt with as dangerous goods in the International Maritime Dangerous Goods Code, 1981, (IMDG Code), published by the International Maritime Organisation, London, as amended from time to time;

**“discharge”**, in relation to harmful substances means any release from a ship, howsoever caused, and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying; but does not include:

- (i) **“dumping”** as defined in the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, done at London on 13th November, 1972;
- (ii) the release of harmful substances directly resulting from the exploration, exploitation, and associated off-shore processing of sea-bed mineral resources; or
- (iii) the release of harmful substances for purposes of legitimate research into pollution abatement or control;

**“disciplinary offence”** includes any act or omission committed by a member of the crew, which causes or is likely to cause the loss, destruction or serious damage to a vessel, or death or injury to a person on board or negatively effect the safety and good order of the operation of the vessel;

**“equipment”** in relation to a vessel, includes everything or article belonging to or used in connection with, or necessary for the navigation, safety and working of the vessel;

**“fishing vessel”** means a vessel used, or intended to be used, wholly or principally for the catching or taking of marine organisms, including fish, whales, seals, aquatic plants or other living resources of the sea on a commercial basis and includes:

- (a) a vessel engaged in fisheries research; and
- (b) a vessel that is wholly or principally used or intended to be used as a carrier, or mother vessel, supply or bunker vessel or any other vessel in support of a fishing vessel;

**“government vessel”** means a vessel that is:

- (a) wholly owned by the Government and engaged in non-commercial services;
- (b) chartered to the Government and is wholly under its management and control;

**“gross tonnage”** in relation to a ship having alternative gross tonnages, shall be taken to be the larger of those tonnages;

**“harmful substance”** means any substance which, if introduced to the sea, may create hazards to human health, harm living resources or marine life, damage amenities, or interfere with other legitimate uses of the sea, and includes any substance subject to control by the MARPOL or London Conventions;

**“IMDG Code”** means the International Maritime Dangerous Goods Code published by IMO under the provisions of the Safety Convention;

**“existing vessel”** means a vessel that is not a new vessel;

**“IMO”** means the International Maritime Organisation;

**“incident”** means an event involving the actual or probable discharge into the sea from a ship of a harmful substance, or effluents containing such a substance;

**“Law of the Sea Convention”** means the United Nations Convention on Law of the Sea, 1982;

**“left behind”** in relation to a seaman means the leaving behind of a sea man belonging to a vessel at a port other than the port to which the seaman was to be returned as set forth in the Articles of Agreement or Employment Contract; but does not include the leaving behind of a seaman, who without the consent of the master, has left the vessel to which he belongs with the intention of not returning to that vessel;

**“length”** in relation to a vessel means:

- (a) the length shown in the vessel's Certificate of Registry, or Tonnage Certificate; or
- (b) in the case of a vessel which does not possess either of those certificates or where the length is not shown on either certificate, the length of the vessel as determined by the Principal Surveyor;

**“Limitation of liability for Maritime Claims Convention”** means the Convention on the Limitation of Liability for Maritime Claims, 1976, including any Protocols, as amended from time to time, unless

objected to by Solomon Islands;

**“Licensed pilot”** means a person holding a current pilotage licence that entitles him to have the lawful conduct of a ship in the pilotage area in respect of which it is issued;

**“light”** includes any fire, lamp, street light or other illuminating device, or reflected light;

**“list of suspended persons”** means a list of persons who have been declared by the Principal Shipping Officer to be suspended persons as a result of discipline imposed in the manner prescribed under this Act;

**“load line”** means a line marked on the hull of a vessel indicating the depth to which a vessel may safely be loaded;

**“Load Lines Convention”** means the International Convention on Load Lines, 1966, including the Supplement of 1981 and the Protocol of 1988, as affected by any amendment, unless that amendment has been objected to by Solomon Islands;

**“Load Lines Convention Ship”** means a vessel to which the Load Lines Convention applies;

**“Marine Navigation Aid”** includes lights, fixed structures, illuminating and reflecting devices and any other apparatus the purpose of which is to assist in the navigation of vessels and small craft;

**“MARPOL 73/78 Convention”** means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended from time to time, unless that amendment has been objected to by Solomon Islands;

**“Master”** means the person appointed by the owner having lawful command or charge of the vessel but does not include a pilot;

**“Minister”** means the Minister for the time being charged with responsibility for shipping;

**“new vessel”** means a vessel:

- (a) the keel of which was laid or which was at a similar stage of construction; or
- (b) that has been substantially altered or reconstructed on or after the date of coming into force of the applicable provision of this Act in respect of the vessel;

**“*pleasure craft*”** means a vessel:

- (a) which is provided for transport, sport or recreation by or on behalf of any institution, hotel, resort, or place of entertainment, or other establishment or business; or
- (b) that is used on any voyage for pleasure if it is normally used for fishing or for the carriage of passengers or cargo for hire or reward;

**“*pollution*”** means the discharge or release into the sea of any harmful substance;

**“*Principal Shipping Officer*”** means the officer appointed to be the Principal Shipping Officer pursuant to section 111;

**“*Principal Surveyor*”** means the officer appointed to be Principal Surveyor pursuant to section 54;

**“*Proper return port*”** in relation to a seaman, means the port named in Articles of Agreement or Employment Contract as agreed upon by the employer and seaman as the Port to which the seaman is to be returned at the expiration of Agreement or contract.

**“*qualified person*”** means:

- (a) a person who is a citizen of Solomon Islands; or
- (b) a corporation whose principal place of business is in Solomon Islands;

**“*qualified seaman*”** means a person on board a vessel who holds a certificate appropriate to the capacity in which he is serving in the vessel;

**“*radio installation*”** means a radio-telegraphy or radiotelephony

installation, including VHF radiotelephony, (as defined in the Annex to the 1974 SOLAS Convention and the 1978 Protocol relating thereto, incorporating the 1981 and 1983 amendments, Chapter IV), but does not include a radio navigation aid;

**“Receiver”** means the Receiver of Wreck;

**“Register”** means the Register of Vessels maintained by the Principal Shipping Officer;

**“Registrar”** means the Registrar of Vessel who shall be the Superintendent of marine services;

**“related interests”** means interests directly affected or threatened including (but without limiting the generality of the foregoing) - fishing, maritime, coastal, port or estuarine activities, tourist attractions, public health and welfare, and conservation of living marine resources and wildlife;

**“Safety Certificate”** means any certificate issued by a marine administration in respect of the safety of a vessel, its hull, machinery, equipment and appliances and includes a Tonnage Certificate;

**“Safety Convention”** means the International Convention for the Safety of Life at Sea, 1974, and the Protocols of 1978 and 1988, including the IMDG CODE, as affected by any amendment, unless that amendment has been objected to by Solomon Islands;

**“Safety Convention Ship”** means the International Convention on Maritime Salvage 1989, including any Protocols, as amended from time to time, unless objected to by Solomon Islands;

**“seaman”** means a person who is employed or engaged on any vessel in any capacity for gain or reward, but does not include a pilot or a person temporarily employed on board while the vessel is in port;

**“ship”** means a vessel which is self propelled but does not include a vessel ordinarily propelled by oars or sails;

**“Solomon Islands Waters”** means all marine waters appertaining to Solomon Islands demarcated by the *Delimitation of Marine Waters Act, 1978*, and including Inland Waters, Territorial Waters,

Archipelagic Water and Exclusive Economic Zone as provided therein;

**“STCW Convention”** means the International Convention on Watchkeeping for Seafarers 1978, as affected by any amendment, unless objected to by Solomon Islands;

**“tonnage”** means tonnage as defined by the Tonnage Measurement Convention;

**“Tonnage Certificate”** means:

- (a) in the case of a vessel, where a vessel is a vessel to which the Tonnage Measurement Convention would apply if the vessel were engaged on an international voyage, an International Tonnage Certificate (1969); or
- (b) such other tonnage measurement certificate as the Regulations prescribe shall be issued in respect of the vessel;

**“Tonnage Measurement Convention”** means the International Convention on Tonnage Measurement of Ships, 1969, as affected by any amendment, including the Protocol of 1988 in respect of Harmonisation, unless that amendment has been objected to by Solomon Islands;

**“Tonnage Measurement of Ship”** means a vessel that is:

- (a) of a kind to which the Tonnage Measurement Convention applies; and
- (b) registered in a state which is a party to the Tonnage Measurement Convention;

**“traditional vessel”** means a vessel built of traditional materials to a traditional design;

**“unsafe vessel”** means a vessel which in the opinion of the Principal Surveyor is unfit to go to sea in its present condition without danger to human life or damage to cargo, or otherwise deemed to be unseaworthy;

**“vessel”** means every description of craft used, or capable of being

used, in marine transportation and includes fishing vessels, hover craft, non-displacement vessels and mobile offshore units, but does not include seaplanes and vessels under construction but not yet launched;

**“wreck”** includes jetsam, flotsam, lagan and derelict found in or on the shores or bottom of the sea or any tidal water; and

**“wrecked vessel”** means any vessel that is wrecked, stranded, sunk or abandoned or which is lying on the seabed within the limits of the jurisdiction of Solomon Islands.

### 3 Application

- (1) This Act shall apply to all vessels registered or vessels to be registered or licensed under this Act or Regulations on any voyage and in any waters, and to every vessel in Solomon Islands waters or in a Solomon Islands port or harbour, and to any vessel on which Solomon Islands seamen are employed, but does not apply to a vessel belonging to the Solomon Islands defence force or the defence force of any country, including but not limited to, warships, naval auxiliaries, patrol vessels and other similar vessels.
- (2) Subject to this Act and to any other law, and subject to any such reservations as Solomon Islands may make, the following International Conventions shall have the force of law in Solomon Islands:
  - (a) International Convention on Load Lines, 1996, and any amendments thereto from time to time adopted (known as the **“Load Lines Convention”**) including all amendments included in the Supplement of 1981, and the Protocol of 1988, in respect of the International Conference on the Harmonised System of Survey and Certification;
  - (b) International Convention on Tonnage Measurement of Ships, 1969, (known as the **“Tonnage Measurement Convention”**), with any amendments from time to time adopted, including the Protocol of 1988 in respect of Harmonisation;
  - (c) Convention of the International Regulations for Preventing Collisions at Sea, 1972, (known as the **“Collision**

**Convention**", including the Rules for Preventing Collision at sea, and all amendments from time to time adopted under the tacit acceptance procedures unless specifically rejected by Solomon Islands;

- (d) International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, incorporating the 1981 and 1983 amendments known as "MARPOL 73/78";
  - (e) International Convention for the Safety of Life at Sea, 1974, known as "**Safety Convention**" and "**SOLAS 1974**", and SOLAS Protocol 1978, including the IMDG Code, and all amendments from time to time adopted under the tacit acceptance procedures unless specifically rejected by Solomon Islands and includes the Protocol of 1988 in respect of Harmonisation;
  - (f) International Convention of Standards on Training, Certification and Watchkeeping for Seafarers 1978, and all the relative Protocols and Amendments of 1995 and any further amendments thereto, known as the "**STCW Convention**", as amended from time to time.
- (3) In the event of any inconsistency between the Convention and this Act or the Regulations, the Convention prevails to the extent of the inconsistency.

## **PART II                    NATIONAL CHARACTER AND FLAG**

### **4                    Nationality and national colours**

- (1)
  - (a) Every vessel registered under this Act; and
  - (b) every vessel exempted from registration under section 11,shall be deemed to be a Solomon Islands vessel and shall have Solomon Islands nationality.
- (2) The National Flag of Solomon Islands shall be the proper national

colours for a vessel registered under this Act.

- (3) The master of a vessel registered under this Act shall, in Solomon Islands waters, on the High Seas on the approach of another vessel and in the territorial sea or port of any other state, cause the national flag to be flown on the vessel at all times during the hours of daylight. A master who fails to do so, commits an offence and shall be liable upon conviction to a fine not exceeding twenty five thousand penalty units.
- (4) Where, except with the consent of the Minister, or as a courtesy ensign, any distinctive national colours other than the national flag are flown on board a vessel registered under this Act:
  - (a) the master of the vessel;
  - (b) the owner if he is on board the vessel; and
  - (c) any person hoisting those colours,

commits an offence and shall be liable upon conviction to a fine not exceeding twenty five thousand penalty units and the colour seized, taken away and forfeited.

## **5 Improper assumption or concealment of Solomon Islands nationality**

- (1) It shall not be lawful in respect of a vessel which is owned in whole or in part by a person who is not a qualified person to use the National Flag or assume the nationality or character of Solomon Islands on board the vessel. Any person so doing commits an offence and is liable, upon conviction, to a fine not exceeding twenty five thousand penalty units and the vessel is liable to be forfeited to the Government.
- (2)
  - (a) Where the registration of any vessel has terminated, any marks prescribed by this Act displayed on the vessel within the period of fourteen days beginning with the date of termination of that registration shall be disregarded for the purposes of subsection (1).

- (b) In proceeding for the forfeiture of a vessel, the burden of proving a right to use the National Flag or to assume the national character of Solomon Islands lies on the person using or assuming that flag or that character.
- (3) The master or owner of a vessel registered under this Act shall not do anything or permit anything to be done in respect of the vessel or carry or permit to be carried on a vessel any papers or documents, with intent to:
  - (a) conceal the national character of Solomon Islands with respect to the vessel from a person entitled by the law of Solomon Islands to inquire into the nationality, registration or character of the vessel; or
  - (b) deceive a person referred to above; or
  - (c) give the vessel the appearance of a ship of foreign nationality, registration or character, or not being a registered ship, and any one so doing commits an offence and upon conviction shall be liable to a fine not exceeding twenty five thousand penalty units.
- (4) Where the master or owner of a vessel is convicted of an offence under this section, the vessel is liable to forfeiture to the Government.

## **6 Ownership interest subject to forfeiture if unqualified**

If a person other than a qualified person acquires as owner any interest in a vessel registered under this Act, and fails to divest himself of that interest or become a qualified person within thirty days after acquiring it that interest is liable to forfeiture.

## **7 Liabilities of unregistered vessels**

- (1) Where a vessel that is required to be registered under this Act is not so registered, the vessel shall not be entitled:
  - (a) to any benefit, privilege, advantage or protection usually enjoyed by a vessel registered under this Act; or
  - (b) to use the national flag or to assume the national character, or in any other way indicate that it is a registered vessel.

- (2) For the purpose of any law of Solomon Islands providing for:
- (a) the payment of dues, fees or other charges;
  - (b) the liability to fines and forfeiture;
  - (c) the punishment of offences committed on board a vessel; and
  - (d) offences committed by persons belonging to the vessel,
- a vessel to which subsection (1) applies shall be dealt with in the same manner in all respects as if the vessel was registered.

**8 Declaration of vessel's nationality before clearance**

- (1) No officer shall grant port clearance in respect of a vessel about to leave a port in Solomon Islands for a port outside Solomon Islands until the master of the vessel has declared the nationality of the vessel and produced a Certificate of Registry.
- (2) If no Certificate of Registry is produced, the officer may refuse to grant clearance and the vessel may be detained until the declaration is made and a Certificate of Registry is produced.

**PART III REGISTRATION OF VESSELS**

**9 Qualifications of owner to register a vessel**

- (1) No vessel shall be registered under this Act unless the vessel is owned wholly by a qualified person, or by persons each of whom is a qualified person, and is not registered in any other country.
- (2) Where the Minister has reasonable cause to believe, and does believe, that any vessel registered under this Act is not in compliance with this section, he may direct the Registrar to require the master or owner of the vessel to produce evidence to the satisfaction of the Minister that the vessel should continue to be registered.
- (3) If within such time as may be determined by the Minister, not being less than thirty days, the evidence referred to in subsection (2) is not produced, the vessel is liable to be forfeited to the Government.

## **10 Obligation to register and license vessels**

- (1) Every vessel which is owned wholly by a qualified person or by persons each of whom is a qualified person and having a length of ten metres or more shall be registered in accordance with this Act.
- (2) Every vessel engaged in the carriage of passengers on a commercial basis from any port or place in Solomon Islands to any other port or place in Solomon Islands shall be registered under this Act.
- (3) A vessel required by this Act to be registered may be detained at a port or place in Solomon Islands until the master or owner of the vessel, if so required, produces the Certificate of Registry of the vessel.
- (4) Every Solomon Islands passengers, cargo and fishing vessel operating on a commercial mode or pleasure craft of less than ten metres in length shall be licensed under this Act, in a manner to be prescribed in the Regulations.
- (5) The owner of every vessel required to be licensed shall obtain a licence before the vessel is allowed to put to sea, and any such vessel may be detained until the owner produces a licence.

## **11 Exempt vessels**

- (1) Subject to section 10, for the purposes of this Part an exempt vessel is a vessel that is:
  - (a) less than ten metres in length;
  - (b) a pleasure craft;
  - (c) a traditional vessel; or
  - (d) a warship or patrol vessel, and such vessels are exempt from registration.
- (2) The owner or owners of an exempt vessel that is owned wholly by a qualified person or by persons each of whom is a qualified person and is not registered in any other country, may apply for the registration of the vessel under this Act.

## **12 Continuation of registration of certain vessels**

A vessel that:

- (a) was, immediately before the commencement of this Act, registered in accordance with the *Merchant Shipping Act, 1894*, of the United Kingdom, as amended from time to time, and the *Shipping Act 1967*; and
- (b) is wholly owned by a qualified person or by persons each of whom is a qualified person,

shall be deemed to be registered, and the existing Certificate of Registry shall continue to be valid under this Act.

## **13 Registration of Government vessels**

Government vessels, except warships, naval auxiliaries, patrol vessels or vessels engaged in non-commercial services, shall be registered in accordance with this Act in a manner prescribed in Regulations.

## **14 The Registrar**

- (1) There shall be Registrar of Vessels, whose duty is to maintain the Registry, and who shall for that purpose, *inter alia*:
  - (a) receive, verify and record all information and documents required or permitted to be recorded by this Act;
  - (b) enter in the Register those particulars of vessels, the owners names and addresses and any mortgages, liens and other instruments required to be recorded or registered in accordance with this Act or Regulations;
  - (c) grant, issue, vary or revoke such certificates and other documents issued under this Act as required by this Act or by the Court; and
  - (d) issue copies of, or extracts from, any certificate or document and entries in the Register.
- (2) There shall be a seal of the Solomon Islands Registrar of Vessels in

a form determined by the Minister, which shall be under the control of the Registrar.

- (3) All Courts, judges and persons acting judicially shall take judicial notice of the seal of the Registrar affixed to a document and shall presume that it was duly affixed.
- (4) Where a signature on a document purports to be the signature of the Registrar it shall be presumed, until the contrary is proved, that the signature is that of a person who, at the relevant time, was holding the office or performing the duties of the Registrar.
- (5) The Registrar, or any other person to whom any or all of the functions of the Registrar are delegated, shall not be liable for any act or omission done or made by him *bona fide* and without negligence for the purpose of this Act.

## **15 Delegation by Registrar**

- (1) Subject to this Act, the Registrar may, by instrument in writing, delegate to a person all or any of his powers and functions, other than this power of delegation, which may be exercised and performed by that person in relation to the matters specified in the instrument of delegation.
- (2) Every delegation is revocable, in writing, at will, and no such delegation affects the exercise of a power or the performance of a function by the Registrar.
- (3) A copy of every instrument of delegation shall be given to the Minister.

## **16 Ports of registry**

The port of registry for the purposes of this Act shall be Honiara.

## **17 Register of vessels**

- (1) The Registrar shall cause to be kept at the Marine Division a registrar book to be known as the Register of Vessels.
- (2) The Registrar shall cause to be entered in the register particulars of all vessels registered under this Act and such other entries as may

be required by this Act and Regulations to be entered in the Register.

- (3) Any person may inspect the Register at any time during the normal business hours of Government offices.
- (4) The Registrar shall make available for public inspection any instrument required or permitted to be deposited with the Registrar and shall make available copies of such instruments upon payment of the prescribed fee.

## **18 Special provisions relating to registration**

The following provisions shall apply to the registration of vessels under this Act:

- (a) the property in a vessel shall be divided into sixty-four shares;
- (b) subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than sixty-four persons shall be entitled to be registered at the same time as owners of any one vessel, provided that the beneficial title of any number of persons or of a company represented by or claiming under or through any registered owner or joint owner shall not be affected;
- (c) a person shall not be entitled to be registered as owner of a fractional part of a share in a vessel but any number of persons not exceeding five may be registered as joint owners of a vessel or of any share or shares in a vessel;
- (d) joint owners shall:
  - (i) be considered as constituting one person only as regards the persons entitled to be registered; and
  - (ii) not be entitled to dispose severally of any interest in a vessel in respect of which they are jointly registered; and
- (e) a company shall be registered as owner by its corporate name.

## **19 Application for registration**

- (1) An application for registration of a vessel under this Act shall be

made to the Registrar in the prescribed form.

- (2) Such application shall be made, where the owner is:
  - (a) a corporation, by the manager, secretary or agent of the company; or
  - (b) not a corporation, by the person or persons seeking registration of the vessel.
- (3) The authority of the agent referred to in subsection (1) shall be in writing, and shall be under the common seal of the company.
- (4) The Registrar shall require proof of ownership and seaworthiness of a vessel before entering the particulars of the vessel and the bill of sale or other instruments of transfer or transmission in the Register.
- (5) The owner of a vessel required to be registered under this Act shall submit to the Registrar, together with the application, a statement by the owner that the vessel is not registered abroad.
- (6) An application for registration of a vessel shall be accompanied by such evidence as may be prescribed in Regulations.

## **20 Tonnage certificate**

Before a vessel may be registered, it shall be inspected by a qualified Surveyor appointed by the Superintendent of Marine who shall ascertain the tonnage of the vessel and issue a Tonnage Survey Report.

## **21 Marking of a vessel**

- (1) The Registrar shall not register a vessel unless the vessel has first been marked permanently and conspicuously in the manner prescribed in Regulations.
- (2) The marks shall be permanently maintained and no alteration shall be made except as provided by this Act.
- (3) Every owner or master who fails to cause a vessel to be marked as required by this section, or to keep that vessel so marked, commits an offence, and shall be liable upon conviction to a fine not exceeding

fifteen thousand penalty units.

- (4) Every person who conceals, removes, alters, defaces or obliterates any mark required by this Act commits an offence, and shall be liable upon conviction to a fine not exceeding fifteen thousand penalty units.

## **22 Declaration by Qualified Person**

A person shall not be entitled to be registered as the owner of a registered vessel until he, or in the case of a corporation a person authorised by the corporation to make declarations on its behalf, has made and signed a declaration that the person or corporation is a Qualified Person as defined by this Act, in the form prescribed in Regulations.

## **23 Entries in the Register**

- (1) Where the requirements for registration have been complied with, the Registrar shall upon payment of the prescribed fee, register the vessel, and enter the prescribed particulars in the Register.
- (2) The Registrar shall not register a vessel by a name which already is registered under this Act or by a name that is in the opinion of the Registrar undesirable.
- (3) The Registrar may refuse to register or terminate registration of a vessel if all the provisions of this Act and regulations made hereunder are not fully complied with. For greater certainty, the requirements of this Act and Regulations include all provisions to be complied with after registration relating to:
  - (a) a Certificate of Registry issued by the Registrar of the other State, or
  - (b) a certificate issued by the Registrar of the other State to the effect that the vessel will be de-registered with immediate effect, at such time as the new registration in Solomon Islands is effected and the date of deregistration shall be the date of the new registration of the vessel.
- (6) Notwithstanding any Regulations prescribing the information to be

contained in the documents and instruments to be filed with the Registrar in respect of a mortgage or other charge against the vessel, the Registrar shall require that the documents or instruments to be deposited with him contain the following information:

- (a) the name of the vessel, its tonnage and port of registry;
  - (b) the name and address of the owner of the vessel;
  - (c) the name and address of the person in whose favour the mortgage or charge has been effected;
  - (d) the date of execution of the mortgage; and
  - (e) the maximum amount secured.
- (7) In respect of a mortgage or other charge against the vessel, the Registrar shall enter in the register the information contained in the documents or instruments deposited with him in accordance with subsection (6).

## **24 Improper description of vessel**

An owner or master of a vessel required to be registered under this Act, who suffers or permits the vessel to be described by a name other than that by which the vessel is for the time being registered, commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

## **25 Certificate of Registry**

- (1) As soon as practicable after the vessel has been registered, the Registrar shall issue to the owner a Certificate of Registry in the prescribed form.
- (2) The Certificate of Registry shall be kept by the master in a safe place on board the vessel and the particulars therein entered in the Official Log Book.
- (3) The Certificate of Registry of a vessel shall be used only for the lawful navigation of the vessel and shall not be subject to detention by reason of any act, lien, charge or interest had or claimed by any owner, mortgage, or other person, on or in the vessel.

- (4) A master or owner of a vessel who uses a Certificate of Registry not legally issued in respect of the vessel commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.
- (5) A person who has in his possession or under his control the Certificate of Registry of a vessel and who refuses or fails without reasonable cause to deliver the certificate on demand:
  - (a) to the person entitled to its custody for the purposes of the lawful operation of the vessel; or
  - (b) to the Registrar; or
  - (c) to any other person entitled by law to require its delivery,commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.
- (6) The Registrar may, upon the delivery to him of a Certificate of Registry issued under this section, issue a new certificate in its place.

## **26 Provisional registry**

- (1) Where a vessel becomes wholly owned by a qualified person at a place outside Solomon Islands, and that person declares an intention to apply to have the vessel registered under this Act, the Registrar may issue a Provisional Certificate of Registry for the vessel.
- (2) A Provisional Certificate of Registry issued under this section shall be deemed to be a Certificate of Registry until the expiry of:
  - (a) three months after the date on which it was issued; or
  - (b) ten days after the arrival of the vessel in Solomon Islands,whichever is the earlier.
- (3) The master of a vessel who fails within ten days after the arrival of the vessel in Solomon Islands to deliver the Provisional Certificate to the Registrar, commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

- (4) Upon application of the owner, the Registrar may extend the period of validity of the Provisional Certificate of Registry if the circumstances of the particular case are extenuating and warrant such an extension.

**27      Loss of Certificate of Registry**

Where a Certificate of Registry has been lost, mislaid or destroyed, the Registrar shall, on application by the owner of the vessel, supported by a declaration made by a person having knowledge of the facts of the case, and on payment of any prescribed fee, issue a certificate copy of the Certificate of Registry.

**28      Endorsement of Certificate of Registry on change of ownership**

Where a change occurs in the ownership of a vessel, or a share in a vessel, registered under this Act has changed by reason of a transfer of the vessel, or a share in a vessel, to a qualified person:

- (a) notification of the change shall be given to the Registrar; and
- (b) the Registrar shall endorse the Certificate of Registry to that effect.

**29      Endorsement of Certificate of Registry on change of ownership**

- (1) Where a vessel registered under this Act is altered so as not to correspond with the particulars relating to the Tonnage Certificate or the description of the vessel contained in the register, the owner of the vessel shall within twenty-one days of that alteration being made, make a written application to the Registrar to register the alteration.
- (2) Every owner of a vessel who refuses or fails to comply with this provision commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.
- (3) An application made under this section shall be accompanied by a Tonnage Certificate and the Registrar upon receipt of the application and any prescribed fee, shall cause the alteration to be registered.

### **30 Check of entries in the register**

- (1) The Registrar may, when he has reason to believe that the Register does not contain accurate particulars in respect of a vessel registered under this Act, direct the owner of the vessel, or any other person in possession of information relating to the vessel, to furnish him with information in respect of the vessel.
- (2) A person who, after having been given a direction under this section, fails within thirty days to comply with that direction, commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

### **31 Transfer of ownership by bill of sale**

Where a vessel registered under this Act is disposed of to a qualified person the vessel shall be transferred by bill of sale in the prescribed form and executed by the transferor and transferee, and in the case of a corporation, by the affixing of the corporation seal.

### **32 Declaration of Qualified Person on transfer of vessel**

Where a vessel registered under this Act is transferred, the transferee shall not be entitled to be registered as owner of the vessel until he, or, in the case of a corporation, a person authorised by the corporation to make the declaration on its behalf, has made and signed a declaration in the prescribed form that the person or corporation to whom the vessel is to be transferred is a qualified person as defined by this Act.

### **33 Registration of transfer**

- (1) Every bill of sale for the transfer of a vessel registered under this Act, when duly executed, shall be delivered to the Registrar together with the Declaration of Qualified Person, and the Registrar shall enter into the Register the name of the transferee as owner of the vessel, and shall endorse on the bill of sale the fact of that entry having been made, with the day and hour of the entry.
- (2) Bills of sale shall be entered in the Register in the order of their delivery to the Registrar.

#### **34           Transmission of property in vessel by operation of law**

- (1) Where property in a vessel registered under this Act is transmitted to a Qualified Person by any lawful means other than by transfer made under this Act, that person shall authenticate the transmission by making and signing a Declaration of Transmission in the prescribed form identifying the vessel, and the Declaration of Transmission shall contain such statements and shall be accompanied by such documents as are prescribed in Regulations.
- (2) Where there is more than one such person, the Registrar shall enter the names of all such persons, but those persons, however numerous, shall, for the purposes of this Act with respect to the number of persons entitled to be registered as owners, be considered as one person.

#### **35           Registration of Maritime Liens and Mortgages**

- (1) A registered vessel is capable of being made security for a loan or other financial obligation, by way of a mortgage in the prescribed form.
- (2) The Registrar, upon the production to him of a mortgage, shall register the mortgage by making an entry of the mortgage in the Register.
- (3) The Registrar shall:
  - (a) register mortgages in the order in which they are produced to him for that purpose;
  - (b) endorse and sign a memorial on each mortgage, stating the date and time that it was produced to him and entered in the Register; and
  - (c) endorse and sign a memorial on the Certificate of Registry to the effect that a mortgage has been registered against the vessel.
- (4) Notwithstanding anything contained in this Act or the International Convention on Maritime Liens and Mortgages, 1993, a maritime lien is not enforceable against a vessel owned by a *bona fide* purchaser

for value with notice unless such lien has been registered in the Register of Vessels at the port in which the ship is registered, but it is enforceable against the owner and vendor who has incurred the debt from which the maritime lien arises, irrespective of registration.

- (5) The Registrar shall, at the request of the holder of a maritime lien register the maritime lien by making the entry in the register:
  - (a) describing the claim against the owner, demise charterer, manager or operator of the vessel secured by the maritime lien on the vessel;
  - (b) of the date of the event which gave rise to the maritime lien against the vessel; and
  - (c) of the name and address of the lien holder for the service of notice or documents.
- (6) Subject to Article 9 of the International Convention on Maritime Liens Mortgages 1993, a maritime lien shall be extinguished after a period of one year.

## **36 Priority of Maritime Liens and Mortgages**

- (1) Where there is more than one mortgage registered in respect of the same vessel under this Act, the mortgages are, notwithstanding any express, implied, or constructive notice, entitled to priority one over the other according to the date and time at which each mortgage is delivered to the Registrar and recorded in the Register and not according to the date of each mortgage itself.
- (2) A registered mortgage shall not be affected by any act of bankruptcy or insolvency committed by the mortgagor after the date of registration of the mortgage, notwithstanding that the bankrupt or insolvent had, at the commencement of his bankruptcy or insolvency has the vessel in his possession, order or disposition.
- (3) Any such mortgage shall be preferred to any right, claim, or interest in the vessel of the other creditor of the bankrupt or any trustee or assignee on their behalf.
- (4) A maritime lien recorded in the Register shall rank in priority as

against other maritime liens and registered mortgages in accordance with the provisions of the International Convention on Maritime Liens and Mortgages, 1993.

**37 Discharge of mortgage**

- (1) The Registrar, after production to him of a discharge of mortgage in the prescribed form, shall make an entry in the Register that the mortgage has been discharged.
- (2) On that entry being made, the property (if any) which passed to the mortgage vests in the person in whom, having regard to any intervening acts and circumstances, it would have vested if the mortgage had not been made.

**38 Powers of mortgage**

- (1) A mortgagee shall not by reason of the mortgage be deemed to be the owner of the vessel, nor shall a mortgagor be deemed to have ceased to be the owner of the vessel.
- (2) In the event of default of mortgage, the registered mortgagee is entitled to recover the amount due under the mortgage. Upon application, notice of which is to be served on the mortgagor, and any subsequent mortgagees, the Court may grant an Order, directing that the mortgaged vessel, or any share therein, be sold by tender or at a public auction, and that the proceeds of the sale be used to satisfy:
  - (i) the expenses of conducting the sale;
  - (ii) any existing maritime liens against the vessel;
  - (iii) the amount outstanding to the mortgagee under the mortgage;
  - (iv) the amount outstanding to subsequent mortgagees; and
  - (v) the balance being distributed to the mortgagor.
- (3) Upon receiving an application, the Court may set the date of the hearing, notice of which shall be published in three consecutive issues in a daily newspaper having wide circulation in Solomon Islands and the Court shall appoint a person as an officer of the

Court, to conduct the sale and distribute the proceeds in accordance with the Order. An officer so appointed shall not be liable for any act or omission in conducting the sale or distributing the proceeds.

- (4) The Order of the Court shall vest ownership in the vessel to the purchaser, which order may be registered in the Register of Vessels.
- (5) Where more than one person is registered as mortgagee of the same vessel, a subsequent mortgagee shall not, except under an Order of the Court, make an application to sell the vessel without the concurrence of every prior mortgagees.

### **39        Transfer of mortgage**

- (1) A registered mortgage of a vessel may be transferred to any person by registration of an instrument of transfer of that mortgage in the prescribed form.
- (2) On the production to the Registrar of an instrument of transfer of a registered mortgage and of the mortgage to which the instrument of transfer relates, the Registrar shall:
  - (a) register the transfer by making an entry of the transfer in the Register; and
  - (b) endorse and sign on the mortgage and on the instrument of transfer the fact of the entry having been made and stating the date and time of the making of the entry.

### **40        Transmission of mortgage by operation of law**

- (1) Where the interest of a mortgage in a vessel is transmitted to any person by any lawful means other than by a transfer under this Act, the transmission shall be authenticated by a declaration of the person to whom the interest is transmitted.
- (2) A declaration referred to in subsection (1) shall contain a statement of the manner in which, and the person to whom, the interest has been transmitted and shall be accompanied by such documents as the Registrar may require.
- (3) The Registrar, after receipt of the declaration and accompany

documents referred to above, shall enter the name of the person entitled under the transmission in the Register as the mortgagees of the vessel.

**41 Notification where vessel is lost or an owner ceases to be a Qualified Person**

- (1) In the event of a vessel registered under this Act:
  - (a) being either actually or constructively lost, taken by an enemy, burnt or broken up; or
  - (b) ceasing to be entitled to be registered,every owner of the vessel who fails, immediately after obtaining knowledge of the event to give notice in writing of the event to the Registrar, commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.
- (2) The Registrar shall upon receipt of a notice under subsection (1), make or cause to be made an entry in the Register of the event to which the notice relates.
- (3) Where an entry made in the Register under subsection (2) is in respect of a vessel which has:
  - (a) been either actually or constructively lost, taken by enemy, burnt or broken up, the registration of the vessel shall be deemed to be closed in so far as it relates to any unsatisfied mortgage of the vessel; or
  - (b) ceased to be entitled to be registered, the registration shall, subject to this section, be deemed to be closed and the vessel shall be struck off the Register.
- (4) Where a vessel, in relation to which the Registrar has received a notice under subsection (1) stating that the vessel has ceased to be entitled to be registered, is subject to an unsatisfied mortgage or mortgages:
  - (a) the registration of the vessel, so far it relates to the mortgage or mortgages, shall, subject to subsections (5) and (6), not be

deemed to be closed; and

- (b) the Registrar shall give notice in writing to the mortgagee or each mortgagee as the case may be, that he has received a notice under subsection (1) stating that the vessel has ceased to be entitled to be registered.
- (5) Subject to this section, where the Registrar gives a notice under subsection (4) to the mortgagee or mortgages shall be deemed to be closed at the expiration of a period of three months after the date of the notice.
- (6) Where a mortgagee who has received a notice under subsection (4) makes application to the Court within the period of three months after the date of the notice or such extended time as the Court orders, on application made either before or after the expiration of that period, the Court may do all or any of the following:
  - (a) order that the vessel or the vessel's equipment be sold;
  - (b) make such Orders for and in relation to the distribution of the proceeds of the sale as it thinks fit; and
  - (c) make such Orders and give such direction with respect to the closure of the registration of the vessel as it thinks fit.
- (7) Notice of every application under subsection (6), including every application for an extension to them, shall be served on the Registrar.
- (8) An Order under subsection (6) may be made on such terms and conditions as to costs or otherwise as the Court thinks fit.
- (9) The Registrar shall give effect to every Order or direction given by the Court under this section so far as it related to the Register.
- (10) Where the registration of a vessel is closed or deemed to be closed under this section, the Registrar shall direct the person who has the Certificate of Registry or the provisional Certificate of Registry of the vessel in his possession to deliver the Certificate or the Provisional Certificate, as the case may be, to the Registrar.
- (11) A person who refuses or fails to comply with a direction given under

subsection (10) commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

- (12) Nothing in this section shall be taken to prejudice any rights of a mortgage existing apart from this section.

#### **42 Power to inquire into ownership of a registered vessel**

- (1) Where the Registrar has reason to suspect that a vessel registered under this Act is not entitled to be registered he may, by written notice served on the registered owner of the vessel, require that person to furnish to the Registrar within the period specified in the notice, being not less than thirty days after the date of service of the notice, information relating to and evidence as to whether or not the owner is a qualified person.
- (2) Every owner of a vessel to whom a notice is directed under subsection (1) who fails to furnish the information sought by that notice, commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

#### **43 Transfer of vessel or sale of vessel by Order of the Court**

- (1) Where the Court orders the sale of a vessel registered under this Act, the Order shall contain a declaration vesting in a person or persons specified in the Order the right to transfer the vessel, and that person is entitled to transfer the vessel and issue a bill of sale in the same manner and to the same extent as if he was the registered owner of the vessel.
- (2) The Registrar shall obey the requisition of the person named in a declaration and in the bill of sale and treat the Order as if that person was the registered owner or be required to register the same and insert the purchaser as registered owner.

#### **44 Trusts not recognised**

Notice of any trust in respect of a registered vessel, whether the trust is express, implied or constructive, shall not be:

- (a) received by the Registrar; or

(b) entered in the Register.

**45 Power of disposal by owner**

- (1) Subject to this Act, and subject to any rights and powers appearing in the Register to be vested in any other person, the registered owner of a vessel has absolute power to dispose of the vessel and to give effectual receipts in respect of the disposal.
- (2) If the vessel is subject to an existing registered mortgage or mortgages, the prior consent of the registered mortgages shall be obtained before the vessel may be disposed of to another person qualified to register the vessel in Solomon Islands.
- (3) Subject to section 41, if a vessel subject to any existing mortgages is to be sold to any person who is not qualified to register the vessel in Solomon Islands, all existing registered mortgages outstanding against the vessel shall be discharged and deleted from the Register prior to deregistration of the vessel.

**46 Equities not excluded by this Act**

- (1) The expression “*beneficial interest*” where used in this Act includes interests arising under contract and other equitable interests.
- (2) Subject to this Act, beneficial interests may be enforced by or against the owner or mortgages of any vessel in respect of his interest in the vessel in the same manner as in respect of any other person’s property.

**47 Liability of owners**

- (1) Where a person has a beneficial interest in a vessel registered under this Act and that vessel is registered in the name of some other person as owner, the person having that beneficial interest shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this Act on the owners of vessels, and proceedings may be taken for the enforcement of any such penalties against both or either of those persons, with or without joining the other of them.
- (2) This section shall not apply to a person having a beneficial interest by way of mortgage, except in the case of a mortgagee in possession

of a vessel.

- (3) The licensed agent for a vessel registered under this Act or a foreign vessel in Solomon Islands waters shall be subject to all pecuniary penalties imposed by this Act as if he was the owner of the vessel, and proceedings may be taken for the enforcement of any such penalties against that licensed agent.

#### **48 Liability of agents for vessel's debts**

The licensed agent for a vessel shall be liable for any costs incurred by a vessel for which they are an agent while it is in any port in Solomon Islands, and shall be liable for all outstanding financial obligations of the owner or master of the vessel after the vessel has left Solomon Islands waters.

#### **49 Mode of making declarations under this Part**

- (1) A declaration required under this Part may be made before the Registrar, or any other person referred to in the *Oaths Act*.
- (2) Declaration required to be made by this Act may be made on behalf of a company by the Manager or Secretary or any other officer of the company authorised by a resolution of the Board of Directors for the purpose.

#### **50 Crew to be citizens of Solomon Islands**

- (1) Every owner of a vessel registered under this Act shall be required, subject to subsection (2), to employ citizens of Solomon Islands aboard the vessel.
- (2) The Minister may, on application and presentation of satisfactory proof by the owner, waive the requirement of subsection (1) for a period of up to six (6) months, if no citizens of Solomon Islands with the requisite certificates and experience are available for employment at the time the vessel is due to sail.
- (3) If the vessel is outside Solomon Islands waters when the period expires, the owner of the vessel may continue to employ non-citizens until the vessel returns to Solomon Islands waters.

- (4) If, when the vessel is outside Solomon Islands waters, a citizen of Solomon Islands employed on board the vessel is discharged for any reason, that person shall be replaced by another citizen of Solomon Islands at the owner's expense, unless the owner can prove to satisfaction of the Minister that no suitably qualified or experienced Solomon Islands seamen are available at that time.

## **51 Registration fees**

- (1) The owner of a vessel registered under this Act is liable on the initial registration of the vessel to pay the prescribed registration fee.
- (2) Fees may be prescribed by Regulations for the registration of mortgages, discharge of mortgages, change of name of vessel and any other service provided by the Registrar including searching for and copying of documents in the Register.

## **52 Registrations**

- (1) The Minister may from time to time make Regulations as are necessary or expedient for giving full effect to this Part, and for the due administration thereof.
- (2) Without limiting the generality of subsection (1) Regulations may provide for or in relation to:
  - (a) the registration of Government vessels,
  - (b) the ascertainment of the tonnage of vessels and the issue and use of Tonnage Certificate;
  - (c) the marking of a vessel for the purpose of registering a vessel under this Act;
  - (d) the manner of making an application for registration of a vessel at a port of registry;
  - (e) the manner in which the Registrar shall register a vessel or a vessel mortgage;
  - (f) the endorsements which shall be made on a Certificate of Registry;

- (g) the manner in which an alteration to a vessel shall be recorded;
- (h) the documents which shall accompany a Declaration of Transmission;
- (i) transmission of mortgage;
- (j) the approval by the Registrar of the name by which the vessel is to be registered and the change of the name of a registered vessel;
- (k) the fees payable on the initial registration of a vessel, the registration of mortgages and other documents required to be registered under this Act and fees payable for a copy of any document filed in the Registry;
- (l) the manner in which the Registrar shall register a lien in respect of a vessel; and
- (m) the manner in which the Registrar shall licence passenger, cargo, fishing vessels or pleasure craft of less than 10 metres.

## **PART IV SAFETY**

### **53 Application**

- (1) The following Conventions shall govern this Part and any Regulations relating thereto:
  - (a) Collisions Convention;
  - (b) Load Lines Convention;
  - (c) Safety Convention; and
  - (d) Tonnage Measurement Convention.
- (2) Subject to any specific provision and unless the contrary intention appears, the provisions of this Part apply only in so far as they are applicable to and relevant to a vessel coming under the provisions of any of the Conventions.
- (3) The Minister shall make Regulations, to preserve the safety of

vessels, crew, passengers and cargo not subject to the Conventions.

#### **54 Appointment of Principal Surveyor**

- (1) The Minister may by notice in the *Gazette* appoint a person, being the holder of a Certificate of Competency of either a Master or Chief Engineer, to be the Principal Surveyor.
- (2) The Principal Surveyor shall be responsible for carrying out obligations in respect of Flag State control and Port State Control contained in the Conventions to which Solomon Islands is a party, including but not limited to the following:
  - (a) Collision Convention;
  - (b) Load Lines Convention;
  - (c) Safety Convention; and
  - (d) Tonnage Measurement Convention.
- (3) The Principal Surveyor may delegate any responsibility for carrying out the duties and obligations referred to in subsection (2).

#### **55 Surveyors of vessels**

- (1) The Minister may appoint an association or corporation to be a classification society for the purposes of this Part.
- (2) The Minister may appoint any person or classification society to be a Surveyor of vessels for the purposes of this Act.
- (3) Where a classification society is appointed, it shall nominate one or more persons to carry out surveys, issue reports, make declarations of compliance or do all other things prescribed in Regulations, subject to the approval of the Minister.

#### **56 International Maritime Conventions**

- (1) Subject to this Act and to any other law, and subject to any such reservations as the Minister may make by regulations, the following Conventions shall have the force of law in Solomon Islands:

- (a) Collision Convention;
  - (b) Load Lines Convention;
  - (c) Safety Convention;
  - (d) Tonnage Measurement Convention;
  - (e) STCW; and
  - (f) MARPOL. 73/78 Convention.
- (2) In the event of any inconsistency between the Convention and this Act or the Regulations, the Convention prevails to the extent of the inconsistency.
- (3) Where a Safety Convention vessel fails to comply with a requirement of the Safety Convention, the master or the owner of the vessel who commits an offence shall be liable upon conviction to a fine not exceeding sixty thousand penalty units.
- (4) Where, in respect of a vessel that is subject to the Collisions Convention, irrespective of type or size, the master or the owner of the vessel or any other person commits an offence he shall be liable upon conviction to a fine not exceeding sixty thousand penalty units.
- (5) Regulations made under this Act may make provision for, or in relation to the implementation of, or giving effect to, the Collisions Convention, the Load Lines Convention, the Safety Convention and the Tonnage Measurement Convention.
- (6) Where, under any of the Conventions, States-parties have discretion to take any action under them, that discretion may be exercised by the Minister.
- (7) Where, under any of the Conventions, State-parties are under a duty to do any act or thing, that act or thing shall be done by the Superintendent of Marine.
- (8) Notwithstanding any requirement under this Act, for the purpose of giving effect to or implementing any requirement of the Load Lines Convention or Safety Convention which requires a particular fitting, material, appliance or apparatus to be fitted or carried in a vessel or

any particular provision to be made in a vessel, the Principal Surveyor may allow any other fitting, material, appliance or apparatus or type of fitting, material, appliance or apparatus to be fitted or carried, or any other provision to be made, if he is satisfied that the other fitting, material, appliance or apparatus or provision is at least as effective as that required by the Load Lines Convention or the Safety Convention, as the case may be.

**57 Vessel not to go to sea without certificates**

- (1) No vessel shall go to sea unless there are in force all such valid certificates as are required under this Part in respect of that vessel.
- (2) Where a vessel goes to sea in contravention of subsection (1), the owner and master each commit an offence, and each shall be liable upon conviction to a fine not exceeding sixty thousand penalty units.

**58 Certificates to be produced before vessels goes to sea**

- (1) The Principal Surveyor or a surveyor of vessels may direct the master of the vessels to produce to him such certificates as are required under this Part before the vessel goes to sea.
- (2) The master of a vessel who refuses or fails without reasonable cause to produce the certificates under subsection (1) commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

**59 All vessels subject to survey**

A vessel shall be subject to such surveys and inspections as are required by this Act or prescribed by Regulations.

**60 Powers of a Surveyor**

- (1) A Surveyor may at any time or in a situation which in his opinion is or may become dangerous:
  - (a) go on board a vessel, including a vessel under construction, and survey any part of the vessel and its equipment, any cargo or articles on board, and examine any document carried on the vessel pursuant to this Act;

- (b) upon giving reasonable notice to the owner or agent of the vessel concerned, enter any premises and make such examination and investigation and require the production of such books, papers and documents relating to that vessel, as he considers necessary for the performance of his duty;
  - (c) require the owner or master to provide sufficient information with respect to the stability of the vessel, and prove to the satisfaction of the Surveyor that the vessel has sufficient residual stability and
  - (d) require the master or owner of the vessel to give a satisfactory explanation to him of any matter concerning the vessel or the documents produced or required to be produced.
- (2) A Surveyor who finds a situation on a vessel which is or may become dangerous has the power to detain that vessel until the situation is rectified, but shall not exercise a power under subsection (1) in such a manner that a vessel is unreasonably detained or delayed.
  - (3) A person who hinders a Surveyor in the exercise of his powers under this section commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.
  - (4) A person who refuses or fails to comply with a requirement or request given or made to him by a Surveyor in accordance with this section commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.
  - (5) Contravention of subsections (3) or (4) shall result in the vessel being liable to detention.
  - (6) Where a vessel is found to be unseaworthy or where a person fails to provide adequate information to the Surveyor in respect of the stability of the vessel, the Principal Surveyor may detain the vessel until it is made seaworthy or until sufficient information is provided, which in the opinion of the Surveyor, indicates that the vessel has adequate residual stability.

## **61 Special examinations of vessels**

- (1) For the purposes of a survey of a vessel, the Principal Surveyor may,

if he thinks fit, direct the owner or the master of a vessel to have the vessel beached, slipped or taken into dock so he may survey the underwater parts.

- (2) A person who refuses or fails without reasonable cause to comply with a direction under subsection (1) commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

**62            Requirements to notify the Principal Surveyor of change in the condition of the vessel**

- (1) This section applies to a vessel in respect of which a Safety Certificate issued under this Part is in force.
- (2) Where, because of replacement of or damage to a part of a vessel, or any other circumstances, the operation or safety of a vessel is impaired, every owner or master of a vessel who fails without reasonable cause within seven days to notify the Principal Surveyor of the fact or those circumstances, each commit an offence, and each shall be liable upon conviction to a fine not exceeding sixty thousand penalty units.

**63            Application for survey**

- (1) Where the owner or master of a vessel other than a Safety Convention vessel seeks the issue of a Safety Certificate he may apply to the Principal Surveyor for the vessel to be surveyed.
- (2) Where the owner or master of a Load Lines Convention vessel or a Safety Convention Certificate vessel seeks the issue of a Loads Lines Certificate or a Safety Convention Certificate, he may apply to the Principal Surveyor who may assign a surveyor or request a classification society appointed under section 55 to nominate a surveyor.
- (3) On receipt of an application and the assignment or nomination of a surveyor, the Principal Surveyor shall cause the vessel to be surveyed.

## **64 Issue of Safety Certificate**

- (1) A Surveyor nominated by a classification society shall, on completion of a survey, deliver a written report of the survey to the Principal Surveyor.
- (2) Where the Surveyor is satisfied that the vessel complies with the requirements of this Part, he shall complete a declaration to that effect, and shall deliver it to the Principal Surveyor.
- (3) Where the Principal Surveyor has received the declaration referred to in subsection (2) and is satisfied that the vessel complies with the requirements of this Part he shall, subject to any conditions he thinks fit, issue a Safety Certificate for the prescribed duration.

## **65 Cancellation or suspension of Safety Certificate**

- (1) Where in the opinion of the Principal Surveyor:
  - (a) a declaration made pursuant to section 64(2) has been made fraudulently or erroneously; or
  - (b) a Safety Certificate has been issued upon false or erroneous information; or
  - (c) since the issue of a Safety Certificate the vessel has been altered, replaced or damaged to such an extent or in such a manner as to affect adversely the seaworthiness of the vessel; or
  - (d) the vessel or its equipment has been insufficiently maintained to render the vessel unseaworthy,

the Principal Surveyor shall cancel or suspend the Safety Certificate of the vessel.

- (2) Where the Principal Surveyor suspends or cancels a Safety Certificate under subsection (1), he shall, as soon as practicable after the suspension or cancellation, serve a notice on the owner or master of the vessel which shall:
  - (a) if the certificate has been suspended, set out the period for which it has been suspended; or

- (b) if the certificate has been cancelled, require the surrender of the Safety Certificate to the Principal Surveyor.
- (3) A person served with such a notice who fails to surrender the Safety Certificate to the Principal Surveyor commits an offence, and shall be liable upon conviction to a fine not exceeding sixty thousand penalty units.
- (4) Where a Safety Certificate is cancelled or suspended, the Superintendent of Marine may detain the vessel in port until the situation is rectified and the Principal Surveyor may require the owner to have the vessel re-surveyed before the issue of a new certificate or the removal of the suspension.

## **66        Alteration of a vessel**

Where a vessel, in respect of which a Safety Certificate has been issued, is altered so that the certificate becomes or may become inapplicable to the altered state of the vessel, the owner or master of the vessel who fails to notify the Principal Surveyor of such alteration each commit an offence and each shall be liable upon conviction to a fine not exceeding sixty thousand penalty units.

## **67        Certificate to be displayed**

- (1) A master of a vessel, other than an unmanned barge, in respect of which a Safety Certificate has been issued, shall cause the certificate or a certified copy to be continuously displayed in some prominent and accessible place on the vessel.
- (2) Every master who fails to do so commits an offence and shall be liable upon conviction to a fine not exceeding sixty thousand penalty units.

## **68        Requirements to carry safety equipment**

- (1) The owner and the master of a vessel which is required by this Act or Regulations or the Safety Convention to carry or be fitted with a particular kind of equipment shall ensure that all such equipment:
  - (a) is carried or fitted in the vessel; and

- (b) is in good order and ready for use, before the vessel goes to sea.
- (2) Every owner or master of the vessel who fails to do so commits an offence and shall each be liable upon conviction to a fine not exceeding ten thousand penalty units.
- (3) Except in the case of a vessel that is in distress or requires assistance, a person who exhibits a signal that is prescribed in the Collisions Convention as a signal indicating that a vessel is in distress and needs assistance commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

**69 Vessel to carry qualified radio communications personnel**

The owner and the master of a vessel which is required by this Part or the Regulations or the Safety Convention to carry a radio installation and which goes to sea without a person qualified to operate the radio installation on board the vessel each commit an offence and shall be liable upon conviction to a fine not exceeding sixty thousand penalty units.

**70 Radio reports of dangers to navigation**

The master of a vessel entitled to fly Solomon Islands flag who refuses or fails without reasonable cause to forthwith make a report by radio to the nearest coast station, and a written report to the Superintendent of Marine, of any serious danger to navigation, including non-functioning or absence of navigation aids, which comes to his notice while the vessel is at sea, commits an offence, and shall be liable upon conviction to a fine not exceeding sixty thousand penalty units.

**71 Assistance to persons in danger or distress at sea**

- (1) The master of a vessel entitled to fly the Solomon Islands flag shall, as far as he can do so without danger to the vessel, its crew and passengers, render assistance to any person or vessel found at sea in danger or distress.
- (2) The master of any vessel in Solomon Islands waters shall, as far as he can do so without danger to the vessel, its crew and passengers,

render assistance to any person or vessel found at sea in danger or distress.

- (3) The master of a vessel who fails to comply with the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding sixty thousand penalty units or a term of imprisonment not exceeding two years, or both.
- (4) Compliance with the provisions of this section by the master of a vessel shall not affect his right of any other persons to salvage.

## **72 Duty of vessel to assist in case of collision**

- (1) In every case of collision between two vessels, the person in charge of each vessel, if and so far as he can do so without danger to his own vessel, crew and passengers, shall:
  - (a) render to the other vessel, her master, crew and any passengers such assistance as is practicable and necessary in order to save them from any danger caused by the collision;
  - (b) stand by the other vessel until it has been ascertained that the other vessel has no need of further assistance; and
  - (c) give to the person in charge of the other vessel:
    - (i) the name of his own vessel and of the port in which it is registered; and
    - (ii) the names of the ports from which, and to which, his vessel is bound.

- (2) Every person in charge of a vessel who fails without reasonable cause to comply with this section commits an offence, and shall be liable upon conviction to a fine not exceeding sixty thousand penalty units, or a term of imprisonment not exceeding two years, or both.

## **73 Hazardous cargo**

- (1) This section applies to cargo, goods or substances (other than dangerous goods) which, if shipped or carried in a vessel in an improper or unsuitable manner could, in the opinion of the Principal Surveyor, endanger that vessel or constitute a danger to human life.

- (2) Every master shall inform the Principal Surveyor of his intention to load, carry, discharge or handle cargo comprising hazardous and noxious substance and a master who fails to do so commits an offence and shall be liable upon conviction to a fine not exceeding sixty thousand penalty units.
- (3) The Principal Surveyor may by direction to the master of a vessel:
  - (a) prohibit the loading into the vessel;
  - (b) prohibit the carriage in the vessel;
  - (c) order the removal from the vessel; or
  - (d) direct the manner of the stowage or carriage in the vessel of cargo, goods or substances to which this section applies.
- (4) The master of a vessel who refuses or fails to comply with a direction given under this section by the Principal Surveyor commits an offence, and shall be liable upon conviction to a fine not exceeding twenty thousand penalty units.
- (5) Where a master of a vessel is charged with an offence under section (4), the vessel may be detained until such time as the master has complied with the direction given by the Principal Surveyor.

#### **74 Powers of the master in relation to dangerous goods**

- (1) The provisions of the International Maritime Dangerous Goods (IMDG) Code shall have the force of law in Solomon Islands and shall apply to this Part.
- (2) The master or owner of a vessel may:
  - (a) refuse to take on board any package which he suspects may contain dangerous goods;
  - (b) open and inspect any package which he suspects may contain dangerous good; and
  - (c) discharge, destroy, render or otherwise deal with goods which:
    - (i) in his opinion are dangerous goods; and

- (ii) have been shipped on board the vessel without his consent,

and shall not be subject to any civil or criminal liability of any kind for so doing in good faith.

**75 Powers of the Principal Surveyor in relation to dangerous goods**

- (1) The Principal Surveyor may, where he is satisfied that dangerous goods are being loaded into, unload from, or stowed, carried or used in a vessel otherwise than in accordance with the International Maritime Dangerous Good (IMDG) Code or with the Safety Convention, direct the owner or master of the vessel to take such action in relation to the vessel or to the whole or to a part of the cargo of the vessel as he thinks fit.
- (2) Every person who fails to comply with a direction given under subsection (1) commits an offence, and shall be liable upon conviction to a fine not exceeding twenty thousand penalty units.
- (3) Where a person is charged under subsection (2) the vessel may be detained under such time as the person has complied with the direction given by the Principal Surveyor.

**76 Requirements in relation to dangerous goods**

- (1) Every master shall inform the Principal Surveyor of his intention to load, carry, discharge or handle dangerous good.
- (2) Every person who ships, carries or uses in a vessel dangerous goods otherwise than as required or permitted by the International Maritime Dangerous Goods (IMDG) Code or by the Safety Convention commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

**77 Forfeiture of dangerous goods**

- (1) Any dangerous goods shipped, carried or used in a vessel in contravention of this Part may be ordered by the Court to be forfeited to the Government.

- (2) Where an Order is made under this section the dangerous goods shall be forfeited and may be sold or destroyed, notwithstanding:
  - (a) that no offence has been committed by the owner of the goods; or
  - (b) that the owner of the goods has had no notice of the proceedings; or
  - (c) that there is no evidence as to the ownership of the goods.

**78 Number of persons that may be carried in a vessel**

- (1) Neither the owner or master shall permit more persons to be carried in a vessel than the number stated in the Passenger Ship Safety Certificate issued in respect of the vessel as being the maximum number of persons that may be carried in the vessel.
- (2) Every owner and the master of the vessel who contravenes this section each commit an offence, and each shall be liable upon conviction to a fine not exceeding ten thousand penalty units and to a further fine of not more than two hundred and fifty penalty units for each person carried on board the vessel in excess of the number stated in the Passenger Ship Safety Certificate.

**79 Compliance with load line requirements**

- (1) This section shall apply to all vessels required to be registered or licensed in accordance with this Act.
- (2) Subject to any exemption conferred or granted under this Part, a vessel shall not proceed or attempt to proceed to sea, unless the vessel:
  - (a) has been surveyed and marked with a deck line and load line in accordance with the Load Lines Convention or Regulations made under this Act;
  - (b) complies with the conditions or assignment; and
  - (c) has on board the prescribed information for the guidance of the master.

- (3) Every owner who permits a vessel to go to sea and a master who takes a vessel to sea in contravention of this section each commit an offence, and each shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

## **80 Submerged load line**

- (1) The section shall apply to all vessels which are registered or licensed in accordance with this Act and to every vessel in Solomon Islands waters.
- (2) Every vessel other than a passenger vessel shall not be so loaded that:
  - (a) if the vessel is in still salt water of specific gravity of 1.025 and has no list, the appropriate load line on each side of the vessel is submerged; or
  - (b) the appropriate load line on each side of the vessel would be submerged if the vessel were in still salt water of specific gravity of 1.025 and had no list.
- (3) Every passenger vessel shall not be so loaded that:
  - (a) if the vessel is in still salt water of specific gravity of 1.025 and it has no list the appropriate subdivision load line on each side of the vessel is submerged; or
  - (b) the appropriate subdivision load line on each side of the vessel would be submerged if the vessel were in still salt water of specific gravity of 1.025 and had no list.
- (4) Where a vessel is loaded in contravention of subsection (2) or subsection (3) the owner and master each commit an offence, and each shall be liable upon conviction to a fine not exceeding fifty thousand penalty units, and to a further fine of not more than two thousand penalty units for every centimetre or part thereof by which the appropriate load line or subdivision load line was, or would have been, submerged.
- (5) Where a vessel is loaded in contravention of this section, the vessel may be detained until it ceases to be so loaded.

- (6) Where a foreign vessel appears to be overloaded:
- (a) the master or owner shall not be prosecuted, but the Government of the country in which the vessel is registered shall be advised through the appropriate channels; and
  - (b) the vessel shall not be detained under subsection (5) unless the vessel has been inspected by a Surveyor, and if detained, the Government of the country in which the vessel is registered shall be advised through the appropriate channels.
- (7) It is a defence to a prosecution for an offence under this section to prove that the vessel was overloaded as a result of an alteration in the route of the vessel, or of a delay to the vessel caused by stress of water, *force majeure* or other circumstances which the master or owner of the vessel could not have foreseen or prevented.
- (8) The master of every registered vessel shall record the forward and after draft in the Official Log Book before the vessel departs from any port.

## **81        Unsafe vessel**

- (1) Every vessel is an unsafe vessel if:
- (a) the hull, machinery or equipment of the vessel is in a defective condition; or
  - (b) the vessel is undermanned; or
  - (c) the vessel is over loaded or improperly loaded; or
  - (d) the vessel has inadequate stability; or
  - (e) the vessel is unfit to go to sea for any reason which, in the opinion of the Principal Surveyor, will endanger life or property or the environment.
- (2) Where an unsafe vessel goes to sea, every person who knowingly sends, and the master who knowingly takes, the unsafe vessel to sea commit an offence, and each shall be liable upon conviction to a fine not exceeding sixty thousand penalty units.

## **82 Detention of unsafe vessels**

- (1) Every unsafe vessel may be detained by the Superintendent of Marine until it ceases to be an unsafe vessel.
- (2) Where an unsafe vessel is detained, the Principal Surveyor shall give notice in writing to the owner or to the master setting out the reasons for the detention.
- (3) Where a vessel that is registered in a country other than Solomon Islands is detained under subsection (1), the Principal Surveyor shall as soon as practicable cause the nearest Consul or other diplomatic representative of the country in which the vessel is registered to be informed of the detention, and of the reason for the detention.

## **83 Reporting of casualties or incidents**

- (1) In this section **“vessel”** means a vessel that is:
  - (a) registered or licensed under this Act;
  - (b) not registered under this Act, but is within the jurisdiction of Solomon Islands and:
    - (i) in Solomon Islands waters; or
    - (ii) on a voyage where the next port of call of that vessel is at a port in Solomon Islands; or
  - (c) an offshore vessel.
- (2) Where a vessel:
  - (a) causes or is involved in a casualty; or
  - (b) receives damage which renders or is likely to render the vessel unsafe; or
  - (c) has been in a position of great peril from:
    - (i) the act of some other vessel; or
    - (ii) danger of wreck or collision; or

- (d) fouls or does damage to:
  - (i) a pipeline; or
  - (ii) a submarine cable; or
  - (iii) a marine navigation aid; or
- (e) having left a port in Solomon Islands is forced to return to that port in difficulties; or
- (f) has sustained an incident,

the master of the vessel shall, as soon as practicable, report the event to the Principal Surveyor by radio through an appropriate coast station, or if no radio is available, by the fastest practicable means and shall, if so requested by the Principal Surveyor, provide a report in writing.

- (3) The master of a vessel who, without reasonable cause, fails to comply with the provisions of subsection (2) commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

#### **84 Inquiry into certain casualties and incidents**

Where a vessel has suffered or caused a casualty or incident, the Superintendent of Marine may cause:

- (a) a preliminary investigation into the casualty or incident to be carried out by a person appointed by him;
- (b) a Marine Inquiry to be held under section 86; or
- (c) a preliminary investigation to be carried out and a Marine Inquiry to be held.

#### **85 Preliminary investigations**

- (1) Where the Superintendent of Marine causes a preliminary investigation to be held under this Act, the person holding the investigation:

- (a) may:
    - (i) go on board any vessel involved in the casualty or incident;
    - (ii) require any persons to answer questions relating to the casualty or incident; and
    - (iii) require production of any document or certificate relating to any vessel involved in the casualty or incident; and
  - (b) shall report the result of the preliminary investigation to the Superintendent of Marine who shall advise the Minister.
- (2) A person shall not in relation to any officer carrying out an investigation:
- (a) hinder or obstruct any such officer carrying out an investigation under this section;
  - (b) fail to answer any question put to him by any such officer; or
  - (c) fail to produce a document or certificate he has in his possession or under his control when requested to so by any such officer,
- (3) Any person who contravenes any of the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding twenty five thousand penalty units.
- (4) A person committing an offence under subsection (2) may, in addition to any fine payable, have his name added to the List of Suspended Seamen.

## **86 Marine Inquiries**

- (1) The Minister may, for the purpose of holding a marine inquiry, appoint a Board of Marine Inquiry which shall consist of a chairman and two other members.
- (2) The chairman may, if he thinks it is advisable, co-opt expert advisers to assist the Board in any inquiry.

- (3) Subject to subsections (4) and (5), and any Regulations made under this Act, a marine inquiry may regulate its procedure in such a manner as it thinks fit.
- (4) Where it is likely during the course of a marine inquiry that the conduct of a person will be called into question or it is likely that a person will be adversely affected by a decision of the inquiry, the Chairman shall:
  - (a) give the person at least 72 hours notice of the place, day and hour of the inquiry; and
  - (b) furnish that person:
    - (i) a copy of the report of any preliminary investigation in relation thereto; or
    - (ii) in any other case, a statement of the case on which the inquiry was so ordered.
- (5) Every person whose conduct is likely to be questioned during the course of a marine inquiry or who is likely to be adversely affected by the decision of the inquiry is entitled to:
  - (a) attend the inquiry personally and to be represented by counsel;
  - (b) be sworn and give evidence before the inquiry;
  - (c) subpoena and call witnesses;
  - (d) examine, cross-examine and re-examine all witnesses in accordance with rules of procedure and evidence applicable to the *Commissions of Inquiry Act*.
  - (e) take all proper exceptions to the admissibility of evidence; and
  - (f) address the inquiry, either at the conclusion or at any other proper time.
- (6) The Board of Marine Inquiry may:
  - (a) go on board any vessel;

- (b) require any person to answer questions relating to the subject of the inquiry; and
  - (c) require the production of any document or certificate which in their opinion is relevant to the inquiry.
- (7) Without limiting any of the powers conferred on it by this Act, a Board of Marine Inquiry shall have the same powers and immunities as if it were a Commission of Inquiry appointed under the *Commissions of Inquiry Act*.
  - (8) On conclusion of an inquiry, the Board of Marine Inquiry shall make a report in writing to the Minister setting out the results of the inquiry.
  - (9) A member of the Board may dissent in writing from any report of the Board and an Order shall be made on the majority decision of the members.
  - (10) The Board of Marine inquiry may make such Order as it thinks just in regard to the costs of any inquiry and any such costs which a person may be ordered to pay may be recovered from that person by the Minister.
  - (11) Where it appears to the Superintendent of Marine to be necessary or desirable to do so, he may order the suspension of any certificate issued to any qualified seaman under this Act, pending the outcome of a marine inquiry.

## **87 Powers of the Board of Marine Inquiry in relation to certificates**

- (1) Where, as a result of an inquiry, the Board is satisfied that a certificated or qualified seaman:
  - (a) is unfit to discharge his duties because of incompetence or misconduct or for any other reason; or
  - (b) has been seriously negligent in the discharge of his duty,
 and is further satisfied that the unfitness or negligence caused or contributed to the casualty, the Board of Marine Inquiry may recommend to the Superintendent of Marine the cancellation or suspension of any certificate held by the qualified seaman or may

reprimand him in writing to be filed on his record, or recommend that his name be added to the List of Suspended Seamen.

- (2) Where a conclusion or suspension of a certificate is ordered under subsection (1), the seaman concerned shall forthwith deliver such certificate to the Principal Shipping Officer for cancellation or suspension.
- (3) Where as a result of an inquiry, the Board of Marine Inquiry is satisfied that the suspended seaman was not fit or was not negligent in the discharge of his duties at the time the casualty or the incident occurred, it may recommend to the Superintendent of Marine that:
  - (a) the cancellation or suspension of the certificate of the suspended seaman be revoked as soon as practicable;
  - (b) the name of the suspended seaman be removed from the List of Suspended Seamen; and
  - (c) the certificate be returned to the suspended seaman forthwith.

#### **88 Statement to be furnished to seaman**

The Board shall not recommend the cancellation or suspension of the certificate of any master or qualified seaman, unless a statement of the case on which the inquiry had been ordered has been furnished to the master or seaman holding the certificate, and, where practicable, the master or qualified seaman has had opportunity to be heard.

#### **89 Failure to deliver cancelled or suspended certificate**

Where a certificate is ordered to be cancelled or suspended, the holder who fails to deliver up the certificate to the Principal Shipping Officer as required under section 87 (2) commits an offence and shall be liable upon conviction to a fine not exceeding one thousand penalty units.

#### **90 Appeals**

Where under this Part, the certificate of a master or qualified seaman is cancelled or suspended the master or the qualified seaman may

within twenty-one days upon cancellation, suspension, or reprimand of the certificate appeal to the Court and the Court may make such Order confirming, varying or revoking the cancellation or suspension as it deems fit.

## **91        Safety and well-being of passengers**

- (1) This section shall not apply to a vessel which is a Safety Convention ship or is not registered under this Act, or to a fishing vessel.
- (2) Where in the opinion of the Principal Surveyor there would be a danger to the safety, comfort, health or well-being of any passenger on a vessel by reason of the manner in which the vessel is equipped or manned or fuelled, or if the vessel is carrying cargo, livestock or ballast in such manner that the safety and well-being of passengers are affected or is provided with insanitary passenger accommodation, or, health and medical services or unwholesome provisions, of water or stores, the Principal Surveyor may notify the master of the vessel accordingly.
- (3) Where a notification is given under subsection (2), the carriage of passengers in the vessel in respect of which the notification is given, shall be prohibited until such time as the Principal Surveyor is satisfied that passengers may be carried without danger to their safety, comfort, health or well-being, and the prohibition is revoked.
- (4) The master of a vessel carrying passengers who takes the vessel to sea while the carriage of passengers is prohibited under subsection (3) commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units and to a further fine not exceeding five hundred penalty units for each passenger carried in the vessel.

## **92        Safety Regulations**

- (1) The Minister may make such Regulations as may be necessary or expedient for giving full effect to this Part and for the due administration thereof.
- (2) Without limiting the generality of subsection (1), Regulations may provide in respect of all vessels, including fishing vessels, for or in relation to:

- (a) the Safety Certificates which is required to be in force in respect of a vessel;
- (b) the manner of survey or inspection of vessels;
- (c) periods within which vessels shall be surveyed or inspected;
- (d) the circumstances in which a survey or inspection may be carried out;
- (e) the manner in which a surveyor shall make a record of survey and a declaration of compliance of the Principal Surveyor on completion of a survey or of an inspection;
- (f) the exemptions from survey which may be granted in respect of a particular vessel or a particular class of vessel;
- (g) the type and form of Safety Certificates;
- (h) the duration of, or extension to the duration of, the validity of Safety Certificates;
- (i) the circumstances in which Safety Certificates may be cancelled or suspended;
- (j) the manner in which Safety Certificates may be endorsed;
- (k) the requirements with which the hull, machinery and equipment of vessels shall comply;
- (l) the appliances to be carried, and the measures to be observed, on vessels for:
  - (i) the saving of life at sea; and
  - (ii) the prevention, detection and extinction of fires;
- (m) the requirements for the holding and recording of musters and drills for crews and passengers;
- (n)
  - (i) the requirements with respect to the equipping of vessel

- with radio-telephones and radio navigation aids including the number of units;
- (ii) the operation, maintenance and use of radio-telephones and radio navigation aids in vessels; and
  - (iii) qualifications of the radio-telephone operators to be carried on vessels;
- (o) the measures and procedures to be followed and the equipment to be carried on vessels to ensure safety of navigation;
  - (p) the observance of safety standards and procedures on board vessels;
  - (r) the minimum freeboard for a fishing vessel;
  - (s) the stability and seaworthiness of vessels;
  - (t) the information relating to the stability of a vessel required to be provided by the owner of the vessel to:
    - (i) the Principal Surveyor; and
    - (ii) the master of the vessel;
  - (u) the manner in which preliminary investigations and Marine Inquiries are to be conducted.
  - (v) empowering the Principal Surveyor to make orders applicable to a specified vessel or class of vessel, in relation to:
    - (i) the number, type and location of lifesaving appliances and fire fighting equipment to be carried;
    - (ii) the type and location of radio equipment and navigation and miscellaneous equipment to be carried;
  - (w) the fees payable in respect of surveys and inspections;
  - (x) the number of berthed and unberthed passengers to be carried in a vessel;

- (y) the requirements which must be complied with in respect of the stowage and carriage of livestock, deck cargo, grain, dangerous goods and other hazardous cargo in vessels;
- (z) the manner of determining freeboards to be assigned to vessels;
- (aa) the manner of determining, in relation to a vessel, the deck which is to be the freeboard deck and for requiring the position of that deck to be indicated on each side of the vessel by marks;
- (bb) the manner of determining, by reference to a mark, the freeboards marked with a line indicating the maximum depth to which the vessel may be loaded;
- (cc) the requirements in respect of hull, superstructure, fittings and appliances which are relevant to the assignment of freeboards to vessels;
- (dd) the manner of recording particulars of the requirements for the assignment of freeboard and the method of determining the extent of compliance with the conditions of assignment and the requirements for the recording of the forward and after drafts of the vessel and the freeboard in the Official Log Book prior to departure from any port;
- (ee) in relation to a vessel carrying passengers:
  - (i) the accommodation of passengers;
  - (ii) provisions, water, medical stores and medical inspection;
  - (iii) the carriage of medical qualified staff and the provision of hospital accommodation;
  - (iv) sanitary facilities;
  - (v) the sale and consumption of alcohol;
  - (vi) passenger list;
  - (vii) the cargo which may be carried in the vessel and the method of stowing cargo;

- (viii) the maintenance of good order in respect of the passengers;
- (xi) the prevention of wilful damage to the machinery or equipment of a vessel by a passenger;
- (x) the prevention of the molesting of or interference with any person on board the vessel; and
- (ff) empowering the Principal Surveyor to make orders applicable to a specified vessel or class of vessel, providing for or in relation to:
  - (i) the number of passengers which may be carried having regard to the trade in which the vessel is engaged; and
  - (ii) the specific requirement to be observed for the carriage of dangerous goods and other hazardous cargoes including deck cargoes and livestock.

## **PART V SEAMEN'S AND PILOTAGE CERTIFICATES**

### **93 Application of this Part**

- (1) Subject to any specific provision unless the contrary intention appears, the provisions of this Part apply only in so far as they are applicable and relevant to a vessel coming under the provisions of the STCW Convention or the Code.
- (2) Where under any of the Conventions, State-parties have discretion to take any action under them, that discretion may be exercised by the Minister.
- (3) Where, under any of the Conventions, State-parties are under a duty to do any act or thing, that act or thing shall be done by the Superintendent of Marine.
- (4) This Part applies to the issuance and control of pilotage licences and pilotage exemption certificates.

### **94 Vessel to be properly manned**

- (1) In addition to the crew complement prescribed by Regulations every

ship when proceeding from any port or island in Solomon Islands to any port or island within Solomon Islands shall be provided with a Master and an Engineer who are the holders of valid Certificates of Competency issued by the Superintendent of Marine. Every owner or master who fails to comply with this subsection commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

- (2) Where the owner sends or the master takes the vessel to sea or permits the vessel to remain at sea with fewer qualified seamen on board than the complement prescribed in respect of that vessel, each of them commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

## **95        The STCW Convention and the Code**

- (1) Subject to this Act and to any other law, the STCW Convention and the Code shall have the force of law in Solomon Islands and shall govern this Part and any Regulations relating thereto.
- (2) Where, in respect of the manning of a vessel, there is a failure to:
  - (a) comply with a requirement of the STCW Convention where applicable,
  - (b) observe the Code,the owner or master of the vessel commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.
- (3) Regulations made under this Act may provide for the implementation of the STCW Convention or give effect to the Code.
- (4) Where, under the STCW Convention or the Code, State-parties have discretion to take any action, that discretion may be exercised by the Minister.
- (5) Notwithstanding any requirement under this Act for the purpose of giving effect to or implementing any requirement of the STCW Convention or the Code in respect of education and training arrangements, the Minister may allow equivalent arrangements for

such education and training, subject to the condition set down in Article IX of that Convention, or the Code.

- (6) Where the Government is required to carry out any obligation or duty pursuant to the STCW Convention or the Code, that obligation or duty shall be implemented, as may be practicable, by the Ministry responsible for Shipping or by any other agency or person(s) designated by such ministry to be the implementing agency.
- (7) All vessels to which the STCW Convention applies shall, while in Solomon Islands ports be subject to the control of the Principal Shipping Officer or his designees, who must verify that all seafarers serving on board vessels who are required to be certified by the STCW Convention are so certified or hold an appropriate dispensation.

## **96        Certificates**

- (1) A person may apply to the Principal Shipping Officer for a Certificate of Competency.
- (2) An application shall be accompanied by the prescribed fee.
- (3) The Superintendent of Marine shall issue a Certificate of Competency if he is satisfied that the applicant is properly qualified in accordance with the Regulations incorporating the STCW Convention and the Code.
- (4) A Certificate of Competency shall be in the prescribed form and in accordance with the STCW Convention and shall set out the grade or designation in respect of which it is issued.
- (5) The holder of a valid Certificate of Competency may serve on a registered vessel as a qualified seaman of the grade and designation specified in the certificate.

## **97        Suspension or cancellation of certificate**

- (1) Where it appears to the Superintendent of Marine that the holder of a Certificate of Competency is unfit to be the holder of such a Certificate of Competency whether by reason of medical unfitness, incompetence or misconduct or for any other reason, the

Superintendent of Marine may give the holder written notification that he is considering the suspension or cancellation of the Certificate of Competency.

- (2) The notification referred to in subsection (1) shall state:
  - (a) the reasons why it appears to the Superintendent of Marine that the holder is unfit; and
  - (b) that within a period specified in the notice being not less than 72 hours, the holder may make written or oral representations to the Superintendent of Marine.
- (3) After considering any representations made in accordance with subsection (2) the Superintendent of Marine shall decide whether or not to suspend or cancel the Certification of Competency and shall give the holder written Notice of, and the reasons for his decision.
- (4) Where the decision is to suspend or cancel the Certificate of Competency the Notice shall:
  - (a) state the date from which and the period for which the suspension is to take effect, or the date from which the cancellation is to take effect; and
  - (b) require the holder to deliver the Certificate of Competence to the Principal Shipping Officer or a Shipping Officer not later than the date so specified in the Notice.
- (5) Every person who is served with a Notice under subsection (4) and who fails to deliver the Certificate of Competency specified in the Notice to the Principal Shipping Officer or a Shipping Officer commits an offence and shall be liable upon conviction to a fine not exceeding five thousand penalty units.

## **98 Pilotage certificate and pilotage exemption certificate**

- (1) The Superintendent of Marine may, after consultation with the Pilotage Authority for the pilotage area, determine the qualifications and experience required for pilotage certificates and pilotage exemption certificate in respect of that pilotage area which shall be prescribed in Regulations.

- (2) The Superintendent of Marine may issue or renew a pilotage certificate or a pilotage exemption certificate, authorising the holder to take lawful conduct of a vessel within a compulsory pilotage area.
- (3) A pilotage certificate or pilotage exemption certificate shall be valid for a period of five years and issued subject to such conditions as the Superintendent of Marine thinks fit, which conditions shall be endorsed on the pilotage certificate or pilotage exemption certificate.
- (4) A pilotage certificate or pilotage exemption certificate issued or renewed under this section is valid only within the pilotage area in respect of which it is issued.
- (5) The Superintendent of Marine may at any time cancel a pilotage exemption certificate.
- (6) The Minister may, after consultation with the Pilotage Authority, at any time exempt any person from the provisions of this Part.

## **99        Suspension of a pilotage certificate**

- (1) Where in the opinion of the Principal Shipping Officer a certified pilot:
  - (a) is unfit to discharge his duties because of incompetence or misconduct or for any other reason; or
  - (b) has been seriously negligent in the discharge of his duties,the Principal Shipping Officer, after consultation with the Pilotage Authority for that pilotage area, shall inform the Superintendent of Marine who may cause an inquiry to be held.
- (2) Where the Superintendent of Marine causes an inquiry to be held he may, if he thinks fit, suspend the pilotage certificate of the certified pilot in relation to whom the inquiry is to be held pending the outcome of the inquiry.

## **100       Inquiry into incompetency of a pilot**

- (1) The Superintendent of Marine may conduct an inquiry under section 99 by himself or nominate a person appearing to him to be suitably qualified to hold the inquiry.

- (2) Where the Superintendent of Marine has caused an inquiry to be held under this Part, the Superintendent of Marine or the person holding the inquiry shall follow the same procedure as that laid down for the conduct of a Marine Inquiry in section 86 and may, for the purpose of the inquiry:
  - (a) go on board the ship;
  - (b) enter upon any wharf or installation adjacent to a pilotage area;
  - (c) require any person to answer questions relating to the subject of the inquiry;
  - (d) require the production to him of any document or certificate which in his opinion is relevant to the inquiry.
- (3) The person holding an inquiry shall make a report on the inquiry to the Superintendent of Marine.
- (4) Where, after receiving a report under this section, the Superintendent of Marine is satisfied as to any of the matters referred to in subsection (1) of section 99 of this Act the Superintendent of Marine may, after consultation with the Pilotage Authority, suspend or cancel the pilotage certificate of the pilot in respect of whom the inquiry was held for such period as he thinks fit.
- (5) Where, under this section a pilotage certificate is cancelled or suspended the holder of the certificate may within thirty days after the date of suspension or cancellation appeal to the Court and the Court may confirm, vary or revoke such order as it thinks fit in the circumstances.
- (6) The provisions of this section apply *mutatis mutandis* to a person holding a pilotage exemption certificate.

## **101 Production of pilotage certificate**

- (1) Where a certificate pilot goes on board a ship for the purpose of acting as pilot of the ship, the master of the ship may require the pilot to produce his pilotage certificate for inspection.
- (2) A person who has been issued a pilotage certificate shall be required

to produce that certificate when requested by the Principal Shipping Officer or his designee.

- (3) A pilot who refuses or fails without reasonable cause to comply with the requirements of subsections (1) and (2) commits an offence and shall be liable upon conviction to a fine not exceeding one thousand penalty units.

**102 Unqualified persons not to act as certified pilot or exempt pilot**

Every person who is not a certified pilot or does not hold a pilotage exemption certificate and who:

- (a) holds himself out to be a certified pilot or an exempt pilot; or
- (b) pilots a ship in respect of which a certified pilot is required to be on board,

commits an offence and shall be liable upon conviction to a fine not exceeding five thousand penalty units.

**103 Misconduct by a certified pilot**

- (1) Notwithstanding anything contained in section 99 of this Act, where a certified pilot:

- (a) does any act which causes, or is likely to cause, the loss or destruction of or damage to a ship or the death of or injury to a person on board a ship; or
- (b) fails to do anything required to be done by him to preserve a ship from loss, destruction or damage or any person on board a ship from death or injury,

and where such act or failure to act is deliberate or amounts to a wilful breach or neglect of duty or occurs when the certified pilot is under the influence of alcohol or drugs, the certified pilot commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

- (2) It shall be a defence to prosecution for an offence under subsection (1) that the certified pilot:

- (a) was at the time of alleged offence under influence of a drug taken by him for medical purposes; and
- (b) that he took the drug on medical advice and complied with any and every direction given as part of that advice.

#### **104 Transitional**

Where a person possesses a valid pilotage certificate as a certified pilot for a particular pilotage area on the date of the coming into force of this Part, that person is deemed, until the expiry of a period of twelve months after date of coming into force of this Part, or until expiry of his existing certificate, whichever is the earlier, to be a certified pilot for that pilotage area.

#### **105 Appeals**

Where a Certificate of Competency is suspended or cancelled, the holder may, within thirty days of the date on which the notice was served on him, appeal to the Court, which may confirm, vary or revoke the suspension or cancellation, as it deems fit.

#### **106 Production of certificates of Competency**

Every person who holds a Certificate of Competency, pilotage certificate or pilotage exemption certificate and who fails upon request to produce that certificate to the Principal Shipping Officer, a Shipping Officer, or to the owner or master of a vessel on which he is employed, commits an offence and shall be liable upon conviction to a fine not exceeding one thousand penalty units.

#### **107 Offences**

- (1) No person shall go to sea purporting to be a Qualified Seaman of a particular grade or designation who is not a qualified seaman of that grade or designation, and any person who does so commits an offence and shall be liable upon conviction to a fine not exceeding five thousand penalty units.
- (2) Neither the owner or the master of a vessel shall knowingly permit a person who is not a Qualified Seaman of a particular grade or designation to go to sea on the vessel as a seaman of that grade or

designation, and any owner or master who does so each commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

- (3) Any person who fails to comply with any of the provisions of this Part in respect of Pilotage for which no other penalty is provided commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units or a term of imprisonment not exceeding one year.

## **108 Regulation of seamen**

- (1) The Minister may make such Regulations as may be necessary or expedient for giving full effect to this Part and for the due administration thereof.
- (2) Without limiting the generality of subsection (1), Regulations may provide in respect of all vessels, including fishing vessels, for:
  - (a) the grades and designations of Certificate of Competency;
  - (b) the appointment of examiners of applicants for Certificates of Competency;
  - (c) the issue, endorsement and validation of Certificates of Competency;
  - (d) the manning of vessels, providing for the complement of qualified seamen to be carried in that vessel;
  - (e) the dispensations that may be permitted from the complement of qualified seamen to be carried in a vessel;
  - (f) the fees payable in respect of examinations for Certificates of Competency; and
  - (g) the training, qualifications and experience of teaching staff at a nautical training institutions.

## **109 Pilotage Regulations**

The Minister may make Regulations to provide for or in relation to:

- (a) the manner of application for the issuance of a pilotage Certificate or a Pilotage Exemption Certificate;
- (b) the determination, after consultation with the Pilotage Authority, or the qualifications and experience required for applicants for the issue or renewal of a Pilotage Certificate or a Pilotage Exemption Certificate in respect of a pilotage area;
- (c) the issue or renewal of Pilotage Licences and Pilotage Exemption Certificates;
- (d) the maintenance of the efficiency of certified pilots and exempt pilots, and the continuous evaluation of their competency, health, proficiency and skills;
- (e) the suspension and cancellation of Pilotage Exemption Certificates; and
- (f) the fees payable on the issuance or renewal of Pilotage Certificates and Pilotage Exemption Certificate.

## **PART VI SEAMEN'S EMPLOYMENT**

### **110 Application**

- (1) The provisions of this Part, unless the contrary intention appears, shall apply to or in relation to:
  - (a) a vessel that is registered or is required to be registered under this Act; or
  - (b) a seaman who is a citizen or permanent resident of Solomon Islands and employed in any vessel, whether that seaman joins a vessel in Solomon Islands or elsewhere.
- (2) The provisions of this Part, unless the contrary intentions appears, shall not apply to or in relation to a vessel that is:
  - (a) less than 10 metres in length; or
  - (b) a pleasure craft; or
  - (c) a traditional vessel.

**111 Appointment of Principal Shipping Officer and Shipping Officers**

- (1) For the purposes of this Act, there shall be appointed a Principal Shipping Officer and Shipping Officers.
- (2) Subject to any other law, the appointment made under subsection (1) shall be made by the Public Service Commission upon the recommendation of the Minister.

**112 Seaman employed in Government vessels**

The Minister may from time to time, on the advice of Cabinet, make Regulations providing for the terms and conditions of employment of seamen employed on Government vessels.

**113 Supply and engagement of seamen**

- (1) No person shall engage or supply a seaman for employment on board a vessel, unless that person is:
  - (a) the owner of the vessel or that owner's licensed shipping agent; or
  - (b) an official of a trade union or trade association to which the seaman belongs; or
  - (c) the Principal Shipping Officer or a Shipping Officer.
- (2) No person shall receive or accept a seaman for employment on board a vessel unless that person is satisfied that such seaman is not being supplied or engaged in contravention of this Act.

**114 Restriction on making arrangements for employment of seamen**

- (1) Except as provided in section 113, a person who for reward makes arrangements for:
  - (a) finding seamen for persons seeking to employ seamen; or
  - (b) finding employment for persons as seamen,

commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units or one thousand penalty units per seaman engaged contrary to that section, whichever is greater.

- (2) A person who in contravention of subsection (1) demands or directly or indirectly receives from any other person any remuneration for providing that other person with employment as a seaman, commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

## **115      Agreements**

- (1) No person shall be employed on a vessel as a seaman unless there is in force an Employment Agreement approved by the Principal Shipping Officer, in writing in the English language, between the owner, or licensed shipping agent, or master and the seaman which agreement may be:
  - (a) with respect to employment in one or more vessel; or
  - (b) for a particular period not exceeding one year; or
  - (c) for one or more particular voyages.
- (2) No master shall take a vessel to sea unless in respect of each seaman employed there is an Employment Agreement approved by the Principal Shipping Officer.
- (3) Every person who acts in contravention of subsection (1) or subsection (2) commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

## **116      The sea-worthiness of vessel shall be a condition of employment**

- (1) It shall be a condition of every Employment Agreement that the owner of a vessel in which a person is (or is to be) employed as a seaman shall use all reasonable means to ensure that the vessel is seaworthy before and during the voyage on which the seaman is employed.
- (2) A purported waiver in an Employment Agreement of the condition

referred to in subsection (1) is void.

**117 Seaman to understand Agreement**

- (1) No owner or master of a vessel shall enter into an Agreement relating to employment in a vessel, unless he is satisfied that the seaman:
  - (a) has read the Agreement, or if the seaman is illiterate, in respect of the language in which the Agreement is written, has had the Agreement read to him in a language which he understands; and
  - (b) as far as practicable understands the nature and content of the Agreement.
- (2) Every owner or master who contravenes subsection (1) shall be liable upon conviction to a fine not exceeding ten thousand penalty units in respect of each seaman engaged in contravention of that subsection.

**118 Agreements to be approved**

- (1) The owner of a vessel shall, before a vessel in which a seaman is (or is to be) employed goes to sea, lodge a copy of the Employment Agreement or the proposed Employment Agreement with the Principal Shipping Officer.
- (2) The Principal Shipping Officer shall, if satisfied that the Agreement adequately protects the interests of the seaman and complies with the requirements of this Part, approve the Agreement, by indicating his approval and appending his signature.

**119 Suspended person not to be employed as a seaman**

- (1) A suspended person shall not be employed as a seaman in a vessel.
- (2) An agreement relating to employment of a suspended person is void and of no effect.
- (3) A person who knowingly employs a suspended person or enters into an agreement with a suspended person commits an offence and shall be liable upon conviction to a fine not exceeding two thousand penalty units.

## **120 Termination of Agreement**

- (1) Subject to this section, an Employment Agreement may be terminated:
  - (a) by mutual consent of the parties;
  - (b) by the incapacity or death of the seaman;
  - (c) by the expiry of a particular period referred to in an Employment Agreement, and, if that period expires during a voyage, on the arrival of the vessel at the next port of call after the expiry of that period;
  - (d) where an Employment Agreement relates to employment in a particular vessel:
    - (i) by the wreck, loss or total inability of the vessel to go to sea or to proceed on a voyage; or
    - (ii) by the vessel ceasing to be registered; or
  - (e) by the lawful dismissal of the seaman; or
  - (f) by the seaman becoming a suspended person.
- (2) An Agreement is not capable of being terminated under paragraph (a) or (c) of subsection (1) at a place away from the proper return port of the seaman without the consent of the seaman and the Principal Shipping Officer.

## **121 Seaman cannot waive protection of this Act**

A provision in an Employment Agreement, whether express or implied, which purports to modify, vary or negate the right of a seaman under this Part is void and of no effect.

## **122 Seaman not to be left behind**

- (1) A person who wrongfully:
  - (a) forces a seaman on shore from a vessel; or

- (b) without reasonable justification, leaves behind or causes a seaman to be left behind,

commits an offence, and shall be liable upon conviction to a fine not exceeding twenty thousand penalty units.

- (2) This section does not apply when a seaman leaves the vessel with the intention of not returning to the vessel.

## **123 Wages**

- (1) Subject to this Act, a seaman shall be paid wages in accordance with the terms of an Employment Agreement.
- (2) Subject to this Act, the wages due to a seaman under an Agreement shall be paid in full on termination of the Agreement.
- (3) Where an owner fails without reasonable cause to make payment in full to a seaman, as provided in subsection (2), he shall in respect of each day for which payment is delayed pay to the seaman a sum equal to double the daily rate fixed under the Agreement.
- (4) Where the amount required to be paid in full as provided in subsection (2) is less than five hundred dollars, the number of days in respect of which payment is to be made under subsection (3) shall not exceed seven days.
- (5) A sum payable under subsections (3) and (4) is deemed to be wages due to the seaman, and constitutes a maritime lien against the vessel.
- (6) Where a seaman has entered into an agreement and is afterwards discharged before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying such discharge and without his consent, he shall be entitled to receive, in addition to his earned wages, a sum equal to one month's wages as compensation.

## **124 Allotments**

- (1) A seaman may allot any part of his wages not exceeding 75 per cent of the whole.

- (2) Allotment shall be made by means of an allotment note in the prescribed form.
- (3) A person to whom any part of the wages of a seaman is allotted has the right to receive such part in his or her own name and, for the purpose, has the same remedies as the seaman for recovery of wages.
- (4) In any proceedings brought by a person named in an allotment note, it shall be presumed, unless the contrary is shown, that the seaman is entitled to the wages specified in the allotment note and that the allotment note has not been varied or cancelled.

**125      Account of wages**

- (1) An owner or master shall deliver to a seaman an exact account of the wages due under an agreement, and deductions (if any) made from those wages.
- (2) Every owner or master who fails to comply with the provision of this section commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

**126      Entitlement to wages after wreck or loss of vessel**

- (1) Where a vessel is wrecked, lost or unable to proceed on a voyage, a seaman whose employment in the vessel is thereby terminated before the date contemplated in the agreement is entitled, in addition to wages earned during the voyage, to:
  - (a) conveyance by, or at the cost of, the owner of the vessel to his proper return port; and
  - (b) subject to subsection (2), wages at the rate payable on the day of the termination of the service in respect of the period commencing on the date of termination of the service and ending thirty days after he reaches his proper return port.
- (2) A seaman is not entitled to wages in respect of a day on which his conveyance under subsection (1) is delayed by his own act, default or neglect.

**127        Wages for sick or injured seaman**

- (1) This section applies to a seaman who is ill, hurt or injured where the illness, hurt or injury is:
  - (a) not due to the wilful act, default, or misbehaviour of the seaman; and
  - (b) such as to incapacitate him wholly from the performance of his duty, and who, by reason of the illness, hurt or injury, is left behind at a port other than his proper return port.
- (2) In addition to wages earned during the voyage, a seaman is entitled to wages at the rate payable under the agreement on the day on which he was left behind in respect of the period commencing on that day and ending:
  - (a) on the day of his return to his proper return port; or
  - (b) at the expiration of two months; or
  - (c) on the date of his death, whichever first occurs.

**128        Seaman's rights in regard to wages**

- (1) A seaman's lien for his wages and any right he may have or obtain in the nature of salvage shall not be capable of being renounced by any agreement.
- (2) Subsection (1) shall not affect those terms of an agreement made with the seaman of a vessel employed on salvage services rendered by that vessel.
- (3) The master of a vessel shall have the same lien for all disbursements or liabilities properly made or incurred by him on account of the vessel as a seaman has for his wage, pro-rated from any funds available.
- (4) The right of a seaman to wages shall not depend on the earning of freight.
- (5) Nothing in this section shall be construed as preventing any profit sharing plan or sharing of the catch of a fishing vessel by which a

seaman is to be compensated with a proportion of profits or catch in addition to his wages.

- (6) The wages and clothing of a seaman shall not be subject to attachment or arrest by any court; and assignment of wages (except allotments) or of salvage made prior to the accruing thereof shall not bind the seaman.

## **129      Return of a distressed seaman**

- (1) In this section a **“distressed seaman”** means a person who is or has been a seaman on a vessel and is at a place away from his proper return port by reason of having been left behind from a vessel, or shipwrecked in a vessel, but does not include a seaman left behind who would not have been left behind, but for his own wilful act or neglect.
- (2) Where a person is a distressed seaman, the person who last employed him as a seaman shall make provision for his return to his proper return port and his relief and maintenance prior to his return to that port.
- (3) Every person who fails to make the provision referred to in subsection (2) commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units in addition to making restitution to the seaman of any expenses incurred.
- (4) Where a distressed seaman elects, after a period of one month from the date of his becoming a distressed seaman, to remain at a place away from his proper return port, he shall be deemed from the date upon which he so elects not to be a distressed seaman and the person who last employed him as a seaman shall not be liable to make provision for his return to his proper return port or for any other matter after the date on which he so elects. An election will be deemed to have been made if the seaman has not contacted the owner or owner’s agent within three calendar months of his becoming a distressed seaman.
- (5) Where, in the opinion of the Principal Shipping Officer, a person has failed to make proper provision for the relief, maintenance and return of a distressed seaman to his proper return port, the Principal

Shipping Officer may make such provision and the Government may recover the cost of so doing from the person who has failed to make the provision.

- (6) Where any expense is incurred in respect of a matter for which a person is required to make provision under this section then, unless it can be proved that the distressed seaman would not have been left behind but for his own wilful act or neglect and, if the expense is incurred by the distressed seaman, then the distressed seaman, may recover the expense from the person who is required to make that provision in civil action.
- (7) Where a seaman or a distressed seaman dies, and his body:
  - (a) is conveyed to his proper return port; or
  - (b) is buried or cremated at a place away from his proper return port,

the expense of conveying, burying or cremating his body may be recovered from the person who last employed him as a seaman.

### **130      Property of deceased seaman**

- (1) The master of a vessel in which there is any property of a deceased seaman who dies while or after being employed in the vessel, shall cause that property to be delivered up to the Principal Shipping Officer.
- (2) Any master or other person who refuses or fails unreasonably to comply with subsection (1) commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.
- (3) Unless otherwise prescribed, where any property of a deceased seaman has come into the possession of a Shipping Officer, the Shipping Officer shall take all steps reasonably necessary and practicable in the circumstances to ensure that the property of the deceased seaman is immediately returned to the person lawfully entitled to it.

### **131 Disciplinary offences**

Where a seaman commits any of the following disciplinary offences:

- (a) does any act which causes or is likely to cause:
  - (i) the loss or destruction of, or damage to, a vessel; or
  - (ii) the death of, or serious injury to, a person on board; or
- (b) fails to do anything required by him to preserve:
  - (i) a vessel from loss, destruction, or damages or
  - (ii) any person on board the vessel from death or serious injury; or
- (c) engages in fighting or commits any form of assault against the master or officers, any passenger or any other crew member; or
- (d) whilst on duty, is found to be under the influence of alcohol, or any prohibited or narcotic drug;
- (e) fails to obey any lawful command;
- (f) is in possession of any prohibited substance or illegal weapons or other objects; or
- (g) smuggles or attempts to smuggle into any country any goods on which duty is payable, or any goods the import of which is prohibited,

that seaman commits an offence, and shall be liable upon conviction to a fine not exceeding twenty-five thousand penalty units or a term of imprisonment not exceeding two years, or both.

### **132 Continual or concerted disobedience**

Where a seaman other than the master:

- (a) wilfully and persistently:

- (i) neglects his duty; or
  - (ii) disobeys any lawful command; or
- (b) combines with other seamen to:
  - (i) disobey a lawful command; or
  - (ii) neglect his duty; or
  - (iii) impede the navigation of the vessel; or
- (c) wilfully and persistently commits any of the disciplinary offences in section 131,

that seaman commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units or a term of imprisonment not exceeding two years or both.

### **133      Absence without leave**

Where a seaman is absent without leave and his absence is due to his recklessness, or is deliberate and without reasonable cause, and a vessel is thereby delayed or goes to sea without him, the seaman commits an offence and shall be liable upon conviction to a fine not exceeding five thousand penalty units.

### **134      Persons deemed to be seamen**

Notwithstanding any other provision of this Act, where:

- (a) a person is carried to sea without the consent of the master or of any other person authorised to give consent to his being so carried; or
- (b) a person, having been a seaman, is carried on a vessel for the purpose of being returned to his proper return port,

that person is for the purposes of sections 131, 132, 138 and 139 of this Act deemed to be a seaman on the vessel and shall obey all the lawful commands of the master.

### **135      Suspension of seamen**

- (1) The Principal Shipping Officer shall maintain a List of Suspended Seamen.
- (2) The master of a vessel on which a seaman has committed a disciplinary offence shall make an entry in the Official Log Book to that effect and shall make a report of his findings to the Principal Shipping Officer.
- (3) Where:
  - (a) two or more reports under subsection (2) have been made during a voyage or period under an employment contract in respect of a seaman; or
  - (b) a seaman has committed an offence under sections 131, 132, 133, 138 and 139 of this Act,

the Principal Shipping Officer may declare the seaman to be a suspended person, and shall enter his name on the List of Suspended Seaman.

### **136      Appeal against suspension**

- (1) Where the Principal Shipping Officer has suspended the seaman; and the period of suspension exceeds six months, the seaman may, within twenty-one days of receiving the notification of his suspension, appeal to the Court.
- (2) Where an appeal is made, the Court shall make such order confirming, waiving or revoking the suspension as it deems fit.
- (3) Where no appeal to the Court is made within the period of twenty-one days or an appeal is made and the Court orders that the appeal be dismissed, the Principal Shipping Officer shall include the name of the seaman in the List of Suspended Seamen to be maintained and kept by him.

### **137      Stowaways**

- (1) A person who, without the consent of the master of the vessel, or a person authorised by the master to give that consent, goes to sea or

stows away is a vessel from any port or place in Solomon Islands commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units or imprisonment for a term not exceeding one year or both.

- (2) In addition to any fine, Court may order that the stowaway shall pay to the owner of the vessel any expenses incurred by the owner as a result of the actions of the stowaway, and alternatively, the Court may include in the fine an amount for reimbursement of any costs incurred by any person and provide for a term of imprisonment in default of payment by the person convicted of stowing away.
- (3) A person who contravenes subsection (1) shall be repatriated to Solomon Islands at the expense of the owner or master of the ship on which that person stowed away.
- (4) The owner of the vessel may bring an action against the stowaway to recover the expenses of repatriation.
- (5) The master of any vessel in a port in Solomon Islands shall cause to be conducted a search of the vessel immediately prior to the vessel's departure and any master who fails so to do commits an offence and shall be liable upon conviction to a fine not exceeding two thousand penalty units.
- (6) It shall be a defence to a prosecution under subsection (5) for the master to prove on the balance of probabilities that he took all reasonable precautions to apprehend any stowaway on the vessel before departure from the port.

### **138 Incitement of seamen to mutiny**

Where a seaman of a vessel:

- (a) attempts to mutiny or usurp the authority of the master of the vessel; or
- (b) conspires with any other person on board to mutiny; or
- (c) incites any other member of the crew to:
  - (i) disobey or resist the lawful orders of the master or other

officers of the vessel; or

(ii) refuse or neglect his proper duty; or

(d) assembles with others in a mutinous manner;

(e) participates in a riot on board the vessel; or

(f) unlawfully confines the master,

that seaman commits an offence and shall be liable upon conviction to a term of imprisonment not exceeding five years, or to a fine not exceeding twenty-five thousand penalty units or both.

### **139 Revolt or mutiny of a seaman**

Where a seaman of a vessel:

(a) unlawfully and by force, or fraud or intimidation, usurps the command of the vessel from the master; or

(b) deprives the master of command and authority on board the vessel; or

(c) resist or prevents the master in the free and lawful exercise of his command and authority; or

(d) transfers the command and authority of the master to another person not lawfully entitled thereto,

that seaman commits an offence and shall be liable upon conviction to a term of imprisonment not exceeding five years, or to a fine not exceeding twenty-five thousand penalty units or to both such fine and imprisonment.

### **140 Prohibition of corporal punishment**

Flogging and all other forms of corporal punishment are prohibited on board any vessel, and any master or officer who violates this section commits an offence and shall be liable upon conviction to a fine not exceeding five thousand penalty units or a term of imprisonment not exceeding six months or to both such fine and imprisonment.

## **141 Wrongful death or disability**

- (1) Subject to sections 151 and 200, where:
  - (a) the death of a seaman is caused by any wrongful act, omission, neglect or default occurring on board a vessel, the personal representative of the deceased seaman may maintain an action for damages for the exclusive benefit of the deceased's wife, husband, parent, child or dependent relative, against the vessel, person or company which would have been liable to the deceased if death had not ensued; or
  - (b) an injury or permanent disability to a seaman is sustained by any wrongful act, omission, neglect or default occurring on board a vessel, the seaman may maintain a suit for damage against the vessel or owner;
  - (c) an injury or permanent disability is sustained by a seaman by wrongful act, omission, neglect or default occurring on board a vessel, the seaman may maintain an action for damages against the vessel, person or company.

## **142 Death or injury on board**

- (1) In the event of a death on board a vessel, the master shall:
  - (a) where practicable, retain the body on board;
  - (b) make an entry in the Official Log Book of the vessel which shall contain particulars of the cause of death;
  - (c) at the first port of arrival after death has occurred, report the death and deliver the body to the appropriate authority;
  - (d) at the earliest opportunity after the death has occurred, forward a copy of the log book entry, signed by him, to the Principal Shipping Officer.
- (2) In the event of an injury on board a vessel, the master shall:
  - (a) make an entry in the Official Log Book of the vessel, which shall contain particulars of how the injury occurred, the treatment given and any other pertinent particulars;

- (b) at the first port of arrival after the injury has occurred, report the injury to the appropriate authority; and
- (c) at the earliest opportunity after the injury has occurred, forward a copy of the log book entry, signed by him, to the Principal Shipping Officer.

**143 Issuance of death certificate**

Where the Principal Shipping Officer has received a copy of the Official Log Book entry, he shall forward the information contained in the entry to the Minister of Home Affairs, Honiara, Solomon Islands, for the issuance of a death certificate.

**144 Freedom of association**

Every seaman shall have the right to establish and to become a member of any lawful organisation of his choice.

**145 Seaman's identity card**

- (1) The Principal Shipping Officer may issue to any person who is a citizen or permanent resident of Solomon Islands who is serving or intending to serve aboard any vessel a card to be known as a Seaman's Identity Card,
- (2) A person to whom a Seaman's Identity Card has been issued who refuses or fails without reasonable cause to keep the card securely and to produce it when so required to such persons and in such circumstances as are prescribed, commits an offence and shall be liable upon conviction to a fine not exceeding one thousand penalty units.

**146 Seaman's record book**

- (1) The Principal Shipping Officer shall issue to a seaman a book to be known as a Seaman's Record Book.
- (2) A Seaman's Record Book shall be in such forms as the Principal Shipping Officer shall determine and be applied for, issued and dealt with in the manner determined by the Principal Shipping Officer.
- (3) A seaman who fails to produce his Seaman's Record Book when

requested by the Principal Shipping Officer commits an offence and shall be liable upon conviction to a fine not exceeding one thousand penalty units.

- (4) A seaman whose Seaman's Record Book has become lost or destroyed as a result of the negligence of the seaman shall be required to pay the cost of replacement in the amount of fifty dollars equivalent to current cost of a Seaman's Record Book.

#### **147 Register of seamen**

- (1) The Principal Shipping Officer shall cause to be kept at the Marine Division a book to be known as the Register of Seamen and enter such particulars as the Superintendent of Marine may require.
- (2) Any person may inspect the Register of Seamen at any time during the hours of official attendance by the Principal Shipping Officer.

#### **148 Official Log book**

- (1) The master of a vessel shall keep a book on board the vessel to be known as the Official Log Book in the form prescribed in Regulations, which shall contain such particulars as shall be prescribed, or if not prescribed, such particulars as are required by the Superintendent of Marine.
- (2) Subject to this Act, the master of a vessel who fails without reasonable cause:
  - (a) to keep the Official Log Book in the prescribed or required manner; and
  - (b) to carry the Official Log Book in the vessel,

commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

#### **149 Crew list**

- (1) An owner or the master of a vessel shall make a list of the crew of the vessel, which list shall be known as the Crew List, and which shall be deposited with the Principal Shipping Officer or a person or class of persons designated by the Superintendent of Marine, before the

vessel departs from the port.

- (2) The Crew List shall list all the crew and their positions on board the vessel and only those crew on board at the time of sailing, and if the names and address of their next kin are not recorded in the Articles of Agreement, then the Crew List shall name each seaman's next of kin and their current address.
- (3) A person who without reasonable cause fails to maintain the Crew List of a vessel or fails to deposit a copy with the Principal Shipping Officer commits an offence, and shall be liable upon conviction to a fine not exceeding five thousand penalty units.

#### **150 Exemption of particular vessels**

- (1) The Minister may by notice published in the *Gazette*, subject to such conditions (if any) as he thinks fit, exempt a particular vessel or a particular class or description of vessel from any requirement of this Part.
- (2) An exemption under subsection (1) may be in respect of a particular period, or one or more particular voyages.

#### **151 Time limits**

- (1) Subject to section 20, court proceedings arising out of agreement between employers and seamen shall be commenced before the expiry of one year from the termination of the voyage.
- (2) Court proceedings in respect of the following classes of claim shall be commenced before the expiry of two years after the termination of the voyage:
  - (a) claims arising out of the death of a seaman caused by wrongful act, neglect or default on the high seas or Solomon Islands waters;
  - (b) claims of the shipowner against the master for acts committed during the performance of his duties; and
  - (c) all other tort claims.
- (3) Court proceedings in respect of all other claims shall be commenced

before the expiry of three years from the termination of the voyage.

- (4) The periods of time referred to in subsections (1), (2) and (3) run from the time of the termination of the voyage during which the cause of action arose.
- (5) A cause of action of a kind referred to in this section shall be deemed to have been abandoned if court proceedings in respect thereof have not been commenced within the time or times specified in this section.

## **152 Regulations for employment of seamen**

The Minister may make Regulations to provide for or in relation to:

- (a) the terms and conditions of employment of seamen;
- (b) the conditions and particulars to be included in an agreement;
- (c) the form of an agreement and the manner in which an agreement shall be made;
- (d) the manner in which an agreement shall be added to or amended, or lodged with the Principal Shipping Officer;
- (e) the circumstances in which an agreement shall be carried in a vessel;
- (f) the requirements for an agreement, or a copy of an agreement to be delivered to or made available to the Principal Shipping Officer;
- (g) the notice required to be given to the Principal Shipping Officer before an agreement is entered into or terminated;
- (h) procedures and practices to be followed on the termination of an agreement;
- (i) the circumstances under which, other than by reason of termination of an agreement, a seaman may be left behind from a vessel outside Solomon Islands;
- (j) the deductions which may be made from the wages due to a

seaman;

- (k) the manner in which wages are to be paid;
- (l) the manner in which wages are to be accounted for where a seaman leaves a vessel otherwise than on termination of an agreement;
- (m) the form and manner in which accounts of wages are to be prepared by the owner and delivered to a seaman;
- (n) the form of allotment notes;
- (o) the circumstances and the manner in which allotment notes are to be made;
- (p) the conduct of medical examinations of seamen and persons seeking employment as seamen;
- (q) the manner in which the property of a deceased seaman is to be dealt with;
- (r) the misconduct of seamen on board a vessel which is to be a disciplinary offence;
- (t) the manner in which a declaration of suspension shall be made and the manner in which the declaration shall be notified to:
  - (i) a suspended seaman; and
  - (ii) the person who last employed him as a seaman;
- (u) the manner in which the name of a suspended seamen shall be included in the List of Suspended Seamen;
- (v) the manner in which the List of Suspended Seaman is to be kept and made available for inspection by any person;
- (w) the circumstances, manner and form in which Seamen's Identity Cards and Seamen's Employment Records Books are to be issued, recorded and dealt with;
- (x) the particulars to be entered, and the manner in which and the

persons by whom, entries in an Official Log Book are to made, signed and witnessed;

- (y) the production, or delivery of an Official Log Book to such person in such circumstances and within such times as may be specified;
- (z) the particulars to be entered into and the place and manner in which a Crew List or a copy thereof is to be maintained;
- (aa) the manner in which a Crew List or a copy thereof is to be made available on demand to specified persons; and
- (bb) the fees payable in respect of any matter under this Part.

## **PART VII SEAMEN'S WELFARE**

### **153 Application**

- (1) The provisions of this Part shall apply to a vessel that is:
  - (a) registered or is required to be registered under this Act;
  - (b) employing Solomon Islands seamen; or
  - (c) an offshore vessel.
- (2) The provisions of this Part do not apply to a vessel that is:
  - (a) less than 10 metres in length;
  - (b) a pleasure craft;
  - (c) a traditional vessel; or
  - (d) a warship or a patrol vessel.

### **154 Protection of young persons**

- (1) No person under the age of 16 years shall be employed as a seaman in a vessel except that, with the approval of the Principal Shipping Officer, a person under the age of 16 years may be employed in:

- (a) a vessel in which only members of the same family are employed; or
  - (b) a school vessel or a training vessel.
- (2) A person under the age of 18 years but who is 16 years and over shall not be employed as a seaman in a vessel unless:
  - (a) the seaman is subjected to such periodical medical examinations as are prescribed; and
  - (b) a register of persons of such age is kept aboard the vessel in the Official Log Book.
- (3) An agreement relating to employment of a seaman which is not in compliance with subsections (1) and (2) is void and of no effect as against that seaman.
- (4) A person who knowingly employs a person in contravention of subsections (1) and (2) or who fails to comply with the requirements of subsection (2) commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

**155      Approval of service**

- (1) A person who at a place in Solomon Islands, without the written approval of the Principal Shipping Officer, employs a citizen or permanent resident of Solomon Islands who is under 18 years of age as a seaman in a vessel that is proceeding on a voyage to a place in another country commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.
- (2) Where there is a contravention of this section and a citizen or permanent resident of Solomon Islands is carried to sea, the owner, master or agent of the vessel to which subsection (1) applies commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

**156      Crew accommodation**

- (1) Every vessel shall have accommodation exclusively reserved for the use of the crew.

- (2) An owner or master of a vessel who permits the vessel to go to sea without crew accommodation of the prescribed standard, or if no standard is prescribed then as the Superintendent of Marine may require, commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

#### **157 Provisions and water**

- (1) An owner or master of a vessel shall ensure that the provisions and water supplies for the use of seamen are as prescribed in Regulations.
- (2) Where the Principal Shipping Officer is of the opinion that the provision or water on any vessel are in his opinion unwholesome or insufficient for the voyage, he may direct the owner or the master to replace them before the vessel goes to sea.
- (3) An owner or master of a vessel who fails to comply with this section commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

#### **158 Vessel to carry medical stores**

An owner or master of a vessel who suffers or permits the vessel to go to sea without carrying the prescribed number of seaman with first-aid qualifications, medicines and medical stores, each commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

#### **159 Exemption of particular vessels**

- (1) The Minister may, in writing, exempt a particular vessel or a particular class or description of vessel from any requirement of this Part.
- (2) an exemption under subsection (1) may be in respect of a particular period or one or more particular voyages.
- (3) The Minister in granting an exemption on any vessel under subsection (1) may impose any such conditions as he thinks fit.

#### **160 Regulations for welfare of seamen**

The Minister may from time to time on the advice of Cabinet make

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such Regulations to provide for or in relation to:

- (a) the protection of young persons and the manner in which a register of persons between the ages of 16 and 18 years employed on a vessel shall be recorded;
- (b) the crew accommodation requirements for new and existing vessels;
- (c) the standards to be observed in the construction, equipment, ventilation, lighting, heating, furnishing and maintenance of crew accommodation;
- (d) the quality and quantity of the provisions and water to be supplied for the use of seamen;
- (e) the carriage of medical stores in a vessel;
- (f) first-aid certificates and the number of first aid qualified seamen to be carried in a vessel; and
- (g) empowering the Principal Shipping Officer to make orders applicable to a specified vessel or class of vessel providing for or in relation to the medicines, medical stores to be carried in a vessel and the manner in which such medicines and stores are to be carried, stored and used in a vessel.

## **PART VIII        MARINE NAVIGATION AIDS**

### **161        Application of Part**

This Part applies to all marine navigation aids situated in Solomon Islands waters used for guiding seafarers in the navigation of vessels near reefs, shores and other dangers to navigation.

### **162        Aid to Navigation Officer**

- (1) The Minister shall appoint an Aid to Navigation Officer who may at any reasonable time inspect any marine navigation aid or any light which, in his opinion, may affect or convenience for marine navigation.
- (2) Where, for the purpose of inspection or maintenance of a marine

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navigation aid or light, it is necessary for the officer to do so, he may enter upon any property and transport goods through or over the property.

- (3) A person who obstructs or hinders an officer in the exercise of his powers or in the performance of his duties under this section commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

### **163      Establishment and alteration of marine navigation aids**

The Superintendent of Marine may establish, maintain, operate, alter or remove any marine navigation aid.

### **164      Changes to marine navigation**

Where any marine navigation aid is established, altered or removed, the Superintendent of Marine shall cause a "Notice to Mariners" to be issued accordingly.

### **165      Private Marine Aids to Navigation**

- (1) It shall be unlawful for any person to establish, operate, alter or remove a private aid to navigation without the written approval of the Superintendent of Marine.
- (2) If safety or convenience requires, the Superintendent of Marine may by written notice, operate, alter or remove a private aid to navigation.
- (3) Where the owner of a private aid to navigation fails to comply with a notice served on him, the Superintendent of Marine may take possession or control of the aid and do anything which must be done for the safety of navigation, and the owner shall pay any and all cost incurred by the Government under this subsection.

### **166      Offences in relation to marine navigation**

- (1) A person who:
  - (a) damages, destroys or allows a vessel to foul a marine navigation aid;
  - (b) does anything which causes the view of a marine navigation

aid to be obstructed in such a manner as to lessen its efficiency;

- (c) without lawful authority removes or does anything which interferes with a marine navigation aid so as to hinder the effective use of the aid; or
- (d) trespasses on or, without lawful excuse, is found in or on a marine navigation aid or any land upon which such aid is situated,

commits an offence, and shall be liable upon conviction to a fine not exceeding twenty-five thousand penalty units and in addition shall reimburse the Superintendent of Marine for the cost of repairing or replacing the marine navigation aid or of rendering the aid effective.

- (2) A person who, or the master of a vessel which damages, destroys, fouls or interferes with a marine navigation aid and fails to notify the Principal Surveyor as soon as practicable after the aid is damaged, destroyed, fouled or interfered with commits an offence and shall be liable upon conviction to a fine not exceeding five thousand penalty units.

#### **167 Detention of a vessel which damages a marine navigation aid**

Where a vessel damages, destroys, fouls or interferes with a marine navigation aid, the vessel may be detained until the cost of repairing or replacing the marine navigation aid or rendering the marine navigation aid effective again is paid to the government.

#### **168 Immunity from certain proceedings**

- (1) In this section **“the Government”** includes the Minister, the Superintendent of Marine, Principal Officers, or any officer or employee of the Government, or any statutory authority.
- (2) Notwithstanding the provisions of the *Crown Proceedings Act 1969* or any other enactment, no legal proceedings shall be instituted against the Government in respect of any act or omission that is done or made under this Part unless that act or omission amounts to wilful misconduct.

**169      Advisory committee on marine navigation aids**

- (1) The Minister may nominate persons to advise him on any matter related to this Part.
- (2) The persons nominated under subsection (1) shall include two or more persons who shall represent the owners of vessels in respect of which marine navigation aid dues are payable.
- (3) The persons nominated under subsection (1) shall form a committee the chairman of which shall be a person appointed by the Minister.

**170      Marine navigation aid dues**

- (1) The owner or master of a vessel that enters or leaves a port in Solomon Islands shall pay such marine navigation aid dues in respect of the vessel as are prescribed.
- (2) Where, without reasonable cause, the owner or master of a vessel fails to pay such due, the owner and master of the vessels each commit an offence, and shall be liable upon conviction to a fine not exceeding five thousand penalty units.
- (3) Where marine navigation aid dues payable under this Part are unpaid for a period in excess of thirty days after the invoice is delivered, the vessel may be detained until they are paid.

**171      Marine Navigation Aid Regulations**

The Minister may from time to time make such Regulations to provide for or in relation to:

- (a) the rates of marine navigation aid dues payable in respect of vessels and the manner in which dues shall be paid;
- (b) the exemption of particular vessels or of particular classes of vessels from the requirements relating to the payment of marine navigation aid dues;
- (c) the specific responsibility of the Marine Division to provide marine navigation aids; and
- (d) penalties for failure to comply with any provisions of this Part or

Regulations made hereunder.

## **PART IX            SMALL CRAFT**

### **172            Regulations for small craft**

- (1) The Minister may, make Regulations in respect of small craft.
- (2) Notwithstanding anything in this Act “***small craft***” means a vessel that is less than 10 metres in length.
- (3) Regulations for small craft to which this section applies may provide for and in relation to:
  - (a) the recording of information with respect of the small craft, its description and ownership;
  - (b) identification and making of small craft;
  - (c) periodical and unscheduled inspections;
  - (d) construction and equipment;
  - (e) licensing of small craft subject to operational requirements and issuing of operators’ permits;
  - (f) fees payable in respect of the recording of information, inspection, licensing, for small craft, the issuing of operators’ permits and other safety services provided for in the Regulations; and
  - (g) the exemptions from the specific requirements of the Regulations which may be granted in respect of a specified small craft or class of small craft.
- (4) Regulations made under this section may make different provisions for different classes of small craft.

## **PART X            WRECK AND SALVAGE**

### **173            Receiver of Wreck**

- (1) The Receiver shall be the Superintendent of Marine, or such other

person appointed by the Minister.

- (2) The Receiver shall be the Receiver of Wreck in Solomon Islands and shall have general superintendence in all matters relating to wreck, and may appoint any person to act for a Receiver of Wreck for the time being in any part of Solomon Islands, and to perform such duties for a Receiver of Wreck as are referred to in this Part.

#### **174 Preservation of Wreck**

- (1) When any vessel is wrecked, stranded or in distress at any place on or near the shore of the sea or of any tidal water within the limits of Solomon Islands, the Receiver may proceed to such place, and upon his arrival there shall take command of all persons present, and assign such duties to each person and issue such directions as he thinks fit with a view to the preservation of the vessel, the cargo and the lives of persons belonging to the vessel.
- (2) Any person who wilfully disobeys any direction given by the Receiver pursuant to subsection (1), commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.
- (3) The Receiver shall not interfere between the master of the vessel, persons, cargo and apparel and shall:
  - (a) requisition such assistance as he thinks necessary;
  - (b) require the master of any vessel near at hand to give such aid as may be in his power; and
  - (c) demand the use of any vehicle or equipment that may be near at hand,

and any person refusing without reasonable cause to comply with any requisition or demand so made commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

- (5) All cargo and other articles belonging to a vessel that may be washed on shore or otherwise be lost, or taken from the vessel, shall be delivered to the Receiver, and any person, whether he is the owner or not, who secretes or keeps possession of any such cargo or article

or refuses to deliver the same to the Receiver or to any person authorised by him to demand the same, commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

- (6) It shall be lawful for the Receiver or any other person appointed by him to take any cargo or article by force from any person refusing to deliver it in accordance with subsection (5).
- (7) For the purpose of rendering assistance to a vessel or saving this lives of shipwrecked persons or the cargo or apparel thereof, any person may, unless there is some public road equally convenient, pass and re-pass doing as little damage as possible either with or without vehicles over any adjoining lands without being subject to interruption by the owner or occupier.
- (8) Any person may deposit on adjoining lands any cargo or other recovered from a vessel to which this section applies.
- (9) All damage that may be sustained by any owner or occupier in consequence of any such passing or re-passing or deposit shall be a charge on the vessel, cargo or articles in respect of or by which such damage was occasioned, and shall, in default of payment, be recovered in the same manner as salvages is made recoverable under this Part, and the amount payable in respect thereof, if disputed, shall be determined in the same manner as the amount of salvage is in case of dispute to be determined.
- (10) If the owner or occupier of any land over which any person is authorised to pass or re-pass for any of the purposes referred to in subsections (7) and (8):
  - (a) impedes or hinders any such person from so passing or re-passing; or
  - (b) impedes or hinders the deposit on the land of any cargo or other article recovered from any such vessel; or
  - (c) prevents such cargo or other article from remaining so deposited for a reasonable time until the same can be removed to a safe place of public deposit,

that person commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

**175 Finding and taking possession of wreck**

- (1) Every person finding or taking possession of wreck within Solomon Islands:
  - (a) if the person so finding or taking possession of wreck is the owner, has taken possession of wreck, he shall describe in such notice the marks by which such wreck is recognised; and
  - (b) if any person not being the owner finds or takes possession of any wreck, shall as soon as possible deliver the wreck to the Receiver.
- (2) Every person who fails without reasonable cause to comply with the requirement of subsection (1) commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.

**176 Search allowed for secreted wreck**

If the Receiver suspects or receives information that any wreck:

- (a) has been secreted; or
- (b) is in the possession of some person who is not the owner and who has failed to comply with the provisions of this Part,

he may apply for a search warrant so that he may enter and search for the wreck in any vessel or place, and if any such wreck is found it may be seized and detained and dealt with as wreck by the Receiver in accordance with this Part.

**177 Notice by Receiver of having taken possession of wreck**

The Receiver shall as soon as possible after taking possession of any wreck publicly advertise a description of the wreck and of any marks by which it is distinguished, and the fact that he has taken possession of it pursuant to this Part.

**178        Removing wreck from custody of receiver**

If any vessel, cargo, apparel or wreck is detained under this Part by the Receiver for any sums due, and any person without the authority of the Receiver removes or attempts to remove the vessel, cargo, apparel or wreck from the place where the Receiver has ordered it to be detained, such person commits an offence and shall, in addition to any liability incurred under any other law, be liable upon conviction to a fine not exceeding ten thousand penalty units.

**179        Claimed and unclaimed wreck**

- (1) Subject to the payment of any expenses, fees and salvage due, the owner of any wreck who establishes his claim thereto to the satisfaction of the Receiver within one year from the date at which such wreck has come into possession of the Receiver shall be entitled to have the wreck delivered up to him.
- (2) If no owner establishes his claim to wreck before the expiration of one year from the date at which the wreck has come into possession of the Receiver, the Receiver shall sell the wreck, and, after payment of all expenses, deduction of his fees, and payment to the salvors of such amount of salvage as has been determined, shall pay the residue into the Public Account of Solomon Islands.
- (3) Notwithstanding subsection (1), the Receiver may at any time sell any wreck in his possession, if in his opinion:
  - (a) it is damaged that it cannot with advantage be kept; or
  - (b) it is of so perishable a nature that it cannot be preserved; or
  - (c) it is not of sufficient value to pay for storage or warehousing,the proceeds of the sale shall, after defraying the expenses thereof, be held by the Receiver in an interest-bearing trust account pending any claim thereto.

**180        Removal of wrecked vessels**

- (1) Where in the opinion of the Receiver any vessel is, or is likely to become an obstruction or hazard to navigation, the Receiver may be

notice in writing to the owner or person in command of the vessel, require the vessel to be removed in such manner and within such time as he specifies.

- (2) Where any vessel is wrecked on or near the coasts of any island of Solomon Islands or in any tidal water within the limits of Solomon Islands, the Receiver may:
  - (a) require the owner of the wrecked vessel to raise, remove or destroy the vessel or to place a lighted buoy or other such structure to indicate the position of any such vessel until it is raised, removed or destroyed;
  - (b) Where the owner fails to comply with such requirement, the Receiver may raise, remove, destroy or deal with the wrecked vessel in such manner as he deems fit.
- (3) Where the owner fails to comply with that notice, the Receiver shall cause the vessel to be removed and may:
  - (a) take possession of or move or destroy the whole or any part of the vessel;
  - (b) sell the vessels or any part thereof and any other property recovered, and out of the proceeds reimburse the Government for the expenses of buoying, or lighting the wreck or its removal, and any expenses associated with the sale; and
  - (c) if the proceeds of the sale are insufficient to cover all the cost of the removal or if there are no proceeds of sale, recover the balance from the owner of the vessel.
- (4) In the event of the forced sale of a stranded or sunken vessel removed by the Receiver or other public authority in the interest of safe navigation or the protection of the marine environment, the costs of such removal shall be paid out of the proceeds of the sale, before all other claims secured by maritime liens on the vessel in conformity with Article 12(3) of the International Convention of Maritime Liens and Mortgages, 1993.
- (5) The powers given to the Receiver under this section for the removal of wrecked vessels shall be in addition to and not in derogation of

any other powers given under this or any other Act.

## **181 Prohibited areas**

- (1) Where the Receiver is satisfied that, because of anything contained within a wreck, it is in a condition which makes it a potential danger to life, property or the environment, and the wrecked vessel ought to be protected from unauthorised interference, the Receiver shall advise the Minister who may, by notice in the *Gazette*, declare an area around the wreck to be a prohibited area.
- (2) The notice in the *Gazette* shall contain a description of the wrecked vessel, the place where it is and the extent of the area declared to be a prohibited area.
- (3) Subject to subsection (4) a person who, without the written authority of the Receiver, enters a prohibited area, commits an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.
- (4) A person does not commit an offence under subsection (3) if he enters a prohibited area in pursuance of some duty or function imposed on him by law or out of necessity due to stress of weather or navigational hazard.

## **182 The Salvage Convention and Payment to Salvors**

- (1) The provisions of the International Convention on Salvage, 1989, shall have the force of law in Solomon Islands.
- (2) **“Salvage operation”** means any act or activity undertaken to assist a vessel or any other property in danger in Solomon Islands waters or on the High Seas.
- (3) When:
  - (a) any vessel is stranded or wrecked or otherwise in distress within Solomon Islands waters, and services are rendered by any person assisting the vessel or saving the lives of the persons belonging to the vessel or saving cargo or apparel of the vessel; or

(b) any wreck is salvaged,

a reasonable amount of salvage as determined by the Salvage Convention shall be paid.

**183 Duties of Salvor and owner or Master**

(1) The salvor shall owe a duty to the owner of the vessel or other property in danger:

- (a) to carry out the salvage operations with due care;
- (b) in performing the duty specified in paragraph (a), to exercise due care to prevent or minimise damage to the environment;
- (c) whenever circumstances reasonably require, to seek assistance from other salvors; and
- (d) to accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or other property in danger, provided, however, that the amount of his reward shall not be prejudiced should it be found that such a request was unreasonable.

(2) The owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor:

- (a) to co-operate fully with him during the course of the salvage operations;
- (b) in so doing, to exercise due care to prevent or minimise damage to the environment; and
- (c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested by the salvor to do so.

**184 Duty to render assistance**

(1) Every master is bound, so far as he can do so without serious danger to his vessel and persons thereon, to render assistance to any person in distress or in danger of being lost at sea.

- (2) The duty of the master of a vessel to render assistance to those in distress at sea does not derogate from his right to salvage for property saved at sea.
- (3) The owner of the vessel shall incur no liability for a breach of the duty of the master under subsection (1).
- (4) Life salvage shall not be payable to a salvor when there is no property saved.

**185        Criteria for fixing of reward**

- (1) The reward shall be fixed by arbitration with a view to encouraging salvage operations, taking into account the criteria listed in Article 13 of the Salvage Convention.
- (2) If the parties cannot agree on the amount of the reward it shall be referred to a Panel of Arbitrators, one appointed by the salvors, one appointed by the owners of the ship and the cargo, and a third to be selected by the first two appointed who shall act as chairman.
- (3) The rules of procedures to be followed by the Arbitration Panel shall be free from rigid or formal procedures which will best allow for a rapid resolution of the amount of the reward. The Panel shall, as far as is practical, conduct the arbitration in accordance with the procedures laid down in Lloyd's Open Form 1990, and any award, subject to Appeal, shall be final and binding on all parties whether or not they were represented at the Arbitration or the Appeal.
- (4) Special compensation may be paid to a salvor for his salvage operations.

**186        Maritime Lien for Salvage**

- (1) Subject to section 201 of this Act, a salvor shall have a maritime lien against the vessel and its cargo for salvage services rendered.
- (2) The salvor may not enforce his maritime lien when satisfactory security for his claim, including interest and costs, has been tendered or provided.

**187      Life salvage to have priority**

- (1) Salvage in respect of the preservation of the life of any person belonging to any vessel shall be payable prior to all other claims for salvage. In cases where the vessel, cargo or apparel are destroyed or where the value thereof is insufficient, after payment of the actual expenses incurred, to pay the amount of salvage due in respect of any life or lives, the Receiver may, with approval of the Minister, and without further appropriation than this section, award to the salvors of such life or lives out of the Public Account of Solomon Islands such sum as he deems fit in whole or part satisfaction of any salvage left unpaid in respect of such life or lives.
- (2) Nothing in this section derogates from the duty of all masters and other seafarers to render assistance to those in distress at the sea.

**188      Settlement of disputes as to salvage**

- (1) Where there is a dispute as to the amount of salvage and the parties to the dispute cannot agree to a settlement or to refer the matter to arbitration, the dispute shall be determined by the Court.
- (2) Where a dispute arises between two or more parties as to the title of a wreck, the dispute shall be determined in the same manner as if it were salvaged, determined under subsection (1).
- (3) Where there is any dispute between parties as to the wreck or salvage, or the Receiver wishes to seek directions in any related matter, the Receiver may apply to the Court for directions.

**189      Manner of enforcing payment of salvage**

- (1) Where payment of salvage is due to a person under this Part the Receiver shall detain the vessel, cargo, property or wreck as he thinks is appropriate in the circumstances.
- (2) Where a vessel, cargo, property or wreck is detained under this section, the Receiver shall notify the owner, and in any case where the owner cannot be found, retain possession until salvage has been paid or otherwise ordered by the Court.
- (3) The Receiver may release any detained vessel, cargo, property or

wreck on receipt of adequate security.

**190 Sale by Receiver of detained property**

- (1) Where a dispute as to salvage has been referred to the Court, the Receiver shall deal with any property detained as the Court orders.
- (2) Where the amount of salvage due to a salvor is not disputed, and the amount due is not paid within twenty-one days of the date agreed for payment, the Receiver may sell the detained property.
- (3) After payment of any fees and any expenses incurred by the Receiver in respect of the property, its sale and payment of salvage, the proceeds of the sale shall be paid to the person legally entitled, or, if in dispute, to the Court.

**191 Offences relating to wreck**

- (1) A person who:
  - (a) wrongfully removes any part of any vessel stranded or in distress or any part of the cargo or wreck; or
  - (b) endeavours in any way to impede the saving of any vessel, cargo, apparel or wreck; or
  - (c) secretes any wreck or obliterates or defaces any marks thereon,

commits an offence, and shall be liable upon conviction to a fine not exceeding twenty-five thousand penalty units.

- (2) A person not being the Receiver or not acting under the orders of the Receiver who, without the leave of the master, boards or endeavours to board any vessel commits an offence, and shall be liable upon conviction to a fine not exceeding twenty-five penalty units, and it shall be lawful for the master of such vessel to repel by the use of reasonable force which is necessary under the circumstances in order to deter any such person so boarding or attempting to board the vessel.
- (3) A person who, without the leave of the master or authority of the Receiver, takes from Solomon Islands into any foreign port any

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vessel found stranded, derelict or in distress within Solomon Islands or any part of its cargo with the intention of selling the vessel, wreck or its apparel, equipment or cargo commits an offence, and shall be liable upon conviction to a fine not exceeding twenty-five thousand penalty units.

## **192 Powers of Customs**

- (1) All wreck being foreign goods bought into Solomon Islands shall be subject to the same duties as if imported into Solomon Islands. If any question arises as to the origin of such goods they shall be deemed to be the produce of such country as the Comptroller of Customs and Excise determines.
- (2) The Comptroller of Customs and Excise may permit all cargo saved from any inward-bound vessel stranded or wrecked to be forwarded to the port of its original destination. All cargo saved from any vessel stranded or wrecked on its outward voyage shall be returned to the port from which it is shipped.

## **193 Limitation of time in proceedings**

No person shall be convicted of any offence under this Part unless proceedings in respect of that offence are commenced within one year after the commission of the offence.

# **PART XI MARITIME RIGHTS AND LIABILITIES**

## **194 Liability and division of loss**

- (1) Where, by the fault of two or more vessels, damage or loss is caused:
  - (a) to one or more of them;
  - (b) to their cargoes or freight;
  - (c) to any property on board; or
  - (d) to any third party not liable for the loss or damage,

the liability to make good the damage or loss shall be in proportion to the degree in which each vessel was in fault.

- (2) Where, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.
- (3) Nothing in this section shall operate so as to render any vessel liable for any loss or damage for which that vessel was not at fault.
- (4) Nothing in this section shall affect the liability of a person under a contract of carriage, or any other contract.
- (5) Nothing in this section shall be construed as:
  - (a) imposing any liability upon any person from which he is exempted by any contract or by any provision of law; or
  - (b) affecting the legal rights of any person to limit his liability.
- (6) In this Part reference to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses consequent upon that fault recoverable at law by way of damages.

**195 Shipowner's liability in collisions for death and personal injuries**

- (1) Where a person on board a vessel:
  - (a) is killed; or
  - (b) suffers personal injury,due to the fault of that vessel and of any other vessel or vessels, the liability of the owners of the vessels shall be joint and several.
- (2) Nothing in this section shall:
  - (a) deprive any person of any right of defence on which, independent of this section, he might have relied in an action brought against him by the person injured or any person entitled to sue in respect of that loss of life; or
  - (b) affect the right of any person to limit his liability in cases to which intentional Maritime Conventions apply which Solomon Islands

has rectified or acceded to.

**196 Right of contribution**

- (1) Where death or personal injury is suffered by any person on board a vessel as a result of the fault of that vessel and any other vessel or vessels, and a proportion of the damages is recovered against the owners of one of the vessels which exceeds the proportion to which that one was at fault, the owners of that one vessel may recover by way of contribution the amount of the excess from the owners of the other vessel or vessels to the extent to which those vessels were respectively at fault.
- (2) No amount is recoverable which could not by reason of any statutory or contractual limitation of or exemption from liability, or which could not for any other reason have been recovered in the first instance and damages by persons otherwise entitled to sue.
- (3) In addition to any other remedy provided by law, the persons entitled to any contribution provided by subsection (1) shall for the purpose of recovering the same, have the same rights and powers as the persons entitled to sue for damages in the first instance.

**197 No presumption of fault**

In the case of a collision, a vessel shall not be deemed to be at fault solely by reason of the fact that the master or person in charge of the vessel had infringed any of the provisions of the Collisions Convention.

**198 Application to Government vessels**

- (1) The provisions of sections 194 to 197 inclusive shall apply to Government vessels.
- (2) Notwithstanding subsection (1), nothing in this Act shall:
  - (a) authorise proceedings *in rem* in respect of any claim against the Government for the arrest, detention or sale of any Government vessels; or
  - (b) give to any person any lien on any Government vessel engaged

in non-commercial services or on any cargo or other property belonging to the Government.

**199      The Right of Limitation of shipowner's liability**

- (1) The provisions of the Limitation of Liability for Maritime Claims Convention shall have the force of law in Solomon Islands.
- (2) Where a claim is made against a person in respect of any liability in relation to maritime claims set forth in the Convention and in this Part, that person may limit his liability in accordance with the provisions of the Limitation of Liability for Maritime Claims Convention by applying to the Court to determine the limit of that liability under the procedures set forth in Regulations.
- (3) The Court may determine the limit of that liability and may make such order as it thinks fit including the creation, administration and distribution of a Limitation of Liability Fund for the payment of claims.
- (4) The act of invoking limitation of liability under this Part shall not constitute an admission of liability.
- (5) The insurer of liability for claims subject to limitation under this Part shall be entitled to the benefits of this Part with respect to limitation of liability to the same extent as the insured.
- (6) Liability of a person shall include liability in an action *in rem* brought against the vessel.

**200      Limitation of actions**

- (1) No action shall be maintainable to enforce any claim or lien against the vessel or its owners in respect of any damage or loss to another vessel, its cargo or freight, or any property on board the vessel, or damages for loss of life or personal injuries suffered by any person on board the vessel, caused wholly or partly by the fault of the first mentioned vessel, or in respect of any salvage services, unless proceedings are commenced within two years from the date when the damage or loss or injury was caused, or the salvage services were rendered.
- (2) No action shall be maintainable to enforce any contribution in respect

of any overpaid proportion of any damages for loss of life or personal injuries unless proceedings therein are commenced within one year from the date of payment.

- (3) The Court may extend any such period, to such extent and on such conditions as it thinks fit, if satisfied that there has not been any reasonable opportunity of arresting the defendant vessel within the jurisdiction of the Court, or within the territorial waters of the country to which the plaintiff's vessel belongs.

## **PART XII            ARREST, FORFEITURE AND FORCED SALE                              OF VESSELS**

### **201            Application of International Convention on Maritime Liens and Mortgages**

- (1) Subject to this Act and to any other law, and subject to any such reservations as Solomon Islands may make, the International Convention on Maritime Liens and Mortgages, 1993, is incorporated into and has the force of law in Solomon Islands, from and after the day that Solomon Islands deposits instruments of accession with the Secretary General of the United Nations.
- (2) This Convention shall apply to all sea-going vessels registered in Solomon Islands and registered in the States which are parties to the Convention.
- (3) Each of the claims listed in Article 4 of the International Convention of Maritime Liens and Mortgages, 1993 shall be secured by a maritime lien on the vessel.
- (4) The priority of maritime liens shall be in accordance with article 5 of the International Convention on Maritime Liens and Mortgages, 1993.
- (5) Where it is alleged in an action brought in a Court with Admiralty jurisdiction that the owner of a vessel has incurred any liability to pay any sum in respect of the following items, a maritime lien will be created which will take priority in accordance with article 6 of the International Convention on Maritime Liens and Mortgages, 1993:
  - (a) work carried out at any port, harbour, roadstead or anchorage

in Solomon Islands in connection with the loading or discharging of cargo or fuel or the embarkation or disembarkation of passengers on or from that vessel; or

- (b) victualling, sorting, fuelling, repairing and maintenance of that vessel or any part thereof or of the equipment thereof or any other services rendered in connection therewith.
- (6) If at any time a vessel is found within the jurisdiction of Solomon Islands, and it is shown that there are grounds on which the owners may be found liable and:
- (a) the owners are not residents of Solomon Islands and intend to depart therefrom; or
  - (b) the vessel may depart from the jurisdiction,
- the Court may, at its discretion, order the detention of the vessel.
- (7) Notwithstanding subsection (6), where under this Act a vessel is subject to detention, the Minister may without warrant and with such assistance as he considers necessary to take, or cause to be taken, such action as he thinks necessary to detain the vessel.
- (8) For the purpose of detaining a vessel the Minister or his delegate may require any person to do or refrain from doing any specified act.
- (9) A person who fails to comply with a requirement under subsection (8) commits an offence, and shall be liable upon conviction to a fine not exceeding ten thousand penalty units.
- (1) A seaman who does, or refrains from doing, an act in pursuance of this section is not thereby in breach of his employment agreement.

## **202      Arrest of Vessels**

- (1) This section cover the arrest of vessels for the enforcement of rights between private vessels and does not cover the arrest of vessels for breach of any statutory provision or requirement.
- (2) A vessel may be arrested or released from arrest only by Order of the Court.

- (3) A vessel may only be arrested in respect of maritime claim.
- (4) A vessel may be arrested for the purpose of obtaining security, notwithstanding any clause in any relevant contract in respect of where the claim is to be adjudicated.
- (5) The procedures relating to the arrest of any vessel in Solomon Islands or its release shall be governed by this Act and any other applicable law of Solomon Islands.
- (6) A vessel may be arrested in respect of any maritime claim secured by a maritime lien referred to in article 4 of the International Convention on Maritime Liens and Mortgages, 1993, or a claim based upon a vessel mortgage registered in Solomon Islands, or a claim in respect of ownership or possession of the vessel.
- (7) A vessel which has been arrested shall only be released when sufficient security has been furnished in the amount and form satisfactory to the claimant, or if the sufficiency and form is disputed, to the Court, provided that security shall not exceed the value of the vessel.
- (8) Any request for the vessel to be released upon security being provided shall not be construed as an acknowledgment of liability nor as a waiver of any defence or any right to limit liability.
- (9) Upon application of the owner the Court may, in its discretion, as a condition of the arrest of the vessel, impose upon the claimant the obligation to provide security of a kind and for an amount and on such term as the Court deems appropriate for any loss which may be incurred by any owner or defendant as a result of the arrest.
- (10) The Court has jurisdiction to determine the case on its merits, unless parties agree to submit the dispute to a Court of another State which accepts jurisdiction, or to arbitration.
- (11) Notwithstanding subsection (10), the Court may refuse to exercise jurisdiction on the merits of the case where the Court of another State accepts jurisdiction.
- (12) The Court may require that proceedings on the merits of the case be commenced within a reasonable period of time and if proceedings

have not commenced within that time, the Court may order the vessel released.

- (13) Except with leave of the Court, a warrant for the arrest of a foreign vessel shall not be issued in an action *in rem* until notice of the action has been sent to the consul or the Government of the State in which the vessel is registered.
- (14) Such notice shall be sent through the normal diplomatic channels and may be transmitted by facsimile or telex and shall be deemed to have been received when sent and proof of notice is not required prior to the arrest of the vessel.

## **203      Forced sale of vessels**

- (1) The provisions of articles 11 and 12 of the International Convention on Maritime Liens and Mortgages, 1993, in respect of notice and effects of forced sale shall have full effect in the event of a forced sale of a vessel under this Part.
- (2) The costs and expenses arising out of the arrest or seizure and subsequent sale of a vessel shall be paid first out of the proceeds of sale. Such costs and expenses include the cost of upkeep of the vessel and the crew as well as wages, repatriation, social insurance contributions payable on behalf of the master and crew incurred from the time of arrest or seizure, and the balance of the proceeds shall be distributed in accordance with the International Convention on Maritime Liens and Mortgages, 1993, with the residue of the proceeds, if any, to be paid to the owner.
- (3) If at the time of the forced sale the vessel is held under a possessory lien by a shipbuilder or ship repairer, such shipbuilder or ship repairer must surrender possession of the vessel to the purchaser and is entitled to be paid his claim out of the proceeds of the sale after the claims of holders of maritime liens have been satisfied.
- (4) A vessel which has been the subject of a forced sale is sold free and clear of all mortgages or other charges and maritime liens, and the Court shall issue a certificate to that effect, and, upon production, the Registrar shall register the vessel in the name of the purchaser or issue a certificate of deletion and delete any existing mortgage or maritime liens.

## **204 Unpaid rates, tolls and fees**

- (1) No vessel about to leave any port at which any rates, tolls, fees or other charges are payable pursuant to this or any other Act or Regulation shall receive a certificate of clearance, unless the master produces a receipt to the effect that the rates, tolls, fees or other charges on the vessel have been paid, or a certificate to the effect that none are payable thereon.
- (2) If any vessel leaves any port without paying any rates, tolls, fees or other charges on the vessel, such unpaid amounts shall constitute a maritime lien enforceable against the vessel.
- (3) A vessel in respect of which any rates, tolls, fees or other charges remain unpaid may be detained until the amount owing is paid in full.

## **205 Proceedings on detention of a vessel**

- (1) When the Superintendent of Marine finds that reasonable grounds exist under this Act or Regulations for the detention of a vessel, the Superintendent of Marine may issue a Detention Order and may detain the vessel without Warrant, provided however, that:
  - (a) written notice shall be served on the master or person in charge of the vessel, together with a copy of the Detention Order; and
  - (b) such written notice shall state the grounds for detention and the section of the Act or paragraph of the Regulations under which the Detention Order has been issued.
- (2) The owner or master of a vessel which has been detained may petition the Superintendent of Marine for a hearing to show cause as to why the vessel has been detained.
- (3) The procedures for such a hearing shall be to the extent possible, the same as to be followed for a Marine Inquiry.
- (4) Where a foreign vessel is detained the Superintendent of Marine, through diplomatic channels, shall notify the diplomatic representative of the vessel's Flag State, including the reason for its detention.

## **206 Proceedings on forfeiture of a vessel**

- (1) Where a vessel is subject to forfeiture under this Act or Regulations, upon the issuance of a Warrant by the Court, an Authorised Officer may seize and detain the vessel.
- (2) Such Warrant, or a copy thereof, shall be affixed or posted in a prominent place aboard the vessel.
- (3) Where a vessel which is liable to forfeiture under this Act or Regulations has been seized and detained, the Superintendent of Marine may apply to the office of the Attorney General to commence proceedings for the forfeiture of the vessel.
- (4) Proceedings shall be initiated forthwith by the office of the Attorney General and written notice of the proceedings shall be served upon the owner, provided however, in the case of a foreign vessel notice shall be given to the diplomatic representative of the Flag State through diplomatic channels, of the forfeiture proceedings and the grounds therefor.
- (5) If, after the hearing before the Court and on the preponderance of evidence, it has been proved beyond reasonable doubt that an offence has been committed by the vessel, its owner or master, for which the penalty is forfeiture, the Court may issue an Order stating that the owner has forfeited all rights of ownership in the vessel, equipment, stores and cargo and that property rights in all the aforementioned have vested in the Government.
- (6) Anything forfeited under this section becomes the property of the Government and may be sold or otherwise dealt with as the Superintendent of Marine thinks fit.
- (7) Upon an Order of the Court being granted, the property in or title to the vessel or any share therein shall pass to the Government and upon application by the Superintendent of Marine, the Registrar shall enter the vessel in the Register listing the Minister as the registered owner of the ship or share therein.
- (8) All Orders issued by the Court shall be deemed evidence of good title to the vessel, free of all liens, mortgages and other encumbrances, and the Government shall have the right to sell the

vessel with clear title.

- (9) In this section **“Authorised Officer”** includes:
- (a) an Officer authorised in writing by the Superintendent of Marine for the purposes of this section; or
  - (b) a police officer.

## **PART XIII        LEGAL PROCEEDINGS**

### **207        Application**

The jurisdiction of the Court in Admiralty applies in relation to:

- (a) all vessels, irrespective of the place of residence of their owners; and
- (b) all maritime claims, wherever arising.

### **208        Access to and inspection of Regulations**

- (1) Where a Convention or Rule or Regulation, or a provision thereof, has been adopted and incorporated by reference in Regulations made under the authority of a power under this Act, the adopted Convention, Rule or Regulation, or provision, as the case may be, shall be available for inspection and copying at the office of the Marine Division by any person likely to be affected by it.
- (2) Subject to subsection (1), no person shall be prosecuted or convicted for contravening an adopted Regulation if that Regulation is not available for inspection or copying as required by subsection (1), and it is a defence to such a prosecution to show that the contravened Regulation was not so available as required.
- (3) The defence available under subsection (2) is not available to a person who has sufficient knowledge of the requirements of the contravened provision for which he is being prosecuted, or who possessed or who had reasonable access in any event, to the requirements of the contravened provision independently of the procedure required under subsection (1).
- (4) When a person requests copies of an adopted Regulation under

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subsection (1) the Marine Division may charge a reasonable fee for any copying services that are provided by this office, commensurate to that charged generally in the public service.

- (5) For the purposes of this section, and for greater certainty, **“adopted Regulation”** means any code, treaty, convention, statute, rule, by-law, resolution, form, ordinance, order and regulation adopted and incorporated by reference under this Act.

## **209 Jurisdiction of High Court in Admiralty**

- (1) The High Court of Solomon Islands shall have jurisdiction in all Marine and Admiralty matters and in all matters pertaining to this Act and Regulations made hereunder and the procedures set out in the *Criminal Procedure Code*.
- (2) Admiralty jurisdiction *in rem* shall be conferred with respect to:
- (a) disputes relating to the ownership, possession or title to a vessel or a share in a vessel;
  - (b) mortgages, including foreign mortgages and other charges in the nature of a mortgage;
  - (c) claims for towage;
  - (d) claims relating to salvage;
  - (e) claims for pilotage;
  - (f) claims for general damage;
  - (g) claims for wages of masters and crew;
  - (h) claims for disbursements made by masters, shippers, charterers or agents on behalf of a vessel or its owner;
  - (i) claims for damage done by a vessel;
  - (j) personal injury claims for which the vessel’s owner, operator or charterer is liable;
  - (k) claims for loss of or damage to goods carried by a vessel;

- (l) claims arising from contracts for the carriage of goods by a vessel;
  - (m) claims arising from agreements for the use or hire of a vessel;
  - (n) claims for the construction, repair, alteration or equipping of vessel;
  - (o) claims for goods, materials or services supplied to a vessel;
  - (p) claims for unpaid insurance premiums or calls from protection and indemnity associations;
  - (q) port, harbour, marine navigation aid dues and similar charges;
  - (r) claims for marine pollution damage;
  - (s) claims for damages arising from the operator of a vessel for which the owner, operator or charterer is liable;
  - (t) claims for the enforcement of arbitral awards in respect of maritime claims; and
  - (u) claims for the enforcement of local and foreign admiralty judgements *in rem*.
- (3) Admiralty jurisdiction *in personam* shall be conferred with respect to, *inter alia*:
- (a) claims for damage done to a vessel;
  - (b) claims to limit liability under any international maritime convention to which Solomon Islands is a party allowing for limitation of liability in relation to vessels; and
  - (c) ancillary matters of admiralty and maritime jurisdiction associated with matters in respect of which the Court's jurisdiction is invoked.
- (4) Where any person has a right of appeal under this Act against a decision in respect of any action commenced in the High Court, that person may, within three months, with leave of the High Court, or if that leave is declined, then special leave of the Court of Appeal,

appeal to the Court of Appeal on a question of law.

- (5) The Court of Appeal may make such order or determination as it thinks fit, and such decision shall be final.
- (6) Subject to this section, the procedure in respect of any appeal shall be in accordance with the rules of Court.
- (7) The Court may appoint Nautical Assessors to advise it on all matters of navigation and seamanship.
- (8) Nautical Assessors shall not be called by the parties to give evidence, shall not be sworn and shall not be cross-examined.
- (9) The advice of Nautical Assessors is confidential and shall not be disclosed to the parties.
- (10) Nautical Assessors shall be appointed on the basis of their expert knowledge and experience and may be engaged prior to trial for as long as their expertise is required.
- (11) Nautical Assessors may be paid compensation for their services.
- (12) The advice of Nautical Assessors shall be treated as highly persuasive, but it is for the Court to assess its worth and decide on all matters of fact and law.
- (13) Trials in respect of civil authority actions shall be by judge alone or by a judge sitting with Nautical Assessors, and for the trial of actions *in rem*, limitation actions and any associated proceedings *in personam*, assessors shall not be used.

## **210 Procedure for Prosecution of offences**

- (1)
  - (a) All proceedings brought against a person for an offence under this Act or Regulations shall be commenced by the laying of an information in writing; and
  - (b) Any information for any offence under this Act or Regulations shall be laid by the Superintendent of Marine.

(2)

- (a) Subject to subsection (b) every information for an offence shall be laid within 12 months from the date on which the offence is alleged to have been committed.
- (b) Where any vessel or any person has committed an offence under this Act and departed from the jurisdiction before an information could be laid, the time period referred to in subsection (a) shall commence running on the date on which the vessel or person returns to the jurisdiction.

(3)

- (a) Every information shall be shown on oath before a Registrar of the High Court and shall be in the form required by the *Criminal Procedure Code Act*.
- (b) Every information shall contain such particulars as may fairly inform the defendant of the substance of the offence with which he is charged.

(4) As soon as practicable after an information is sworn it shall be filed in the Court.

(5) Where an information has been laid the Registrar of the High Court may issue a summons to the Defendant in the manner stipulated in the *Criminal Procedure Code Act*.

(6)

- (a) Every summons to a defendant and any every other document which is required to be served on a defendant shall be served on him by being delivered to him personally or by being brought to his notice if he refuses to accept.
- (b) Where a summons is to be served on the Master of a vessel it may be served on the officer apparently in charge if the Master is not on board the vessel.
- (c) Where the summons is to be served on the owner of the vessel it may be served on the licensed vessel agent.

- (d) Service on the persons referred to in subsection (b) and (c) shall be deemed to be service on the defendant master and owner of the vessel.

(7)

- (a) Every summons to a defendant and every other document which is required to be served on a defendant may be served by a Principal Officer.
- (b) A Principal Officer shall be the Principal Surveyor, Principal shipping Officer, Port Master or any other person so designated by the Minister.

(8)

- (a) The service of any document may be proved by affidavit made by the person who served the document showing the time, place and mode of service;
- (b) The affidavit of service made by the person who served the document shall be deemed to be correct unless or until the contrary is proved.

(9) When a information has been laid and a summons has been issued and served, a Principal Shipping Officer who has reasonable grounds to believe that the defendant may not appear before the Court on the date set out in the summons, may apply to a Judge of the High Court for a warrant to arrest the defendant if:

- (i) a warrant is necessary to compel the attendance of the defendant; or
- (ii) a warrant is desirable having regard to the gravity of the alleged offence and the circumstances of the case.

(10) A Principal Shipping Officer or his delegate may, for the purposes of enforcing this Act without warrant:

- (a) stop, board and search any vessel he reasonably suspects to have committed any offence or that the owner or master or any crew member thereof has committed any offence under this

Act;

- (b) require the master of any crew member to inform him about any incident occurring aboard or involving the vessel;
- (c) make any inspection, examination of anything aboard the vessel:
- (d) require to be produced, examined and take copies of any certificate, document, logbook or other record required to be kept by this Act or Regulations, or which concerns the operation of the vessel or employment of the crew;
- (e) seize any logs, charts, documents, equipment or material and take or require to be taken any samples which he has reasonable grounds to believe, show or tend to show, with or without other evidence, the commission of any offence against this Act;
- (f) seize anything which he has reasonable grounds to believe might be used as evidence in any proceedings under this Act;
- (g) arrest any person whom he has reasonable grounds to believe has committed an offence against this Act.

(11)

- (a) Pending the date of the hearing set forth in the summons a Judge may, upon application, by order, detain the vessel until the final adjudication of the matter contained in the information.
- (b) Notwithstanding subsection (a) above, the Court may by Order release the vessel from such detention upon the payment to the Court of a bond in an amount not exceeding the value of the vessel or the maximum fine prescribed in relation to the offence or the total of all the offences if more than one are contained in the information.

(12)

- (a) Where the defendant does not speak or understand the English language a crew member be used as an interpreter.

- (b) Where that interpreter was used when the information was laid and the summons served, and the evidence collected from the vessel or persons on board the vessel, that same interpreter shall be summoned to appear in Court at the trial of the named defendant.
- (c) Where the certificates required to be carried on board the vessel are not in the English language, the defendant shall obtain copies of those certificates translated into the English language by the authority or organisation which issued the Certificate.

(13)

- (a) Any number of information for any offences against a defendant may be tried together.
- (b) If the Court believes that it is desirable or expedient in the interests of justice to do so, it may order that the defendant be tried on one or more of such information separately.
- (c) The Rules of Evidence of the U.K. shall in so far as applicable in Solomon Islands apply.

(16)

- (a) Any person charged with an offence which is not punishable by imprisonment may elect to plead guilty before the Superintendent of Marine.
- (b) Where any defendant pleads guilty before the Superintendent of Marine, the Superintendent of Marine may impose a fine not exceeding that prescribed in this Act.
- (c) Where the defendant has paid the fine imposed by the Superintendent of Marine, the Superintendent of Marine shall issue a receipt on behalf of the Minister and notify the Registry by means of a certificate of Satisfaction that the information has been withdrawn which certificate the Registrar shall enter in the file.
- (d) Where the defendant elects to plead guilty before the

Superintendent of Marine and the defendant objects to the amount of the fine, the matter shall proceed to trial and the Court shall be advised as to the guilty plea and impose any fine as it thinks fit.

**211 False declaration and statements as to ownership**

- (1) Every person who, in a declaration made for the purposes of this Act, or in any document or other evidence produced to the Registrar:
- (a) wilfully makes or assist in making, or procures to be made a false statement concerning the title to, ownership of, or the interest existing in, a vessel registered under this Act; or
  - (b) utters, produces or makes use of any declaration or document containing any false statement knowing the same to be false,
- commits an offence, and shall be liable upon conviction to a fine not exceeding twenty thousand penalty units or to a term of imprisonment not exceeding two years, or both.
- (2) Every person who in a declaration made under or for the purposes of this Act, wilfully makes a false statement in relation either to his being a Qualified Person or to another Person being a Qualified Person, commits an offence, and shall be liable upon conviction to a fine not exceeding twenty thousand penalty units, or to a term of imprisonment not exceeding two years or to both.

**212 False declaration and statements**

Every person who knowingly:

- (a) makes a false declaration, statement or representation;
- (b) gives false evidence on oath; or
- (c) alters, produces or makes use of any false declaration, statement or representation, in connection with any application, report, record or proceeding under this Act,

commits an offence, and shall be liable upon conviction to a term of imprisonment not exceeding two years, or a fine not exceeding twenty thousand penalty units.

**213 Mode of making declaration**

- (1) Except as otherwise provided in this Act a declaration required by this Act shall be made before a person authorised in that regard by the Oaths Act.
- (2) A declaration required by this Act may be made on behalf of a corporation by any person so authorised by resolution of the Board of Directors under the common seal of the corporation.

**214 Obstruction of persons**

Every person who, without lawful excuse (proof of which is on him), hinders or obstructs a person in the performance, execution or carrying out of any duty conferred or imposed on that person by this Act commits an offence, and where no other penalty is provided for in this Act, shall be liable upon conviction to a fine not exceeding ten thousand penalty units or to a term of imprisonment not exceeding three months.

**215 Service of notices and documents**

A notice or other document authorised or required by a provision of this Act to be served upon, given or delivered to any person may be served, given or delivered:

- (a) in any case by delivering a copy personally to the person to be served, given or delivered; or by sending the same by registered post, addressed to his place of abode or business;
- (b) if a document is to be served on the master of a vessel, by serving it on the person in command or charge of the vessel; and
- (c) if a person upon whom service is required cannot be found, the Court may, upon application, order alternative methods of service by public media.

**216 Proof of documents**

- (1) All certificates or other documents (including endorsements on certificates or other documents) to which this section applies are

admissible in evidence in the manner provided by this Part.

- (2) Documents admissible in evidence include:
- (a) a certificate or other document issued, given or made under this Act or purporting to be issued, give or made under this Act and signed, or purporting to be signed, by any person required or authorised by this Act to issue, give or make any such certificate or document;
  - (b) an endorsement made, or purporting to be made, under this Act and signed, or purporting to be signed, by any person required or authorised by this Act to make any such document;
  - (c) a certificate given or made by the Registrar asserting the negative of any circumstances, fact or thing; and
  - (d) a certificate signed by the Minister as to the authenticity of a document purporting to set out the text of a treaty.

## **217 Admissibility of documents in evidence**

- (1) Where a certificate or other document is by this Act declared to be admissible in evidence it shall, on its production from proper custody, be admissible in evidence in any Court and, shall be deemed to be conclusive evidence of the matters stated in it and the maker of the said document shall not be required to prove that he made the document.
- (2) A copy of any certificate or document referred to in subsection (1) or an extract from any such certificate or document is also admissible in evidence if proved to be an examined copy or extract, or if it purports to be signed and certified as true copy or extract by the officer or person to whom custody of the certificate or other document is entrusted.
- (3) Any person who is by this Act required or authorised to issue, grant, give or make any certificate or other document shall furnish a certified copy of the certificate or document, to any person applying at a reasonable time for such certified copy or certified extract.
- (4) In proceedings for an offence against this Act an averment by the

prosecutor contained in the information or complaint that at a specified time:

- (a) a specified person was a delegate of the Minister, or the Registrar, or to the Superintendent of Marine;
- (b) a specified person was a Principal Shipping Officer, a Shipping Officer, a Surveyor, or a pilot;
- (c) a specified person was or was not the holder of a specified licence or certified; and
- (d) a specified safety, load line, or survey certificate was or was not in force in respect of a specified vessel, is *prima facie* evidence of the matters averred.

## **218 Recovery of fines**

Where a Court orders a person convicted of any offence against this Act or Regulations to pay any fine or other moneys and that person is the owner or master of a vessel registered under this Act and the fine or other moneys is set forth in the conviction or specified in the Order of the Court, the Court may, in addition to any other power have to compel payment, and notwithstanding any other Act, direct the amount remaining unpaid to be levied by distress or by sale of the vessel or the equipment of the vessel, as the case requires.

## **219 Offences**

- (1) Every person who does any act, or makes any omission, in contravention of any provision of this Act or Regulations commits an offence.
- (2) When any provision of this Act is contravened and no specific offence is prescribed and no penalty provided for, any person contravening any provision commits an offence and is liable upon conviction to a fine not exceeding two thousand five hundred penalty units.

## **220 Regulations**

- (1) In addition to the powers to make Regulations conferred elsewhere in this Act, the Minister may make Regulations for any purpose for

which Regulations are contemplated or required by this Act and may make all such other Regulations as he thinks necessary or expedient for the purpose of giving effect to the provisions of this Act and for the due administration thereof.

- (2) Without limiting the generality of the foregoing, the Minister may make Regulations providing for Admiralty Rules of Procedure for action *in rem*.
- (3) Wherever in this Act authority is given to make Regulations for any purpose, that authority shall be deemed to include an authority to prescribe offences in respect of the contravention of, or non-compliance with, any such Regulations or any requirement or direction made or given pursuant to any such Regulation, and authority to prescribe penalties not exceeding fifty thousand penalty units for such offences.
- (4) Where an offence created under any Regulations is prosecuted, the procedure set forth in section 210 shall be followed as closely as practicable.

## **221 Delegations**

Subject to this Act, the Superintendent of Marine, Registrar, Principal Surveyor and Principal Shipping Officer may, by instrument, delegate to a person all or any of their powers under this Act, except this power and those powers and functions may be exercise and performed by the delegate in relation to the matters or class of matters and in the area or locations specified in the instrument.

## **222 Repeal and transitional**

- (1) The *Merchant Shipping Act, 1894*, and any Regulations, Orders in Council made thereunder and applicable in Solomon Islands are hereby repealed.
- (2) Notwithstanding such repeal all Regulations, Rules or Orders in Council that are in force in Solomon Islands, immediately prior to the commencement of this Act shall continue to be in force, subject to such modifications and adaptation as may be necessary to bring them into conformity with this Act until such time as new Regulations are made under this Act.

**223 Regulation for solving transitional difficulties**

The Minister may make Regulations to provide:

- (a) for resolving any difficulties that may arise out of the repeal by this Act of any written law;
- (b) for the amendment, revocation or repeal of any regulations, rules or orders in Council repealed by this Act and remaining in force pursuant to section 222;
- (c) for the continuance in force, subject to such conditions as may be prescribed, of any exemptions (whether or not based upon reciprocity with any other country) from the operation of any written law repealed by this Act; and
- (d) generally, for effecting a due and orderly assimilation of the law relating to merchant shipping throughout Solomon Islands in conformity with the purposes of this Act.

## ENDNOTES

### 1

#### 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 |
| lt = long title       | st = short title              |
| LN = Legal Notice     | sub = substituted             |
| nc = not commenced    |                               |

### 2

#### LIST OF LEGISLATION

##### ***Shipping Act 1998 (No. 5 of 1998)***

|             |                  |
|-------------|------------------|
| Assent date | 3 September 1998 |
| Gazetted    | 13 October 1998  |
| Commenced   | 1 December 1998  |

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

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

### 3

#### LIST OF AMENDMENTS

|      |                           |
|------|---------------------------|
| s 4  | amd by Act No. 14 of 2009 |
| s 5  | amd by Act No. 14 of 2009 |
| s 21 | amd by Act No. 14 of 2009 |
| s 24 | amd by Act No. 14 of 2009 |
| s 25 | amd by Act No. 14 of 2009 |
| s 26 | amd by Act No. 14 of 2009 |
| s 29 | amd by Act No. 14 of 2009 |
| s 30 | amd by Act No. 14 of 2009 |
| s 41 | amd by Act No. 14 of 2009 |
| s 42 | amd by Act No. 14 of 2009 |
| s 56 | amd by Act No. 14 of 2009 |
| s 57 | amd by Act No. 14 of 2009 |
| s 58 | amd by Act No. 14 of 2009 |
| s 60 | amd by Act No. 14 of 2009 |
| s 61 | amd by Act No. 14 of 2009 |
| s 62 | amd by Act No. 14 of 2009 |
| s 65 | amd by Act No. 14 of 2009 |

|       |                           |
|-------|---------------------------|
| s 66  | amd by Act No. 14 of 2009 |
| s 67  | amd by Act No. 14 of 2009 |
| s 68  | amd by Act No. 14 of 2009 |
| s 69  | amd by Act No. 14 of 2009 |
| s 70  | amd by Act No. 14 of 2009 |
| s 71  | amd by Act No. 14 of 2009 |
| s 72  | amd by Act No. 14 of 2009 |
| s 73  | amd by Act No. 14 of 2009 |
| s 75  | amd by Act No. 14 of 2009 |
| s 76  | amd by Act No. 14 of 2009 |
| s 78  | amd by Act No. 14 of 2009 |
| s 79  | amd by Act No. 14 of 2009 |
| s 80  | amd by Act No. 14 of 2009 |
| s 81  | amd by Act No. 14 of 2009 |
| s 83  | amd by Act No. 14 of 2009 |
| s 85  | amd by Act No. 14 of 2009 |
| s 89  | amd by Act No. 14 of 2009 |
| s 91  | 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 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 106 | amd by Act No. 14 of 2009 |
| s 107 | amd by Act No. 14 of 2009 |
| s 114 | amd by Act No. 14 of 2009 |
| s 115 | amd by Act No. 14 of 2009 |
| s 117 | amd by Act No. 14 of 2009 |
| s 119 | amd by Act No. 14 of 2009 |
| s 122 | amd by Act No. 14 of 2009 |
| s 125 | amd by Act No. 14 of 2009 |
| s 129 | amd by Act No. 14 of 2009 |
| s 130 | amd by Act No. 14 of 2009 |
| s 131 | amd by Act No. 14 of 2009 |
| s 132 | amd by Act No. 14 of 2009 |
| s 133 | amd by Act No. 14 of 2009 |
| s 137 | amd by Act No. 14 of 2009 |
| s 138 | amd by Act No. 14 of 2009 |
| s 139 | amd by Act No. 14 of 2009 |
| s 140 | amd by Act No. 14 of 2009 |
| s 145 | amd by Act No. 14 of 2009 |
| s 146 | amd by Act No. 14 of 2009 |
| s 148 | amd by Act No. 14 of 2009 |
| s 149 | amd by Act No. 14 of 2009 |
| s 154 | amd by Act No. 14 of 2009 |
| s 155 | amd by Act No. 14 of 2009 |
| s 156 | amd by Act No. 14 of 2009 |
| s 157 | amd by Act No. 14 of 2009 |

|       |                           |
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| s 158 | amd by Act No. 14 of 2009 |
| s 162 | amd by Act No. 14 of 2009 |
| s 166 | amd by Act No. 14 of 2009 |
| s 170 | amd by Act No. 14 of 2009 |
| s 174 | amd by Act No. 14 of 2009 |
| s 175 | amd by Act No. 14 of 2009 |
| s 178 | amd by Act No. 14 of 2009 |
| s 181 | amd by Act No. 14 of 2009 |
| s 191 | amd by Act No. 14 of 2009 |
| s 201 | amd by Act No. 14 of 2009 |
| s 211 | amd by Act No. 14 of 2009 |
| s 212 | amd by Act No. 14 of 2009 |
| s 214 | amd by Act No. 14 of 2009 |
| s 219 | amd by Act No. 14 of 2009 |
| s 220 | amd by Act No. 14 of 2009 |