

NORTHERN TERRITORY OF AUSTRALIA

MARINE ACT

As in force at 1 May 2016

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 May 2016

MARINE ACT

An Act to regulate shipping within the Territory and to provide for the application to the Territory of the uniform shipping laws code and for related matters

Part 1 Preliminary matters

1 Short title

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

2 Commencement

The several sections of this Act shall come into operation on such dates as are respectively fixed by the Administrator by notice in the *Gazette*.

3 Repeal

- (1) The Acts of South Australia listed in Part I of Schedule 1 shall, to the extent therein indicated, cease to apply as laws of the Territory.
- (2) The Ordinances listed in Part II of Schedule 1 are repealed to the extent therein indicated.

4 Savings and transitional

- (1) Those sections of the Marine Board and Navigation Act, 1881 of the State of South Australia which continue to apply to the Territory are amended in their application to the Territory, as set out in Schedule 2.
- (2) Notwithstanding anything in this Act, a person who, immediately before the date of commencement of Division 2 of Part 4, was the owner of a fishing vessel shall be entitled to use or operate that fishing vessel without obtaining a certificate of survey in respect of that vessel:
 - (a) for the period of 12 months beginning on that date; and

- (b) if before the expiration of that period the person applies for a certificate of survey under this Act in respect of that vessel, until the certificate of survey is issued, or finally refused, or the application is withdrawn.

5 Act to bind Crown

This Act binds the Crown in right of the Territory.

6 Application

Unless the contrary intention appears, this Act does not apply to or in relation to a vessel belonging to an arm of a Defence Force referred to in Division 1 of Part III of the *Defence Act 1903* (Cth) or the military, naval or air force of any other country.

7 Interpretation

- (1) In this Act:

advisory committee means an advisory committee established under Part 2, Division 3.

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

appointed pilotage services provider, see section 181A.

certificate means any of the following:

- (a) a certificate of operation issued under section 48 of the Marine Safety National Law;
- (b) a certificate of survey;
- (c) a certificate of competency;
- (d) a certificate recognised under section 73 of the Marine Safety National Law.

certificate of competency means a certificate of competency issued under section 60 of the Marine Safety National Law.

certificate of survey means a certificate of survey issued under section 38 of the Marine Safety National Law and, in the case of a vessel that is being towed, includes a towage permit issued under the Regulations.

crew, in relation to a vessel, means those persons employed on board and in the business of a vessel, other than:

- (a) a person temporarily employed on board the vessel while the vessel is at a port; or
- (b) a pilot; or
- (c) in the case of a fishing vessel, a person solely engaged in catching or processing fish.

dangerous goods means goods listed as dangerous goods in the International Maritime Dangerous Goods Code, published by the International Maritime Organisation, as amended from time to time.

designated port, see section 3 of the *Ports Management Act*.

Director means the Chief Executive Officer, as defined in the *Public Sector Employment and Management Act*, of the Agency as defined in that Act primarily responsible under the Minister for the administration of this Act.

domestic commercial vessel, see section 7 of the Marine Safety National Law.

fish includes turtles, dugong, crustacea, molluscs and any other living resources of the sea or the seabed.

fishing operations means:

- (a) taking, catching or capturing fish for trading or manufacturing purposes; or
- (b) processing (including on land) or carrying fish that are taken, caught or captured.

fishing vessel means a vessel that is used wholly or principally for fishing operations and includes:

- (a) a vessel that is used:
 - (i) to provide food, fuel and other supplies to persons who are engaged in fishing operations; or
 - (ii) to transport crew and other persons who are engaged in fishing operations; and
- (b) a vessel that is in the course of construction and is intended to be used wholly or principally for fishing operations.

hire-and-drive vessel means a vessel which is let for hire or reward or for any other consideration whatsoever, including vessels provided in conjunction with holiday establishments or hotels for the use of guests or tenants, and which the hirer uses solely for pleasure.

land includes land covered by water.

marine incident means any of the following:

- (a) the death of a person associated with the operation or navigation of a vessel;
- (b) an injury to a person associated with the operation or navigation of a vessel that requires or results in treatment by a medical practitioner;
- (c) the loss or presumed loss of a vessel;
- (d) a collision of a vessel with another vessel;
- (e) a collision by a vessel with an object;
- (f) the grounding, sinking, flooding or capsizing of a vessel;
- (g) a fire on board a vessel;
- (h) a loss of stability of a vessel that affects the safety of the vessel;
- (i) the structural failure of a vessel;
- (j) a situation in which vessels pass each other, or a vessel passes another vessel, a person or an object, in such proximity that a reasonable person would conclude that in all the circumstances there was a risk of an imminent collision;
- (k) an event that results in, or could have resulted in:
 - (i) the death of, or an injury of a kind mentioned in paragraph (b) to, a person on board a vessel; or
 - (ii) the loss of a person from a vessel; or
 - (iii) a vessel becoming disabled and requiring assistance;
- (l) the fouling or damaging by a vessel of:
 - (i) any pipeline or submarine cable; or

(ii) an aid to navigation as defined in section 14(1) of the *Navigation Act 2012* (Cth);

(m) a prescribed incident involving a vessel.

Marine Safety National Law means the *Marine Safety (Domestic Commercial Vessel) National Law* (Cth) (being provisions applying as a law of the Commonwealth because of section 4 of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (Cth)).

master, in relation to a vessel, means the person having lawful command or charge of the vessel, but does not include a pilot.

Northern Territory waters means:

- (a) the coastal waters of the Territory, within the meaning of the *Coastal Waters (Northern Territory Powers) Act 1980* (Cth); and
- (b) any other waters that are within the Territory (whether tidal or non-tidal, saltwater or fresh, permanent or temporary or natural or artificial).

off-shore industry mobile unit means:

- (a) a vessel that is used or intended to be used wholly or primarily in an operation or activity associated with or incidental to, exploring or exploiting the natural resources of:
 - (i) the continental shelf of Australia; or
 - (ii) the seabed of the Australian coastal sea; or
 - (iii) the subsoil of that seabed;by drilling the seabed or its subsoil with equipment on or forming part of the vessel or by obtaining substantial quantities of material from the seabed or its subsoil with such equipment;
- (b) a structure (not being a vessel) that:
 - (i) is able to float or be floated; and
 - (ii) is able to move or be moved as an entity from one place to another; and

(iii) is used or intended for use wholly or primarily in, or in an operation or activity associated with or incidental to, exploring or exploiting the natural resources of:

(A) the continental shelf of Australia; or

(B) the seabed of the Australian coastal sea; or

(C) the subsoil of that seabed;

by drilling the seabed or its subsoil with equipment on or forming part of the structure or by obtaining substantial quantities of material from the seabed or its subsoil with such equipment; or

(c) a barge or like vessel fitted with living quarters for more than 12 persons and used or intended for use wholly or primarily in connection with the construction, maintenance or repair of off-shore industry fixed structures.

off-shore industry vessel means:

(a) a vessel (not being an off-shore industry mobile unit) that is used or intended to be used wholly or primarily in, or in an operation or activity associated with or incidental to, exploring or exploiting the natural resources of:

(i) the continental shelf of Australia; or

(ii) the seabed of the Australian coastal sea; or

(iii) the subsoil of that seabed; or

(b) any other vessel (not being an off-shore industry mobile unit, or a vessel, or a vessel included in a class of vessels, declared by the Minister, by instrument in writing, to be a vessel or a class of vessels, as the case requires, to which this paragraph does not apply) at any time when it is being so used.

passenger means a person carried on board a vessel with the knowledge or consent of the owner or the master of the vessel but does not include:

(a) a person engaged in any capacity on board the vessel in the business of the vessel; or

(b) a child under the age of 12 months.

pleasure craft means a vessel that is:

- (a) exclusively used for pleasure; and
- (b) not used for hire or reward or any commercial purpose;

but does not include a vessel that is provided for the transport or entertainment of lodgers at an institution, hotel, private hotel, boarding-house, lodging-house, guest-house or other establishment.

Port of Darwin means the area of water and land constituting the Port of Darwin comprised within the boundaries declared under section 7 of the *Ports Management Act*.

recreational vessel means:

- (a) a pleasure craft; or
- (b) a hire-and-drive vessel used solely for pleasure.

regulated Australian vessel, see section 6 of the *Navigation Act 2012* (Cth).

seaman, in relation to a vessel, means a person who is a member of the crew.

ship includes every description of vessel used in navigation not propelled by oars.

shipping inspector means a shipping inspector appointed under section 8.

Tribunal means the Civil and Administrative Tribunal.

Uniform Shipping Laws Code, see section 6 of the Marine Safety National Law.

unsafe ship, for Part 4, Division 4, see section 96.

vessel, see section 8 of the Marine Safety National Law.

- (2) A reference in this Act to a class of vessels is a reference to a class of vessels so classified by the Regulations.
- (3) For the purposes of this Act, a vessel which has been got under way for the purpose of:
 - (a) transporting by water goods or passengers for fee or reward or carrying out a commercial marine operation; or

- (b) going to sea or plying or running; or
- (c) proceeding on a voyage; or
- (d) if the vessel is an off-shore industry vessel – undertaking off-shore operations;

is a vessel which has been taken or sent to sea or gone or proceeded to sea or is proceeding on a voyage.

- (4) For the purposes of this Act, a vessel is proceeding on a voyage from the time it is got under way for the purpose of proceeding on the voyage until the time it is got under way for the purpose of proceeding on another voyage.
- (5) For the purposes of this Act, the length of a vessel is to be measured as far as is practicable in accordance with the guidance for measuring contained in the Uniform Shipping Laws Code.
- (6) Unless the contrary intention appears, a reference in this Act to the owner of a vessel is, in the case of a vessel that is operated or managed by a person other than the owner, to be read as including a reference to the operator or manager of the vessel.
- (7) For the purposes of this Act, the gross tonnage of a vessel is to be determined in accordance with the Tonnage Measurement Convention as defined in the Navigation Act.

7A Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 7A

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part 2 Administration

Division 1 Appointment of shipping inspectors etc.

8 Shipping inspectors

- (1) The Minister may, by instrument in writing, appoint a person to be a shipping inspector for the purposes of this Act.

- (2) The Director may, by instrument in writing, require a shipping inspector to report to the Director:
- (a) upon the nature or cause of an accident or damage to a vessel; or
 - (b) as to whether or not this Act or a regulation under this Act has been complied with; or
 - (c) as to whether or not a vessel is fit to proceed to sea without serious danger to human life.
- (3) Where a shipping inspector is required to report under subsection (2) or the shipping inspector has reasonable cause to believe that a vessel is being used in the commission of an offence against this Act, the shipping inspector may:
- (a) go on board a vessel, including a vessel under construction, and inspect the vessel or its equipment or any part thereof, any cargo or articles on board and any document carried in or on the vessel pursuant to this Act; and
 - (b) enter premises and make such examination and investigation and require the production of such books and documents as the shipping inspector considers necessary for the performance of his or her duty; and
 - (c) require the owner of a vessel or a seaman on a vessel to produce a document in the possession or control of that person relating to the crew; and
 - (d) require the master of a vessel to produce a list of all persons on board; and
 - (e) require the master of a vessel to muster the crew of the vessel; and
 - (f) require the master of a vessel to give an explanation of any matter concerning the vessel or its crew; and
 - (g) detain or delay a vessel in order to obtain any advice, information or evidence.
- (4) A shipping inspector must not exercise any power under subsection (3) so that the vessel is unreasonably detained or delayed.

- (5) The Director must issue to each shipping inspector an identification card containing:
 - (a) a photograph of the inspector and the signature of the inspector, verified by the signature of the Director; and
 - (b) any limitations in the instrument of appointment of the inspector.
- (6) Before a shipping inspector enters any premises, boards a vessel or makes a requirement of a person under subsection (3), the shipping inspector must produce his or her identification card to that person.

8A Police to have powers of shipping inspector

A police officer has the powers and functions of a shipping inspector under this Act.

Division 3 Advisory Committee

15 Advisory committees

The Minister may, by instrument in writing, establish such advisory committees, and with such names, as he thinks fit.

16 Members

The Minister may, by instrument in writing, appoint a person to be Chairman, Deputy Chairman or a member of an advisory committee for such period as is specified in the instrument.

17 Representation

- (1) The Minister shall, when appointing persons to be members of an advisory committee, as far as is practicable, include representatives of persons or organisations interested in the matter which is being referred to it under section 19.
- (2) The Minister may, when establishing, determining the powers and functions of, or appointing persons to, an advisory committee, take into account the requirements of:
 - (a) the Uniform Shipping Laws Code; and
 - (b) any International Convention requiring consultation with organizations of ship-owners or trade unions of seamen;

in relation to any matter referred to the committee.

18 Notice of appointments

The establishment of an advisory committee and the appointment of the Chairman, Deputy Chairman and members of that committee must be notified in the *Gazette*.

19 Functions of committees

- (1) An advisory committee must, in accordance with such directions, if any, of the Minister as are set out in the notice establishing the committee, investigate, consider, undertake or cause to be undertaken research and make recommendations to the Minister in respect of those matters relating to shipping as are referred to it by the Minister.
- (2) Except as may be prescribed by the Minister, the procedures of an advisory committee must be as determined by that committee.

Division 4 General

21 Delegations

The Minister or the Director may, by instrument in writing, delegate to a person any of his or her powers and functions under this Act, other than this power of delegation.

22 Protection

A person exercising a power or performing a function or duty conferred or imposed on the person by or under an Act, including this Act, or an instrument of a legislative or administrative character does not render the Territory or the person personally liable in respect of any matter or thing done, or contract entered into by the person if the matter or thing was done, or the contract was entered into, in good faith for the purpose of executing that Act or the instrument.

Part 4 Safety

Division 4 Unsafe ships

95 Application of Division

This Division applies in relation to every recreational vessel in Northern Territory waters.

96 Unsafe ships

For this Division, a vessel that is, by reason of:

- (a) the defective condition of a part of the vessel; or
- (b) the improper loading of the vessel; or
- (c) the undermanning of the vessel; or
- (d) for any other reason;

unfit to proceed on its proposed voyage without danger to human life, is an ***unsafe ship***.

97 Unsafe ships not to go to sea

(1) A person commits an offence if the person:

- (a) sends a vessel to sea; and
- (b) knows that the vessel is an unsafe ship.

Maximum penalty: 1 250 penalty units.

(2) The master of a vessel commits an offence if the master:

- (a) takes the vessel to sea; and
- (b) knows that the vessel is an unsafe ship.

Maximum penalty: 1 250 penalty units.

(3) It is a defence to a prosecution for an offence against subsection (1) or (2) that:

- (a) the person charged used all reasonable means to ensure that the vessel was not an unsafe ship; or
- (b) the sending or taking of the vessel to sea was, in the circumstances, reasonable and justified.

(4) The fact that an unsafe ship has been detained under section 186 is not a bar to proceedings under this section.

(5) In this section, **sea** includes Northern Territory waters.

Division 5 Safety practices

98 Application of Division

This Division applies in relation to every domestic commercial vessel in Northern Territory waters.

102 Directions in relation to hazardous goods

- (1) The Director may give such directions as the Director thinks fit to the master of a vessel for or with respect to the loading, or the carriage in or the removal from a vessel of goods which, in the opinion of the Director, would endanger the vessel or be a danger to human life.
- (2) The power under subsection (1) to give directions includes the power to prohibit the loading of or carriage of hazardous goods in a vessel.
- (3) The master of a vessel commits an offence if:
 - (a) a direction is given to the master under subsection (1); and
 - (b) the master engages in conduct; and
 - (c) the conduct contravenes the direction.

Maximum penalty: 500 penalty units.

- (4) This section does not apply to a vessel within a designated port.

104 Dangerous goods

- (1) The owner or the master of a vessel may:
 - (a) refuse to take on board any package which he or she suspects may contain dangerous goods; and
 - (b) open and inspect any package which he or she suspects may contain dangerous goods; and
 - (c) discharge, destroy, render innocuous or otherwise deal with any goods which:
 - (i) in the owner's or the master's opinion are dangerous goods; and
 - (ii) have been shipped on board the vessel without the owner's or the master's knowledge.

- (2) The owner or the master of a vessel is not under any liability, civil or criminal, in respect of an action taken under subsection (1).

105 Powers of Director regarding dangerous goods

- (1) The Director may, if the Director is of the opinion that dangerous goods are being loaded onto, unloaded from or stowed in a vessel in contravention of this Act or the Regulations, give such directions, not inconsistent with this Act and the Regulations, as the Director thinks fit to the master of the vessel in relation to the loading, unloading or stowing of those goods.

- (1A) The master of a vessel commits an offence if:

- (a) a direction is given to the master under subsection (1); and
(b) the master contravenes the direction.

Maximum penalty: 100 penalty units.

- (1B) An offence against subsection (1A) is an offence of strict liability.

- (2) It is a defence to a prosecution for an offence against subsection (1A) if the defendant has a reasonable excuse.
(3) This section does not apply to a vessel within a designated port.

106 Packing, marking and carriage of dangerous goods

- (1) The Minister may, by *Gazette* notice, make a determination in relation to:
(a) the method of packing and stowing dangerous goods in a vessel; or
(b) the marking of dangerous goods in a vessel; or
(c) the carriage of dangerous goods in a vessel.

- (2) The determination may include additional requirements where the vessel is one in which passengers are being, or are going to be, carried.

- (3) A person must not contravene a determination under subsection (1).

Maximum penalty: 100 penalty units.

- (3A) An offence against subsection (3) is an offence of strict liability.

- (4) It is a defence to a prosecution for an offence against subsection (3) if the defendant has a reasonable excuse.
- (5) Without limiting subsection (4), it is a reasonable excuse if the goods are packed, stowed, marked or carried (as the case requires) in accordance with a requirement made under the *Ports Management Act* or in accordance with Part 41 of the Marine Orders made under the *Navigation Act 2012* (Cth).
- (6) This section does not apply to a vessel within a designated port.

107 Forfeiture of dangerous goods

- (1) This section applies if a person is found guilty by a court of an offence against section 106.
- (2) The court may order the dangerous goods in respect of which the offence was committed:
 - (a) to be forfeited to the Territory; or
 - (b) to be destroyed.
- (3) The court may order the forfeiture or destruction of the dangerous goods despite:
 - (a) them not belonging to the person found guilty; or
 - (b) their owner having no knowledge of the proceeding.
- (4) The Competent Authority may recover from the person found guilty, as a debt due and payable to the Territory, the costs incurred by it in relation to the forfeiture or destruction of the dangerous goods.
- (5) This section does not apply to a vessel within a designated port.
- (6) In this section:

Competent Authority, see section 3 of the *Dangerous Goods Act*.

Division 6 Collisions, distress signals etc.

108 Application of Division

This Division applies to every recreational vessel in Northern Territory Waters.

109 Collisions

- (1) The master of a vessel (**vessel A**) commits an offence if:
- (a) vessel A is involved in a collision with another vessel (**vessel B**); and
 - (b) the master of vessel A knows that vessel A was involved in a collision with vessel B; and
 - (c) the master fails to do all of the following:
 - (i) render to vessel B all practical assistance to save vessel B, its passengers and its crew from any danger caused by the collision;
 - (ii) stay by vessel B until he or she has ascertained that there is no need for further assistance;
 - (iii) if vessel A is a recreational vessel – give to the master of vessel B the name and address of the master or owner of vessel A;
 - (iv) if vessel A is not a recreational vessel – give the following information to the master of vessel B:
 - (A) the name of vessel A;
 - (B) vessel A's port of registry or home port;
 - (C) the port from which vessel A has come and to which it is bound.

Maximum penalty: 1 250 penalty units.

- (2) Strict liability applies to subsection (1)(a) and (c).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse for failing to do the things mentioned in subsection (1)(c)(ii), (iii) or (iv).

110 Collision Regulations

- (1) A master or other person concerned with the navigation, management or operation of a vessel in Northern Territory waters must not contravene the Regulations made in respect of the prevention of collisions.

Maximum penalty: 100 penalty units.

- (2) The owner of a vessel commits an offence if:
- (a) the vessel is operated in Northern Territory waters; and
 - (b) the vessel is not provided with appropriate means of exhibiting the lights, shapes and signals prescribed for use in or in connection with the prevention of collisions.

Maximum penalty: 100 penalty units.

- (3) The master of a vessel commits an offence if:
- (a) the master operates the vessel in Northern Territory waters; and
 - (b) the vessel is not provided with appropriate means of exhibiting the lights, shapes and signals prescribed for use in or in connection with the prevention of collisions.

Maximum penalty: 100 penalty units.

- (4) An offence against subsection (1), (2) or (3) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against subsection (1), (2) or (3) if the defendant has a reasonable excuse.

112 False distress signals

- (1) A person commits an offence if the person without reasonable cause:
- (a) sets off, or causes to be set off, a flare or EPIRB (Emergency Position Indicating Radio Beacon); or
 - (b) displays, or causes to be displayed, lights, sheets or signs that indicate distress; or
 - (c) makes, or causes to be made, any other distress signal.

Maximum penalty: 50 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) A person commits an offence if:
- (a) the person makes, or causes to be made, a signal; and
 - (b) the signal may be confused with a prescribed distress signal.

Maximum penalty: 50 penalty units.

115 Navigation hazards

- (1) For the purposes of this section:
 - (a) **tropical storm** includes cyclone; and
 - (b) a vessel has met with a tropical storm if the master of the vessel has reason to believe there is a tropical storm in the immediate vicinity.
- (2) The master of a vessel must, forthwith upon meeting on or near his or her course with a dangerous derelict, tropical storm or any other direct danger to navigation, send all relevant information by such means of communication as are at his or her disposal, to all other vessels in the vicinity and to the prescribed persons.

Maximum penalty: 50 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against subsection (2) if the defendant has a reasonable excuse.

115A Duty not to obstruct

The owner or the master of a vessel commits an offence if:

- (a) the owner or master operates, moors, anchors or secures the vessel, or allows the vessel to be operated, moored, anchored or secured; and
- (b) the manner in which the vessel is operated, moored, anchored or secured is likely to:
 - (i) obstruct or impede the safe passage or navigation of another vessel; or
 - (ii) create a hazard to the safe passage, navigation or operation of another vessel.

Maximum penalty: 100 penalty units or imprisonment for 1 year.

115B Person not to obstruct or endanger safe passage

A person commits an offence if:

- (a) the person engages in conduct, including the unlawful use of nets, lines, pots or other gear; and

- (c) recover from the owner any or all expenses incurred in the lighting, buoying, raising, removal, or destruction of the vessel wrecked.
- (1A) The owner of a vessel to whom a direction is given under subsection (1) commits an offence if the owner fails to comply with the direction within 14 days after it is given.
- Maximum penalty: 100 penalty units.
- (1B) An offence against subsection (1A) is an offence of strict liability.
- (1C) It is a defence to a prosecution for an offence against subsection (1A) if the defendant has a reasonable excuse.
- (2) Where the Director has dealt with a vessel wrecked in accordance with subsection (1)(b), the Director may sell, in such manner as the Director thinks fit, any vessel wrecked or any part of it so raised or removed and any other property recovered in the raising or removal.
- (3) The Director must, out of the proceeds of any sale under subsection (2), after the deduction of expenses incurred, pay the net proceeds of the sale to the owner or person entitled to them.
- (4) The powers given to the Director under this section for the removal of a vessel wrecked are in addition to and not in derogation of any other powers given in respect of a declared port for a like object under any other law.
- (5) This section does not apply to a vessel within a designated port.

Division 7 Marine incidents

116 Application of Division

This Division applies in relation to every vessel within Northern Territory waters or whose next port of call is at a port or place in the Territory.

117 Report of marine incidents

- (1) The master of a recreational vessel that is involved in, or causes, a marine incident commits an offence if he or she fails to report the incident to the Director as soon as practicable after it occurs and, in any event, not later than 4 pm on the next business day.

Maximum penalty: 100 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

118 Inquiries and investigations into certain marine incidents

- (1) The Director may, by notice in writing, appoint a person to hold either a preliminary inquiry or a formal investigation into a marine incident in relation to a vessel that was, at the time that the marine incident occurred, in Northern Territory waters.
- (2) Where a person is appointed to hold a preliminary inquiry, the person must, upon the conclusion of that inquiry, make a report to the Director on the circumstances relating to that marine incident and such report must state whether or not it is the person's opinion that a formal investigation should be held.
- (4) A person must not be appointed to hold a formal investigation under subsection (1) unless the person is a lawyer or holds judicial office.

119 Appointment of persons to assist investigation

A person holding a formal investigation into a marine incident in relation to a vessel may, by written notice, appoint such number of persons as he or she thinks fit to assist with the conduct of the investigation.

120 Conduct of inquiries and investigations

- (1) A person appointed to hold a preliminary inquiry or formal investigation into a marine incident in relation to a vessel may:
- (a) go on board a vessel involved in the marine incident ; and
 - (b) require a person to answer questions relating to the marine incident ; and
 - (c) require the production of any document or certificate relating to a matter relating to the preliminary inquiry or formal investigation.
- (2) A person commits an offence if:
- (a) the person is required to answer a question under subsection (1)(b); and
 - (b) in response to the requirement the person gives information; and

- (4) Unless otherwise prescribed, the procedure at a formal investigation must be as determined by the person holding the investigation but the investigation shall be conducted in such a manner that a person against whom allegations are made must have the opportunity of rebutting those allegations.
- (5) A person holding a formal investigation into a marine incident in relation to a vessel must give the person's decision thereon in open court and make a full report to the Minister including such observations as the person thinks fit relating to the persons or circumstances contributing to the marine incident .
- (6) In this section:

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

121 Costs

- (1) A person conducting a formal investigation may make such order as the person thinks fit in relation to the costs of a party to the investigation.
- (2) Costs ordered under subsection (1) to be paid to a person are a debt due to that person by the person so ordered to pay them.
- (3) The Minister may pay any costs incurred by a person in relation to a formal investigation.

122 Formal investigations

- (1) Where, as a result of a formal investigation into a marine incident in relation to a vessel, the person conducting the formal investigation is satisfied that a person holding a certificate of competency for the vessel:
 - (a) is unfit to discharge his or her duties; or
 - (b) has been seriously negligent in the discharge of his or her duties; or
 - (c) has failed to give assistance or information required by this Act;

the person conducting the formal investigation must advise the National Regulator that a person holding a certificate of competency for a vessel involved in the marine incident is not fit and proper to hold that certificate

- (2) The person must not give the advice to the National Regulator unless:
- (b) a copy of the case upon which the formal investigation has been ordered has been furnished before the commencement of the formal investigation to the person holding the certificate; and
 - (c) the person conducting the formal investigation publishes his or her reasons for so ordering.

- (3) In this section:

National Regulator, see section 9 of the Marine Safety National Law.

124 Rehearing

- (1) The Minister may, in any case where a formal investigation has been held under this Part, order the case to be reheard, either generally or as to a part thereof, and must do so:
- (a) if new and important evidence is discovered which could not be produced at the formal investigation; or
 - (b) if for any other reason there is, in the Minister's opinion, reason for suspecting that a miscarriage of justice has occurred.
- (2) A rehearing under this section may be either by the person appointed to hold the formal investigation in the first instance, or by such other person qualified under section 118(4) as is appointed by the Minister.
- (3) Any rehearing under this section is taken to be a formal investigation under this Part, and the provisions of this Part applicable to formal investigations apply.

125 Appeals

- (1) A person who has been named in a report of a formal investigation or a rehearing under section 124 as a person whose wrongful act caused or contributed to a marine incident in relation to a vessel, or a person who has censured, may appeal to the Supreme Court and the Supreme Court may make such order as the justice of the case requires.

- (2) An appeal under subsection (1):
- (a) must be made within 28 days after the publication of the report of the person holding the formal investigation or the rehearing, as the case may be; and
 - (b) in the case of a formal investigation, must be stayed upon the Minister ordering a formal investigation to be reheard under section 124, for the period of such rehearing.

Division 8 Passengers

126 Application of Division

This Division applies in relation to every vessel in Northern Territory waters navigable by sea-going vessels.

127 Offences by passengers

- (1) A passenger or other person on board a vessel who is not a seaman belonging to the vessel commits an offence if he or she:
- (a) engages in conduct; and
 - (b) the conduct results in the obstruction of any part of the machinery, equipment or fittings of the vessel.

Maximum penalty: 100 penalty units.

- (2) The master of a vessel may refuse to receive on board any person who, by reason of drunkenness or for any other cause, is in such a state, or conducts himself or herself in such a manner, as to cause annoyance or injury to other persons on board.

128 Directions as to passengers

- (1) The Director may, by notice in writing served on the master of a vessel, give such directions as the Director thinks fit for or with respect to the manner in which the vessel is equipped or manned or the carriage of cargo, livestock or ballast or the manner in which it is provided with passenger or hospital accommodation or sanitary, health or medical services or food, water or stores, if the Director is of the opinion that it is necessary to do so to prevent danger to the safety or health of the passengers on the vessel.
- (2) The master of a vessel must not contravene a direction in a notice served under subsection (1).

Maximum penalty: 100 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against subsection (2) if the defendant has a reasonable excuse.

Part 5 Licensing of certain commercial operations

129 Application of Part

This Part does not apply to or in relation to a commercial operation in which a vessel belonging to the Commonwealth or an instrumentality of the Commonwealth, a vessel used for the purposes of a commercial fishing licence within the meaning of the *Fisheries Act* or a permit granted under that Act or a hire-and-drive vessel is operated.

130 Interpretation

In this Part:

commercial operation means any voyage undertaken by a vessel for fee or reward or provided in relation to the provision of another service or goods for fee or reward.

declared service means a commercial operation declared under section 131 to be an operation for which a licence is required.

interim licence means an interim licence granted under section 133.

licence means a licence for the purposes of this Part and includes an interim licence.

licensee means the holder of a licence.

operator, in relation to a commercial operation, includes a person, partnership, co-operative or company that has the whole responsibility for the management of the commercial operation and control of the vessels engaged in the operation.

131 Declaration of declared services

- (1) The Minister may, for the purposes of ensuring the orderly conduct of a particular industry or area of water, the safety of the public, the interests of tourism generally or for purposes otherwise in the public interest, by *Gazette* notice, declare:
 - (a) specified commercial operations; or

(b) all commercial operations within a specified area;

to be declared services in respect of which a licence is required for the purposes of this Part.

(2) A declaration under subsection (1) comes into operation:

(a) 30 days after the date on which it is published in the *Gazette*;
or

(b) where a later date is specified in the declaration, on that date.

(3) As soon as practicable after making a declaration under subsection (1), the Director must:

(a) publish a notice in a newspaper circulating in the Territory;
and

(b) give notice in writing to persons who are, to his or her knowledge, likely to be affected by the declaration;

of the declaration and of its effect.

132 Application for licence

(1) An operator, or a person who intends to establish a commercial operation that is a declared service, may apply to the Director for the grant or renewal of a licence in respect of a declared service.

(2) An application must be in accordance with the form approved by the Director accompanied by the prescribed fee.

133 Interim licences

(1) Where:

(a) an application has been made in respect of commercial operations in existence before the relevant declaration was published in the *Gazette* under section 131; and

(b) the Director is of the opinion that a final determination of the application cannot be made in as brief a period as is necessary to avoid unreasonable detriment to those commercial operations;

the Director may grant an interim licence, subject to the conditions specified in section 136 and such other conditions as he or she thinks fit, before finally determining the application in accordance with this Part.

- (2) The grant of an interim licence does not give rise to a legitimate expectation by the applicant that a licence must be granted to him or her.
- (3) Where an application in respect of which an interim licence was granted is determined by the Director, the interim licence is taken to have been revoked from the date of service of the final determination of the application on the applicant.

134 Grant of licence

- (1) The Director may grant or renew, or refuse to grant or renew, a licence.
- (2) The matters that the Director must take into consideration before granting or renewing a licence include:
 - (a) the necessity for or desirability of the declared service; and
 - (b) the public interest in relation to the declared service; and
 - (c) whether the applicant is a fit and proper person to be granted the licence sought; and
 - (d) such other matters as the Director thinks fit.
- (3) For the purposes of subsection (2), a person is not a fit and proper person if he or she:
 - (a) is bankrupt, has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, has compounded with the person's creditors or made an assignment of the person's remuneration for the benefit of his or her creditors; or
 - (b) has held a licence granted under this Part which has been cancelled on a ground specified in section 138(1)(a), (b), (d) or (e); or
 - (c) was a director within the meaning of the Corporations Act 2001 of a body corporate at the time when an offence was committed by that body corporate which led to the cancellation of a licence held by the body corporate; or
 - (d) has been convicted of a prescribed offence against this Act or any other Act; or
 - (e) is unable to demonstrate the capacity to meet standards of passenger and public safety to the Director's satisfaction; or
 - (f) otherwise engages in conduct that is improper.

- (4) The Director must not grant a licence to, or renew the licence of, a body corporate:
 - (a) if the body corporate is, by its constitution, prevented from carrying on the commercial operations in respect of which the licence application is made; and
 - (b) unless each of the directors of the body corporate, as an individual, would not be prevented by this Act from being granted a licence or having the licence renewed; and
 - (c) in respect of which a liquidator, receiver, receiver and manager or official manager have been appointed under the Corporations Act 2001, unless the Director is of the opinion that it would be inequitable not to grant or renew the licence.
- (5) Where the Director refuses to grant or renew a licence he or she must notify the applicant in writing of the refusal and specify the grounds for the refusal.

135 Director may require information or document

- (1) The Director may, by notice in writing given to an applicant for a licence or a licensee, require him or her to furnish to the Director, within the time specified in the notice, the information or document specified in the notice in relation to the declared service that is the subject of the application or licence.
- (2) A licensee must comply with a notice under subsection (1).

Maximum penalty: 50 penalty units.
- (3) An offence against subsection (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against subsection (2) if the defendant has a reasonable excuse.

136 Conditions of licence

- (1) It is a condition of a licence that the licensee must:
 - (a) comply with all laws applicable to the maintenance and operation of the vessel engaged in the declared service; and
 - (b) comply with all requirements by the Director to furnish information or prescribed records relating to the declared service; and
 - (c) comply with all directions by the Director relating to the use of boarding structures or landing areas.

- (2) The grant, renewal or variation of a licence may be subject to such conditions as the Director thinks fit, including, but not limited to, the condition that the declared service must be carried out:
- (a) at a specified place or on a specified route; and
 - (b) in accordance with a specified timetable; and
 - (c) in compliance with specified operating procedures.

137 Period of licence

A licence shall be in a form approved by the Director and is valid for the period, not exceeding 5 years, endorsed on the licence.

138 Cancellation, suspension or variation of licence

- (1) The Director may, by notice in writing given to a licensee, notify that the Director intends to cancel, suspend or vary a licence where the Director is satisfied that:
- (a) the licensee has contravened this Part; or
 - (b) information or a statement required in connection with an application for a licence or a renewal of a licence is materially false or misleading; or
 - (c) there has been a change of circumstances since the grant of the licence; or
 - (d) the licensee has contravened a condition of his or her licence; or
 - (e) the licensee has ceased to be a fit and proper person; or
 - (f) it is in the public interest to do so.
- (2) A notice under subsection (1) must specify:
- (a) particulars of the grounds for cancellation, suspension or variation of the licence; and
 - (b) the action that the Director intends to take; and
 - (c) where the Director intends to suspend or vary the licence, the terms and conditions of the proposed suspension or variation; and
 - (d) the time before which the licensee may show cause why the licence should not be cancelled, suspended or varied.

- (3) The Director may, after the expiration of the date by which the licensee may show cause under subsection (2) and after considering any submissions made by the licensee, cancel, suspend or vary the licence.

139 Inspection

- (1) Where the Director believes on reasonable grounds that a licensee has contravened the conditions of his or her licence, the Director may require the licensee to permit a shipping inspector to exercise the powers of a shipping inspector under section 8(3), to board a vessel or enter premises for the purposes of inspection or questioning of passengers.

- (3) A shipping inspector may, during an inspection under subsection (1), require the licensee to produce for inspection and reproduction such documents relating to the declared service as the shipping inspector or authorised person requires.

- (4) A licensee must comply with a requirement under subsection (1) or (3).

Maximum penalty: 100 penalty units.

- (5) An offence against subsection (4) is an offence of strict liability.

- (6) It is a defence to a prosecution for an offence against subsection (4) if the defendant has a reasonable excuse.

140 Offences relating to declared services

- (1) A person commits an offence if:

- (a) the person carries on a declared service; and
- (b) the person is not a licensee.

Maximum penalty: 400 penalty units.

- (2) A licensee commits an offence if the licensee contravenes a condition of the licence other than one mentioned in section 136(1)(a) or (b).

Maximum penalty: 100 penalty units.

- (3) The master of a vessel that is engaged in a declared service commits an offence if the master causes or permits the vessel to be used in a way that contravenes a condition of a licence held in respect of the declared service.

Maximum penalty: 100 penalty units.

- (4) An offence against subsection (2) or (3) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against subsection (2) or (3) if the defendant has a reasonable excuse.

141 Review of decisions of Director

- (1) Subject to this section, a person aggrieved by a decision of the Director (other than a decision of the Director made on a reconsideration under section 50(1)(c)(ii) of the *Northern Territory Civil and Administrative Tribunal Act*:
- (a) refusing an application for the grant or renewal of a licence; or
 - (b) determining or varying the conditions upon which a licence was granted, varied or renewed; or
 - (c) cancelling or suspending a licence; or
 - (d) requiring information or prescribed records to be furnished,
- may apply to the Tribunal for a review of the decision.
- (2) A person shall not apply for a review of a decision of the Director unless the person has, within 28 days after notice of the decision was given to the person, requested in writing the Director to reconsider the decision and the Director has not, within 14 days after receiving the request, varied the decision.
- (3) Notwithstanding subsection (2), if as a result of a request referred to in that subsection, the Director within 14 days after receiving the request, varies the decision, the person may apply for a review of the decision as so varied as if it were the original decision except that the person is not required to request the Director to reconsider the decision so varied.
- (4) Notwithstanding subsection (1)(c), a person may not apply for a review of a decision of the Director to suspend a licence unless the suspension is for a period of more than 7 days.

- (5) Subject to subsection (6), an application for a review of a decision of the Director must be filed with the Registrar of the Tribunal within 28 days after:
- (a) the day on which the Director gives notice of a variation of the decision as a result of a request made under subsection (2); or
 - (b) the expiry of the period of 14 days after the receipt of that request if the Director does not vary the decision within that period.
- (6) The Tribunal may extend the time allowed for making an application mentioned in subsection (5).

142 Effect of review proceeding on decisions

- (1) On the commencement of a proceeding to review a decision of the Director to vary a licence, the decision is of no effect unless and until it is confirmed by the Tribunal.
- (2) On the commencement of a proceeding to review a decision of the Director to refuse to renew a licence, the licence remains valid until:
- (a) a decision is made by the Tribunal under section 50 of the *Northern Territory Civil and Administrative Tribunal Act*; and
 - (b) if that decision is to send the matter back to the Director for reconsideration, until a decision is made on that reconsideration.
- (3) Subsection (2) has effect even if, but for that subsection, the licence would have expired because of section 137.

142A Service of notices

- (1) A notice for the purposes of this Part may be given to or served on a person by:
- (a) delivering it personally to the person; or
 - (b) leaving it at the person's usual or last known place of residence with another person, apparently resident at the place; or
 - (c) leaving it at the person's usual or last known place of business with another person, apparently in a position of authority at the place; or

- (d) posting it in a prepaid letter addressed to the person at the person's usual or last known place of residence or business.
- (2) Subsection (1) is in addition to and not in derogation of sections 109X and 601CX of the Corporations Act 2001.

142B Licence not transferable

A licence is not transferable by the licensee.

Part 6 Marine navigational aids

Division 1 Introductory matters

143 Interpretation

In this Part:

aid means:

- (a) a lighthouse, lightship, beacon or buoy; or
- (b) any other structure, marker, device or apparatus that is an aid to marine navigation, including a radio beacon or an electronic aid, but not including a device or apparatus used, or for use, on a vessel, not being a lightship.

owner, in relation to an aid, light or lamp, includes a person in possession or control of the aid, light or lamp.

144 Application of Part

This Part applies in relation to an aid which is:

- (a) not the property of or under the control of:
 - (i) the Commonwealth by virtue of the *Lighthouses Act 1911* (Cth); or
 - (ii) AMSA (the Australian Maritime Safety Authority established by the *Australian Maritime Safety Authority Act 1990*) under the *Navigation Act 2012* (Cth); and
- (b) within Northern Territory waters or on land within the Territory.

Division 2 Aids

144A Application of Division

Despite section 144, this Division does not apply in relation to an aid that is within a designated port or that may affect the safety or convenience of marine navigation within such a port.

145 Acquisition of aids

The Minister may, on behalf of the Territory, enter into an agreement with a person for the acquisition of an aid owned or operated by that person.

146 Compulsory acquisition of aids

- (1) Where, in the opinion of the Minister, it is necessary for the purposes of this Part to do so, the Minister may, on behalf of the Territory, compulsorily acquire an aid.
- (2) The *Lands Acquisition Act*, other than Part IV and sections 44 and 45 of that Act, applies to the acquisition of an aid under subsection (1) as though the aid were an interest in land.
- (3) For the purposes of subsection (2), a reference in the *Lands Acquisition Act* to:
 - (a) **land**, includes a reference to an aid; and
 - (b) **the Minister** is a reference to the Minister administering this Act.

147 Establishment of aids

- (1) The Director may establish, maintain, operate, alter or remove an aid.
- (2) The Director may, by instrument in writing, authorise a person to carry out on the Director's behalf any work necessary for the exercise of the Director's powers and the performance of the Director's functions under subsection (1).

148 Establishment of private aids

- (1) A person must not establish, maintain, operate, alter or remove an aid without the written approval of the Director.

Maximum penalty: 100 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

149 Control of aids and lights

- (1) In this section, **light** includes a fire, and a street light or other illuminating device.
- (2) The Director may, if in the Director's opinion it is desirable for the safety or convenience of marine navigation to do so, by notice in writing served on the owner of an aid, lamp or light, require the owner of the aid, lamp or light, as the case may be:
- (a) to remove it entirely or to some other position; or
 - (b) to modify it or to alter its character or mode of exhibition to the extent or in the manner specified in the notice; or
 - (c) to cease using it; or
 - (d) to use it only at the times and in the manner specified in the notice.
- (3) A person served with a notice under subsection (2) commits an offence if the person fails or refuses to comply with the requirement contained in the notice.

Maximum penalty: 100 penalty units.

- (3A) An offence against subsection (3) is an offence of strict liability.
- (3B) It is a defence to a prosecution for an offence against subsection (3) if the defendant has a reasonable excuse.
- (4) If:
- (a) a person fails to comply with a requirement contained in a notice under subsection (2); or
 - (b) a notice under subsection (2) cannot be served;

the Director may take possession of or control of the aid, lamp or light specified in the notice, and do anything which the person specified in the notice was required by the notice to do or which, in the opinion of the Director, must be done for the safety of marine navigation.

- (5) Any costs incurred in doing a thing under subsection (4) in relation to an aid, lamp or light is a debt due by the owner of the aid to the Territory.

150 Inspection of aids

A person authorised by the Director may, at any reasonable time, inspect an aid, lamp or light which, in the person's opinion, may affect the safety or convenience of marine navigation.

151 Entry upon land

Notwithstanding the *Aboriginal Land Act*, where for the purposes of erection, inspection or maintenance of an aid, lamp or light, it is necessary for the Director or a person authorised by the Director to do so, the Director or person may enter upon any land and transport goods through or over the land.

152 Mooring at aids

- (1) A person must not moor, make fast or attach a vessel to an aid.

Maximum penalty: 100 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

154 Offences in relation to aids

- (1) A person must not damage or destroy an aid.

Maximum penalty: 200 penalty units.

- (2) A person commits an offence if the person engages in conduct that:

(a) results in the view of an aid being obstructed in a manner that lessens its efficiency; or

(b) hinders the effective use of the aid.

Maximum penalty: 200 penalty units.

- (3) A person must not be in or on:

(a) an aid; or

(b) an enclosed area of land on which an aid is situated.

Maximum penalty: 100 penalty units.

- (4) An offence against subsection (1), (2) or (3) is an offence of strict liability.

- (5) It is a defence to a prosecution for an offence against subsection (1), (2) or (3) if the defendant has a reasonable excuse.

155 Notification of damage

- (1) A person commits an offence if:
- (a) an aid is damaged, destroyed or interfered with; and
 - (b) the person fails to report the damage, destruction or interference immediately to the Director.

Maximum penalty: 100 penalty units.

- (2) Strict liability applies to subsection (1)(b).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

156 Costs of rectification

Any costs or expenses incurred by the Territory in replacing, repairing or reinstating an aid consequent upon:

- (a) the destruction of the aid; or
- (b) damage caused to the aid; or
- (c) interference with the aid;

in contravention of section 154 is a debt due to the Territory from:

- (d) the person who; or
- (e) the master and the owner jointly of the vessel which;
caused the destruction, damage or interference.

157 Immunity from certain proceedings

- (1) No legal proceedings are to be instituted against the Territory in respect of an act or omission that is done or made under this Part unless the act or omission arises from wilful misconduct.
- (2) In this section:

Territory includes the Minister and a public sector employee.

Part 8 **Miscellaneous matters****186** **Detention of vessel for failure to comply with Part 4**

- (1) Where:
- (a) a vessel is at a port or place in the Territory, and the Director is of the opinion that there has been:
 - (i) a material failure by the owner or the master of the vessel to comply with the requirements of Part 4; and
 - (ii) the vessel, in the opinion of the Director, is likely to go to sea without compliance; or
 - (b) the Director has reason to believe that a contravention of section 97 has occurred or is likely to occur;

the Director may detain the vessel.

- (2) For the purposes of detaining a vessel under subsection (1), the Director may require any person to do or refrain from doing any specified act.
- (3) A person required under subsection (2) to do or refrain from doing a specified act must not contravene the requirement.

Maximum penalty: 1250 penalty units.

- (4) A seaman who does or refrains from doing an act in compliance with a requirement under subsection (2) is not thereby in breach of his or her seaman's agreement.

187 **Notice of detention**

The Director must, immediately upon detaining a vessel under section 186, serve on the owner and the master of the vessel a notice setting out the reasons for the detention.

188 **Release from detention**

A vessel detained under section 186 may be detained until such time as the Director is satisfied that:

- (a) the owner or master has complied with the provisions of Parts 3 and 4; and
- (b) the vessel is fit to proceed to sea on its proposed voyage without danger to human life.

188A Erection of structures

- (1) A person must not, in or on Northern Territory waters, without the prior written approval of the Director or otherwise than in accordance with the terms of any such approval:
- (a) erect, or cause to be erected, below the high water mark any jetty, wharf, pontoon (whether or not attached to the shore), mooring or structure, whether temporary or permanent; or
 - (b) moor, anchor or otherwise fasten a floating structure or mooring buoy to the sea floor, a lake or riverbed or the shore.

Maximum penalty: 100 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.
- (4) The Director must not withhold an approval under subsection (1), or impose a condition on such an approval, except on reasonable grounds set out in a written notice given to the person seeking to do the thing mentioned in subsection (1)(a) or (b).
- (5) A person given a notice under subsection (4) may apply to the Tribunal for a review of a decision of the Director to withhold an approval under subsection (1) or impose a condition on an approval.
- (6) This section does not apply to waters within a designated port.

188B Closure of waters

- (1) The Director may, by notice in writing, close any specified area of Northern Territory waters to shipping for a period of not more than 48 hours so as to:
- (a) enable the safe staging of regattas and races; or
 - (b) facilitate salvage or construction operations; or
 - (c) clean up polluted waters; or
 - (d) deal with any matter relating to safety.
- (2) The Director must, as far as practicable, publicise the proposed closure beforehand in such manner as the Director thinks fit.

- (3) A person commits an offence if the person is in closed waters contrary to a notice under subsection (1).

Maximum penalty: 50 penalty units.

- (3A) An offence against subsection (3) is an offence of strict liability.
- (3B) It is a defence to a prosecution for an offence against subsection (3) if the defendant has a reasonable excuse.
- (4) This section does not apply in relation to a designated port.

188C Power of Minister to close waters

- (1) The Minister may, by written notice, close any specified area of Northern Territory waters to shipping for a period specified in the notice so as to:

- (a) enable the safe staging of regattas and races; or
- (b) facilitate salvage or construction operations; or
- (c) clean up polluted waters; or
- (d) deal with any matter relating to safety.

- (2) The Minister must, as far as practicable, publicise the proposed closure beforehand in such manner as the Minister thinks fit.

- (3) A person commits an offence if the person is in closed waters contrary to a notice under subsection (1).

Maximum penalty: 50 penalty units.

- (4) An offence against subsection (3) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against subsection (3) if the defendant has a reasonable excuse.
- (6) This section does not apply to waters within a designated port.

188D Obstruction of officers or crew members

- (1) A person commits an offence if:
- (a) the person obstructs another person; and
 - (b) the other person is an officer; and

(c) the person knows the officer is acting in an official capacity.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

(2) A person commits an offence if:

(a) the person obstructs another person; and

(b) the other person is a member of the crew of a vessel who is engaged in the navigation, management or operation of the vessel; and

(c) the person knows the member is engaged in the navigation, management or operation of the vessel.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

(3) Strict liability applies to subsections (1)(b) and (2)(b).

(4) In this section:

acting in an official capacity, in relation to an officer, means the officer is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

obstruct includes hinder and resist.

officer means:

(a) a shipping inspector; or

(b) a person authorised under section 147(2).

189 Averments

In any proceedings for an offence against this Act or the Regulations, an averment by the prosecutor, contained in the information or complaint, that at a specified time:

(a) a specified vessel was a vessel of a specified class or type; and

(b) a specified amendment to the Uniform Shipping Laws Code had come into effect for the purposes of this Act or the Regulations; and

(c) a specified person was a delegate of the Minister or the Director; and

- (d) a specified person was a shipping inspector; and
- (e) a specified person was, or was not, the holder of a specified certificate; and
- (f) a specified certificate of survey was or was not in force in respect of a specified vessel; and
- (g) specified goods were dangerous goods; and
- (h) a specified vessel as not licensed under Part 5; and
- (j) a specified vessel was engaged on a specified voyage; and
- (k) a specified area was part of a pilotage area; and
- (m) a specified person was a pilotage authority; and
- (n) a specified person was, or was not, a licensed pilot or the holder of a pilotage exemption certificate; and
- (o) a specified person was, or was not, the appointed pilotage services provider; and
- (p) a specified person was, or was not, approved to provide pilotage services in a pilotage area;

is prima facie evidence of the matter averred.

190 Service of notices

Service of a notice under this Act in respect of a vessel is to be effected:

- (a) by serving it personally on the owner of the vessel or, if the owner is a company, on a director, secretary or other officer of the company; or
- (b) by serving it personally on the agent of the vessel or, if the agent is a company, on a director, secretary or other officer of the company; or
- (c) by serving it personally on the master of the vessel or, if for any reason, (including the absence of the master from the vessel) it is not practicable to serve the notice on the master, by handing it to any person on board the vessel who appears to be in charge of the vessel.

192 Continuing offences

Where a person commits an offence by reason of a failure to comply with a provision of this Act or the Regulations, being a provision by or under which the person is required to do or to refrain from doing anything within or during a particular period or within or during a time after a prescribed event, that person commits an additional offence on each day on which the doing or the failure to do that thing continues, notwithstanding that the specified period or the period of time after the specified event has expired.

193 Dispensing power of Administrator

- (1) Where the Administrator is satisfied, as regards any vessel or class of vessels:
 - (a) that a specified requirement of this Act has been substantially complied with; or
 - (b) that compliance with a specified requirement of this Act is, in the circumstances of the case, unnecessary; or
 - (c) that the action taken or provision made as regards the subject-matter of the requirement is as effective as, or more effective than, actual compliance with the requirement;

the Administrator may, by order, direct that compliance on the part of that vessel or that class of vessels with that requirement may be dispensed with.

- (2) Where the Administrator is satisfied, as regards a vessel or class of vessels, that such circumstances exist as render compliance with a specified requirement of this Act impracticable, or make insistence upon compliance with that requirement undesirable in the public interest, the Administrator may, by order, direct that the vessel or class of vessels is not required to comply with that requirement.
- (3) Any dispensation or direction under this section may be unconditional or subject to such conditions, limitations and restrictions as are expressed in the order.
- (4) The Minister must present to the Assembly at least once in each year a special report stating the cases in which the Administrator has exercised the Administrator's power under this section during the preceding year.

Part 9 Regulations

194 Regulations

- (1) Subject to this Part, the Administrator may make regulations, not inconsistent with this Act:
 - (a) prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act; and
 - (b) authorising the exemption from any of the requirements of the Regulations or the relaxation of the requirements of the Uniform Shipping Laws Code or any other document mentioned in section 196(7) in circumstances:
 - (i) where the action to be taken or provision to be made as regards the subject-matter of the requirement is at least as effective as is actual compliance with the requirement; or
 - (ii) where the specified requirement would cause undue hardship but where there will be substantial compliance with the general requirement to the extent that the prime considerations of safety of persons on board or any other person would not be impaired.
- (2) The power of the Administrator under subsection (1)(a) includes the power to authorise the Minister to make determinations for and in relation to:
 - (a) the numbers of certificated and uncertificated persons required for the manning of vessels; and
 - (b) rules for the conduct of examinations of candidates for certificates; and
 - (c) the appointment of persons to be examiners; and
 - (d) the nomination of institutions or organizations to conduct examinations; and
 - (e) the determination of medical standards and fitness criteria to be applied to applicants for certificates and to seamen generally; and
 - (g) the requirements for the packing, stowing and carriage of dangerous goods; and
 - (h) the safe navigation and operation of vessels; and

- (j) the number of passengers that may be carried in a vessel; and
- (k) the loading and unloading of vessels; and
- (m) the fees and charges levied or imposed under this Act;

and section 196 applies, as the circumstances may require, to such determinations.

- (3) Regulations made under this section may:
 - (a) require that a matter or thing prescribed by the Regulations must be carried out or done, in any case, to the satisfaction of the Director or a shipping inspector or as is directed or approved by the Director or a shipping inspector; and
 - (b) provide that a matter or thing may be done, determined, applied, dispensed with or regulated by the Director or a shipping inspector; and
 - (c) provide that the Director or a shipping inspector has a discretionary authority in relation to a matter provided for in the Regulations.
- (4) The power to make regulations conferred by subsection (1) includes the power to make regulations imposing penalties, not exceeding 100 penalty units or imprisonment for 2 years, for offences against the Regulations.

195 Effect of special regulation-making powers

Sections 196, 199, 202 to 204, 206 and 208 to 211 do not limit the generality of section 194.

196 Uniform Shipping Laws Code

- (1) The Regulations may apply, adopt or incorporate by reference all or any of the provisions of the Uniform Shipping Laws Code, with or without modification.
- (2) The provisions of the Uniform Shipping Laws Code incorporated in Regulations have effect as if made by the Regulations and have effect, with such modifications as are necessary to give effect to the Uniform Shipping Laws Code, according to their tenor.

- (3) Subject to subsection (4), the power under subsection (1) to apply, adopt or incorporate the Uniform Shipping Laws Code includes the power to apply, adopt or incorporate the Code as amended from time to time by the Conference of Commonwealth and State Ministers known as the Standing Council on Transport and Infrastructure.
- (4) Amendments referred to in subsection (3) do not take effect until notice of the amendments is published in the *Gazette*.
- (5) The Regulations may make provision, not inconsistent with this Act, for or with respect to the interpretation and enforcement of the Uniform Shipping Laws Code.
- (6) Where the Uniform Shipping Laws Code as applied, adopted or incorporated by reference:
 - (a) requires that a matter or thing provided by the Uniform Shipping Laws Code must be carried out or done to the satisfaction of an Authority or as is directed or approved by an Authority, that matter or thing must be carried out or done to the satisfaction of the Director or a surveyor, shipping inspector or shipping officer approved by the Director or a shipping inspector appointed under this Act; and
 - (b) leaves any matter or thing to be done, determined, applied, dispensed with or regulated by an Authority, that matter or thing may be done, determined, applied, dispensed with or regulated by the Director or a shipping inspector appointed under this Act; and
 - (c) provides that an Authority has a discretionary authority in relation to a matter provided for in the Uniform Shipping Laws Code, that discretionary authority may be exercised by the Director or by a shipping inspector appointed under this Act.
- (7) A reference in this section to the Uniform Shipping Laws Code includes a reference to:
 - (a) the National Standard for Commercial Vessels or any other document issued by the International Maritime Organisation; and
 - (b) the International Convention for the Safety of Life at Sea; and
 - (c) any Australian Standard.

199 Examinations and certificates

The power of the Administrator under section 194 includes the power to make regulations:

- (a) prescribing the syllabus and the general requirements for entry for examinations for certificates; and
- (b) permitting the Minister to determine medical standards for applicants for certificates; and
- (c) permitting the Minister to determine the rules for the conduct of examinations; and
- (d) specifying the forms required for and in connection with the grant, endorsement, revalidation, suspension, cancellation and re-issue of certificates; and
- (e) regarding the recognition to be given to certificates awarded elsewhere than in the Territory; and
- (f) prescribing the fees payable in respect of examinations and the issue, endorsement, revalidation or re-issue of certificates.

202 Assessors, procedures at formal investigation

The powers of the Administrator under section 194 include the power to make regulations:

- (a) prescribing the method of selection and qualification and the number of persons to be appointed to assist a person holding a formal investigation; and
- (b) prescribing the procedure to be adopted in relation to a formal investigation.

203 Safety

The power of the Administrator under section 194 includes the power to make regulations in relation to:

- (a) requiring the approval of the Director for the carriage of passengers or a number of passengers in excess of a specified number on board a vessel; and
- (b) permitting the Minister to grant an exemption from a requirement of the Regulations or this Act in respect of the carriage of passengers; and

- (c) prescribing the requirements for and standards of life-saving appliances, fire-fighting, radio and miscellaneous equipment for vessels; and
- (d) prescribing the requirements for, and standards of, medicines and medical stores; and
- (e) the notification by shippers of intention to ship dangerous goods and the inspection of dangerous goods whilst being prepared for shipment; and
- (f) prescribing the marking of weights on heavy packages; and
- (h) prescribing the requirements for the operation, maintenance and testing of radio stations in vessels at sea; and
- (j) permitting the Minister to determine the requirements for the carriage of livestock in a vessel; and
- (k) permitting the Minister to determine the safety requirements for the loading and unloading of vessels; and
- (m) prescribing the emergency procedures and the requirements relating to safety of navigation to be observed on vessels;

and such regulations may be expressed to apply to vessels to which Part 4 does not apply, and apply accordingly.

204 Passengers

The power of the Administrator under section 194 includes the power to make regulations prescribing:

- (a) the number of passengers which may be carried in a vessel; and
- (b) the conditions under which unberthed passengers may be carried in a vessel.

206 Collisions

The power of the Administrator under section 194 includes the power to make regulations with respect to the prevention or reporting of collisions.

208 Navigational aids

- (1) The power of the Administrator under section 194 includes the power to make regulations prescribing:
 - (b) the returns to be made and the information to be supplied to the Director by the owner of an aid; and
 - (c) the specifications of aids.
- (2) The power of the Administrator under subsection (1) includes the power to enable the Minister to exempt a vessel or class of vessels from liability to pay contributions.

210 Recreational vessels

The power of the Administrator under section 194 includes the power to make regulations prescribing:

- (a) the appointment of registration officers; and
- (b) the registration and marking of recreational vessels; and
- (c) the licensing of persons operating or using recreational vessels; and
- (d) the operation and navigation of recreational vessels; and
- (e) the equipment to be carried on board recreational vessels; and
- (f) the survey and inspection of recreational vessels; and
- (g) fees payable in respect of any registration, licence, inspection or other matter included in the Regulations.

211 Air-cushioned vehicles

The power of the Administrator under section 194 includes the power to make regulations prescribing, in relation to air-cushioned vehicles, those matters that may be prescribed in relation to recreational vehicles under section 210 and those regulations apply accordingly.

211A Further regulation-making powers

The power of the Administrator under section 194 includes the power to make regulations in relation to:

- (a) regulating and controlling persons using mooring facilities including prohibiting specified activities when using those facilities; and
- (b) regulating the speed of vessels within specified areas; and
- (c) regulating and controlling the erection of structures and the anchoring of vessels.

Part 10 Transitional matters

Division 2 Ports Management Act 2015

213 Marine Appeals Tribunal

- (1) This section applies if, before the commencement of the amendments:
 - (a) a person had lodged an appeal with the former Tribunal; but
 - (b) the former Tribunal had not determined the appeal.
- (2) The former Tribunal must hear, or continue to hear, and determine the appeal in accordance with the former Act, as if the amendments had not commenced.
- (3) In this section:

amendments means the amendments made to this Act by Part 15, Division 2, Subdivision 2 of the *Ports Management Act 2015*.

former Act means this Act as in force immediately before the commencement of the amendments.

former Tribunal means the Marine Appeals Tribunal of the Northern Territory established by section 10 of the former Act.

Division 3 Ports Management (Repeals and Related and Consequential Amendments) Act 2015

214 Definitions

In this Part:

amendments means the amendments made to this Act by sections 31, 32 and 37 of the *Ports Management (Repeals and Related and Consequential Amendments) Act 2015*.

former Act means this Act as in force immediately before the commencement of the amendments.

215 Appeals made to Local Court

- (1) This section applies if, before the commencement of the amendments:
 - (a) a person had lodged an appeal with the Local Court against a decision of the Director; but
 - (b) the Local Court had not determined the appeal.
- (2) The Local Court must hear, or continue to hear, and determine the appeal in accordance with the former Act, as if the amendments had not commenced.

216 Appeals not yet made to Local Court

- (1) This section applies if, before the commencement of the amendments:
 - (a) a person had a right to appeal to the Local Court against a decision of the Director and the period for doing so had not expired; but
 - (b) the person entitled to appeal had not done so.
- (2) The person may appeal to the Local Court on and after the commencement in accordance with the former Act, as if the amendments had not commenced.
- (3) The Local Court must hear and determine the appeal in accordance with the former Act, as if the amendments had not commenced.

Schedule 1 Repeal
PART I ACTS OF SOUTH AUSTRALIA

section 3(1)

Number and year of Act	Title	Extent to which Act ceases to apply as laws of the Territory
No. 237 of 1881	<i>Marine Board and Navigation Act, 1881</i>	Sections 6 to 241 (inclusive) and 281 to 402 (inclusive) and the Schedules
No. 541 of 1891	<i>Marine Board and Navigation Act Amendment Act, 1981</i>	The whole Act
No. 563 of 1893	<i>An Act to amend the "Marine Board and Navigation Act, 1881"</i>	The whole Act
No. 614 of 1894	<i>Marine Board and Navigation Act Amendment Act, 1894</i>	The whole Act
No. 691 of 1897	<i>The Marine Board and Navigation Act Amendment Act, 1897</i>	The whole Act
No. 814 of 1902	<i>The Marine Board and Navigation Act Amendment Act, 1902</i>	The whole Act
No. 917 of 1906	<i>The Marine Board and Navigation Act Further Amendment Act, 1906</i>	The whole Act

PART III NORTHERN TERRITORY ORDINANCES

section 3(2)

Number and year of Ordinance	Extent of Repeal
<i>Marine Ordinance 1911</i> (No. 5 of 1911)	Sections 4 and 6
<i>Marine Ordinance 1939</i> (No. 1 of 1939)	The whole Ordinance
<i>Marine Ordinance 1948</i> (No. 10 of 1948)	The whole Ordinance
<i>Marine Ordinance 1952</i> (No. 11 of 1952)	The whole Ordinance
<i>Marine Ordinance 1956</i> (No. 12 of 1956)	The whole Ordinance
<i>Marine Board and Navigation Ordinance 1964</i> (No. 70 of 1964)	The whole Ordinance

Schedule 2

Amendments to Marine Board and *Navigation Act, 1881* of the State of South Australia in its application to the Territory as a law of the Territory

section 4(1)

Section	Amendment	Substitute
	omit	
244	"province" "100 dollars"	"Territory" "10 penalty units"
245	"200 dollars"	"20 penalty units"
246	"200 dollars"	"20 penalty units"
248	"any Collector or principal officer of Customs, Special Magistrate, Justice,"	"any Local Court Judge, justice of the peace"
250	"200 dollars"	"20 penalty units"
251	"province"	"Territory"
252	"province" "200 dollars" (twice occurring)	"Territory" "20 penalty units"
253	"10 dollars"	"1 penalty unit"
254	"Custom House or Board Office"	"Police Station"
255	"10 dollars"	"1 penalty unit"
257	"province"	"Territory"
258	"province" (twice occurring)	"Territory"
259	"province" (twice occurring)	"Territory"
261	"province" (twice occurring)	"Territory"
262	"Parliament"	"Legislative Assembly"

263	"600 dollars" (wherever occurring) "Special Magistrate" "or by the Court of Vice-Admiralty of the province,"	"60 penalty units" "Local Court Judge"
265	"special magistrate or 2 justices"	"Local Court Judge or 2 justices of the peace"
266	"10 dollars"	"1 penalty unit"
268	"or to the Court of Vice-Admiralty of the province;" "100 dollars"	"2 penalty units"
270	"2,000 dollars" (twice occurring)	"200 penalty units"
272	"2,000 dollars" (twice occurring)	"200 penalty units"
275	"province" (twice occurring)"	"Territory"
277	"province" "100 dollars" (twice occurring)	"Territory" "10 penalty units"
278	"province" (twice occurring)	"Territory"
279	"any Supreme Court or of the Court of Vice-Admiralty of the province" "or in the Court of Vice-Admiralty of the province;"	"the Supreme Court"
280	"province" (first occurring) "600 dollars" "or the Court of Vice-Admiralty of the province"	"Territory" "60 penalty units"

ENDNOTES
1**KEY**

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2**LIST OF LEGISLATION*****Marine Act 1981 (Act No. 93, 1981)***

Assent date	2 November 1981
Commenced	ss 129 – 142: nc; rem: 31 March 1982 (<i>Gaz</i> G12, 26 March 1982, p 6)

Statute Law Revision Act 1982 (Act No. 21, 1982)

Assent date	27 April 1982
Commenced	27 April 1982

Criminal Law (Regulatory Offences) Act 1983 (Act No. 68, 1983)

Assent date	28 November 1983
Commenced	1 January 1984 (s 2, s 2 <i>Criminal Code Act 1983</i> (Act No. 47, 1983), <i>Gaz</i> G46, 18 November 1983, p 11 and <i>Gaz</i> G8, 26 February 1986, p 5)

Statute Law Revision Act 1985 (Act No. 49, 1985)

Assent date	1 October 1985
Commenced	1 October 1985

Statute Law Revision Act 1987 (Act No. 9, 1987)

Assent date	27 May 1987
Commenced	27 May 1987

Marine Amendment Act 1989 (Act No. 16, 1989)

Assent date	15 June 1989
Commenced	1 July 1992 (<i>Gaz</i> G26, 1 July 1992, p 5)

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

Assent date 30 June 1993
 Commenced 1 July 1993 (s 2, s 2 *Public Sector Employment and Management Act 1993* (Act No. 11, 1993) and Gaz S53, 29 June 1993)

Marine Amendment Act 1994 (Act No. 76, 1994)

Assent date 30 December 1994
 Commenced 1 January 1995 (s 2)

Medical (Consequential Amendments) Act 1995 (Act No. 8, 1995)

Assent date 10 April 1995
 Commenced 1 June 1995 (s 2, s 2 *Medical Act 1995* and Gaz S21, 1 June 1995)

Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)

Assent date 19 April 1996
 Commenced 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and Gaz S15, 13 June 1996)

Statute Law Revision Act (No. 2) 1998 (Act No. 92, 1998)

Assent date 11 December 1998
 Commenced s 25(1) 20 September 1999 (s 2(2), s 2 *Darwin Port Authority Amendment Act 1998* (Act No. 80, 1998) and Gaz S37, 1 September 1999)

Statute Law Revision Act (No. 2) 1999 (Act No. 48, 1999)

Assent date 10 November 1999
 Commenced 10 November 1999

Marine Amendment Act 2000 (Act No. 52, 2000)

Assent date 14 November 2000
 Commenced 2 April 2001 (Gaz S16, 2 April 2000, p 1)

Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)

Assent date 29 June 2001
 Commenced 15 July 2001 (s 2, s 2 *Corporations Act 2001* (Cth Act No. 50, 2001) and Cth Gaz S285, 13 July 2001)

Statute Law Revision Act (No. 2) 2004 (Act No. 54, 2004)

Assent date 15 September 2004
 Commenced 27 October 2004 (Gaz G43, 27 October 2004, p 3)

Marine Amendment Act 2005 (Act No. 10, 2005)

Assent date 17 March 2005
 Commenced 17 March 2005

Statute Law Revision Act 2005 (Act No. 44, 2005)

Assent date 14 December 2005
 Commenced 14 December 2005

Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006 (Act No. 7, 2006)

Assent date 26 April 2006
Commenced 26 April 2006

Legal Profession (Consequential Amendments) Act 2007 (Act No. 7, 2007)

Assent date 17 May 2007
Commenced s 10: 1 July 2007 (Gaz G26, 27 June 2007, p 3);
rem: 17 May 2007

Personal Property Securities (National Uniform Legislation) Implementation Act 2010 (Act No. 30, 2010)

Assent date 9 September 2010
Commenced ss 58 to 60: 30 January 2012 (Gaz S2, 24 January 2012); rem:
25 November 2011 (Gaz S68, 25 November 2011)

Darwin Port Corporation Legislation Amendment Act 2011 (Act No. 11, 2011)

Assent date 18 April 2011
Commenced ss 5(3) and (4) and 9: 12 December 2011 (Gaz S72,
12 December 2011); rem: 4 July 2012 (Gaz G27, 4 July 2012,
p 5)

Statute Law (Miscellaneous Provisions) Act 2011 (Act No. 44, 2011)

Assent date 21 December 2011
Commenced 27 January 2012 (Gaz S3, 27 January 2012); rem: 4 July 2012
(amds to *Darwin Port Corporation Act* and *Marine Act* listed in
the Sch to Act) Gaz G27, 4 July 2012, p 4)

Marine Safety (Domestic Commercial Vessel) (National Uniform Legislation) Act 2013 (Act No. 11, 2013)

Assent date 29 May 2013
Commenced 1 July 2013 (Gaz S24, 25 June 2013)

Ports Management Act 2015 (Act No. 11, 2015)

Assent date 22 May 2015
Commenced pt 14, div 1: nc; pt 15, div 2: 1 July 2015; rem: 9 June 2015
(Gaz S57, 9 June 2015, p 2)

Ports Management (Repeals and Related Consequential Amendments) Act 2015 (Act No. 12, 2015)

Assent date 22 May 2015
Commenced pt 4 (other than ss 52 and 54 to 56): 9 June 2015; ss 52 and
54 to 56: nc; rem: 1 July 2015 (Gaz S57, 9 June 2015, p 2)

Local Court (Related Amendments) Act 2016 (Act No. 8, 2016)

Assent date 6 April 2016
Commenced 1 May 2016 (s 2, s 2 *Local Court (Repeals and Related
Amendments) Act 2016* (Act No. 9, 2016) and Gaz S34,
29 April 2016)

3 LIST OF AMENDMENTS

pt I hdg amd No. 11, 2011, s 30
s 4 amd No. 11, 2011, s 30; No. 12, 2015, s 9
s 6 amd No. 11, 2011, s 30

ENDNOTES

s 7	amd No. 49, 1985, s 4; No. 9, 1987, s 2; No. 16, 1989, s 4; No. 28, 1993, s 3; No. 76, 1994, s 6; No. 8, 1995, s 4; No. 52, 2000, s 4; No. 10, 2005, s 3; No. 44, 2005, s 22; No. 11, 2011, ss 13 and 30; No. 11, 2013, s 24; No. 11, 2015, s 174; No. 12, 2015, s 10
s 7A	ins No. 12, 2015, s 11
pt II hdg	amd No. 11, 2011, s 30
pt II	
div 1 hdg	amd No. 11, 2011, s 30
s 8	amd No. 16, 1989, s 5; No. 52, 2000, s 27; No. 11, 2011, s 30; No. 12, 2015, s 12
s 8A	ins No. 76, 1994, s 4 amd No. 11, 2011, s 30
s 9	amd No. 11, 2011, s 30 rep No. 11, 2013, s 25
pt 2	
div 2 hdg	rep No. 11, 2015, s 175
s 10	amd No. 11, 2011, s 30 rep No. 11, 2015, s 175
s 11	amd No. 44, 2005, s 35; No. 11, 2011, s 14 rep No. 11, 2015, s 175
s 12	rep No. 11, 2015, s 175
s 13	amd No. 11, 2011, s 30 rep No. 11, 2015, s 175
s 14	rep No. 11, 2015, s 175
s 17	amd No. 11, 2011, s 30; No. 11, 2013, s 26
ss 18 – 19	amd No. 11, 2011, s 30
s 20	amd No. 16, 1989, s 6; No. 7, 2006, s 30; No. 11, 2011, s 30 rep No. 11, 2015, s 175
ss 21 – 22	amd No. 11, 2011, s 30
pt III hdg	amd No. 11, 2011, s 30
pt III	
div 1 hdg	amd No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 23	amd No. 16, 1989, s 7; No. 52, 2000, s 5; No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 24	rep No. 52, 2000, s 6
pt 3	
div 2 hdg	rep No. 11, 2013, s 27
s 25	amd No. 16, 1989, s 8; No. 52, 2000, ss 7 and 27; No. 11, 2011, s 30 rep No. 11, 2013, s 27
ss 26 – 27	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2013, s 27
pt 3	
div 3 hdg	rep No. 11, 2013, s 27
s 28	amd No. 52, 2000, s 8; No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 29A	ins No. 16, 1989, s 9 amd No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 30	amd No. 16, 1989, s 10 rep No. 11, 2013, s 27
s 31	amd No. 16, 1989, s 11 rep No. 11, 2013, s 27
s 32	amd No. 52, 2000, ss 9 and 27; No. 11, 2011, s 30 rep No. 11, 2013, s 27
ss 33 – 34	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 35	rep No. 11, 2013, s 27

pt III	
div 4 hdg	rep No. 52, 2000, s 10
ss 36 – 46	rep No. 52, 2000, s 10
s 47	amd No. 17, 1996, s 6 rep No. 52, 2000, s 10
ss 48 – 50	rep No. 52, 2000, s 10
s 51	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2013, s 27
pt III	
div 6 hdg	rep No. 52, 2000, s 10
ss 52 – 56	rep No. 52, 2000, s 10
pt III	
div 7 hdg	rep No. 52, 2000, s 10
ss 57 – 63	rep No. 52, 2000, s 10
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div 8 hdg	rep No. 52, 2000, s 10
ss 64 – 68	rep No. 52, 2000, s 10
ss 69 – 71	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 72	amd No. 52, 2000, ss 11 and 27; No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 73	amd No. 52, 2000, s 12; No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 74	amd No. 11, 2011, s 30 rep No. 11, 2013, s 27
pt IV hdg	amd No. 11, 2011, s 30
pt IV	
div 1 hdg	amd No. 11, 2011, s 30
s 75	rep No. 11, 2013, s 27 amd No. 16, 1989, s 12; No. 52, 2000, s 13; No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 76	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 77	amd No. 16, 1989, s 13; No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 78	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2013, s 27
pt 4	
div 2 hdg	rep No. 11, 2013, s 27
s 79	sub No. 16, 1989, s 14 amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 80	amd No. 52, 2000, ss 14 and 27; No. 11, 2011, s 30 rep No. 11, 2013, s 27
ss 81 – 83	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 84	amd No. 11, 2011, s 30; No. 44, 2011, s 27 rep No. 11, 2013, s 27
s 85	amd No. 52, 2000, s 15; No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 86	amd No. 52, 2000, s 16; No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 87	sub No. 16, 1989, s 15 amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 88	amd No. 16, 1989, s 16; No. 52, 2000, s 17; No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 89	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2013, s 27

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s 90	amd No. 52, 2000, s 18 rep No. 11, 2013, s 27
s 91	amd No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 92	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 93	amd No. 52, 2000, s 27; No. 11, 2011, s 15 rep No. 11, 2013, s 27
s 94	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2013, s 27
s 95	amd No. 54, 2004, s 7 sub No. 11, 2013, s 28
s 96	amd No. 11, 2011, s 30; No. 11, 2013, s 29
s 97	amd No. 16, 1989, s 17; No. 52, 2000, s 27; No. 11, 2011, s 30; No. 12, 2015, s 13
s 98	amd No. 52, 2000, s 19 sub No. 11, 2013, s 30
ss 99 – 101	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2013, s 30
s 102	amd No. 52, 2000, s 27; No. 11, 2011, s 30; No. 11, 2015, s 176; No. 12, 2015, s 14
s 103	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2013, s 31
s 104	amd No. 11, 2011, s 30
s 105	amd No. 52, 2000, s 27; No. 11, 2011, s 30; No. 11, 2015, s 177; No. 12, 2015, s 15
s 106	amd No. 52, 2000, s 27; No. 11, 2011, s 30; No. 11, 2013, s 32 sub No. 11, 2015, s 178 amd No. 12, 2015, s 16
s 107	amd No. 17, 1996, s 6; No. 11, 2015, s 179 sub No. 12, 2015, s 17
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div 6 hdg	amd No. 11, 2011, s 30
s 108	amd No. 21, 1982, s 2 sub No. 11, 2013, s 33
s 109	amd No. 52, 2000, s 27; No. 11, 2011, s 30 sub No. 11, 2013, s 33 sub No. 12, 2015, s 18
s 110	amd No. 16, 1989, s 18; No. 52, 2000, ss 20 and 27; No. 11, 2011, s 30; No. 12, 2015, s 19
s 111	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2013, s 34
s 112	sub No. 16, 1989, s 19 amd No. 52, 2000, s 21; No. 11, 2011, s 30 sub No. 12, 2015, s 20
ss 113 – 114	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2013, s 34
s 115	amd No. 52, 2000, s 27; No. 11, 2011, s 30; No. 12, 2015, s 21
s 115A	ins No. 16, 1989, s 20 amd No. 52, 2000, s 27; No. 11, 2011, s 30 sub No. 12, 2015, s 22
s 115B	ins No. 16, 1989, s 20 amd No. 52, 2000, s 27; No. 11, 2011, s 30 sub No. 12, 2015, s 22
pt IV	
div 6A hdg	ins No. 16, 1989, s 20

s 115C	ins No. 16, 1989, s 20 amd No. 11, 2011, s 30
s 115D	ins No. 16, 1989, s 20 amd No. 11, 2011, s 30; No. 11, 2015, s 180; No. 12, 2015, s 23
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div 7 hdg	sub No. 11, 2013, s 35
s 116	amd No. 11, 2013, s 36
s 117	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2013, s 37 ins No. 12, 2015, s 24
s 118	amd No. 7, 2007, s 16; No. 11, 2011, s 30; No. 11, 2013, s 38; No. 11, 2015, s 181
s 119	amd No. 11, 2011, s 30; No. 11, 2013, s 39 sub No. 11, 2015, s 182
s 120	amd No. 52, 2000, s 27; No. 11, 2011, s 30; No. 11, 2013, s 40; No. 12, 2015, s 25
s 121	amd No. 11, 2011, s 30
s 122	amd No. 16, 1989, s 21; No. 52, 2000, s 27; No. 11, 2011, s 30; No. 11, 2013, s 41; No. 11, 2015, s 183
s 123	amd No. 11, 2011, s 30 rep No. 11, 2013, s 42
s 124	amd No. 11, 2011, s 30; No. 11, 2013, s 43
s 125	amd No. 11, 2011, s 30; No. 11, 2013, s 44
s 126	amd No. 52, 2000, s 27; No. 11, 2011, s 30 sub No. 11, 2013, s 42
s 127	amd No. 52, 2000, s 27; No. 11, 2011, s 30; No. 12, 2015, s 26
s 128	amd No. 52, 2000, s 27; No. 11, 2011, s 30; No. 12, 2015, s 27
pt V hdg	sub No. 76, 1994, s 5 amd No. 11, 2011, s 30
s 129	sub No. 76, 1994, s 5 amd No. 52, 2000, s 22
s 130	sub No. 76, 1994, s 5
s 131	sub No. 76, 1994, s 5 amd No. 17, 1996, s 6; No. 11, 2011, s 30
ss 132 – 133	sub No. 76, 1994, s 5 amd No. 11, 2011, s 30
s 134	sub No. 76, 1994, s 5 amd No. 48, 1999, s 3; No. 17, 2001, s 21; No. 11, 2011, s 30
s 135	sub No. 76, 1994, s 5 amd No. 11, 2011, s 30; No. 11, 2013, s 46; No. 12, 2015, s 28
s 136	sub No. 76, 1994, s 5 amd No. 11, 2011, s 30
s 137	sub No. 76, 1994, s 5
s 138	sub No. 76, 1994, s 5 amd No. 11, 2011, s 30
s139	sub No. 76, 1994, s 5 amd No. 11, 2011, s 30; No. 11, 2013, s 47; No. 12, 2015, s 29
s 140	sub No. 76, 1994, s 5 amd No. 11, 2011, s 30; No. 11, 2013, s 48 sub No. 12, 2015, s 30
s 141	sub No. 76, 1994, s 5 amd No. 11, 2011, s 16; No. 12, 2015, s 31
s 142	sub No. 76, 1994, s 5; No. 12, 2015, s 32
s 142A	ins No. 76, 1994, s 5 amd No. 17, 2001, s 21; No. 11, 2011, s 30; No. 11, 2013, s 49
s 142B	ins No. 30, 2010, s 39
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s 144	amd No. 11, 2011, s 30; No. 11, 2013, s 50
s 144A	ins No. 11, 2015, s 184
s145	amd No. 11, 2011, s 30
s 147	amd No. 11, 2011, s 30
s 148	amd No. 52, 2000, s 27; No. 11, 2011, s 30; No. 12, 2015, s 33
s 149	amd No. 52, 2000, s 27; No. 11, 2011, s 30; No. 12, 2015, s 34
ss 150 – 151	amd No. 11, 2011, s 30
s 152	amd No. 52, 2000, s 27; No. 11, 2011, s 30; No. 12, 2015, s 35
s 153	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 12, 2015, s 36
ss 154 – 155	amd No. 52, 2000, s 27; No. 11, 2011, s 30 sub No. 12, 2015, s 36
s 156	amd No. 11, 2011, s 30
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s 158	amd No. 11, 2011, s 30 rep No. 11, 2015, s 185
s 159	rep No. 11, 2015, s 185
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div 2 hdg	rep No. 11, 2015, s 185
s 160	amd No. 11, 2011, s 30 rep No. 11, 2015, s 185
s 161	amd No. 16, 1989, s 22; No. 92, 1998, s 25; No. 11, 2011, s 17 rep No. 11, 2015, s 185
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s 162	amd No. 11, 2011, s 30 rep No. 11, 2015, s 185
s 163	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2015, s 185
s 164	rep No. 16, 1989, s 23 rep No. 11, 2015, s 185
s 165	amd No. 16, 1989, s 24; No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2015, s 185
s 166	amd No. 52, 2000, s 27 sub No. 11, 2011, s 18 rep No. 11, 2015, s 185
s 167	rep No. 11, 2015, s 185
s 168	amd No. 11, 2011, s 30 rep No. 11, 2015, s 185
s 169	amd No. 17, 1996, s 6 rep No. 11, 2015, s 185
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s 170	rep No. 11, 2015, s 185
s 171	amd No. 52, 2000, s 23 sub No. 11, 2011, s 19 rep No. 11, 2015, s 185
s 172	amd No. 11, 2011, s 20 rep No. 11, 2015, s 185
s 173	amd No. 11, 2011, s 21 rep No. 11, 2015, s 185

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s 174	amd No. 52, 2000, s 27 rep No. 11, 2011, s 22
ss 175 – 176	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2015, s 185
s 177	amd No. 52, 2000, s 27; No. 11, 2011, s 30; No. 11, 2013, s 52 rep No. 11, 2015, s 185
s 178	amd No. 11, 2011, s 23 rep No. 11, 2015, s 185
s 180	amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 11, 2015, s 185
s 181	sub No. 11, 2011, s 24 rep No. 11, 2015, s 185
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ss 181A – 181G	ins No. 11, 2011, s 25 rep No. 11, 2015, s 185
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div 5 hdg	rep No. 11, 2015, s 185
s 182	amd No. 16, 1989, s 25; No. 11, 2011, s 30 rep No. 11, 2015, s 185
s 183	amd No. 11, 2011, s 30 rep No. 11, 2015, s 185
s 184	sub No. 11, 2011, s 26
s 185	rep No. 11, 2011, s 26
pt VIII hdg	amd No. 11, 2011, s 30
s 186	amd No. 52, 2000, s 27; No. 11, 2011, s 30; No. 11, 2013, s 53
ss 187 – 188	amd No. 11, 2011, s 30
s 188A	ins No. 16, 1989, s 26 amd No. 52, 2000, s 27; No. 11, 2011, s 30; No. 11, 2015, s 186 sub No. 12, 2015, s 37
s 188B	ins No. 16, 1989, s 26 amd No. 52, 2000, s 27; No. 11, 2011, s 30; No. 11, 2015, s 187; No. 12, 2015, s 38
ss 188C – 188D	ins No. 12, 2015, s 39
s 189	amd No. 11, 2011, s 27; No. 11, 2013, s 54
s 190	amd No. 11, 2011, s 30
s 191	amd No. 17, 1996, s 6; No. 11, 2011, s 30 rep No. 8, 2016, s 31
s 191AA	ins No. 16, 1989, s 27 amd No. 52, 2000, s 27; No. 11, 2011, s 30 rep No. 12, 2015, s 40
s 191A	ins No. 68, 1983, s 72 amd No. 76, 1994, s 6; No. 54, 2004, s 7; No. 11, 2011, s 28; No. 11, 2013, s 55 rep No. 12, 2015, s 40
ss 192 – 193	amd No. 11, 2011, s 30
pt IX hdg	amd No. 11, 2011, s 30
s 194	amd No. 52, 2000, s 27; No. 11, 2011, s 30; No. 11, 2013, s 56; No. 11, 2015, s 188
s 195	amd No. 11, 2013, s 57
s 196	amd No. 16, 1989, s 28; No. 52, 2000, s 24; No. 11, 2011, s 30; No. 11, 2013, s 58; No. 11, 2015, s 189
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s 202	amd No. 11, 2015, s 190
s 203	amd No. 11, 2011, s 30; No. 11, 2013, s 60
s 205	amd No. 11, 2011, s 30 rep No. 11, 2013, s 61
s 206	amd No. 11, 2013, s 62 sub No. 11, 2015, s 191
s 207	rep No. 76, 1994, s 6
s 208	amd No. 11, 2011, s 30; No. 11, 2015, s 192
s 209	amd No. 11, 2011, s 30 rep No. 11, 2015, s 193
s 210	amd No. 11, 2011, s 30; No. 11, 2013, s 63
s 211	sub No. 52, 2000, s 26 amd No. 11, 2013, s 64
s 211A	ins No. 11, 2015, s 194
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