

[Insert graphic]

**MARITIME SAFETY
ADMINISTRATION BILL 2009**

(BILL NO. 9 of 2009)

[Insert graphic]

MARITIME SAFETY ADMINISTRATION BILL 2009

(BILL NO. 9 of 2009)

A

BILL

Entitled

AN ACT TO ESTABLISH THE SOLOMON ISLANDS MARITIME SAFETY ADMINISTRATION AND TO PROVIDE ITS FUNCTIONS AND POWERS AND TO REGULATE FRANCHISE SHIPPING SCHEMES, MANAGEMENT OF MARITIME INFRASTRUCTURE AND IMPLEMENTATION OF MARITIME CONVENTIONS AND AGREEMENTS AND FOR RELATED MATTERS

ENACTED by the National Parliament of Solomon Islands.

ARRANGEMENT OF CLAUSES

PART 1 – PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Act binds the Crown
4. Objectives of the Act

PART 2 – ESTABLISHMENT, FUNCTIONS AND POWERS OF THE SOLOMON ISLANDS MARITIME SAFETY ADMINISTRATION

5. Establishment
6. Composition
7. Functions
8. Powers
9. Delegation to Ports Authority
10. Officers
11. Forms and fees

PART 3 – FRANCHISE SHIPPING SCHEMES

12. Franchise shipping schemes
13. Administration of franchise schemes
14. Matters affecting the powers of the Ministry
15. Variation of franchise arrangements
16. Reporting requirements, etc

PART 4 – MANAGEMENT OF MARITIME INFRASTRUCTURE

17. Definition
18. Designations of maritime infrastructure
19. Effect of designations affecting maritime infrastructure
20. Management of maritime infrastructure by the Ports Authority
21. By-laws
22. Procedures for proposed by-laws

PART 5 – MARITIME CONVENTIONS AND AGREEMENTS

23. Principal and other functions of the Administration
24. Principles to be applied

25. Regulations to implement maritime conventions and agreements

PART 6 – MISCELLANEOUS

26. Indemnities
27. Power to delegate
28. Value of penalty units
29. Power to make regulations
30. Repeal
31. Savings
32. Transitional
33. Research Act amended

MARITIME SAFETY ADMINISTRATION BILL 2009

PART 1 – PRELIMINARY

- | | |
|------------------------------|--|
| Short title and commencement | <p>1. (1) This Act may be cited as the Maritime Safety Administration Act 2009.</p> <p>(2) This Act commences on a date appointed by the Minister, by notice in the <i>Gazette</i>.</p> |
| Interpretation | <p>2. In this Act, unless the context otherwise requires –</p> <p>“Administration” means the Solomon Islands Maritime Safety Administration established, constituted and empowered under Part 2;</p> <p>“Director of Marine” and “Director” mean the public officer holding for the time being, the office of Director of Marine;</p> <p>“financial procedures” means the financial procedures, procurement procedures, Financial Instructions or any other financial directives made under the Public Finance and Audit Act (Cap. 120), and includes financial procedures made pursuant to the National Transport Fund Act 2009;</p> <p>“franchise contract” means a contract, agreement or arrangement under section 14(4) for the purpose of implementing a franchise shipping scheme;</p> <p>“franchise operator” means a person providing shipping services in accordance with arrangements applying under this Act in relation to a franchise shipping scheme;</p> <p>“franchise shipping scheme” means any franchise shipping scheme administered and implemented under Part 3;</p> <p>“Fund” means the National Transport Fund, established under the National Transport Fund Act 2009, and</p> |

includes any other lawfully constituted Special Fund established for the purposes, *inter alia*, of supporting the development and maintenance of maritime infrastructure, and franchise shipping services;

“maritime infrastructure” includes pier, wharf, jetty, marine navigation aids in waters navigable by sea-going vessels, slipway or ship repair facility;

“Minister” means the Minister responsible for the administration of this Act;

“Ports Authority” means the Solomon Islands Ports Authority established under the Ports Act (Cap. 161);

"port state control" means the process of inspecting and otherwise regulating foreign vessels which have entered Solomon Islands for the purposes of ensuring that they comply with safety requirements applying to vessels, and with the requirements of the Safety of Life at Sea Convention.

- | | | |
|----|--|--------------------------|
| 3. | (1) This Act binds the Crown. | Act binds the
Crown |
| | (2) The Administration is an agency of the Crown. | |
| 4. | The objectives of this Act are – | Objectives of the
Act |
| | (a) to implement regulatory and operational reforms in the maritime sector; | |
| | (b) to establish the Solomon Islands Maritime Safety Administration; | |
| | (c) to regulate shipping franchise schemes; | |
| | (d) to facilitate the implementation of maritime conventions and agreements. | |

**PART 2 – ESTABLISHMENT, FUNCTIONS AND POWERS OF THE
SOLOMON ISLANDS MARITIME SAFETY ADMINISTRATION**

5. (1) The Solomon Islands Maritime Safety Administration is hereby established, and shall be constituted, managed and empowered under this Act.

Establishment

(2) The Administration shall be responsible for administering, applying and enforcing the Shipping Act 1998, and any other law applying to the maritime sector in Solomon Islands, unless such a law specifically provides for its administration by an entity other than the Administration.

(3) All references to the “Marine Division” or the “Marine Department” in the Shipping Act 1998, and in any other law, shall be deemed to be references to the Administration, and the Administration is empowered accordingly.

6. (1) For the purpose of implementing the provisions of this Act and any other law for which the Administration is responsible, the Administration shall be constituted by –

Composition

- (a) the Minister, acting under the authority of the Shipping Act 1998 and other relevant maritime laws;
- (b) the Permanent Secretary of the Ministry, acting under the authority of the Shipping Act 1998 and other relevant maritime laws;
- (c) the Director of Marine; and
- (d) other officers of the Administration authorised in accordance with this Act to implement the provisions of the Shipping Act 1998, and to exercise the powers given to specified officers under that Act and other laws administered by the Administration.

(2) The officers of the former Marine Division shall become officers of the Administration, and upon transfer they shall hold the equivalent offices in the Administration.

(3) For all purposes the office of Director of Marine under this Act shall be the equivalent of the office of Superintendent of Marine.

(4) The Director may designate any office within the Administration to be the equivalent of a former office of the Marine Division, subject to the public service laws.

7. (1) The functions of the Administration include –

Functions

(a) all aspects of maritime administration under the Shipping Act 1998 and other relevant laws, including –

- (i) the registration of vessels and the maintenance of the register of ships;
- (ii) the inspection and survey of vessels;
- (iii) the regulation of small craft;
- (iv) the certification of seamen, and of marine pilots;
- (v) the employment and welfare of seamen;
- (vi) the regulation and operation of marine navigation aids;
- (vii) the inspection and regulation of other maritime infrastructure;
- (viii) the imposition of requirements related to maritime safety and maritime security;
- (ix) authority over wrecks and salvage in accordance with Part X of the Shipping Act 1998; and
- (x) other responsibilities involving the regulation, management, application

and enforcement of requirements applying to the maritime sector to achieve compliance with applicable international maritime conventions, agreements and arrangements.

- (b) all aspects of port state control inspection of vessels;
- (c) regulation of search and rescue services and operations;
- (d) marine pollution prevention and response, and related matters;
- (e) regulation of the construction, use and inspection of maritime infrastructure;
- (f) setting and enforcing standards of construction of vessels within Solomon Islands, and standards applying to the repair or salvage of vessels;
- (g) functions involving hydrography, including the preparation and approval of charts and surveys for maritime purposes;
- (h) the provision of technical support for the administration of approved franchise schemes for the provision of shipping services within Solomon Islands, and the exercise of lawful regulatory authority over such services;
- (i) the regulation of vessels undertaking any research in any marine area, subject to section 3 of the Research Act (Cap. 152);
- (j) other maritime functions under applicable laws or as approved by Cabinet.

(2) During periods of emergency and in the event of natural disasters, the Administration shall perform such roles, functions and powers in relation to the protection of shipping and maritime

infrastructure and the safety of life at sea, as are consistent with any applicable law relating to emergencies and disaster management.

(3) The Administration shall be responsible for the application, implementation and enforcement of international maritime conventions and agreements as provided for in Part 5.

(4) The certification of pilots by the Administration under subsection (1)(iv) does not affect the powers of the Ports Authority to licence, regulate and manage pilots and to provide pilotage services under the Ports Act (Cap. 161).

(5) For the purpose of subsection (4), no person shall be licensed as a pilot or to carry out pilotage service under the Ports Act (Cap. 161) unless the person is first certified as a marine pilot by the Administration.

(6) Unless the context otherwise requires, references in any law to the Merchant Shipping Act 1894, or to any provision of that Act, shall be deemed to be references to the appropriate provisions of the Shipping Act 1998, as determined by the Minister, by order in the *Gazette*.

8. (1) The Administration may exercise any power under this Act, the Shipping Act 1998 and any other maritime law for which the Administration is responsible.

Powers

(2) All licences and certificates issued by the Administration, and other documents evidencing the exercise of the authority of the Administration, shall be signed by the Director on behalf of the Administration.

(3) The Administration may, with the approval of the Minister, enter into appropriate arrangements for certain of its functions to be undertaken under contract by suitably qualified persons, if such functions relate to –

- (a) the survey and inspection of vessels;
- (b) the installation and maintenance of marine navigations aids;

- (c) the inspection of other maritime infrastructure;
- (d) the provision of search and rescue services; or
- (e) the management, operation and maintenance of assets of the Administration.

(4) All arrangements made under subsection (3) must comply with any financial procedures.

(5) No arrangement made under subsection (3) may vest any power of regulatory control or authority in any person, but the Administration may delegate its powers to issue certificates or to give approvals pursuant to section 9 or 27.

(6) Notwithstanding any other law, legal proceedings may be commenced and conducted by or on behalf of the Administration in its own name for the purposes of exercising its powers and functions pursuant to law, if the commencement and conduct of such proceedings are approved by the Attorney General.

(7) Notwithstanding section 27, a person contracted to carry out any survey, inspection, installation or maintenance under subsection (3) who carries out or provides a defective survey, inspection, installation or maintenance under that subsection commits an offence and is liable on conviction to a fine not exceeding 1,000 penalty units.

Delegation to
Ports Authority

9. The Administration may, by notice in the *Gazette*, delegate its powers to the Ports Authority where such powers may be properly exercised within the area of ports declared under the Ports Act (Cap. 161), and in particular its powers relating to –

- (a) marine pollution prevention and response;
- (b) port safety and security; and
- (c) marine navigation aids.

Officers

10. (1) The staff of the Administration shall be public officers of the Ministry.

(2) For the purposes of administering the Shipping Act 1998, and any other law –

- (a) the Director of Marine may exercise all the powers vested in the Superintendent of Marine and the Chief Marine Officer, including the powers vested in the offices of Registrar and Receiver;
- (b) public officers shall be appointed within the Administration to hold the positions of Principal Shipping Officer, Shipping Officer, Principal Surveyor, Surveyor and any other office required for the effective administration of the laws under its control; and
- (c) if any appointment to a particular office has not been made, the Director may by written notice designate an officer of the Administration to be the officer designated under the Shipping Act 1998 or other law, and such officer may exercise the powers vested in that office.

(3) The Director may exercise any power vested in any officer by the Shipping Act 1998, and any other law for which the Administration is responsible.

11. (1) Notwithstanding any provision of the Shipping Act 1998 or any other law to the contrary, the Director of Marine may approve forms for any purpose associated with the functions and powers of the Administration, and any approved form shall be deemed to be a prescribed form as required by any applicable law, if no such form has been so prescribed under that applicable law.

Forms and fees

(2) Notwithstanding any provision of the Shipping Act 1998 or any other law to the contrary, the Minister may prescribe fees and charges under this Act for any purpose associated with the functions and powers of the Administration, if no such fee or charge has been prescribed under that Act or other law.

(4) The prescribed fees and charges and approved forms shall be displayed at the offices of the Administration, and other places it thinks fit.

(5) The Minister may direct the Administration to give written notification or by any other appropriate means, of approved forms to specified persons, but the failure to give notification of approved forms does not affect the validity of the forms.

(6) All fees and charges imposed and collected by the Marine Division prior to the commencement of this Act are deemed to have been validly fixed, imposed and collected notwithstanding any law to the contrary.

(7) No action shall lie against the Administration or Government in relation to any fee or charge imposed and collected by the Marine Division prior to the commencement of this Act.

PART 3 –FRANCHISE SHIPPING SCHEMES

- Franchise shipping schemes
- 12.** (1) The Ministry may implement franchise shipping schemes for the purpose of supporting the provision of shipping services to remote areas of Solomon Islands.
- (2) All franchise shipping schemes shall be administered, managed and operated under this Part, and pursuant to a franchise contract.
- (3) All franchise shipping operators providing services under this Part shall have access to all ports, maritime infrastructure, anchorages and landing places for the purposes of providing the franchise shipping services, subject only to –
- (a) compliance with regulations and by-laws applying to the operators; and
 - (b) payment of fees and charges prescribed under section 21(1)(c).

13. (1) The Ministry shall be responsible for the administration and implementation of approved franchise shipping schemes, and shall make appropriate arrangements for -

- (a) the preparation of tender documents;
- (b) the management of tender process and assessment of tenders;
- (c) negotiation with bidders;
- (d) monitoring the performance of franchise shipping operators;
- (e) securing moneys or payments from the Fund under any financial procedures applying to the Fund, and securing funds from any other lawful source;
- (f) preparing annual reports on the operation of the approved franchise schemes, and such other reports as the Minister may require;
- (g) the review of the approved franchise schemes and making necessary modifications to ensure the efficiency and cost-effectiveness of the operation and administration of the schemes;
- (h) making arrangements for the re-tendering of franchise contracts, or their renewal on appropriate terms;
- (i) imposing requirements on franchise operators under section 15; and
- (h) any other necessary aspect of the implementation and management of approved franchise schemes.

(2) The Ministry shall ensure that adequate funds to apply to an approved franchise shipping scheme have been identified and approved from the Fund, or other funding

sources, before any action is taken under subsection (1) to implement such scheme.

Matters affecting
the powers of the
Ministry

14. (1) The Ministry shall exercise its powers in relation to franchise shipping schemes in accordance with the financial procedures.

(2) The financial procedures shall set out –

- (a) the tender processes used for franchise shipping schemes; and
- (b) the eligibility of operators to tender for and to participate in franchise shipping schemes.

(3) The Ministry shall comply with the financial procedures applying to the Fund before it commits any money from the Fund to a franchise shipping scheme.

(4) The implementation of franchise shipping schemes shall be in accordance with franchise contracts made between the Ministry and approved franchise operators, which shall be in compliance with the requirements applying to government contracts.

(5) Any franchise contract made under subsection (4) may impose requirements on franchise shipping operations that relate to –

- (a) the quality of services to be provided;
- (b) minimum safety standards;
- (c) insurance cover;
- (d) obligations to comply with the Shipping Act 1998 and other relevant maritime laws;
- (e) obligations to comply with all applicable obligations arising from international maritime conventions and agreements; and
- (f) any other matter to facilitate the proper and accountable operation of a franchise scheme.

15. (1) Notwithstanding any provision of a franchise contract, the Ministry may serve notice on a franchise operator to require a variation of the services provided under the franchise contract.

Variation of
franchise
arrangements

(2) No change to a franchise contract shall take effect until the expiration of 60 days from the date upon which notice was given to the franchise operator under subsection (1), unless the franchise operator agrees in writing to the proposed variation.

(3) A franchise operator who has been given notice under this section may elect to terminate the franchise contract if the franchise operator does not agree to the variation required by the notice.

(4) No termination under subsection (3) shall take effect until the Ministry has made arrangements for the services to be provided by an alternative franchise operator.

16. (1) All franchise operators shall provide information relating to any aspect of their services or operations if required to do so from time to time by the Ministry.

Reporting
requirements, etc

(2) When providing any information to the Ministry, a franchise operator may request that any information provided be kept confidential on the grounds that it is commercially sensitive.

(3) The Permanent Secretary shall, on the advice of the Attorney General, determine whether any information identified under subsection (2) is of such a nature as to be considered to be confidential, and the decision of the Permanent Secretary shall be final.

(4) If information is determined to be confidential under subsection (3) then no person may divulge that information to any person outside of the Ministry, unless the person divulging the information and the person receiving the information are acting in accordance with their lawful responsibilities in relation to the administration of a franchise scheme.

(5) Any person who –

- (a) fails to provide information when requested to do so under subsection (1); or
- (b) divulges confidential information in breach of subsection (4),

commits an offence and is liable on conviction to a fine not exceeding 100 penalty units.

PART 4 – MANAGEMENT OF MARITIME INFRASTRUCTURE

17. In this Part, a reference to “maritime infrastructure” does not include maritime infrastructure owned by the Ports Authority.

18. (1) The Minister may, by notice in the *Gazette*, designate a maritime infrastructure –

- (a) as a public maritime infrastructure or a private maritime infrastructure; or
- (b) as a national maritime infrastructure, a provincial maritime infrastructure or community maritime infrastructure.

(2) Any designation made under subsection (1)(b) shall only be made after consultation with relevant provincial government authorities, and where appropriate with local communities.

19. (1) If maritime infrastructure is designated as public maritime infrastructure under section 18(1)(a) then –

- (a) public monies, including moneys from the Fund, may be applied to its maintenance;
- (b) the general public must have a right of access and use, but this may be subject to any laws and requirements relating to matters of safety, security or protection of the infrastructure;
- (c) by-laws may be made and applied in relation to the use, management, operation and protection of the infrastructure; and

- (d) the infrastructure shall be subject to periodic inspection by the Administration, and to periodic maintenance by the Ministry.

(2) If maritime infrastructure is designated as private maritime infrastructure under section 18(1)(a) then –

- (a) public monies shall not be applied to its maintenance;
- (b) restrictions may be placed on rights of public access and use by the owner of the infrastructure;
- (c) by-laws may be made by the Administration to enforce matters of safety and security in relation to the infrastructure;
- (d) the infrastructure shall not be placed on the Ministry's programme for inspection and routine maintenance; and
- (e) the infrastructure shall be subject to inspection and control by the Administration in relation to issues of safety and security.

(3) A designation of national maritime infrastructure made under section 18(1)(b) shall vest rights and responsibilities of management, control and maintenance of the infrastructure in the Ministry, and the Ministry may collect the prescribed fees and charges for the use of the infrastructure.

(4) A designation of provincial maritime infrastructure made under section 18(1)(b) shall acknowledge the rights of management and control in the relevant provincial government.

(5) A designation of community maritime infrastructure made under section 18(1)(b) shall acknowledge the rights of management and control in the relevant provincial government or other community based entity.

(6) When maritime infrastructure is designated as provincial or community maritime infrastructure –

- (a) the issue of maintenance shall be determined in accordance with any agreement made between Ministry and the relevant provincial government or community entity, for the funding and implementation of maintenance requirements; and
- (b) fees and charges for the use of the infrastructure may be collected by the relevant provincial government or community entity exercising right of management and control over it.

Management of
maritime
infrastructure by
Ports Authority

20. (1) The Minister may, with the consent of the Ports Authority, approve the vesting of maritime infrastructure in the Ports Authority for the purposes of managing and maintaining the infrastructure.

(2) An agreement may be made between the Ministry and the Ports Authority in relation to any vesting of responsibility under this section, and such arrangements may involve the use of moneys from the Fund in accordance with the approved processes applying to the expenditure of monies from the Fund.

(3) An agreement made under subsection (2) may permit the Ports Authority to collect and retain the prescribed fees and charges for the use of infrastructure vested in it.

By-laws

21. (1) The Minister may make by-laws relating to the management, operation and regulation of any maritime infrastructure, and in particular such by-laws may –

- (a) require acts or things to be performed or done to the satisfaction of an officer or representative of the Administration;
- (b) empower an officer or representative of the Administration –

- (i) to issue orders to any person requiring acts or things to be performed or done, or requiring that acts or things are not to be performed or done; and
 - (ii) impose conditions to be fulfilled when any required act or thing is performed or done; and
 - (iii) set periods or dates upon, within or before which the required acts or things must be performed or done;
- (c) impose fees and charges for the use of any maritime infrastructure, which may not be levied on a discriminatory basis to the detriment of operators;
- (d) empower the Administration, or any of its officers, employees or representatives –
 - (i) to carry out inspection and inquiry in relation to the enforcement or application of any by-law; and
 - (ii) to carry out any works as may be necessary for the proper enforcement or application of any by-law;
- (e) prescribe the following penalties for breach of the by-laws –
 - (i) a fine not exceeding 30 penalty units for any breach of a by-law;
 - (ii) a further fine not exceeding 5 penalty units for each day on which the offence continues; and
 - (iii) for a term of imprisonment not exceeding 3 months in default of payment of a fine.

(2) By-laws made under this section may apply generally to all maritime infrastructure or be stated to apply to any specific maritime infrastructure referred to in the by-laws.

(3) A court may, in addition to any penalty imposed under subsection (1)(e), order a person convicted of a breach of a by-law to pay any costs incurred by the Administration arising from the breach of the by-law, including the cost of any necessary repairs to or replacements of maritime infrastructure.

Procedures for
proposed by-laws

- 22.** (1) Notice of proposed by-laws shall be published –
- (a) in the *Gazette*;
 - (b) in a newspaper having wide circulation in Solomon Islands;
 - (c) in public buildings in the areas of application of the by-laws; and
 - (d) in any other place determined by the Administration.

(2) The notice under subsection (1) shall be published at least 14 days prior to the making of the by-law by the Minister, but the failure to comply with this requirement shall not affect the validity of the by-law.

(3) A copy of each by-law shall be kept at the offices of the Administration, and shall be available for inspection by any person without charge.

(4) Copies of by-laws shall be available for purchase from the Administration at a price fixed from time to time by the Director of Marine.

PART 5 – MARITIME CONVENTIONS AND AGREEMENTS

Principal and
other functions of
the
Administration

- 23.** (1) For the purposes of this Part, the Administration –
- (a) shall, as its principal function, be responsible for the implementation and enforcement of

international maritime conventions and agreements –

- (i) to which Solomon Islands is a party; or
 - (ii) which are adopted under any written law, as domestic law of Solomon Islands; and
- (b) may take any action that may be taken by State Parties under such international maritime conventions.

(2) The other functions of the Administration in relation to a convention or agreement are–

- (a) to liaise with and provide assistance to the Ministry responsible for Foreign Affairs in relation to identifying international maritime conventions and agreements that are in the interests of Solomon Islands to become a party to, and consult with other Ministries and agencies, the shipping industry and the broader community, in relation to the obligations that Solomon Islands will assume under such conventions;
- (b) to liaise with relevant Ministries and agencies, and to secure necessary approvals, to ensure the effective representation of Solomon Islands at meetings of the Parties of an applicable maritime convention or agreement;
- (c) to liaise with relevant regional and international bodies to ensure that Solomon Islands meets its obligations under an applicable maritime convention or agreement;
- (d) to manage or participate in any project, or part of a project, aimed at implementing any aspect of an applicable maritime convention or agreement;

- (e) to disseminate information in relation to the subject matter of any applicable maritime convention or agreement, and create public awareness about the provisions of any such convention or agreement;
- (f) to prepare any necessary report, and reporting on a regular basis to the Minister in relation to the implementation of any applicable maritime convention or agreement;
- (g) to share information and otherwise provide such cooperation as is required by any applicable maritime convention or agreement;
- (h) to recommend amendment or enactment of any law in order to effectively implement any requirement of an applicable maritime convention or agreement; and
- (i) to work in conjunction with relevant government ministries and agencies to implement any obligation or enjoy any right under an any applicable maritime convention or agreement.

Principles to be
applied

24. (1) For the purposes of this Part, the Administration shall be guided by and shall apply the following principles –

- (a) the “polluter pays” principle;
- (b) the precautionary principle of international law;
- (c) the harmonisation of laws and processes with those of other State Parties and any other country; and
- (d) the promotion of international and regional cooperation in the enforcement of maritime laws and the implementation of maritime conventions and agreements.

(2) For the purpose of subsection (1)(b), the precautionary principle is applied if, in the event of a threat of damage to the marine environment or a risk to human health in the maritime sector, a lack of complete certainty regarding the extent of adverse effects is not used as a reason for not acting to prevent or minimise the potential adverse effects or risks arising in any way from a matter or thing regulated under this Act or any relevant law.

25. For the purposes of this Part, the Minister may make regulations for the purposes of applying, implementing and enforcing any international maritime convention or agreement and in particular for any purpose associated with –

Regulations to
implement
maritime
conventions and
agreements

- (a) safety or security on vessels and in ports;
- (b) the prevention or response to marine pollution;
- (c) the dumping or incineration of wastes at sea by vessels; and
- (d) the implementation of regional conventions and agreements relating to protection of the maritime environment and the regulation of shipping in the South Pacific region.

PART 6 – MISCELLANEOUS

26. (1) The Ministry, the Administration, officers, employees and persons acting under the authority of the Ministry or the Administration, including persons with delegated authority, for the purposes of implementing this Act, shall not be subject to any action, liability, claim or demand for any matter or thing done or omitted to be done in good faith (whether negligently or not) in the performance or purported performance of any function or duty, or exercise or purported exercise of any power under this Act, or any other applicable maritime law.

Indemnities

(2) The Government shall not be liable for any loss or damage arising from the operation of any franchise shipping scheme under this Act.

27. Subject to section 9, the Administration may delegate its powers, functions or duties under this Act to an officer of the Government,

Power to delegate

an officer of a provincial government or any person prescribed by regulations.

Value of penalty
units

28. The value of one penalty unit is \$100.

Power to make
regulations

29. (1) The Minister may make regulations for any purpose for which Regulations are required to be prescribed or contemplated by this Act, and in particular may make regulations –

- (a) to facilitate the proper and effective discharge of the functions and powers of the Administration, including powers and procedures for the enforcement of its lawful functions;
- (b) to promote the safety of shipping operations and ports management, including the regulation or removal of vessels, structures or things which may pose a threat to the safety or security of vessels or maritime infrastructure;
- (c) to prescribe standards for the construction of vessels and for the repair or salvage of vessels, and procedures for the certification of compliance with such standards;
- (d) to resolve any difficulties that may arise out of the repeal of any law under this Act, and to clarify the role of the Administration in relation to matters that were previously provided for under any repealed law;
- (e) to amend, revoke or repeal any regulations saved by section 31(1);
- (f) to facilitate a due and orderly transition of the former Marine Division into the Administration; and
- (g) necessary or expedient for the purposes of giving effect to the provisions of this Act.

(2) Regulations made under this Act may prescribe either or both of the following penalties –

- (a) a fine not exceeding 50 penalty units; or
- (b) a term of imprisonment not exceeding 12 months.

30. (1) The following laws are repealed –

Repeal

- (a) the Merchant Shipping (Fees) Act 1913;
- (b) the Light Dues and Harbours Act 1923; and
- (c) the Seaman Discipline (Admiralty Transport) Act 1918.

(2) The Shipping Act (Cap. 163) shall be repealed upon publication of a notice by the Minister, by notice in the *Gazette*.

31. (1) The following Regulations made under the Shipping Act (Cap. 163) shall remain valid when that Act is repealed under section 30(2) –

Savings

- (a) the Shipping Regulations;
- (b) the Shipping (Dangerous Goods) Regulations;
- (c) the Shipping (Notification) Regulations 1997 (L/N 73/97); and
- (d) the Maritime Security Regulations 2004 (LN 145/06).

(2) Regulations saved by subsection (1) may be repealed by any subsequent Regulations which make provisions to that effect, or any subsequent Regulations made under the Shipping Act 1998 or this Act which make provision for the matters covered by them.

(3) It is an offence if a person breaches any requirement applying under any Regulations saved under this section.

(4) The penalty for any offence under Regulations saved under subsection (1), or for any breach of a requirement of such Regulations, shall be a fine not exceeding 300 penalty units, or a term of imprisonment not exceeding 3 months, and such Regulations are deemed to be amended accordingly.

32. (1) Any certificate, licence or registration previously issued or made by the Marine Division, or a duly authorised officer of the Marine Division, and which is current as at the commencement of this Act, shall be deemed to have been issued or made by the Administration and may remain valid for the period of its validity.

(2) The Administration may issue a replacement certificate or licence for any certificate or licence saved under subsection (1).

(3) The validity of any document or act done under the Shipping Act 1998 or any other applicable maritime law shall not be affected by reason of the fact that it may purport to be made or done under any previous name or title that has been changed by reason of the provisions of this Act.

(4) The Minister may make written determinations to extend the time for the change of any name or title that is provided for under this Act, but no such extension may apply for a period that exceeds 12 months.

33. The Research Act (Cap. 152) is amended in section 3(3)(b) by inserting the following after “Provincial Assembly” –

“and the Maritime Safety Administration established under the Maritime Safety Administration Act 2009 in respect of any vessel intended to carry out any research within a marine area”.

MARITIME SAFETY ADMINISTRATION BILL 2009**OBJECTS AND REASONS**

The objects of the Bill are –

- (a) to implement regulatory and operational reforms to the maritime sector;
- (b) to establish the Solomon Islands Maritime Safety Administration;
- (c) to regulate shipping franchise schemes;
- (d) to facilitate implementation of maritime conventions and agreements.

MINISTER FOR INFRASTRUCTURE DEVELOPMENT