

NORTHERN TERRITORY OF AUSTRALIA

MARINE ACT  
No. 93 of 1981  
TABLE OF PROVISIONS

Section

PART I - PRELIMINARY

1. Short title
2. Commencement
3. Repeal
4. Savings and transitional
5. Act to bind Crown
6. Application
7. Interpretation

PART II - ADMINISTRATION

Division 1 - Appointment of shipping inspectors, &c.

8. Shipping inspectors
9. Shipping officers

Division 2 - Marine Appeals Tribunal

10. Establishment and composition of Tribunal
11. Functions and powers of Tribunal
12. Assessors
13. Functions of assessors
14. Powers of Tribunal exercisable by one magistrate

Division 3 - Advisory Committees

15. Advisory committees
16. Members
17. Representation
18. Notice of appointments
19. Functions of committees

Division 4 - General

20. Fees, &c.
21. Delegations
22. Protection

PART III - CREWS

Division 1 - Introductory

23. Application of Part
24. Register of seamen

Division 2 - Manning of Vessels

25. Vessels to be properly manned
26. Watch keeping

27. Unqualified persons not to go to sea

Division 3 - Qualifications

28. Application for certificate  
29. Issue of certificate  
30. Effect of certificate  
31. Suspension or cancellation  
32. Production of certificate  
33. Surrender of certificate  
34. Medical examinations  
35. Appeals

Division 4 - Agreements and Wages

36. Application of Division  
37. Supply and engagement of seamen  
38. Employment agents prohibited  
39. Certain persons not to be engaged  
40. Agreements  
41. Vessels to be seaworthy  
42. Seaman to understand agreement  
43. Agreements to be approved  
44. Termination of agreement  
45. Limitation of liability for breach of contract  
46. Prohibited terms in agreement  
47. Wages  
48. Account of wages  
49. Protection of seaman's rights and remedies  
50. Shipowner's liability in respect of claims by crew

Division 5 - Crew Accommodation

51. Crew accommodation

Division 6 - Crew Welfare

52. Application of Division  
53. Food and water  
54. Complaints as to food and water  
55. Seaman not to be left behind  
56. Leave to consult shipping officer, &c.

Division 7 - Seamen Wrecked or Left on Shore

57. Application of Division  
58. Wages, &c., for seaman whose vessel is lost  
59. Care and maintenance of seaman sick or injured away from his home port  
60. Recovery of contribution  
61. Wages of seaman left ashore sick or injured  
62. Seaman required to report for medical examination  
63. Property left on board by seaman

#### Division 8 - Discipline

- 64. Application of Division
- 65. Interpretation
- 66. Breach of duty, &c.
- 67. Neglect of duty, &c.
- 68. Disciplinary offences

#### Division 9 - General

- 69. Stowaways
- 70. Log books
- 71. Crew list
- 72. Reports of accidents
- 73. Inquiries into accidents
- 74. Reports of inquiries

### PART IV - SAFETY

#### Division 1 - Introductory

- 75. Application of Part
- 76. Surveyor of vessels
- 77. Powers of surveyors
- 78. Surveyor not to be hindered

#### Division 2 - Certificates of Survey

- 79. Survey certificates
- 80. Exemption
- 81. Certificates, &c., to be produced
- 82. Vessels to be surveyed
- 83. Director may require vessel to be slipped
- 84. Recognition of certificates of survey issued by other authorities
- 85. Application for survey
- 86. Issue of certificates of survey
- 87. Alteration of vessels
- 88. Suspension or cancellation of certificate of survey
- 89. Surrender of certificate of survey

#### Division 3 - Load Lines

- 90. Application of Division
- 91. Issue of load line certificates
- 92. Compliance with load line requirements
- 93. Alteration, &c., of load lines
- 94. Overloading

#### Division 4 - Unsafe Ships

- 95. Application of Division
- 96. Unsafe ships
- 97. Unsafe ships not to go to sea

#### Division 5 - Safety Practices

- 98. Application
- 99. Vessels to be properly equipped
- 100. First aid
- 101. Radios
- 102. Directions in relation to hazardous goods
- 103. Livestock
- 104. Dangerous goods
- 105. Powers of Director regarding dangerous goods
- 106. Dangerous goods to be notified
- 107. Forfeiture of dangerous goods

#### Division 6 - Collisions, Distress Signals, &c.

- 108. Application of Division
- 109. Collisions
- 110. Collision regulations
- 111. Duty to assist persons in danger
- 112. False distress signals
- 113. Distress calls
- 114. Distress calls to be logged
- 115. Navigation hazards

#### Division 7 - Shipping Casualties

- 116. Application of Division
- 117. Report of accidents, &c.
- 118. Inquiries and investigations into certain casualties
- 119. Assessors may assist person holding formal investigation
- 120. Conduct of inquiries and investigations
- 121. Costs
- 122. Formal investigations and certificates
- 123. Minister may order issue of new certificate
- 124. Rehearing
- 125. Appeals

#### Division 8 - Passengers

- 126. Excess passengers
- 127. Offences by passengers
- 128. Directions as to passengers

#### PART V - LICENSING OF COMMERCIAL VESSELS

- 129. Application of Part
- 130. Interpretation
- 131. Licensing of vessels to engage in Territory shipping services
- 132. Application for licence
- 133. Form and duration of licences
- 134. Consideration of application for licence
- 135. Grant of licences
- 136. Continuation of licence

- 137. Restriction on the grant and holding of licences
- 138. Cancellation, &c., and surrender of licence
- 139. Territory single voyage permit
- 140. Information
- 141. Inspections
- 142. Confidentiality

## PART VI - MARINE NAVIGATIONAL AIDS

### Division 1 - Introductory

- 143. Interpretation
- 144. Application of Part

### Division 2 - Aids

- 145. Acquisition, &c., of aids
- 146. Compulsory acquisition of aids
- 147. Establishment of aids
- 148. Establishment of private aids
- 149. Control of aids and lights
- 150. Inspection of aids
- 151. Entry upon land
- 152. Mooring at aids
- 153. Obstruction
- 154. Offences in relation to aids
- 155. Notification of damage
- 156. Costs of rectification
- 157. Immunity from certain proceedings

## PART VII - PILOTAGE

### Division 1 - Introductory

- 158. Interpretation
- 159. Application of Part

### Division 2 - Pilotage Areas and Authorities

- 160. Pilotage areas
- 161. Pilotage authorities

### Division 3 - Pilotage

- 162. Compulsory pilotage
- 163. Special pilotage requirements
- 164. Pilotage authority to provide pilotage
- 165. Failure to take pilot on board
- 166. Procedure on entering compulsory pilotage area
- 167. Duty of pilot
- 168. Pilotage not required in certain cases
- 169. Owner's liability

Division 4 - Pilotage Licences and Pilotage  
Exemption Certificates

- 170. Application for pilotage licence or exemption certificate
- 171. Issue of pilotage licence or exemption certificate
- 172. Form of pilotage licence and exemption certificate
- 173. Suspension or cancellation
- 174. Surrender of pilotage licence or exemption certificate
- 175. Production of pilotage certificate
- 176. Person other than licensed pilot not to pilot ship
- 177. Misconduct by licensed pilot
- 178. Inquiry into misconduct by licensed pilot
- 179. Appointment of inquiry
- 180. Conduct of inquiries
- 181. Appeals

Division 5 - General

- 182. Master responsible for ship
- 183. Protection of pilot and pilotage authority
- 184. Pilotage charges
- 185. Liability to pay charges

PART VIII - MISCELLANEOUS

- 186. Detention of vessel for failure to comply with Parts III and IV
- 187. Notice of detention
- 188. Release from detention
- 189. Averments
- 190. Service of notices
- 191. Offences punishable summarily
- 192. Continuing offences
- 193. Dispensing power of Administrator

PART IX - REGULATIONS

- 194. Regulations
- 195. Effect of special regulation-making powers
- 196. Uniform Code
- 197. Surveys
- 198. Safety manning
- 199. Examinations and certificates
- 200. Crew accommodation
- 201. Terms and conditions of seamen's service
- 202. Assessors, procedures at formal investigation
- 203. Safety
- 204. Passengers
- 205. Load lines
- 206. Collisions
- 207. Licensing
- 208. Navigational aids

209. Pilotage  
210. Small craft  
211. Air-cushioned vehicles

SCHEDULE 1  
SCHEDULE 2



## NORTHERN TERRITORY OF AUSTRALIA

---

No. 93 of 1981

---

### 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

[Assented to 2 November 1981]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

#### PART I - PRELIMINARY

##### 1. SHORT TITLE

This Act may be cited as the Marine Act 1981.

##### 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.



## Marine

(2) Notwithstanding anything in this Act, a person who, immediately before the date of commencement of Division 2 of Part IV, 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 he 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.

(3) Subject to sub-section (4) all subsidiary legislation made under the Ports Act relating to pilotage services, and in force immediately prior to the commencement of Part VII shall, so far as it is not inconsistent with this Act, continue in force as if made under this Act.

(4) A pilotage certificate issued under the Ports Act or a pilotage exemption certificate issued under the Port By-laws and in force immediately prior to the commencement of this Act shall remain in force for a period of 12 months from the date of commencement of Part VII or until the date of the expiration of the certificate, whichever is the earlier.

## 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 of the Commonwealth or the military, naval or air force of any other country.

## 7. INTERPRETATION

(1) In this Act, unless the contrary intention appears -

"advisory committee" means an advisory committee established under Division 3 of Part II;

"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;

"assessor" means a person appointed as an assessor under section 12;

## Marine

"boarding ground", in relation to a pilotage area, means a place at which the master of a ship is required to present the ship for the purpose of embarking or disembarking a pilot;

"casualty", in relation to a vessel, means -

- (a) the loss or the presumed loss, the stranding, the grounding or the abandonment of or damage to the vessel or a boat belonging to the vessel;
- (b) damage caused to or by the vessel or to or by a boat belonging to the vessel; or
- (c) the loss of life caused by -
  - (i) fire on board;
  - (ii) an accident to; or
  - (iii) an accident occurring on board,the vessel or a boat belonging to the vessel;

"certificate" means a certificate of competency, a certificate of satisfactory service or a temporary permit issued under, or recognized for the purposes of, Part III;

"certificate of survey" means a certificate of survey issued under section 86 and includes -

- (a) a certificate referred to in section 84; and
- (b) in the case of a vessel which is being towed, a towage permit;

"certificated person" means a person who holds a certificate issued under this Act that is evidence that the person is qualified to be a seaman of a specified designation, class or grade;

"commercial vessel" means a vessel which is not used solely for pleasure or recreation and the use of which is made, allowed or authorized in the course of any business or in connection with any commercial transaction and, subject to any law in force in the Territory, includes a Government vessel, other than a vessel referred to in section 6;

"compulsory pilotage area" means an area within which pilotage has been declared to be compulsory under section 162;

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

## Marine

(a) a person temporarily employed on board the vessel while the vessel is at a port;

(b) a pilot; or

(c) in the case of a fishing vessel, a person solely engaged in catching or processing fish;

"crew accommodation" means the accommodation provided on board a vessel for the crew and other special personnel employed in the vessel;

"dangerous goods" means goods listed as dangerous goods in the International Maritime Dangerous Goods Code, published by the Inter-Governmental Maritime Consultative Organization, London in 1965, as amended from time to time;

"Director" means the Deputy Secretary (Transport) of the Department of Transport and Works;

"employee" means an employee within the meaning of the Public Service Act;

"fishing vessel" means a vessel used or intended to be used for catching fish, whales, seals, walruses or other living resources of the sea, but does not include a vessel -

(a) engaged in harvesting or transporting algae or aquatic plants; or

(b) that is solely used as a carrier or mother vessel to fishing vessels;

"Government vessel" means a vessel that belongs to the Territory or an authority or instrumentality of the Territory or is held by a person on behalf of or for the benefit of the Territory;

"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;

"interstate voyage" means a voyage (other than an overseas voyage) in the course of which the vessel concerned travels between -

(a) a port in a State and a port in another State;

(b) a port in the Territory, or another Territory of Australia, and a port in a State; or

(c) a port in the Territory and a port in another Territory of Australia,

## Marine

whether or not the vessel travels between 2 or more ports in any one State or Territory in the course of the voyage;

"leave behind", in relation to a seaman, means to leave behind a seaman belonging to a vessel, at a place other than the proper return port of the seaman, after the departure of the vessel from that place, but does not include the leaving on shore of a seaman who, with the consent of the master of the vessel, has left the vessel to which he belongs with the intention of not returning to that vessel;

"licence" means a Territory shipping licence granted under Part V;

"licensed pilot", in relation to a compulsory pilotage area, means a person holding a current pilotage licence;

"load line", in relation to a vessel, means a line marked on a vessel indicating the free board to which the vessel may safely be loaded;

"load line certificate" or "load line exemption certificate" means a load line certificate or load line exemption certificate issued under section 91;

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

"medical practitioner" means a registered medical practitioner within the meaning of the Medical Practitioners Registration Act;

"Navigation Act" means the Navigation Act 1912 of the Commonwealth as amended from time to time;

"Northern Territory waters" means -

(a) those waters of the sea that are within the jurisdiction of the Territory; and

(b) any other navigable waters that are within the Territory;

"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;

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

## Marine

(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;

(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;

(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;

(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;

## Marine

"Official Log Book", in relation to a vessel, means the Official Log Book required by section 70(1)(a) to be kept in relation to that vessel;

"overseas voyage", in relation to a vessel, means a voyage in the course of which the vessel travels between -

- (a) a port in the Territory and a port outside Australia;
- (b) a port in the Territory and a place in the waters above the continental shelf of a country other than Australia;
- (c) a port outside Australia and a place in the waters above the continental shelf of Australia adjacent to the Territory;
- (d) a place in the waters above the continental shelf of Australia adjacent to the Territory and a place in the waters above the continental shelf of a country other than Australia;
- (e) ports or places outside Australia; or
- (f) places beyond the continental shelf of Australia;

whether or not the vessel travels between 2 or more ports or places in the Territory in the course of the voyage;

"part of a vessel" includes the hull, machinery and equipment of a vessel;

"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;

"permit" means a Territory Single Voyage Permit issued under section 139;

"pilot", in relation to a ship, means a person not belonging to the ship who has lawful conduct of the ship;

"pilotage area" means an area declared to be a pilotage area under section 160;

"pilotage authority", in relation to a pilotage area, means the pilotage authority appointed under section 161 in respect of that area;

## Marine

"pilotage exemption certificate" or "pilotage licence" means a pilotage exemption certificate or pilotage licence issued under section 171;

"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;

"proper return port", in relation to a seaman on a voyage, means the port or place named as the proper return port in the seaman's agreement in relation to that seaman;

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

"seaman's agreement" means an agreement made under section 40 between -

(a) the owner of a vessel or his agent or representative; and

(b) a seaman,

in respect of service by the seaman in the vessel;

"serious injury" means an injury as the result of which permanent incapacity to or the death of the person injured may occur;

"ship" does not include a vessel ordinarily propelled by oars;

"shipping inspector" means a shipping inspector appointed under section 8;

"shipping officer" means a shipping officer appointed under section 9;

"surveyor" means a person or classification society appointed as a surveyor under section 76;

"suspended person" means a person who, for the time being, is -

(a) a person who has been declared to be a suspended person under the Regulations;

(b) a person in respect of whom the Superintendent at a Mercantile Marine Office in Australia is required under section 45A(a) of the Navigation Act to refuse to approve of the engagement of that person; or

## Marine

- (c) a person who has been deemed or declared to be a suspended person by the statutory marine authority of a State under the law of that State;

"Tribunal" means the Marine Appeals Tribunal of the Northern Territory established by section 10;

"Uniform Code" means the code known as the Uniform Shipping Laws Code adopted for the time being by the Conference of Commonwealth and State Ministers known as the Marine and Ports Council of Australia and certified by a Minister of the Commonwealth in Commonwealth Gazette No. P.3 of 11 May 1981 in accordance with section 427 of the Navigation Act;

"vessel" includes -

- (a) an air-cushioned vehicle;
- (b) an off-shore industry mobile unit; and
- (c) a boat, vessel, barge or lighter or any other craft capable of being used as a means of transportation by water;

"Vessel Record Book", in relation to a vessel, means the Vessel Record Book required by section 70(1)(b) to be kept in relation to that vessel.

(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;
- (b) going to sea or plying or running;
- (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 shall be measured as far as is practicable in accordance with the guidance for measuring contained in the Uniform Code.



## Marine

(6) Unless the contrary intention appears, a reference in this Act to the owner of a vessel shall, in the case of a vessel that is operated or managed by a person other than the owner, be read as including a reference to the operator or manager of the vessel.

### PART II - ADMINISTRATION

#### Division 1 - Appointment of Shipping Inspectors, &c.

#### 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 him -

- (a) upon the nature or cause of an accident or damage to a vessel;
- (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 sub-section (2) or he has reasonable cause to believe that a vessel is being used in the commission of an offence against this Act, he 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;
- (b) enter premises and make such examination and investigation and require the production of such books and documents as he considers necessary for the performance of his duty;
- (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;
- (d) require the master of a vessel to produce a list of all persons on board;
- (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.

(4) A shipping inspector shall not exercise any power under sub-section (3) so that the vessel is unreasonably detained or delayed.

## Marine

(5) The Director shall 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 sub-section (3), he shall produce his written authorization from the Director and his identification card to that person.

(7) A person shall not hinder a shipping inspector in the exercise of his powers under sub-section (3).

Penalty: \$1,000.

### 9. SHIPPING OFFICERS

The Minister may, by notice in the Gazette, appoint a person to be a shipping officer for the purposes of this Act.

### Division 2 - Marine Appeals Tribunal

#### 10. ESTABLISHMENT AND COMPOSITION OF TRIBUNAL

(1) There is hereby established a Tribunal by the name of the Marine Appeals Tribunal of the Northern Territory.

(2) The Tribunal shall consist of each Magistrate appointed under section 4(3) of the Magistrates Act.

#### 11. FUNCTIONS AND POWERS OF TRIBUNAL

(1) The function of the Tribunal is to hear and determine appeals submitted to it under this Act.

(2) For the purpose of hearing an appeal, the Tribunal has all the powers of a Local Court of Full Jurisdiction under the Local Courts Act.

#### 12. ASSESSORS

The Minister may appoint as an assessor a person who holds the prescribed qualifications.

#### 13. FUNCTIONS OF ASSESSORS

An assessor shall, when so directed by the Chief Magistrate, attend the hearing of an appeal to advise and assist the Tribunal.

## Marine

### 14. POWERS OF TRIBUNAL EXERCISABLE BY ONE MAGISTRATE

An appeal may be heard and determined by one member of the Tribunal.

### Division 3 - Advisory Committees

### 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 organizations 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 Code; and

(b) any International Convention requiring consultation with organizations of shipowners 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 shall be notified in the Gazette.

### 19. FUNCTIONS OF COMMITTEES

(1) An advisory committee shall, 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 shall be as determined by that committee.

## Marine

### Division 4 - General

#### 20. FEES, &c.

The Remuneration (Statutory Bodies) Act applies to and in relation to -

- (a) the Tribunal, as though -
  - (i) the Tribunal were a statutory body within the meaning of that Act; and
  - (ii) each assessor were a member of the Tribunal; and
- (b) an advisory committee established under this Part, as though that committee were a statutory body within the meaning of that Act.

#### 21. DELEGATIONS

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

(2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Minister or Director, as the case may be.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister or Director, as the case may be.

#### 22. PROTECTION

A person exercising a power or performing a function or duty conferred or imposed on him by or under an Act, including this Act, or an instrument of a legislative or administrative character does not render the Territory or himself personally liable in respect of any matter or thing done, or contract entered into by him 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 III - CREWS

#### Division 1 - Introductory

#### 23. APPLICATION OF PART

Unless expressly provided otherwise, this Part does not apply to a vessel that is -

- (a) an air-cushioned vehicle;
- (b) a pleasure craft;

## Marine

- (c) a commercial vessel that is proceeding on an interstate or overseas voyage;
- (d) a fishing vessel that is proceeding on an overseas voyage;
- (e) an off-shore industry mobile unit; or
- (f) an off-shore industry vessel in respect of which a declaration under section 8A(5) of the Navigation Act is in force.

### 24. REGISTER OF SEAMEN

(1) The Director shall keep in Darwin a register to be known as the Register of Seamen.

(2) The Director shall cause the prescribed matters to be entered in the Register of Seamen in the prescribed manner.

## Division 2 - Manning of Vessels

### 25. VESSELS TO BE PROPERLY MANNED

(1) Subject to this section, neither the owner nor the master of a vessel may send or take the vessel to sea or permit the vessel to remain at sea with a lesser number of certificated and uncertificated persons on board than that required by the Regulations.

Penalty: \$2,500.

(2) The owner or the master of a vessel may send or take a vessel to sea from a place, with the written approval of a shipping officer, notwithstanding that it carries fewer certificated or uncertificated persons than the number prescribed in respect of that vessel.

(3) A shipping officer shall not grant an approval referred to in sub-section (2) unless he is satisfied that -

- (a) the safety of the vessel and the persons on board the vessel will not be endangered by reason of its carrying fewer persons than the prescribed number;
- (b) the number of certificated persons required to make up that prescribed in respect of the vessel is not available for employment at the place at which the vessel is; and
- (c) it would be unreasonable to require the owner to make up the prescribed number with certificated persons employed from another place.

### 26. WATCH KEEPING

Subject to the Regulations, neither the owner nor the master of a vessel shall permit a person to be placed in charge of -

- (a) a navigation watch;

## Marine

(b) the operation of the main propulsion machinery of the vessel;  
or

(c) a radio watch,

unless that person is the holder of a qualification prescribed in respect thereof.

Penalty: \$500.

### 27. UNQUALIFIED PERSONS NOT TO GO TO SEA

(1) A person shall not go to sea purporting to be a certificated person of a particular designation, class or grade unless he is a certificated person of that or a higher designation, class or grade.

(2) The master of a vessel shall not knowingly permit a person who is not a certificated person of a particular designation, class or grade to go to sea on the vessel as a seaman of that designation, class or grade.

Penalty: \$500.

## Division 3 - Qualifications

### 28. APPLICATION FOR CERTIFICATE

(1) A person may apply to the Director for the issue to him of a certificate.

(2) An application under sub-section (1) shall be in the prescribed form and be accompanied by the prescribed fee.

### 29. ISSUE OF CERTIFICATE

The Director may, in accordance with the Regulations, issue a certificate in the prescribed form to an applicant under section 28.

### 30. EFFECT OF CERTIFICATE

Subject to the Regulations and the conditions, if any, specified in the certificate, the holder of a certificate is, for the purposes of this Act, a certificated person of the designation, class or grade specified in the certificate.

### 31. SUSPENSION OR CANCELLATION

The Director may suspend or cancel a certificate in accordance with the Regulations.

## Marine

### 32. PRODUCTION OF CERTIFICATE

A person who holds a certificate shall, upon request, produce the certificate to a shipping officer or to the owner or the master of the vessel on which he is employed.

Penalty: \$250.

### 33. SURRENDER OF CERTIFICATE

A person who has been served with a notice in accordance with the Regulations stating that his certificate has been cancelled or suspended shall, as soon as practicable after receipt of the notice, surrender his certificate to the Director or to a shipping officer.

Penalty: \$250.

### 34. MEDICAL EXAMINATIONS

(1) The Director may, at any time, require a seaman to submit himself to a specified medical examination.

(2) A seaman shall comply with and not contravene a requirement imposed on him under sub-section (1).

Penalty: \$250.

### 35. APPEALS

A seaman who is aggrieved by a decision of the Director in respect of the issue, endorsement, revalidation, suspension or cancellation of a certificate may, within a period of 28 days from the date of that decision, appeal to the Tribunal in accordance with the Regulations, and the Tribunal may make such order as it thinks fit.

## Division 4 - Agreements and Wages

### 36. APPLICATION OF DIVISION

Without prejudice to the Regulations in their application to seamen's agreements and wages, this Division applies to the employment of seamen other than seamen employed on -

- (a) Class 1A and 2A vessels;
- (b) Class 1B and 2B vessels of 35 metres or more in length; or
- (c) fishing vessels.

### 37. SUPPLY AND ENGAGEMENT OF SEAMEN

(1) A person who is not -

- (a) a shipping officer;

## Marine

(b) the owner of the vessel or his agent; or

(c) an officer of an organization of employees within the meaning of the Conciliation and Arbitration Act 1904 of the Commonwealth, to which the person belongs,

shall not supply a person for employment as a seaman on a vessel.

Penalty: \$500.

(2) A person shall not receive or accept a person for employment as a seaman on board a vessel unless he is satisfied that the seaman is being supplied or engaged in accordance with the provisions of this Division.

Penalty: \$250.

### 38. EMPLOYMENT AGENTS PROHIBITED

A person shall not, for reward, make or offer to make arrangements for -

(a) finding seamen for a person seeking to employ seamen; or

(b) finding employment for a seaman on a vessel.

Penalty: \$250.

### 39. CERTAIN PERSONS NOT TO BE ENGAGED

A person shall not knowingly -

(a) employ as a seaman on board a vessel; or

(b) enter into a seaman's agreement with,

a person -

(c) who is a suspended person;

(d) who is under the age of 16 years; or

(e) except as provided by the Regulations, who is under the age of 18 years but is aged 16 years or over.

Penalty: \$500.

### 40. AGREEMENTS

(1) A person shall not employ on board a vessel a person as a seaman unless there is in force a seaman's agreement between the owner or a person authorized by him and the seaman.



## Marine

(2) The master of a vessel shall not take the vessel to sea unless there is, in respect of each seaman employed on the vessel, a seaman's agreement.

Penalty for an offence against sub-section (1) or (2): \$500.

(3) A seaman's agreement shall be in writing and be executed by the parties thereto.

### 41. VESSELS TO BE SEAWORTHY

Notwithstanding any provision in the agreement to the contrary, it is a condition of every seaman's agreement that the owner of the vessel in which the seaman is or is to be employed as a seaman shall use all reasonable means to ensure that the vessel is seaworthy for and during each voyage on which he is so employed.

### 42. SEAMAN TO UNDERSTAND AGREEMENT

The owner of a vessel shall not permit a person to execute a seaman's agreement unless he is satisfied that the person -

(a) has read the agreement or, if the person is illiterate, has had the agreement read to him; and

(b) understands the nature and contents of the agreement.

Penalty: \$500.

### 43. AGREEMENTS TO BE APPROVED

(1) The master of a vessel shall not take a vessel to sea unless the seamen's agreements executed in respect of the seamen employed in the vessel have been approved by a shipping officer.

Penalty: \$500 in respect of each agreement not so approved.

(2) A shipping officer shall not approve a seaman's agreement pursuant to sub-section (1) unless he is satisfied that the agreement -

(a) contains no provisions which are in contravention of this Part; and

(b) adequately protects the interests of the seaman who is a party to it.

### 44. TERMINATION OF AGREEMENT

(1) Subject to this section, a seaman's agreement may be terminated by mutual consent of the parties to it.

(2) A seaman's agreement is terminated -

(a) by the death of the seaman;

## Marine

(b) subject to sub-section (3), at the expiration of -

- (i) the term specified in the agreement as the term of the agreement; or
- (ii) if no term is specified in the agreement - 2 years from the date of the agreement,

whichever is the shorter;

(c) if the agreement relates to employment in a specified vessel, by the wreck, loss or total inability of the vessel to go to sea or to proceed on a voyage;

(d) by the lawful dismissal of the seaman; or

(e) by the seaman becoming a suspended person,

whichever first occurs.

(3) An agreement which, but for this sub-section, would by virtue of sub-section (2)(b) expire while the vessel on which the seaman is employed is on a voyage, expires at the completion of the voyage.

(4) If a seaman is on a voyage and not at his proper return port, his seaman's agreement shall be deemed not to be terminated under sub-section (1) or (2)(d) without the consent of a shipping officer.

### 45. LIMITATION OF LIABILITY FOR BREACH OF CONTRACT

(1) A seaman employed on a vessel to which this Part applies shall not be liable for damages for breach of contract arising from his absence from his vessel at a time when he is required under his agreement to be on board if he proves that his absence was due to an accident or mistake or some other cause beyond his control, and that he took all reasonable precautions to avoid being absent.

(2) Where a seaman is liable to pay damages under a seaman's agreement, then -

- (a) if no special damages are claimed, his liability shall not exceed \$100; or
- (b) if special damages are claimed, his liability shall not exceed \$500.

### 46. PROHIBITED TERMS IN AGREEMENT

A provision, whether express or implied, in any agreement which purports to modify, vary or negative the rights of a seaman under this Division, is void.

## Marine

### 47. WAGES

(1) Subject to this Act, the amount of the wages due to a seaman under a seaman's agreement shall be paid in full to, or to the order of, the seaman on the termination of the agreement.

Penalty: \$500 for each week or part thereof during which the wages remain unpaid.

(2) A court may, upon conviction of a person of an offence against sub-section (1), order the payment to the seaman of any wages due to him, and such order may be enforced in the manner provided in Part IX of the Local Courts Act.

### 48. ACCOUNT OF WAGES

The owner of a vessel on which a seaman is employed under a seaman's agreement shall not refuse or fail, without reasonable cause, at the prescribed times or on the discharge of the seaman, to deliver to the seaman an exact account in the prescribed form of the wages due under the seaman's agreement executed in relation to the employment of the seaman.

Penalty: \$250.

### 49. PROTECTION OF SEAMAN'S RIGHTS AND REMEDIES

(1) A seaman's lien for his wages shall have priority over all other liens irrespective of the date thereof.

(2) Subject to sub-section (4), a seaman's lien, his remedies for the recovery of his wages, his rights to wages under this Division and any right he may have or obtain in the nature of salvage, shall not be capable of being renounced by any agreement.

(3) The master of a vessel shall have the same lien for all disbursements or liabilities properly made or incurred by him on account of the vessel as a seaman has for his wages.

(4) Sub-section (2) does not affect those terms of an agreement made with the seamen belonging to a vessel which, in accordance with the agreement, is to be employed on salvage service, and which provide for the remuneration to be paid to the seamen for salvage services rendered by that vessel.

### 50. SHIPOWNER'S LIABILITY IN RESPECT OF CLAIMS BY CREW

(1) The owner of a vessel is not entitled to limit his liability in respect of a claim made by -

(a) a seaman belonging to the vessel;

(b) a servant of the owner on board the vessel; or

## Marine

- (c) a servant of the owner whose duties are connected with the vessel,

where the claim arises from an occurrence of a kind specified in paragraph (1)(a) or (b) of Article 1 of the International Convention relating to the Limitation of the Liability of Owners of Sea-Going Ships signed at Brussels on 10 October 1957 set out in Schedule 6 to the Navigation Act.

- (2) A reference in this section to -

- (a) a seaman belonging to a vessel;
- (b) a servant of the owner of a vessel on board the vessel; or
- (c) a servant of the owner of a vessel whose duties are connected with the vessel,

shall be read as including a reference to the heirs, personal representatives and dependants of the master or other member of the crew, or servant of the owner, as the case may be.

### Division 5 - Crew Accommodation

#### 51. CREW ACCOMMODATION

A person, being the owner or the master of a vessel of 25 metres or more in length, shall not cause or permit that vessel to go to sea unless it is provided with crew accommodation of the prescribed standard.

Penalty: \$1,500.

### Division 6 - Crew Welfare

#### 52. APPLICATION OF DIVISION

Without prejudice to the Regulations in their application to crew welfare, this Division does not apply to -

- (a) Class 1A and 2A vessels;
- (b) Class 1B and 2B vessels of 35 metres or more in length; or
- (c) fishing vessels.

#### 53. FOOD AND WATER

Both the owner and the master of a vessel shall ensure that the food and water supplied for the use of seamen on the vessel are adequate and of good quality.

Penalty: \$500.

## Marine

### 54. COMPLAINTS AS TO FOOD AND WATER

(1) A shipping officer may, upon the complaint of not less than 3 seamen employed on a vessel that the food and water supplied on the vessel are not adequate or are not of good quality -

- (a) investigate the complaint; and
- (b) direct the owner or the master of the vessel to replace the food and water or a specified portion of them.

(2) An owner or master of a vessel to whom a direction under sub-section (1)(b) is given shall comply with and not contravene that direction.

Penalty: \$500.

### 55. SEAMAN NOT TO BE LEFT BEHIND

(1) A person shall not wrongfully -

- (a) force a seaman belonging to a vessel on shore from that vessel; or
- (b) leave behind or cause to be left behind at any place on shore or at sea a seaman belonging to a vessel.

Penalty: \$2,000.

(2) The master of a vessel shall not take the vessel to sea from a port or place at which he has left behind a seaman unless he has notified a shipping officer, in the prescribed manner, of the occurrence.

### 56. LEAVE TO CONSULT SHIPPING OFFICER, &c.

Where a seaman belonging to a vessel in a port informs the master of the vessel that he wishes to go ashore -

- (a) for the purpose of consulting a shipping officer in connection with a matter related to his employment on the vessel; or
- (b) for a purpose relating to legal proceedings against the master or a member of the crew,

the master shall give the seaman reasonable leave to go ashore for that purpose.

Penalty: \$250.

## Marine

### Division 7 - Seamen Wrecked or Left on Shore

#### 57. APPLICATION OF DIVISION

This Division does not apply to a seaman employed on a fishing vessel.

#### 58. WAGES, &c., FOR SEAMAN WHOSE VESSEL IS LOST

(1) Where the service of a seaman belonging to a vessel is terminated before the time contemplated in his seaman's agreement, by reason of the wreck or loss of the vessel, the seaman is, subject to this section, entitled to -

(a) conveyance, by or at the cost of the owner of the vessel, to the proper return port of the seaman; and

(b) wages, at the rate payable on the date of the termination of his services, in respect of each day during the period commencing on the day after the date of the termination of his service to the date on which he reaches the port to which he is so conveyed, and for a period of 28 days after he reaches that port.

(2) A seaman is not entitled to wages under sub-section (1) in respect of a day on which his conveyance is delayed by his own act, default or neglect.

(3) Where -

(a) the period for which a seaman is entitled to wages under sub-section (1) is less than 8 weeks; and

(b) he is unemployed after he reaches the port to which he is conveyed under that sub-section,

the seaman is entitled to wages under sub-section (1), at the rate payable on the date of the termination of his service, for each day on which he is so unemployed, not being a day which is more than 8 weeks after the date on which his services were terminated.

(4) A seaman is not entitled to wages under sub-section (3) -

(a) where the owner shows that the unemployment was not due to the wreck or loss of the vessel; or

(b) for a day in respect of which the owner shows that the seaman was able to obtain suitable employment.

(5) Where a seaman whose service is terminated by the wreck or loss of the vessel was engaged by the run, the seaman is entitled to the wages to which he would have been entitled if the agreement had not been terminated until the end of the run, subject to all just deductions.

Marine

(6) In this section "wages" includes prescribed allowances.

59. CARE AND MAINTENANCE OF SEAMAN SICK OR INJURED AWAY FROM HIS HOME PORT

(1) If a seaman belonging to a vessel -

- (a) is hurt, injured or contracts a disease, in the service of the ship; or
- (b) suffers from an illness, not being an illness resulting from his wilful act or default or his misbehaviour,

and the seaman is not at his proper return port, the expense of -

- (c) providing the necessary surgical and medical advice, attendance and medicine, until the seaman is cured, dies or arrives at his proper return port;
- (d) the maintenance of the seaman until he is cured, dies or arrives at his proper return port;
- (e) the conveyance of the seaman to his proper return port; and
- (f) if the seaman dies before he arrives at his proper return port - his burial or, if his body is conveyed to his proper return port at the request of a member of his family, the conveyance of his body to that port,

shall, subject to sub-section (4), be defrayed by the owner of the vessel without deduction from the wages of the seaman.

(2) For the purposes of sub-section (1), where a seaman suffers from a venereal disease, that disease shall not be considered to be an illness resulting from his wilful act or default or his misbehaviour.

(3) If -

- (a) a seaman belonging to a vessel is suffering from a disease or illness; and
- (b) that seaman is, for the purpose of preventing infection or otherwise for the convenience of the vessel, temporarily removed from his vessel,

the expense of -

- (c) the removal of the seaman from, and his return to, the vessel;
- (d) providing the necessary surgical and medical advice, attendance and medicine, while the seaman is away from the vessel; and

## Marine

(e) the maintenance of the seaman while he is away from the vessel, shall, subject to sub-section (4), be defrayed by the owner of the vessel without deduction from the wages of the seaman.

(4) If it is practicable for a seaman to be treated and maintained in a public hospital but he elects to be treated and maintained elsewhere, the liability of the owner under sub-section (3)(d) and (e) is not greater than it would have been if the seaman had been treated and maintained as an in-patient in the public hospital.

(5) The expense of all surgical and medical advice, attendance and medicine, given to a seaman belonging to a vessel while the seaman is on board the vessel shall be defrayed by the owner of the vessel, without deduction from the wages of the seaman.

(6) Any reasonable expenses incurred by the owner of a vessel, in respect of -

(a) an illness of a seaman belonging to the vessel; or

(b) the burial of such a seaman who dies while on service,

not being expenses which are under this section required to be defrayed by the owner of the vessel may, with the approval of a shipping officer, be deducted from the wages of the seaman.

## 60. RECOVERY OF CONTRIBUTION

An amount of money expended by a person, including the seaman himself, or the Territory, in meeting the expense of any of the items referred to in section 59(1) is a debt due to that person or the Territory, as the case may be, by the person who last employed the seaman as a seaman.

## 61. WAGES OF SEAMAN LEFT ASHORE SICK OR INJURED

(1) Where a seaman belonging to a vessel is left on shore at his proper return port by reason that he is ill, hurt or injured, he is, subject to this section and section 62, entitled to receive wages, at the rate fixed by his agreement, in respect of each day during the period commencing on the date on which he was left on shore and ending -

(a) at the expiration of a period of 7 days after the date of his recovery; or

(b) at the expiration of a period of 3 months after the date on which he was left on shore,

whichever first occurs.



## Marine

(2) Subject to sub-section (3), where a seaman belonging to a vessel is left on shore at a port other than his proper return port by reason that he is ill, hurt or injured, he is, subject to this section and section 61, entitled to receive wages, at the rate fixed by his agreement, in respect of each day during the period commencing on the date on which he was left on shore and ending -

(a) in a case in which he arrives at his proper return port before his recovery -

(i) at the expiration of a period of 7 days after the date of his recovery; or

(ii) at the expiration of a period of 3 months after the date on which he so arrives,

whichever first occurs; and

(b) in a case in which he does not arrive at his proper return port before his recovery -

(i) when he arrives at his proper return port;

(ii) when he rejoins the vessel; or

(iii) when he engages in other employment,

whichever first occurs.

(3) If, after the recovery of a seaman entitled to receive wages under sub-section (2) and before he arrives at his proper return port -

(a) he refuses or fails, without the approval of a shipping officer, to accept an offer of employment on a vessel which is proceeding to his proper return port, being employment under the terms of which -

(i) he would have been paid wages at a rate not less than the rate fixed by the agreement under which he served on the vessel from which he was left on shore; and

(ii) he would have had the right to be discharged on arrival at his proper return port; or

(b) he refuses or fails, without reasonable excuse, to rejoin the vessel from which he was left on shore or to accept conveyance back to his proper return port by or at the cost of the owner of that vessel,

he is not entitled to receive wages in respect of any period after that refusal or failure.

## Marine

(4) A seaman who, before his recovery, is fit to travel is not entitled to wages under sub-section (2) in respect of a day on which his conveyance to his proper return port by or at the cost of the owner of the vessel from which he was left on shore is delayed by his own act, default or neglect.

(5) Where a seaman becomes entitled to receive wages under this section but dies before he ceases to be so entitled, the period in respect of which he is entitled so to receive wages is the period commencing on the date on which he was left on shore and ending on the date of his death.

(6) If a seaman who is left on shore -

- (a) from a vessel is not paid in the prescribed manner wages to which he is entitled under sub-section (1) or (2); or
- (b) at a port other than his proper return port, being a seaman who is entitled to be paid wages under sub-section (2), is brought or taken back to his proper return port at the direction of the owner or agent of the vessel at a time before his recovery when the seaman is not fit to travel,

the owner of the vessel is guilty of an offence.

Penalty: \$500.

(7) A seaman is entitled to wages under this section by reason that he is ill, hurt or injured only if the illness, hurt or injury -

- (a) is not due to his own wilful act or default or to his misbehaviour;
- (b) is such as to incapacitate him wholly from the performance of his duty;
- (c) is, or appears to be, of such a nature as to require, or to be likely to require, medical treatment for a period exceeding 7 days from and including the day on which he became so incapacitated; and
- (d) except in the case of a venereal disease contracted after the seaman engaged to serve on the vessel, is, so far as can be ascertained, an illness contracted on board the vessel, or in the service of the ship or its owner, or a hurt or injury sustained in the service of the vessel or its owner.

(8) For the purposes of sub-section (7)(a) where a seaman suffers from a venereal disease, that disease shall be deemed not to be due to his wilful act or default or to his misbehaviour.

(9) In this section "recovery", in relation to a seaman, means the recovery of the seaman as certified by a medical practitioner.

## Marine

### 62. SEAMAN REQUIRED TO REPORT FOR MEDICAL EXAMINATION

(1) A seaman who is left on shore at a port and is entitled to receive wages under section 61 shall inform a shipping officer at the port of his address and, if he changes his address, shall inform the shipping officer of his new address.

(2) If, at the expiration of a period of 48 hours after being left on shore or after the change of address, as the case may be, the seaman, without reasonable excuse, fails to inform the shipping officer of his address or new address, the seaman is not entitled to receive wages under section 61 in respect of any period after the expiration of the period of 48 hours and before he so informs the shipping officer.

(3) An owner, agent or master of a vessel may, by notice in writing given to a seaman who -

(a) has been left on shore from the vessel;

(b) is entitled to receive wages under section 61; and

(c) is not an in-patient in a hospital,

direct the seaman to submit himself for medical examination to a medical practitioner specified in the notice at or before such time as is so specified and, if the seaman, without reasonable excuse, fails to submit himself for medical examination to the medical practitioner at or before that time, he is not entitled to receive wages under section 61 in respect of any period after that time and before he submits himself for medical examination to that medical practitioner or to such other medical practitioner as the owner or the master directs.

### 63. PROPERTY LEFT ON BOARD BY SEAMAN

(1) Where any property is left on board a vessel by a seaman belonging to the vessel who dies or is left on shore the master of the vessel shall deal with the property in the prescribed manner.

(2) In this section "property", in relation to a deceased seaman or a seaman who is left on shore, includes wages due to the seaman, on the date of his death or the date on which he was left on shore, after all lawful deductions have been made from those wages.

Penalty: \$1,000.

## Division 8 - Discipline

### 64. APPLICATION OF DIVISION

(1) Without prejudice to the Regulations in their application to discipline on vessels, this Division, subject to sub-section (2), applies to a seaman belonging to a vessel other than a Class 1A or 2A vessel or a fishing vessel.

## Marine

(2) Section 68 applies only to a seaman belonging to a vessel that is -

- (a) a Class 1B or 2B vessel of 35 metres or more in length; or
- (b) a Class 1C or 2C vessel of 50 metres or more in length.

### 65. INTERPRETATION

A reference in sections 66 or 67 to a seaman includes a reference to -

- (a) a person carried to sea in a vessel without the consent of the master of the vessel or of a person authorized by the master to give consent to his being so carried; and
- (b) a seaman carried in a vessel for the purpose of being returned to his proper return port.

### 66. BREACH OF DUTY, &c.

A seaman belonging to a vessel shall not -

- (a) deliberately;
- (b) while under the influence of alcohol or a drug; or
- (c) in such circumstances or in such a manner that the act or failure to act amounts to a breach or neglect of duty or disobedience to a lawful command,

do or fail to do an act the doing or failure to do of which causes or is likely to cause a casualty or serious injury to a person on board the vessel.

Penalty: \$2,000 or imprisonment for 2 years.

### 67. NEGLIGENCE OF DUTY, &c.

A seaman belonging to a vessel shall not -

- (a) persistently and wilfully -
  - (i) disobey a lawful command; or
  - (ii) neglect his duty; or
- (b) whilst the vessel is at sea, combine with another seaman to -
  - (i) disobey a lawful command;
  - (ii) neglect his duty; or

## Marine

(iii) impede the navigation of the vessel.

Penalty: \$500.

### 68. DISCIPLINARY OFFENCES

(1) It is a disciplinary offence for a seaman belonging to a vessel, while on board that vessel, to -

- (a) wilfully strike any person;
- (b) wilfully disobey a lawful command;
- (c) without reasonable cause, fail to be available for duty at a time when required by the master of the vessel or person authorized by the master;
- (d) refuse or fail to report to or remain at his place of duty at a time when required so to do;
- (e) be under the influence of alcohol or a drug to such an extent that he behaves in a disorderly manner or is, in the opinion of the master of the vessel, unfit to be entrusted with his duty;
- (f) bring or have in his possession on board the vessel an offensive weapon, without the consent of the master;
- (g) wilfully and without reasonable cause, damage the vessel or any property on board the vessel;
- (h) without reasonable cause, take or be in possession of any property belonging to or in the custody of another person on board the vessel;
- (j) commit an act amounting to a breach or neglect of duty; or
- (k) secrete or assist in secreting a stowaway on board the vessel.

(2) Disciplinary offences shall be dealt with in the prescribed manner.

## Division 9 - General

### 69. STOWAWAYS

A person shall not go to sea on a vessel without the consent of the master of the vessel or a person authorized by the master to give that consent.

Penalty: \$250.

## Marine

### 70. LOG BOOKS

(1) The master of each vessel shall, in accordance with the Regulations, keep in respect of the vessel -

- (a) a book to be known as the Official Log Book; or
- (b) a book to be known as the Vessel Record Book.

Penalty: \$250.

(2) An entry in the Official Log Book or Vessel Record Book of a vessel is, in all courts, admissible in evidence.

### 71. CREW LIST

The owner and the master of a vessel shall cause crew lists to be kept in the prescribed manner.

Penalty: \$250.

### 72. REPORTS OF ACCIDENTS

The master of a vessel shall not, without reasonable cause, refuse or fail to notify a shipping officer of the death or serious injury of a person on the vessel or a seaman belonging to the vessel.

Penalty: \$250.

### 73. INQUIRIES INTO ACCIDENTS

(1) Subject to this section, where -

- (a) a person dies or suffers serious injury on board a vessel; or
- (b) a seaman belonging to a vessel dies or suffers serious injury whilst away from the vessel,

a shipping officer or a person authorized by the Minister shall hold an inquiry into the manner and cause of the death or injury.

(2) An inquiry under sub-section (1) shall not be held -

- (a) in the case of the death of a person - if a coroner is, by the Coroners Act, required to hold an inquest into the manner and cause of the death; or

(b) if the Minister so directs.

(3) The person holding an inquiry under sub-section (1) shall, if not a shipping inspector, have, for the purposes of holding the inquiry, the powers conferred on a shipping inspector by section 8(3) as if he were a shipping inspector.

## Marine

### 74. REPORTS OF INQUIRIES

(1) The person conducting an inquiry under section 73 shall, immediately upon completing the inquiry, forward a report of his findings to the Minister.

(2) The Minister shall make a copy of the report referred to in sub-section (1) available upon request to -

(a) if the report relates to the death of a person -

(i) the next of kin of that person; and

(ii) any person who appears to the Minister to have a sufficient interest in the contents of the report; and

(b) if the report relates to a serious injury to a person -

(i) that person;

(ii) a person acting with the authority of that person; and

(iii) any person who appears to the Minister to have a sufficient interest in the contents of the report.

## PART IV - SAFETY

### Division 1 - Introductory

### 75. APPLICATION OF PART.

(1) In this section, "existing fishing vessel" includes a fishing vessel, the keel of which was laid or which was at an equivalent stage of construction immediately prior to the commencement of this Part.

(2) Unless expressly so provided, this Part does not apply to a vessel that is -

(a) an air-cushioned vehicle;

(b) a pleasure craft;

(c) a commercial vessel that is proceeding on an interstate or overseas voyage;

(d) a fishing vessel that is proceeding on an overseas voyage;

(e) an existing fishing vessel that is less than 15 metres in length;

(f) a fishing vessel, other than an existing fishing vessel, that is less than 8 metres in length;

## Marine

(g) an off-shore industry mobile unit; or

(h) an off-shore industry vessel in respect of which a declaration under section 8A(5) of the Navigation Act is in force.

(3) This Part shall not be construed in such a manner as to prevent a person from making an application to the Director for the survey of an existing fishing vessel less than 15 metres in length.

### 76. SURVEYOR OF VESSELS

(1) In this section "classification society" means an association or corporation prescribed for the survey of vessels.

(2) The Minister may, by notice in the Gazette, appoint either generally or for specified purposes a person or a classification society, with such qualifications as he thinks fit, to be a surveyor of vessels for the purposes of this Act.

(3) A surveyor shall not demand or receive, directly or indirectly, a fee or remuneration for or in respect of the survey by him of a vessel, otherwise than under the authority of this Act.

Penalty: \$500.

### 77. POWERS OF SURVEYORS

(1) A surveyor may, at any reasonable time -

(a) go on board a vessel, including a vessel under construction, and survey or inspect the vessel and its equipment, any part thereof, any cargo or articles on board and any document carried in the vessel pursuant to this Act;

(b) upon giving reasonable notice, to the owner or agent of the vessel concerned, enter any premises and make such examination and investigation and require the production of such books, papers and documents relating to that vessel as he considers necessary for the performance of his duty;

(c) while a vessel is in Northern Territory waters, require the owner of the vessel, his agent or representative, the master of the vessel or a seaman on the vessel to produce any document relating to the crew in the possession or control of that person;

(d) require the master of a vessel to produce a list of all persons on board;

(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 to him of any matter concerning the vessel or its crew or the documents produced or required to be produced.



## Marine

(2) A surveyor shall not exercise a power under sub-section (1) so that a vessel is unreasonably detained or delayed.

### 78. SURVEYOR NOT TO BE HINDERED

(1) A person shall not hinder a surveyor in the exercise of his powers under section 77.

Penalty: \$1,000.

(2) A person shall not refuse or fail to comply with an order, requirement or request given to him by a surveyor in accordance with this or any other Act conferring or imposing powers, duties or functions on the surveyor.

Penalty: \$1,000.

## Division 2 - Certificates of Survey

### 79. SURVEY CERTIFICATES

Subject to this Act, the owner of a vessel shall not operate that vessel unless -

- (a) a certificate of survey is in force for that vessel; and
- (b) evidence of compliance with the requirements of this Division is displayed on board.

Penalty: \$5,000.

### 80. EXEMPTION

(1) The Director may, by notice in writing served on the master of a vessel, permit a vessel in respect of which a certificate of survey is not in force to go to sea -

(a) for the purpose of returning to the port at which it is registered; or

(b) to go to the port at which it is to be surveyed,

and the vessel may thereupon go to sea.

(2) The Director shall not give permission under sub-section (1) in respect of a vessel unless he is satisfied that the vessel may go to sea without danger to the vessel, passengers or crew.

(3) Both the owner and the master of a vessel in respect of which permission under sub-section (1) has been granted subject to conditions shall comply with and not contravene those conditions.

Penalty: \$1,000.

## Marine

### 81. CERTIFICATES, &c., TO BE PRODUCED

(1) The Director may, at any time before a vessel goes to sea, direct the master of the vessel to produce to him or to an employee nominated by him, all certificates of survey in force in respect of the vessel.

(2) A master to whom a direction under sub-section (1) has been given shall comply with and not contravene the direction.

Penalty: \$1,000.

### 82. VESSELS TO BE SURVEYED

(1) All vessels are subject to survey and inspection.

(2) Subject to this Act, the owner and the master of a vessel shall ensure that the vessel is surveyed and inspected at the prescribed times and in the prescribed manner.

Penalty: \$5,000.

### 83. DIRECTOR MAY REQUIRE VESSEL TO BE SLIPPED

(1) For the purposes of carrying out an inspection, the Director may, by notice in writing delivered to the owner or the master of a vessel, require him to have the vessel slipped, taken into dock or dealt with in such manner as is specified in the notice.

(2) An owner or a master served with a notice under sub-section (1) shall comply with and not contravene the notice.

Penalty: \$2,000.

### 84. RECOGNITION OF CERTIFICATES OF SURVEY ISSUED BY OTHER AUTHORITIES

Where the Director is satisfied that a certificate of survey issued in respect of a vessel by the marine authority of the Commonwealth or a State remains in force and is of like effect so as to be equally efficient with a certificate of survey issued under this Act, the Director may dispense with the survey required under this Act of that vessel during such time as the certificate remains in force and, for the purposes of this Act, the certificate shall be deemed to be a certificate issued under this Act and shall have effect according to its tenor.

### 85. APPLICATION FOR SURVEY

Where an owner of a vessel wishes to be issued with a certificate of survey in respect of that vessel, he may apply, in the prescribed form, to the Director for the vessel to be surveyed.

## Marine

### 86. ISSUE OF CERTIFICATES OF SURVEY

If the Director is satisfied that a vessel the subject of an application under section 85 complies with the requirements of this Act and the Regulations, he shall issue a certificate of survey, in the prescribed form, to the owner of the vessel or his agent.

### 87. ALTERATION OF VESSELS

The owner or the master of a vessel which is altered in such a manner that the certificate of survey becomes or may become inapplicable to the altered state of the vessel shall notify the Director of such alterations.

Penalty: \$5,000.

### 88. SUSPENSION OR CANCELLATION OF CERTIFICATE OF SURVEY

The Director shall suspend or cancel a certificate of survey if he is satisfied that -

- (a) the certificate has been obtained by fraud;
- (b) the certificate has been issued erroneously; or
- (c) the vessel to which the certificate relates has, since the issue of the certificate, been altered or damaged in such a way as to affect adversely its efficiency or seaworthiness.

### 89. SURRENDER OF CERTIFICATE OF SURVEY

(1) When the Director suspends or cancels a certificate of survey, he shall, as soon as practicable after the suspension or cancellation, serve a notice on the owner of the vessel to which the suspended or cancelled certificate of survey relates.

(2) A notice under sub-section (1) shall -

- (a) if the certificate of survey has been suspended - set out the period for which it has been suspended; and
- (b) require the surrender of the certificate of survey to a shipping officer.

(3) A person served with a notice under sub-section (1) shall, upon being served with the notice, surrender the certificate of survey specified in the notice to a shipping officer.

Penalty: \$250.

## Marine

### Division 3 - Load Lines

#### 90. APPLICATION OF DIVISION

(1) This Division does not apply to or in relation to a vessel which is less than 16 metres in length.

(2) In addition to those vessels mentioned in sub-section (1) and section 75, this Division does not apply to a vessel which is -

(a) a fishing vessel; or

(b) a vessel used only to carry not more than the maximum number of passengers permitted under the certificate of survey to be carried on a smooth waters or partially smooth waters vessel.

#### 91. ISSUE OF LOAD LINE CERTIFICATES

(1) The Director or a surveyor so authorized by the Director may issue in respect of a vessel which has been surveyed and marked in accordance with the Regulations and which complies with the conditions of assignment applicable to that vessel, a load line certificate in the prescribed form.

(2) The Director may, in accordance with the Regulations, exempt a vessel from the requirements of the Regulations and shall, in such a case issue, in respect of the vessel, a load line exemption certificate in the prescribed form.

#### 92. COMPLIANCE WITH LOAD LINE REQUIREMENTS

(1) The owner or the master of a ship shall not permit the vessel to go or attempt to go to sea unless there is in force in respect of the vessel a load line certificate or a load line exemption certificate.

Penalty: \$2,000.

(2) A vessel which goes to sea or attempts to go to sea without having been surveyed and marked under this Division may be detained until it has been so surveyed and marked.

(3) A vessel which does not comply with the conditions of assignment shall be deemed to be an unsafe vessel for the purposes of section 97.

#### 93. ALTERATION, &c., OF LOAD LINES

(1) The owner or the master of a vessel shall not, where the vessel has been marked with the prescribed load lines, fail without reasonable cause to keep the vessel so marked.

## Marine

(2) Where the prescribed load lines on a vessel are altered, concealed or defaced otherwise than as prescribed -

(a) the person who so altered, concealed or defaced them, as the case may be; and

(b) if the owner or the master of the vessel permitted or did not take reasonable steps to prevent the alteration, concealment or defacement, as the case may be - the owner or the master of the vessel or both of them, as the case may be,

is or are, guilty of an offence.

Penalty for an offence against this section: \$5,000.

### 94. OVERLOADING

(1) Where a vessel is overloaded, except as permitted under this Part, and goes to sea from or arrives at a port or is on a voyage, the owner and the master of the vessel are each guilty of an offence.

Penalty: \$5,000, plus the prescribed amount, not exceeding \$200, in respect of each 25 millimetres or part thereof by which the vessel is overloaded.

(2) It is a defence to a prosecution for an offence against subsection (1) that the vessel was overloaded because of a deviation or delay of the vessel caused solely by stress of weather or some other circumstance which the person charged could not have prevented or forestalled.

(3) For the purposes of this section, a vessel is deemed to be overloaded if it is so loaded or any time that, if the vessel were floating without a list in salt water of a specific gravity of 1.025 the load line marked on either side of the vessel that is the appropriate load line at the time would be submerged, and to be overloaded to the extent to which that load line would be submerged.

## Division 4 - Unsafe Ships

### 95. APPLICATION OF DIVISION

In addition to the vessels to which this Part applies, this Division applies to vessels referred to in section 75(2)(a) and (b) and to fishing vessels other than those referred to in section 75(2)(d).

### 96. UNSAFE SHIPS

For the purposes of this Division, a vessel that is, by reason of -

(a) the defective condition of a part of the vessel;

(b) the improper loading of the vessel;

## Marine

(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 shall not send a vessel to sea knowing it to be an unsafe ship.

Penalty: \$5,000.

(2) The master of a vessel shall not take it to sea, knowing it to be an unsafe ship.

Penalty: \$5,000.

(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 shall not be a bar to proceedings under this section.

(5) No proceedings for an offence against this section shall be instituted without the consent in writing of the Attorney-General.

## Division 5 - Safety Practices

### 98. APPLICATION

In addition to the vessels to which this Part applies, sections 99, 100 and 101 apply to fishing vessels other than those referred to in section 75(2)(d).

### 99. VESSELS TO BE PROPERLY EQUIPPED

The owner and the master of a vessel which does not carry the prescribed equipment in good order and ready for use shall not send or take the vessel to sea.

Penalty: \$2,500.

## Marine

### 100. FIRST AID

The owner or the master of a vessel shall not permit the vessel to go to sea unless it carries the prescribed medicines and medical stores.

Penalty: \$500.

### 101. RADIOS

The owner or the master of a vessel which -

(a) is required by the Regulations to carry a radio installation; and

(b) does not carry, as part of the crew, a number of seamen who have the prescribed qualifications to operate the radio installation equal to or in excess of the prescribed number,

shall not send or take the vessel to sea.

Penalty: \$1,000.

### 102. DIRECTIONS IN RELATION TO HAZARDOUS GOODS

(1) The Director may give such directions as he 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 sub-section (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 to whom directions under sub-section (1) have been given shall comply with and not contravene the directions.

Penalty: \$5,000.

### 103. LIVESTOCK

(1) The number of livestock which may be carried in a vessel and the manner and the conditions under which they may be carried shall be as prescribed.

(2) The owner or the master of a vessel who allows to be carried or carries in the vessel a number of livestock in excess of the prescribed number or carries livestock in contravention of the Regulations is guilty of an offence.

Penalty for an offence against this sub-section: \$2,000.

## Marine

### 104. DANGEROUS GOODS

- (1) The owner or the master of a vessel may -
  - (a) refuse to take on board any package which he suspects may contain dangerous goods;
  - (b) open and inspect any package which he suspects may contain dangerous goods; and
  - (c) discharge, destroy, render innocuous or otherwise deal with any goods which -
    - (i) in his opinion are dangerous goods; and
    - (ii) have been shipped on board the vessel without his knowledge.
- (2) The owner or the master of a vessel shall not be under any liability, civil or criminal, in respect of an action taken under sub-section (1).

### 105. POWERS OF DIRECTOR REGARDING DANGEROUS GOODS

(1) The Director may, if he 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 he thinks fit to the master of the vessel in relation to the loading, unloading or stowing of those goods.

(2) The master of a vessel shall comply with and not contravene a direction under sub-section (1).

Penalty: \$5,000.

### 106. DANGEROUS GOODS TO BE NOTIFIED

- (1) Subject to the Regulations, a person shall not -
  - (a) send by or onto;
  - (b) bring onto;
  - (c) carry in; or
  - (d) use on,

a vessel any dangerous goods.

(2) A person shall not, with intent to commit an offence against sub-section (1), conceal or falsely describe any goods.

Penalty: \$1,000.



## Marine

### 107. FORFEITURE OF DANGEROUS GOODS

Where a person is convicted of an offence against section 106 the court convicting the person may, notwithstanding that the dangerous goods the subject of the offence do not belong to the person convicted or the owner of those goods has no knowledge of the proceedings, forfeit the goods to the Territory.

### Division 6 - Collisions, Distress Signals, &c.

### 108. APPLICATION OF DIVISION

Notwithstanding section 75, except for vessels to which Division 11 of Part IV of the Navigation Act applies, this Division applies to all vessels in Northern Territory waters which are navigable by sea-going vessels.

### 109. COLLISIONS

The master or a person in actual charge of a vessel which has collided with another vessel shall, if and so far as he can do so without danger to his own vessel, crew and passengers -

- (a) render to the other vessel, its master, crew and passengers, such assistance as is practicable and necessary to save that vessel or those persons from any danger caused by the collision;
- (b) stay by the other vessel until he has ascertained that there is no need of further assistance; and
- (c) give to the master of the other vessel involved in the collision the name of -
  - (i) his vessel;
  - (ii) the port at which it is registered or to which it belongs; and
  - (iii) the ports from which it comes and to which it is bound.

Penalty: \$2,500.

### 110. COLLISION REGULATIONS

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

(2) Every vessel shall be provided with appropriate means of exhibiting the lights, shapes and signals prescribed for use in or in connection with collisions.

## Marine

### 111. DUTY TO ASSIST PERSONS IN DANGER

The master of a vessel shall, so far as he can do so without serious danger to his own vessel, its crew or passengers, render assistance to every person found at sea in danger of being lost.

Penalty: \$2,500.

### 112. FALSE DISTRESS SIGNALS

A person shall not, without reasonable cause, make or cause to be made a distress signal or a signal which may be confused with a prescribed distress signal.

Penalty: \$1,000.

### 113. DISTRESS CALLS

(1) Subject to sub-section (3), the master of a vessel at sea who receives a distress signal or information from any source that a vessel, an aircraft or a person is in distress at sea shall proceed with all practicable speed to the assistance of the vessel, aircraft or person in distress, informing it or them, if possible, that he is doing so, unless -

(a) he is unable to do so; or

(b) in the special circumstances of the case he considers it unreasonable or unnecessary to do so.

(2) The master of a vessel required to assist a vessel, an aircraft or a person in distress shall comply with the requirement by continuing to proceed with all practicable speed to the assistance of the vessel, aircraft or person in distress, and shall advise the shore authorities of the action he is taking.

Penalty: \$2,500.

(3) A master of a vessel need not comply with sub-section (1) or (2) if he is informed by the person from whom he received the distress signal, or receives other information, that another vessel is giving assistance to the vessel, aircraft or person in distress or that his assistance is no longer required.

### 114. DISTRESS CALLS TO BE LOGGED

The master of a vessel who receives a distress signal or information that a vessel, aircraft or person is in distress shall enter or cause to be entered in the Official Log Book of the vessel or, if the vessel is not required to keep an Official Log Book, a Vessel Record Book -

(a) a note of receipt of the signal or information; and

## Marine

- (b) if he does not proceed to the assistance of the vessel, aircraft or person - an explanation of the reason therefor.

Penalty: \$500.

### 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 shall, forthwith upon meeting on or near his 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 disposal, to all other vessels in the vicinity and to the prescribed persons.

Penalty: \$500.

## Division 7 - Shipping Casualties

### 116. APPLICATION OF DIVISION

Section 75 notwithstanding, this Division applies to and 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 ACCIDENTS, &c.

The master of a vessel which -

- (a) is involved in or causes an accident or collision;
- (b) receives damage which renders or is likely to render it unsafe;
- (c) has been in great danger from the act of some other vessel;
- (d) has been in danger of wreck or collision;
- (e) fouls or does damage to a pipeline, submarine cable or marine navigational aid;
- (f) is involved in an incident in which the sea is polluted by oil or by any noxious substance either by it or by another vessel; or
- (g) being a vessel other than a fishing vessel, having left a port or place in the Territory, puts back to that port or place,

## Marine

shall, as soon as practicable thereafter, report the event to the Director and, if so requested by him, provide a report in writing.

Penalty: \$500.

### 118. INQUIRIES AND INVESTIGATIONS INTO CERTAIN CASUALTIES

(1) The Minister may, by notice in writing, appoint a person to hold either a preliminary inquiry or a formal investigation into a casualty in relation to a vessel that was, at the time that the casualty occurred, in Northern Territory waters.

(2) Where a person is appointed to hold a preliminary inquiry, he shall, upon the conclusion of that inquiry, make a report to the Minister on the circumstances relating to that casualty and such report shall state whether or not it is his opinion that a formal investigation should be held.

(3) Where it appears to the Minister on receipt of a report from a person holding a preliminary inquiry to be desirable or necessary to do so, he may order the suspension of any certificate of competency issued under this Act pending the outcome of a formal investigation.

(4) A person shall not be appointed to hold a formal investigation under sub-section (1) unless he is a legal practitioner or holds judicial office.

### 119. ASSESSORS MAY ASSIST PERSON HOLDING FORMAL INVESTIGATION

(1) A person holding a formal investigation into a casualty in relation to a vessel shall be assisted by such number of assessors as may be directed by the Minister.

(2) An assessor who has been directed to assist the person holding a formal investigation shall, for the purposes of section 20, be deemed to be a member of the Tribunal.

### 120. CONDUCT OF INQUIRIES AND INVESTIGATIONS

(1) A person appointed to hold a preliminary inquiry or formal investigation into a casualty in relation to a vessel may -

- (a) go on board a vessel involved in the casualty;
- (b) require a person to answer questions relating to the casualty;  
and
- (c) require the production of any document or certificate relating to a matter relating to the preliminary inquiry or formal investigation.

## Marine

(2) A person required under sub-section (1) to -

- (a) answer a question shall, subject to sub-section (3), truthfully answer the question; or
- (b) produce a certificate or document if it is in his possession or control.

Penalty: \$250.

(3) Sub-section (2) does not require a person to answer a question if the answer thereto would or would tend to incriminate him.

(4) Unless otherwise prescribed, the procedure at a formal investigation shall 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 shall have the opportunity of rebutting those allegations.

(5) A person holding a formal investigation into a casualty in relation to a vessel shall give his decision thereon in open court and make a full report to the Minister including such observations as he thinks fit relating to the persons or circumstances contributing to the casualty.

### 121. COSTS

(1) A person conducting a formal investigation may make such order as he thinks fit in relation to the costs of a party to the investigation.

(2) Costs ordered under sub-section (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 AND CERTIFICATES

(1) Where, as a result of a formal investigation into a casualty in relation to a vessel, the person conducting the formal investigation is satisfied that a certificated person -

- (a) is unfit to discharge his duties;
- (b) has been seriously negligent in the discharge of his duties;  
or
- (c) has failed to give assistance or information required by this Act,

the person conducting the formal investigation may -

## Marine

(d) order that his certificate be cancelled or suspended; or

(e) censure the certificated person.

(2) A person conducting a formal investigation shall not order the cancellation or suspension of a certificate unless -

(a) not less than half the number of assessors assisting him concur;

(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 reasons for so ordering.

(3) Where the person conducting a formal investigation has ordered that the certificate of a person be suspended or cancelled, that person shall forthwith deliver his certificate to the Director.

### 123. MINISTER MAY ORDER ISSUE OF NEW CERTIFICATE

Where a certificate has been suspended or cancelled under this Division, the Minister may -

(a) on the recommendation of the person conducting the formal investigation which ordered the suspension or cancellation; or

(b) if he is of the opinion that the justice of the case requires it,

order the Director to issue a certificate of a lower designation, class or grade in place of the certificate which has been cancelled or suspended.

### 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 shall 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.

## Marine

(3) Any rehearing under this section shall be deemed to be a formal investigation under this Part, and the provisions of this Part applicable to formal investigations shall apply.

(4) The person before whom a rehearing is heard shall have the same powers as a person on the hearing of a formal investigation and, in addition, shall have power to order -

- (a) the reissue of any certificate suspended or cancelled by or at the order of the person holding the formal investigation in the first instance;
- (b) the issue of a certificate of a lower designation, class or grade in lieu of the certificate so cancelled;
- (c) that the period for which a certificate has been suspended be shortened or lengthened; or
- (d) the suspension of a certificate which has been cancelled; or
- (e) the cancellation of a certificate which has been suspended.

### 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 casualty in relation to a vessel, or a person who has been censured or whose certificate has been ordered to be suspended or cancelled, 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 sub-section (1) -

- (a) shall 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, shall 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. EXCESS PASSENGERS

(1) Subject to sub-section (2), the owner and the master of a vessel shall not permit the vessel to carry more persons than the number shown in respect of that vessel in its certificate of survey.

Penalty: \$500, plus \$20 in respect of each person so carried.

(2) A vessel may, for the purpose of saving life at sea, carry more persons than the number shown in its certificate of survey.

## Marine

### 127. OFFENCES BY PASSENGERS

(1) A passenger or other person on board a vessel who is not a seaman belonging to the vessel shall not -

- (a) wilfully obstruct or damage any part of the machinery, equipment or fittings of the vessel; or
- (b) obstruct, impede or molest a member of the crew in the navigation, management or operation of the vessel.

Penalty: \$2,500.

(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 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 he 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 he 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 shall comply with and not contravene a direction in a notice served under sub-section (1).

Penalty: \$500.

## PART V - LICENSING OF COMMERCIAL VESSELS

### 129. APPLICATION OF PART

This Part does not apply to or in relation to a Government vessel, a hire-and-drive vessel or a fishing vessel.

### 130. INTERPRETATION

(1) In this Part "owner", in relation to a vessel, includes any person who, by virtue of a charter or other agreement, has the whole responsibility for the management, operation and navigation of the vessel as if he were the owner of the vessel.

(2) Subject to section 139, for the purposes of this Part, a vessel is deemed to be engaged in a Territory shipping service if it -

- (a) takes on board passengers or cargo for fee or reward at a port or place in the Territory to be carried to or landed at another port or place in the Territory;



## Marine

(b) leaves a port or place in the Territory -

(i) to provide a shipping service wholly within Northern Territory waters; or

(ii) to undertake other commercial marine operations in Northern Territory waters, including salvaging, constructing, lifting, dredging and the exploration or exploitation of the resources of the seabed; or

(c) is used by the owner for commercial purposes, other than fishing, by taking on board passengers or cargo for the purposes of any business owned by him or in which he has a substantial interest.

### 131. LICENSING OF VESSELS TO ENGAGE IN TERRITORY SHIPPING SERVICES

(1) Subject to this Act, the master, owner or agent of a vessel shall not permit the vessel to engage in a Territory shipping service except with and in accordance with the terms of a valid licence.

Penalty: \$10,000.

(2) Where a person has been convicted in respect of a contravention of, or failure to comply with, the terms of a licence, the Minister may cancel or suspend the licence or any permit held in respect of the vessel concerned.

### 132. APPLICATION FOR LICENCE

A person may apply in the prescribed manner to the Minister for the grant or renewal of a Territory shipping licence in respect of a vessel.

### 133. FORM AND DURATION OF LICENCES

(1) A licence granted under section 135 shall be -

(a) a general licence; or

(b) a special licence,

and shall be in the prescribed form.

(2) A general licence entitles the holder of the licence to engage the vessel in respect of which the licence is issued in a Territory shipping service.

(3) A special licence entitles the holder of the licence to engage the vessel in respect of which the licence is issued in the particular Territory shipping service specified in the licence.

## Marine

(4) Subject to sub-section (5), the Minister may determine the period, not exceeding 5 years, for which a general licence is granted or renewed in respect of a vessel.

(5) In making a determination under sub-section (4) the Minister shall have regard to -

(a) the age, size and condition of the vessel; and

(b) the suitability of the vessel for the service.

(6) The period for which a special licence shall be granted or renewed shall not exceed 12 months.

### 134. CONSIDERATION OF APPLICATION FOR LICENCE

Before determining an application for a licence, the Minister shall take into consideration, as appropriate -

(a) the necessity for the service proposed;

(b) the existing service being provided, having regard to -

(i) tonnage available, frequency of service, and suitability of vessels being operated;

(ii) the effect upon existing services of the service proposed to be provided;

(c) the contribution the proposed service may make to the provision of efficient and economic shipping services in the Territory; and

(d) the desirability of encouraging persons resident in the Territory or bodies corporate established under a law of the Territory to participate in the provision of Territory shipping services.

### 135. GRANT OF LICENCES

Subject to this Act, the Minister may determine an application under section 132 by -

(a) granting, or renewing a licence, either conditionally or unconditionally; or

(b) refusing to grant or renew a licence.

### 136. CONTINUATION OF LICENCE

(1) Subject to sub-section (2), where the Minister has refused to renew a licence -

## Marine

(a) a general licence continues in force for a period of 6 months;  
and

(b) a special licence continues in force for a period of 28 days,

without variation other than any variations which the Minister and the holder of the licence shall have agreed shall become effective within the period of continuation.

(2) Sub-section (1) does not apply to a licence cancelled under section 131(2) or 137.

### 137. RESTRICTION ON THE GRANT AND HOLDING OF LICENCES

(1) A licence shall not be granted to or held by a person who is not the owner of the vessel in respect of which the licence is granted.

(2) A licence shall not be granted to or held by a person in respect of a vessel which does not comply with the requirements of -

(a) Part IV of this Act or the Regulations; or

(b) Part IV of the Navigation Act.

(3) A person who has been granted a licence shall in the event of either -

(a) his ceasing to be the owner of the vessel in respect of which the licence was granted; or

(b) the vessel ceasing to comply with the requirements of sub-section (2),

within 7 days thereafter deliver up the licence to a shipping officer for cancellation by the Minister.

Penalty: \$250.

### 138. CANCELLATION, &c., AND SURRENDER OF LICENCE

(1) The Minister may, if in his opinion it is necessary or desirable in the public interest to do so, by 6 months notice served on the holder of a general licence -

(a) cancel the licence;

(b) vary, in the manner specified in the notice, a condition to which the licence is subject; or

(c) impose in respect of the licence a condition specified in the notice.

## Marine

- (2) A notice under sub-section (1) shall -
  - (a) set out the reasons for the action specified in the notice; and
  - (b) if the licence has been cancelled, require the surrender of the licence.

### 139. TERRITORY SINGLE VOYAGE PERMIT

- (1) Where, in the opinion of the Minister -
  - (a) no vessel in respect of which a licence has been issued is available to provide a particular shipping service; or
  - (b) a particular shipping service offered by a licensed vessel is inadequate, inefficient or unreasonably costly; and
  - (c) it is in the public interest to do so,

the Minister may, subject to such conditions as he thinks fit, issue to the master of a vessel a Territory Single Voyage Permit authorizing the provision of a specified Territory shipping service on a single voyage basis.

(2) A vessel in respect of which a permit has been issued under sub-section (1) shall not be considered to be engaged in a Territory shipping service solely by reason of the fact that the vessel is engaged in the provision of the specified shipping service set out in the permit.

### 140. INFORMATION

- (1) The Minister may, by notice in writing served on -
  - (a) an applicant for a licence or permit; or
  - (b) the holder of a licence or permit,

require that person to furnish him, within the time specified in the notice, with such information in relation to the vessel and the shipping service concerned as is specified in the notice.

(2) A person served with a notice under sub-section (1) shall comply with and not contravene the notice.

Penalty: \$1,000.

### 141. INSPECTIONS

(1) Where the Minister has reasonable cause to believe that a person has, in respect of a vessel, failed to comply with a requirement of this Part, he may require the owner or the master of the vessel to -

## Marine

(a) allow a shipping inspector or person authorized by the Minister to go on board the vessel and inspect it or any cargo or passengers carried on board and question the passengers; and

(b) produce for inspection a licence, permit or certificate of survey or other document relating to the vessel.

(2) A person shall not fail or refuse, without reasonable cause, to comply with a requirement made of him under sub-section (1).

Penalty: \$2,000.

### 142. CONFIDENTIALITY

A person shall not, directly or indirectly, except in the performance of his official duties, make a record available or divulge or communicate to any person any information acquired by him or furnished to the Minister under this Part.

Penalty: \$4,000 or imprisonment for 2 years.

## PART VI - MARINE NAVIGATIONAL AIDS

### Division 1 - Introductory

### 143. INTERPRETATION

In this Part, unless the contrary intention appears -

"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 to and in relation to an aid which is -

(a) not the property of or under the control of the Commonwealth by virtue of the Lighthouse Act 1911 of the Commonwealth; and

(b) within Northern Territory waters or on land within the Territory.

## Marine

### Division 2 - Aids

#### 145. ACQUISITION, &c., 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 sub-section (1) as though the aid were an interest in land.

(3) For the purposes of sub-section (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, authorize a person to carry out on his behalf any work necessary for the exercise of the Director's powers and the performance of the Director's functions under sub-section (1).

#### 148. ESTABLISHMENT OF PRIVATE AIDS

A person shall not establish, maintain, operate, alter or remove an aid without the written approval of the Director.

Penalty: \$2,000.

#### 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 his 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 -

## Marine

- (a) to remove it entirely or to some other position;
- (b) to modify it or to alter its character or mode of exhibition to the extent or in the manner specified in the notice;
- (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 sub-section (2) shall not fail or refuse, without reasonable cause, to comply with the requirement contained in the notice.

Penalty: \$2,000.

(4) If -

- (a) a person fails to comply with a requirement contained in a notice under sub-section (2); or
- (b) a notice under sub-section (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 sub-section (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 authorized by the Director may, at any reasonable time, inspect an aid, lamp or light which, in his 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 authorized by the Director to do so, he may enter upon any land and transport goods through or over the land.

### 152. MOORING AT AIDS

A person shall not moor, make fast or attach a vessel to an aid.

Penalty: \$250.

## Marine

### 153. OBSTRUCTION

A person shall not obstruct or hinder a person authorized under section 147(2) in the exercise of his powers or the performance of his functions under this Part.

Penalty: \$500.

### 154. OFFENCES IN RELATION TO AIDS

A person shall not -

- (a) damage, destroy or allow a vessel to foul an aid;
- (b) do anything which causes the view of an aid to be obstructed in such a manner as to lessen its efficiency;
- (c) without lawful authority, remove or do anything which interferes with an aid so as to hinder the effective use of the aid;  
or
- (d) trespass on, or without lawful excuse, be found in or on -
  - (i) an aid; or
  - (ii) any land upon which an aid is situated.

Penalty: \$1,000.

### 155. NOTIFICATION OF DAMAGE

A person who, or the master of a vessel which, damages, destroys or interferes with an aid shall, as soon as practicable thereafter, report the damage, destruction or interference to the Director.

Penalty: \$500.

### 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;
- (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.



## Marine

### 157. IMMUNITY FROM CERTAIN PROCEEDINGS

(1) No legal proceedings shall 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 an employee.

## PART VII - PILOTAGE

### Division 1 - Introductory

### 158. INTERPRETATION

In this Part, unless the contrary intention appears -

"ship", in relation to a pilotage area, does not include, except in section 163, a ship or a class of ships that is specified in the Regulations as an exempt ship in respect of that area.

### 159. APPLICATION OF PART

This Part does not apply to or in relation to -

- (a) an air-cushioned vehicle; or
- (b) an off-shore industry mobile unit which is a structure, not being a vessel.

### Division 2 - Pilotage Areas and Authorities

### 160. PILOTAGE AREAS

The Minister may, by notice in the Gazette, declare an area of Northern Territory waters to be a pilotage area.

### 161. PILOTAGE AUTHORITIES

(1) The Northern Territory Port Authority is the pilotage authority for any pilotage area within the Port of Darwin.

(2) The Minister shall appoint a person to be the pilotage authority in respect of every other pilotage area.

### Division 3 - Pilotage

### 162. COMPULSORY PILOTAGE

A pilotage authority may, by notice in the Gazette, declare that pilotage is compulsory in the whole or a specified part of a pilotage area for which it is the pilotage authority.

## Marine

### 163. SPECIAL PILOTAGE REQUIREMENTS

(1) A pilotage authority may, if it is of the opinion that there would be some special risk or danger arising from a ship entering, plying or moving in or leaving a particular pilotage area, require the master of the ship to take on board the ship a licensed pilot.

(2) In forming an opinion under this section, a pilotage authority shall have regard to -

- (a) the condition of a ship and its equipment;
- (b) the nature and condition of any cargo carried on the ship;
- (c) the existence of a nuclear power source on the ship; and
- (d) the circumstances of, and the conditions within, the particular pilotage area.

(3) The master of a ship shall not fail or refuse to comply with a requirement made of him under sub-section (1).

Penalty: \$2,500.

### 164. PILOTAGE AUTHORITY TO PROVIDE PILOTAGE

A pilotage authority shall, in each part of its pilotage area where pilotage has been declared compulsory under section 162, and may, in any other part of its pilotage area, provide pilotage services.

### 165. FAILURE TO TAKE PILOT ON BOARD

Subject to section 168, the master of a ship shall not permit the ship to enter, ply in, move in or leave an area where pilotage is compulsory without having a licensed pilot on board.

Penalty: \$1,500.

### 166. PROCEDURE ON ENTERING COMPULSORY PILOTAGE AREA

Subject to section 168, before a ship enters an area where pilotage has been declared to be compulsory, the master of the ship shall -

- (a) present the ship at the appropriate boarding ground;
- (b) receive on board a licensed pilot and such other persons and equipment as the pilotage authority directs;
- (c) provide such assistance as the licensed pilot directs; and
- (d) give the licensed pilot charge of the ship in pilotage.

Penalty: \$600.

## Marine

### 167. DUTY OF PILOT

Subject to the authority of the master of a ship, the duty of a licensed pilot is to pilot the ship.

### 168. PILOTAGE NOT REQUIRED IN CERTAIN CASES

Sections 165 and 166 do not apply to or in relation to a ship where it is necessary, having regard to the safety of the ship or of a person on board the ship that the ship be immediately brought into, moved within or taken out of an area where pilotage is compulsory.

### 169. OWNER'S LIABILITY

Where a master of a ship is convicted of an offence against section 165 or 166, the owner of the ship is guilty of a like offence and subject to a similar penalty.

## Division 4 - Pilotage Licences and Pilotage Exemption Certificates

### 170. APPLICATION FOR PILOTAGE LICENCE OR EXEMPTION CERTIFICATE

(1) A person may apply in writing to a pilotage authority for a pilotage licence or pilotage exemption certificate in respect of an area for which it is the pilotage authority.

(2) An application for renewal of a pilotage licence or pilotage exemption certificate may be made in the same manner as the original application was made.

### 171. ISSUE OF PILOTAGE LICENCE OR EXEMPTION CERTIFICATE

A pilotage authority to whom an application under section 170 is made may, if it is satisfied of the prescribed matters in relation to the applicant, determine the application by either conditionally or unconditionally issuing or renewing a pilotage licence or pilotage exemption certificate to the applicant.

### 172. FORM OF PILOTAGE LICENCE AND EXEMPTION CERTIFICATE

(1) A pilotage licence or pilotage exemption certificate shall be in the prescribed form and shall specify the pilotage area in respect of which it is issued.

(2) A pilotage licence shall be valid for a period not exceeding 3 years and a pilotage exemption certificate shall be valid for a period not exceeding 2 years.

### 173. SUSPENSION OR CANCELLATION

(1) Where a pilotage authority, after receiving a report under section 180(4) is satisfied as to any of the matters referred to in

## Marine

section 178(a) or (b), it may cancel or suspend for such period as it thinks fit the pilotage licence held by the licensed pilot in respect of whom the inquiry was held.

(2) A pilotage exemption certificate may be cancelled or suspended at any time where, in the opinion of the pilotage authority, the holder is unfit to continue to hold it.

### 174. SURRENDER OF PILOTAGE LICENCE OR EXEMPTION CERTIFICATE

(1) A pilotage authority which suspends or cancels a pilotage licence or pilotage exemption certificate issued to a person shall, as soon as practicable after the suspension or cancellation, serve a notice on him.

(2) A notice under sub-section (1) shall be in writing and shall -

- (a) set out the reasons for the suspension or cancellation;
- (b) if the pilotage licence or pilotage exemption certificate has been suspended - set out the period for which it has been suspended; and
- (c) require the surrender of the pilotage licence or pilotage exemption certificate to the pilotage authority.

(3) A person served with a notice under this section shall, upon being served with the notice, deliver the pilotage licence or pilotage exemption certificate specified in the notice to the pilotage authority which issued it.

Penalty: \$250.

### 175. PRODUCTION OF PILOTAGE LICENCE

A licensed pilot shall, upon request by the master of a ship which the pilot proposes to take in pilotage, produce his pilotage licence to the master.

Penalty: \$100.

### 176. PERSON OTHER THAN LICENSED PILOT NOT TO PILOT SHIP

A person who is not a licensed pilot or the holder of a pilotage exemption certificate in respect of a pilotage area shall not -

- (a) pilot a ship in that area in respect of which a licensed pilot is required by or under this Part to be on board; or
- (b) hold himself out to be a licensed pilot or the holder of a pilotage exemption certificate, as the case may be, in respect of that area.

Penalty: \$500.

## Marine

### 177. MISCONDUCT BY LICENSED PILOT

(1) A licensed pilot shall not, while having a ship in pilotage charge, wilfully or negligently or while under the influence of alcohol or a drug -

- (a) do any act which causes, or is likely to cause -
  - (i) the loss or destruction of or serious damage to the ship, a harbour installation or other property; or
  - (ii) the death of, or serious injury to, a person on board or in the vicinity of the ship; or
- (b) fail to do anything required to be done by him to preserve -
  - (i) a ship from loss, destruction or serious damage; or
  - (ii) a person on board or in the vicinity of a ship from death or serious injury.

Penalty: \$1,000.

(2) It is a defence to a prosecution for an offence against subsection (1) that the licensed pilot -

- (a) was, at the time of the alleged offence, under the influence of a drug taken by him for medical purposes; and
- (b) either -
  - (i) he took the drug on medical advice and complied with any direction given as part of that advice; or
  - (ii) he had no reason to believe that the drug might have the influence it did.

### 178. INQUIRY INTO MISCONDUCT BY LICENSED PILOT

A pilotage authority may, if it considers that a licensed pilot -

- (a) is unfit to discharge his duties; or
- (b) has been seriously negligent in the discharge of his duties,

hold an inquiry and, if the pilotage authority is of the opinion that it is desirable to do so, suspend the pilotage licence held by the licensed pilot pending the outcome of the inquiry.

### 179. APPOINTMENT OF INQUIRY

The Minister may, at the request of a pilotage authority, appoint a person to conduct an inquiry under section 178.

## Marine

### 180. CONDUCT OF INQUIRIES

- (1) A person appointed under section 179 may -
  - (a) go on board a ship;
  - (b) enter upon a wharf or installation within a pilotage area in respect of which the pilot is licensed;
  - (c) require a person to answer any question relating to the subject of the inquiry; and
  - (d) require the production of a document, including a report or transcript of an inquiry or investigation held under this Act, relevant to the inquiry.
- (2) A person required under sub-section (1) to -
  - (a) answer a question shall, subject to sub-section (3), truthfully answer the question; and
  - (b) produce a document, shall produce it if it is in his possession or control.

Penalty: \$300.

(3) A person is not required to answer a question asked under sub-section (2) if the answer thereto would or would tend to incriminate him.

(4) A person conducting an inquiry under section 178 shall report thereon to the pilotage authority, and forward a copy to the Minister.

### 181. APPEALS

A pilot whose pilotage licence has been suspended for more than 3 months or cancelled under this Division may appeal to the Tribunal within 28 days after such suspension or cancellation.

## Division 5 - General

### 182. MASTER RESPONSIBLE FOR SHIP

The master of a ship is not relieved of his responsibility for the conduct and navigation of the ship by reason of the ship's being in pilotage charge of a licensed pilot or a person holding a pilotage exemption certificate.

### 183. PROTECTION OF PILOT AND PILOTAGE AUTHORITY

A licensed pilot who is in pilotage charge of a ship and the pilotage authority which issued him his licence are not liable for or in relation to any damage or loss which occurs to or by the ship while the pilot is acting as pilot of the ship.

## Marine

### 184. PILOTAGE CHARGES

(1) A pilotage authority may, with the approval of the Minister, by notice in the Gazette fix the scale of charges payable to the pilotage authority in connection with the pilotage of vessels within its pilotage area.

(2) Charges levied by a pilotage authority shall be retained by the pilotage authority.

### 185. LIABILITY TO PAY CHARGES

The owner, agent or master of a ship for which pilotage services are provided by a pilotage authority are severally liable to pay the charges for pilotage services due to the pilotage authority under section 184.

## PART VIII - MISCELLANEOUS

### 186. DETENTION OF VESSEL FOR FAILURE TO COMPLY WITH PARTS III AND IV

(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 III or IV; 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 92 or 97 has occurred or is likely to occur,

the Director may detain the vessel.

(2) For the purposes of detaining a vessel under sub-section (1), the Director may require any person to do or refrain from doing any specified act.

(3) A person required under sub-section (2) to do or refrain from doing a specified act shall comply with and not contravene the requirement.

Penalty: \$5,000.

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

## Marine

### 187. NOTICE OF DETENTION

The Director shall, 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 III and IV; and
- (b) the vessel is fit to proceed to sea on its proposed voyage without danger to human life.

### 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;
- (b) a specified amendment to the Uniform Code had come into effect for the purposes of this Act or the Regulations;
- (c) a specified person was a delegate of the Minister or the Director;
- (d) a specified person was a shipping officer, a surveyor or a shipping inspector;
- (e) a specified person was, or was not, the holder of a specified certificate;
- (f) a specified certificate of survey was or was not in force in respect of a specified vessel;
- (g) specified goods were dangerous goods;
- (h) a specified vessel was not licensed under Part V;
- (j) a specified vessel was engaged on a specified voyage;
- (k) a specified area was part of a pilotage area;
- (m) a specified person was a pilotage authority; and
- (n) a specified person was not a licensed pilot or the holder of a pilotage exemption certificate,

is prima facie evidence of the matter averred.



## Marine

### 190. SERVICE OF NOTICES

Service of a notice under this Act in respect of a vessel shall 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;
- (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.

### 191. OFFENCES PUNISHABLE SUMMARILY

All offences against this Act, other than offences expressed to be indictable, shall be punishable on summary conviction.

### 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 he 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;
- (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,

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

## Marine

(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, he may, by order, direct that the vessel or class of vessels shall not be 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 shall present to the Assembly at least once in each year a special report stating the cases in which the Administrator has exercised his power under this section during the preceding year.

## PART IX - 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) authorizing the exemption from any of the requirements of the Regulations or the relaxation of the requirements of the Uniform Code 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 sub-section (1)(a) includes the power to authorize the Minister to make determinations for and in relation to -

- (a) the numbers of certificated and uncertificated persons required for the manning of vessels;
- (b) rules for the conduct of examinations of candidates for certificates;

## Marine

- (c) the appointment of persons to be examiners;
- (d) the nomination of institutions or organizations to conduct examinations;
- (e) the determination of medical standards and fitness criteria to be applied to applicants for certificates and to seamen generally;
- (f) the fees and charges to be made by surveyors;
- (g) the requirements for the packing, stowing and carriage of dangerous goods;
- (h) the safe navigation and operation of vessels;
- (j) the number of passengers that may be carried in a vessel;
- (k) the loading and unloading of vessels; and
- (m) the fees and charges levied or imposed under this Act,

and section 196 shall apply, 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 shall be carried out or done, in any case, to the satisfaction of the Director or a surveyor, shipping inspector or shipping officer or as is directed or approved by the Director or a surveyor, shipping inspector or shipping officer;
- (b) provide that a matter or thing may be done, determined, applied, dispensed with or regulated by the Director or a surveyor, shipping inspector or shipping officer; and
- (c) provide that the Director or a surveyor, shipping inspector or shipping officer has a discretionary authority in relation to a matter provided for in the Regulations.

(4) The power to make regulations conferred by sub-section (1) includes the power to make regulations imposing penalties, not exceeding \$2,000 or imprisonment for 6 months, for offences against the Regulations.

### 195. EFFECT OF SPECIAL REGULATION-MAKING POWERS

Sections 196 to 211 inclusive do not limit the generality of section 194.

## Marine

### 196. UNIFORM CODE

(1) The Regulations may apply, adopt or incorporate by reference all or any of the provisions of the Uniform Code, with or without modification.

(2) The provisions of the Uniform Code incorporated in Regulations shall have effect as if made by the Regulations and shall have effect, with such modifications as are necessary to give effect to the Uniform Code, according to their tenor.

(3) Subject to sub-section (4), the power under sub-section (1) to apply, adopt or incorporate the Uniform 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 Marine and Ports Council of Australia.

(4) Amendments referred to in sub-section (3) shall 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 Code.

(6) Where the Uniform Code as applied, adopted or incorporated by reference -

- (a) requires that a matter or thing provided by the Uniform Code shall be carried out or done to the satisfaction of an Authority or a surveyor or as is directed or approved by an Authority or a surveyor, that matter or thing shall 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 surveyor, shipping inspector or shipping officer appointed under this Act;
- (b) leaves any matter or thing to be done, determined, applied, dispensed with or regulated by an Authority or surveyor, that matter or thing may be done, determined, applied, dispensed with or regulated by the Director or a surveyor, shipping inspector or shipping officer appointed under this Act; and
- (c) provides that an Authority or a surveyor has a discretionary authority in relation to a matter provided for in the Uniform Code, that discretionary authority may be exercised by the Director or by a surveyor, shipping inspector or shipping officer appointed under this Act.

### 197. SURVEYS

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

## Marine

- (a) relating to the submission of plans of vessels under construction;
- (b) relating to the standards applicable for the issue of certificates of survey; and
- (c) specifying the form of application for certificates of survey and of certificates of survey.

### 198. SAFETY MANNING

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

- (a) relating to the safety manning requirements for vessels;
- (b) relating to the qualifications of watch-keeping seamen; and
- (c) permitting the Minister to determine the scales of manning for vessels.

### 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;
- (b) permitting the Minister to determine medical standards for applicants for certificates;
- (c) permitting the Minister to determine the rules for the conduct of examinations;
- (d) specifying the forms required for and in connection with the grant, endorsement, revalidation, suspension, cancellation and reissue of certificates;
- (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 reissue of certificates.

### 200. CREW ACCOMMODATION

(1) The powers of the Administrator under section 194 include the power to make regulations -

- (a) prescribing the standards for crew accommodation;
- (b) requiring the submission of plans of existing and proposed crew accommodation; and

## Marine

(c) relating to the inspection of crew accommodation.

(2) If an advisory committee has been established under section 15 in relation to crew accommodation, the Administrator shall not make regulations for or with respect to the matters mentioned in subsection (1) unless he has first obtained the advice of that advisory committee.

### 201. TERMS AND CONDITIONS OF SEAMEN'S SERVICE

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

- (a) regulating the engagement of seamen;
- (b) regarding medical examinations for seamen;
- (c) regarding the form of seamen's agreements;
- (d) providing for the welfare of seamen;
- (e) regulating the manner of dealing with breaches of discipline on board vessels by seamen;
- (f) prescribing the manner of keeping Official Log Books and Vessel Record Books;
- (g) prescribing the manner of keeping the Register of Seamen;
- (h) regarding the provision of food and water on vessels;
- (i) regarding the protection and disposal of the property of a seaman who dies or is left on shore;
- (k) regarding the promotion, reversion and disrating of seamen;
- (m) prescribing the manner in which a seaman may be declared to be a suspended person; and
- (n) prescribing the documents to be handed over by a master to his successor,

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

### 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 assessors to be appointed to assist the Tribunal or a person holding a formal investigation; and

## Marine

- (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 -

- (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;
- (b) permitting the Minister to grant an exemption from a requirement of the Regulations or this Act in respect of the carriage of passengers;
- (c) prescribing the requirements for and standards of life-saving appliances, fire-fighting, radio and miscellaneous equipment for vessels;
- (d) prescribing the requirements for, and standards of, medicines and medical stores;
- (e) relating to the notification by shippers of intention to ship dangerous goods and the inspection of dangerous goods whilst being prepared for shipment;
- (f) prescribing the marking of weights on heavy packages;
- (g) prescribing the qualifications of radio operators and watch keepers;
- (h) prescribing the requirements for the operation, maintenance and testing of radio stations in vessels at sea;
- (j) permitting the Minister to determine the requirements for the carriage of livestock in a vessel;
- (k) permitting the Minister to determine the safety requirements for the loading and unloading of vessels;
- (m) prescribing the emergency procedures and the requirements relating to safety of navigation to be observed on vessels; and
- (n) relating to the maintenance of crew lists and lists of persons on board vessels,

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

## Marine

### 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.

### 205. LOAD LINES

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

- (a) the manner of determining freeboard to be assigned to vessels;
- (b) the requirements in respect of hull, superstructure, fittings and appliances that shall be complied with by a vessel with regard to the assignment of freeboards;
- (c) the general and specific requirements and the standards for surveys for load lines and for the issue of load line certificates;
- (d) the manner of marking vessels with deck and load lines; and
- (e) the information relating to the stability of a vessel to be provided by the owner of the vessel.

### 206. COLLISIONS

The power of the Administrator under section 194 includes the power to make regulations for and in relation to the application of the Convention on the International Regulations for Preventing Collisions at Sea, 1972, set out in Schedule 3 of the Navigation Act to vessels in Northern Territory waters.

### 207. LICENSING

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

- (a) the manner in which applications may be made for the grant or renewal of a licence;
- (b) the form of licences and Territory Single Voyage Permits; and
- (c) the fees payable on the grant or renewal of a licence or the issue of a Territory Single Voyage Permit.



## Marine

### 208. NAVIGATIONAL AIDS

(1) The power of the Administrator under section 194 includes the power to make regulations prescribing -

- (a) exemptions for particular vessels or particular classes of vessels from the requirements relating to payment of navigational aid contributions;
- (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 sub-section (1) includes the power to enable the Minister to exempt a vessel or class of vessels from liability to pay contributions.

### 209. PILOTAGE

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

- (a) the specification of ships or classes of ships that are, in respect of a particular pilotage area, exempt ships;
- (b) the form of and fees payable on application for the issue of a pilotage licence or a pilotage exemption certificate;
- (c) the matters to be considered by a pilotage authority in determining an application for the issue or renewal of a pilotage licence or a pilotage exemption certificate;
- (d) the form of a pilotage licence or a pilotage exemption certificate; and
- (e) the form of a notice to be served under section 174.

### 210. SMALL CRAFT

(1) The power of the Administrator under section 194 includes the power to make regulations prescribing -

- (a) the appointment of registration officers;
- (b) the registration and marking of small craft;
- (c) the licensing of persons operating or using small craft;
- (d) the operation and navigation of small craft;
- (e) the equipment to be carried on board small craft;
- (f) the survey and inspection of small craft; and

## Marine

(g) fees payable in respect of any registration, licence, inspection or other matter included in the Regulations.

(2) For the purposes of this section, "small craft" means -

(a) commercial vessels of not more than 12 metres in length;

(b) hire-and-drive vessels; and

(c) pleasure craft of all types.

### 211. AIR-CUSHIONED VEHICLES

Notwithstanding sections 23 and 75, the power of the Administrator under section 194 includes the power to make regulations -

(a) applying the provisions of Parts III and IV to air-cushioned vehicles; and

(b) prescribing, in relation to air-cushioned vehicles, those matters which may be prescribed in relation to small craft under section 210,

and those provisions and regulations shall apply accordingly.

## 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	Marine Board and Navigation Act, 1881	Sections 6 to 241 (inclusive) and 281 to 402 (inclusive) and the Schedules
No. 541 of 1891	Marine Board and Navigation Act Amendment Act, 1891	The whole Act
No. 563 of 1893	An Act to amend the 'Marine Board and Navigation Act, 1881'	The whole Act

Marine

Number and year of Act	Title	Extent to which Act ceases to apply as laws of the Territory
No. 614 of 1894	Marine Board and Navigation Act Amendment Act, 1894	The whole Act
No. 691 of 1897	The Marine Board and Navigation Act Amendment Act, 1897	The whole Act
No. 814 of 1902	The Marine Board and Navigation Act Amendment Act, 1902	The whole Act
No. 917 of 1906	The Marine Board and Navigation Act Further Amendment Act, 1906	The whole Act

PART II - NORTHERN TERRITORY ORDINANCES

Section 3(2)

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

Marine

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	
	omit	substitute
244	"province"	"Territory"
	"100 dollars"	"\$1,000"
245	"200 dollars"	"\$2,000"
246	"200 dollars"	"\$2,000"
248	"any Collector or principal officer of Customs, Special Magistrate, Justice,"	"any Magistrate, Justice of the Peace,"
250	"200 dollars"	"\$2,000"
251	"province"	"Territory"
252	"province"	"Territory"
	"200 dollars" (twice occurring)	"\$2,000"
253	"10 dollars"	"\$100"
254	"Custom House or Board Office"	"Police Station"
255	"10 dollars"	"\$100"
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)	"\$6,000"

Marine

Section	Amendment
	<div>omit</div> <div>substitute</div>
	<div>"Special Magistrate"</div> <div>"Magistrate"</div>
	<div>"or by the Court of Vice-Admiralty of the province,"</div> <div></div>
265	<div>"Special Magistrate or 2 Justices"</div> <div>"Magistrate or 2 Justices of the Peace"</div>
266	<div>"10 dollars"</div> <div>"\$100"</div>
268	<div>"or to the Court of Vice-Admiralty of the province;"</div> <div></div>
	<div>"100 dollars"</div> <div>"\$200"</div>
270	<div>"2,000 dollars" (twice occurring)</div> <div>"\$20,000"</div>
272	<div>"2,000 dollars" (twice occurring)</div> <div>"\$20,000"</div>
275	<div>"province" (twice occurring)</div> <div>"Territory"</div>
277	<div>"province"</div> <div>"Territory"</div>
	<div>"100 dollars" (twice occurring)</div> <div>"\$1,000"</div>
278	<div>"province" (twice occurring)</div> <div>"Territory"</div>
279	<div>"any Supreme Court or of the Court of Vice-Admiralty of the province"</div> <div>"the Supreme Court"</div>
	<div>"or in the Court of Vice-Admiralty of the province;"</div> <div></div>
280	<div>"province" (first occurring)</div> <div>"Territory"</div>
	<div>"600 dollars"</div> <div>"\$6,000"</div>
	<div>"or the Court of Vice-Admiralty of the province"</div> <div></div>

A  
L  
L

Q  
188