

NORTHERN TERRITORY OF AUSTRALIA

MARINE ACT

As in force at 14 December 2005

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# NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Act as in force at 14 December 2005. Any amendments that may come into operation after that date are not included.

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## MARINE ACT

**An Act to regulate shipping within the Territory and to provide for the application to the Territory of the Uniform Shipping Laws Code and for related matters**

### PART I – PRELIMINARY

**1. Short title**

This Act may be cited as the *Marine Act*. (See back note 1)

**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*. (See back note 1)

**3. Repeal**

(1) The Acts of South Australia listed in Part I of Schedule 1 shall, to the extent therein indicted, 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(2) The Ordinances listed in Part II of Schedule 1 are repealed to the extent therein indicated.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.

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(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Act in respect of that vessel, until the certificate of survey is issued, or finally refused, or the application is withdrawn.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 subsection (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;

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"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;

"certified person" means a person who holds a certificate issued or recognized and endorsed 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 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, but does not include a vessel which is used solely for pleasure or recreation;

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

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

- (a) a person temporarily employed on board the vessel while the vessel is at a port;
- (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 International Maritime Organisation, as amended from time to time;

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

"employee" has the same meaning as in the *Public Sector Employment and Management Act*;

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

"fishing operations" means –

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

"fishing support vessel" means a vessel that is used –

- (a) to provide food, fuel and other supplies to persons who are engaged in fishing operations; or
- (b) to transport crew and other persons who are engaged in fishing operations;

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

- (a) a fishing support vessel; and
- (b) a vessel that is in the course of construction and is intended to be used wholly or principally for fishing operations;

"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,

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

"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;

"mother vessel" has the same meaning as mother boat has in the Fisheries Regulations;

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

"Northern Territory waters" means –

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

"off-shore industry mobile unit" means –

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

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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;

"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;

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- (e) ports or places outside Australia; or
- (f) places beyond the continental shelf of Australia;

"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;

"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;

"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;

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

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

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"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
- (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 Australian Transport Council and certified by a Minister for the Commonwealth in accordance with section 427 of the *Navigation Act* of the Commonwealth as amended from time to time;

"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.

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(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.

(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.

(7) For the purposes of this Act, the gross tonnage of a vessel is to be determined in accordance with the Tonnage Measurement Convention as defined in the *Navigation Act*.

## **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;

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- (b) as to whether or not this Act or a regulation under this Act has been complied with; or
- (c) as to whether or not a vessel is fit to proceed to sea without serious danger to human life.

(3) Where a shipping inspector is required to report under subsection (2) or 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;
- (f) require the master of a vessel to give an explanation of any matter concerning the vessel or its crew; and
- (g) detain or delay a vessel in order to obtain any advice, information or evidence.

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

(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 subsection (3), he shall produce his identification card to that person.

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

Penalty: 50 penalty units.

#### **8A. Police to have powers of shipping inspector**

A member of the Police Force has the powers and functions of a shipping inspector under this Act.

#### **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 the Local Court.

#### **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.

#### **14. Powers of Tribunal exercisable by one Magistrate**

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

***Division 3 – Advisory Committee***

**15. Advisory committees**

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

**16. Members**

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

**17. Representation**

(1) The Minister shall, when appointing persons to be members of an advisory committee, as far as is practicable, include representatives of persons or 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 ship-owners or trade unions of seamen,

in relation to any matter referred to the committee.

**18. Notice of appointments**

The establishment of an advisory committee and the appointment of the Chairman, Deputy Chairman and members of that committee 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.

***Division 4 – General***

**20. Fees, &c.**

Subject to this Act, 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 III**

Unless expressly provided otherwise, 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;
- (ca) a commercial vessel not more than 5 m long which does not carry more than 4 persons and is operated –
  - (i) in inland waters; or
  - (ii) in waters of the sea declared pursuant to a law in force in the Territory to be smooth or partially smooth waters within the meaning of clause 5.2 of Section 1 of the Uniform Code;
- (d) a fishing vessel that is proceeding on an overseas voyage;
- (da) a fishing vessel less than 6.2 m long that is operating in conjunction with a mother vessel and is within 5 nautical miles of the mother vessel;
- (db) a fishing vessel less than 6.2 m long that is operating within 5 nautical miles of the coast;
- (dc) a hire-and-drive vessel;
- (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. [Repeal]**

***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, being persons having the designation, class or grade so required.

Penalty: 100 penalty units.

(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 or surveyor, notwithstanding that it carries fewer certificated or uncertificated persons than the number prescribed in respect of that vessel.

(3) A shipping officer or surveyor shall not grant an approval referred to in subsection (2) unless he is satisfied that –

- (a) the safety of the vessel and the person 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;
- (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: 50 penalty units.

## **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: 50 penalty units.

### ***Division 3 – Qualification***

#### **28. Application for certificate**

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

(2) An application under subsection (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.

#### **29A. Recognition of certificates**

(1) A person may apply to the Director for the recognition of a valid certificate issued by a statutory marine authority of the Commonwealth or of a State within the Commonwealth and held by that person.

(2) An application under subsection (1) shall be in the prescribed form and be accompanied by the prescribed fee (if any).

(3) The Director may, on presentation of a certificate referred to in subsection (1), endorse on the certificate the Director's recognition of its validity within the Northern Territory, subject to such limitations or extensions as may be specified in the endorsement.

#### **30. Effect of certificate**

Subject to the Regulations and the conditions, if any, specified in the certificate issued under section 29 or the limitations or extensions, if any, specified in an endorsement under section 29A, 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, or revoke an endorsement on a certificate, in accordance with the Regulations.

**32. Production of certificate**

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

Penalty: 50 penalty units.

**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: 50 penalty units.

**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 subsection (1).

Penalty: 50 penalty units.

**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.

**36. – 50. [Division 4] [Repeal]**

*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: 50 penalty units.

**52. – 56. [Division 6] [Repeal]**

**57. – 63. [Division 7] [Repeal]**

**64. – 68. [Division 8] [Repeal]**

***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: 50 penalty units.

**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: 50 penalty units.

(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: 50 penalty units.

**72. Report of accidents**

(1) 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: 50 penalty units.

(2) The master must notify the shipping officer under subsection (1) within 72 hours of the death or serious injury occurring.

Penalty: 50 penalty units.

**73. Inquiries into accidents**

(1) Subject to this section, where a person dies or suffers serious injury –

- (a) on board a vessel; or
- (b) while engaged in duties relating to the operation of a vessel,

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

(2) An inquiry under subsection (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 subsection (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.

**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 subsection (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 IV**

(1) In this section, "existing fishing vessel" means a fishing vessel which, at 1 January 1989, had been recognized by the Director as an existing fishing vessel for the purposes of this section.

(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;
- (da) a fishing vessel that is less than 6.2 metres in length that is operating in conjunction with a mother vessel and is within 5 nautical miles of the mother vessel;
- (db) a fishing vessel that is less than 6.2 metres in length that is operating within 5 nautical miles of the coast;
- (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;
- (fa) a commercial vessel not more than 5 m long which does not carry more than 4 persons and is operated –
  - (i) in inland waters; or
  - (ii) in waters of the sea declared pursuant to a law in force in the Territory to be smooth or partially smooth waters within the meaning of clause 5.2 of Section 1 of the Uniform Code;
- (fb) a pontoon or a vessel hulk that, with the prior approval in writing of the Director, is permanently moored or anchored in an approved location and is not used nor available for use by the general public as a place for accommodation or entertainment;
- (fc) a hire-and-drive vessel that is less than 7 metres in length;

- (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 or a fishing vessel less than 8 metres in length.

(4) A commercial vessel to which subsection (2)(fa) applies that is not surveyed pursuant to subsection (3) shall be subject to the same regulations relating to the carrying of safety equipment as if it were a pleasure craft.

(5) A fishing vessel to which subsection (2)(da) or (db) applies that is not surveyed pursuant to subsection (3) must carry safety equipment as determined by the Director.

**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: 50 penalty units.

**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 or, if he is not available, 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.

(2) A surveyor shall not exercise a power under subsection (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: 50 penalty units.

(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: 50 penalty units.

*Division 2 – Certificates of Survey*

**79. Survey certificates**

Subject to this Act, the owner shall not permit nor the master undertake the operation of a vessel unless –

- (a) a certificate of survey is in force for that vessel;
- (b) the vessel is being operated in compliance with the terms of that certificate; and

- (c) such evidence of compliance with the terms of the certificate as is approved by the Director is displayed on board.

Penalty: For an offence against paragraph (a) or (b) – 100 penalty units.

For an offence against paragraph (c) – 15 penalty units.

## **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.

(1A) 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 if the Director is satisfied that the vessel has been surveyed and that a certificate of survey will be issued.

(2) The Director shall not give permission under subsection (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 this section has been granted subject to conditions shall comply with and not contravene those conditions.

Penalty: 50 penalty units.

## **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 subsection (1) has been given shall comply with and not contravene the direction.

Penalty: 50 penalty units.

## **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: 100 penalty units.

**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 subsection (1) shall comply with and not contravene the notice.

Penalty: 50 penalty units.

**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 to the Director for the vessel to be surveyed.

**86. Issue of certificate 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 to the owner of the vessel or his agent.

**87. Alteration of vessels**

(1) The owner or the master of a vessel who proposes to alter the vessel so that the certificate of survey will or may become inapplicable to its altered state shall notify the Director in writing of the proposed alterations before commencing them.

Penalty: 100 penalty units.

(2) The owner or the master of a vessel which is altered so that the certificate of survey is or may be inapplicable to the altered state of the vessel shall notify the Director of the alterations before the vessel is operated in its altered state.

Penalty: 100 penalty units.

**88. Suspension 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;
- (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, safety or seaworthiness; or
- (d) the safety equipment required to be carried on the vessel to which the certificate relates is not being carried on the vessel.

**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 subsection (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 subsection (1) shall, upon being served with the notice, surrender the certificate of survey specified in the notice to a shipping officer.

***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 24 metres in length.

(2) In addition to those vessels mentioned in subsection (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: 50 penalty units.

(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.

(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: 100 penalty units.

**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: 100 penalty units, plus the prescribed amount not exceeding 5 penalty units, 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), (b), (fa) and (fc) 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;
- (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: 1250 penalty units.

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

Penalty: 1250 penalty units.

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

(a) the person charged used all reasonable means to ensure that the vessel was not an unsafe ship; or

(b) the sending or taking of the vessel to sea was, in the circumstances, reasonable and justified.

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

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

***Division 5 – Safety Practices***

**98. Application**

In addition to the vessels to which this Part applies, sections 99, 100, 101 and 102 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: 100 penalty units.

**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: 50 penalty units.

**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 seaman 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: 50 penalty units.

**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 subsection (1) to give directions includes the power to prohibit the loading of or carriage of hazardous goods in a vessel.

(3) The master of a vessel to whom directions under subsection (1) have been given shall comply with and not contravene the directions.

Penalty: 500 penalty units.

**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 subsection: 50 penalty units.

**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 subsection (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 subsection (1).

Penalty: 100 penalty units.

**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 subsection (1), conceal or falsely describe any goods.

Penalty: 50 penalty units.

**107. Forfeiture of dangerous goods**

Where a person is found guilty of an offence against section 106 the court may, notwithstanding that the dangerous goods the subject of the offence do not belong to that person, 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 2 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: 1250 penalty units.

**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 the prevention of collisions.

Penalty: 200 penalty units.

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

Penalty: 200 penalty units.

### **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: 1250 penalty units.

### **112. False distress signals**

A person shall not, without reasonable cause –

- (a) set off or cause to be set off a flare or EPIRB (Emergency Position Indicating Radio Beacon), or display or cause to be displayed lights, sheets, or signs which indicate distress; or
- (b) make or cause to be made any other distress signal or a signal which may be confused with a prescribed distress signal.

Penalty: 50 penalty units.

### **113. Distress calls**

(1) Subject to subsection (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: 1250 penalty units.

(3) The master of a vessel need not comply with subsection (1) or (2) if he is informed by the person 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
- (b) if he does not proceed to the assistance of the vessel, aircraft or person – an explanation of the reason therefor.

Penalty: 50 penalty units.

**115. Navigation hazards**

- (1) For the purposes of this section –
  - (a) "tropical storm" includes cyclone; and
  - (b) a vessel has met with a tropical storm if the master of the vessel has reason to believe there is a tropical storm in the immediate vicinity.

(2) The master of a vessel 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: 50 penalty units.

**115A. Duty not to obstruct**

The owner or the master of a vessel shall not operate, moor, anchor or secure the vessel or allow the vessel to be operated, moored, anchored or secured in a manner that is likely to –

- (a) obstruct or impede the safe passage or navigation of another vessel;  
or

- (b) create a hazard to the safe passage, navigation or operation of another vessel.

Penalty: 100 penalty units.

### **115B. Person not to endanger safe passage of vessel**

A person shall not by any means, including the unlawful use of nets, lines, pots, or other gear, obstruct, hinder, or endanger the safe passage of a vessel or other person.

Penalty: 100 penalty units.

### *Division 6A – Vessels Wrecked*

### **115C. Interpretation**

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

"owner", in relation to a vessel wrecked, means any person to whom the vessel wrecked –

- (a) belongs;
- (b) belonged at the time at which it became a vessel wrecked; or
- (c) has belonged at any time after the time at which it became a vessel wrecked,

and a vessel wrecked shall be deemed to belong to a person if, at the relevant time, the person by virtue of a charter or other agreement had the responsibility for the management and operation of the vessel as if the person were the owner;

"vessel" includes a vessel, part of a vessel, and any item of equipment, cargo, stores, fuel, or ballast of or belonging to a vessel;

"vessel wrecked" means a vessel that is wrecked, stranded, sunk, abandoned or which is lying on the sea bed within Northern Territory waters and includes wreckage.

**115D. Minister may deal with vessel wrecked**

(1) Where, in the opinion of the Minister, a vessel wrecked is, or is likely to be, an obstruction or danger to navigation or to the environment, or it is in the public interest to do so, the Minister may –

- (a) direct the owner of the vessel wrecked to raise, remove, or destroy the vessel, or to light or buoy the vessel until it is raised, removed, or destroyed;
- (b) where the owner of the vessel wrecked cannot be located within a reasonable time or fails to comply with a direction under paragraph (a) within a reasonable time, remove, destroy, or deal with the vessel wrecked in such a manner as the Minister thinks fit; and
- (c) recover from the owner any or all expenses incurred in the lighting, buoyming, raising, removal, or destruction of the vessel wrecked.

(2) Where the Minister has dealt with a vessel wrecked in accordance with subsection (1)(b), the Minister may sell, in such manner as the Minister thinks fit, any vessel wrecked or any part of it so raised or removed and any other property recovered in the raising or removal.

(3) The Minister shall, out of the proceeds of any sale under subsection (2), after the deduction of expenses incurred, pay the net proceeds of the sale to the owner or person entitled to them.

(4) The powers given to the Minister under this section for the removal of a vessel wrecked shall be in addition to and not in derogation of any other powers given in respect of a declared port for a like object under any other law.

***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,

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

Penalty: 50 penalty units.

### **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 subsection (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.

(2) A person required under subsection (1) to –

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

Penalty: 50 penalty units.

(3) Subsection (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 subsection (1) to be paid to a person are a debt due to that person by the person so ordered to pay them.

(3) The Minister may pay any costs incurred by a person in relation to a formal investigation.

**122. Formal investigations**

(1) Where, as a result of a formal investigation into a 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 –

- (d) order that his certificate be cancelled or suspended or the Director's endorsement on it be revoked; or
- (e) censure the certificated person.

(2) A person conducting a formal investigation shall not order the cancellation or suspension of a certificate or the revocation of the Director's endorsement on it 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 or the Director's endorsement on it revoked, that person shall forthwith deliver his certificate to the Director.

Penalty: 50 penalty units.

**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.

(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 subsection (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 subsection (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: 100 penalty units, plus 5 penalty units 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.

#### **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: 100 penalty units.

(2) The master of a vessel may refuse to receive on board any person who, by reason of drunkenness or for any other cause, is in such a state, or conducts himself 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 subsection (1).

Penalty: 100 penalty units.

**PART V – LICENSING OF CERTAIN COMMERCIAL OPERATIONS**

**129. Application of Part**

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

**130. Interpretation**

In this Part –

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

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

"interim licence" means an interim licence granted under section 133;

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

"licensee" means the holder of a licence;

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

**131. Declaration of declared services**

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

- (a) specified commercial operations; or
- (b) all commercial operations within a specified area,

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

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

- (a) 30 days after the date on which it is published in the *Gazette*; or
- (b) where a later date is specified in the declaration, on that date.

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

- (a) publish a notice in a newspaper circulating in the Territory; and
- (b) give notice in writing to persons who are, to his or her knowledge, likely to be affected by the declaration,

of the declaration and of its effect.

**132. Application for licence**

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

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

**133. Interim licences**

(1) Where –

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

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

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

(2) The grant of an interim licence does not give rise to a legitimate expectation by the applicant that a licence shall be granted to him or her.

(3) Where an application in respect of which an interim licence was granted is determined by the Director, the interim licence is deemed to have been revoked from the date of service of the final determination of the application on the applicant.

### **134. Grant of licence**

(1) The Director may grant or renew, or refuse to grant or renew, a licence.

(2) The matters that the Director shall take into consideration before granting or renewing a licence include –

- (a) the necessity for or desirability of the declared service;
- (b) the public interest in relation to the declared service;
- (c) whether the applicant is a fit and proper person to be granted the licence sought; and
- (d) such other matters as the Director thinks fit.

(3) For the purposes of subsection (2), a person is not a fit and proper person if he or she –

- (a) is bankrupt, has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, has compounded with the person's creditors or made an assignment of the person's remuneration for the benefit of his or her creditors;
- (b) has held a licence granted under this Part which has been cancelled on a ground specified in section 138(1)(a), (b), (d) or (e);
- (c) was a director within the meaning of the Corporations Act 2001 of a body corporate at the time when an offence was committed by that body corporate which led to the cancellation of a licence held by the body corporate;

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- (d) has been convicted of a prescribed offence against this Act or any other Act;
  - (e) is unable to demonstrate the capacity to meet standards of passenger and public safety to the Director's satisfaction; or
  - (f) otherwise engages in conduct that is improper.
- (4) The Director shall not grant a licence to, or renew the licence of, a body corporate –
- (a) if the body corporate is, by its constitution, prevented from carrying on the commercial operations in respect of which the licence application is made;
  - (b) unless each of the directors of the body corporate, as an individual, would not be prevented by this Act from being granted a licence or having the licence renewed; and
  - (c) in respect of which a liquidator, receiver, receiver and manager or official manager have been appointed under the Corporations Act 2001, unless the Director is of the opinion that it would be inequitable not to grant or renew the licence.
- (5) Where the Director refuses to grant or renew a licence he or she shall notify the applicant in writing of the refusal and specify the grounds for the refusal.

### **135. Director may require information**

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

(2) A licensee shall comply with a notice under subsection (1).

Penalty: \$5,000.

### **136. Conditions of licence**

- (1) It is a condition of a licence that the licensee shall –
- (a) comply with all laws applicable to the maintenance and operation of the vessel engaged in the declared service;
  - (b) comply with all requirements by the Director to furnish information or prescribed records relating to the declared service; and

- (c) comply with all directions by the Director relating to the use of boarding structures or landing areas.

(2) The grant, renewal or variation of a licence may be subject to such conditions as the Director thinks fit, including, but not limited to, the condition that the declared service shall be carried out –

- (a) at a specified place or on a specified route;
- (b) in accordance with a specified timetable; and
- (c) in compliance with specified operating procedures.

### **137. Period of licence**

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

### **138. Cancellation, &c., of licence**

(1) The Director may, by notice in writing given to a licensee, notify that the Director intends to cancel, suspend or vary a licence where the Director is satisfied that –

- (a) the licensee has contravened or failed to comply with this Part;
- (b) information or a statement required in connection with an application for a licence or a renewal of a licence is materially false or misleading;
- (c) there has been a change of circumstances since the grant of the licence;
- (d) the licensee has contravened or failed to comply with a condition of his or her licence;
- (e) the licensee has ceased to be a fit and proper person; or
- (f) it is in the public interest to do so.

(2) A notice under subsection (1) shall specify –

- (a) particulars of the grounds for cancellation, suspension or variation of the licence;
- (b) the action that the Director intends to take;
- (c) where the Director intends to suspend or vary the licence, the terms and conditions of the proposed suspension or variation; and

- (d) the time before which the licensee may show cause why the licence should not be cancelled, suspended or varied.

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

### **139. Inspection**

(1) Where the Director believes on reasonable grounds that a licensee has failed to comply with or contravened the conditions of his or her licence, the Director may require the licensee to permit a shipping inspector or a shipping officer authorised by the Director under subsection (2) to exercise the powers of a shipping inspector under section 8(3), to board a vessel or enter premises for the purposes of inspection or questioning of passengers.

(2) The Director may authorise a shipping officer to exercise the powers of a shipping inspector under section 8(3) and the person so authorised may exercise those powers accordingly.

(3) A shipping inspector or a person authorised to exercise the powers of a shipping inspector under subsection (2) may, during an inspection under subsection (1), require the licensee to produce for inspection and reproduction such documents relating to the declared service as the shipping inspector or authorised person requires.

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

Penalty: \$10,000.

### **140. Offences, &c.**

(1) A person shall not carry on a declared service without a licence.

Penalty: \$50,000.

(2) The operator of a declared service shall not carry on, or purport to carry on, the declared service except in accordance with a licence.

Penalty: \$50,000.

(3) The master of a vessel that is engaged in a declared service shall not cause or permit the vessel to be used for that purpose except in accordance with a licence.

Penalty: \$5,000.

(4) The operator of a declared service shall comply with and not contravene a notice given by the Director or a requirement under section 136(1)(b).

Penalty: \$5,000.

**141. Appeals against decision by Director**

(1) Subject to this section, a person aggrieved by a decision of the Director (other than a decision of the Director pursuant to a direction of the Local Court under subsection (7)(c)) –

- (a) refusing an application for the grant or renewal of a licence;
- (b) determining or varying the conditions upon which a licence was granted, varied or renewed;
- (c) cancelling or suspending a licence; or
- (d) requiring information or prescribed records to be furnished,

may appeal to the Local Court against the decision.

(2) A person shall not appeal against a decision of the Director unless the person has, within 28 days after notice of the decision was given to the person, requested in writing the Director to reconsider the decision and the Director has not, within 14 days after receiving the request, varied the decision.

(3) Notwithstanding subsection (2), if as a result of a request referred to in that subsection, the Director within 14 days after receiving the request, varies the decision, the person may appeal against the decision as so varied as if it were the original decision except that the person is not required to request the Director to reconsider the decision so varied.

(4) Notwithstanding subsection (1)(c), a person may not appeal against a decision of the Director to suspend a licence unless the suspension is for a period of more than 7 days.

(5) Subject to subsection (6), an appeal shall not be lodged –

- (a) after 28 days after the day on which the Director has given notice of a variation of a decision; or
- (b) where the Director has not varied a decision within 14 days of the receipt of the request for reconsideration – after 28 days after the expiry of that period.

(6) The Local Court may, if it is satisfied that it is reasonable in the circumstances to do so, permit a person to lodge an appeal against a decision of the Director, notwithstanding that the period under this section during which an appeal may be lodged has expired.

(7) The Local Court may –

- (a) confirm or set aside the decision appealed against;
- (b) substitute its decision for the decision made by the Director;
- (c) direct the Director to reconsider all or part of the matter to which the appeal relates and shall provide to the Director its reasons for such a direction; and/or
- (d) make such further orders as to costs or other matters as it thinks fit.

(8) Where the Director is directed to reconsider a matter under subsection (7)(c), he or she shall, in reconsidering the matter, have regard to the reasons given by the Local Court for its direction.

#### **142. Rights of person pending appeal**

Where an application for appeal is lodged within the time specified in section 141(5) against a decision of the Director –

- (a) to vary a licence – the decision is of no effect unless and until the decision is confirmed by the Local Court under section 141 or by the Director pursuant to a direction of the Court under section 141(7)(c); or
- (b) to refuse to renew a licence – then, notwithstanding that the licence to which the request for renewal relates may have expired by virtue of section 137, it remains valid until a final decision is made in respect of the matter by the Court under section 141 or by the Director pursuant to a direction of the Court under subsection 141(7)(c), whichever is the later.

#### **142A. Service of notices**

(1) A notice for the purposes of this Part may be given to or served on a person by –

- (a) delivering it personally to the person;
- (b) leaving it at the person's usual or last known place of residence with another person, apparently resident at the place;

- (c) leaving it at the person's usual or last known place of business with another person, apparently in a position of authority at the place; or
- (d) posting it in a prepaid letter addressed to the person at the person's usual or last known place of residence or business.

(2) Subsection (1) is in addition to and not in derogation of sections 109X and 601X of the Corporations Act 2001.

## **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.

### *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 subsection (1) as though the aid were an interest in land.

(3) For the purposes of subsection (2), a reference in the *Lands Acquisition Act* to –

- (a) "land", includes a reference to an aid; and
- (b) "the Minister" is a reference to the Minister administering this Act.

**147. Establishment of aids**

(1) The Director may establish, maintain, operate, alter or remove an aid.

(2) The Director may, by instrument in writing, 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 subsection (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: 50 penalty units.

**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 –

- (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 subsection (2) shall not fail or refuse, without reasonable cause, to comply with the requirement contained in the notice.

Penalty: 50 penalty units.

(4) If –

(a) a person fails to comply with a requirement contained in a notice under subsection (2); or

(b) a notice under subsection (2) cannot be served,

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

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

**150. Inspection of aids**

A person 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: 50 penalty units.

**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: 50 penalty units.

**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: 100 penalty units.

**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: 50 penalty units.

**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.

**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 Darwin Port Corporation 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.

**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 subsection (1).

Penalty: 100 penalty units.

**164. [Repealed]**

**165. Failure to take pilot on board**

(1) 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: 50 penalty units.

(2) The prohibition expressed in subsection (1) does not apply where the pilotage authority has advised the master that no licensed pilot will be available before the expiry of the period of 24 hours commencing with the time the ship arrives within the compulsory pilotage area.

**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: 50 penalty units.

**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 found guilty 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 must, 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 section 178(1) 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 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 subsection (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: 50 penalty units.

**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: 50 penalty units.

**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: 50 penalty units.

**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: 250 penalty units.

(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.

**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 subsection (1) to –
  - (a) answer a question shall, subject to subsection (3), truthfully answer the question; and

- (b) produce a document, shall produce if it is in his possession or control.

Penalty: 50 penalty units.

(3) A person is not required to answer a question asked under subsection (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 or being navigated in a pilotage area or compulsory pilotage area without a pilot.

### **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.

### **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 subsection (1), the Director may require any person to do or refrain from doing any specified act.

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

Penalty: 1250 penalty units.

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

**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.

**188A. Erection of structures**

(1) A person shall not, without the prior approval in writing of the Director, erect below the high water mark in or on Northern Territory waters any jetty, wharf, pontoon or structure, whether temporary or permanent.

Penalty: 100 penalty units.

(2) The Director shall not withhold an approval under subsection (1) except on reasonable grounds set out in writing.

(3) A person aggrieved by the refusal of the Director to give an approval under subsection (1) may, within 28 days after the receipt of the grounds for refusal under subsection (2), appeal to the Tribunal.

**188B. Closure of waters**

(1) The Minister may, by notice in writing, close any specified area of Northern Territory waters to shipping for a period of not more than 48 hours so as to –

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

(2) The Minister shall, as far as practicable, publicize the proposed closure beforehand in such manner as the Minister thinks fit.

(3) A person shall comply with, and not breach, the terms of a notice given under subsection (1).

Penalty: 50 penalty units.

**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;

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- (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 as 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.

### **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 a summary finding of guilt.

**191AA. General penalty for offences**

A person who commits an offence against this Act or the Regulations for which no other penalty is prescribed shall, on being found guilty of the offence, be liable to a penalty not exceeding 50 penalty units.

**191A. Regulatory offences**

An offence of contravening or failing to comply –

- (a) with section 32, 33, 34(2), 70, 71, 78(2), 80(3), 83(2), 89(3), 99, 100, 101, 128(2), 135, 163(3), 166, 174(3) or 175; or
- (b) subject to section 157, with section 148, 150 or 155,

is a regulatory offence.

**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.

(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 subsection (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;
- (c) the appointment of persons to be examiners;

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- (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 subsection (1) includes the power to make regulations imposing penalties, not exceeding 100 penalty units or imprisonment for 2 years, for offences against the Regulations.

### **195. Effect of special regulation-making powers**

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

**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 subsection (4), the power under subsection (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 Australian Transport Council.

(4) Amendments referred to in subsection (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 –

- (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 re-issue 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 re-issue 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
- (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. [Repeal]**

**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
- (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;

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- (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.

### **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. [Repealed]**

## **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 subsection (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
- (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**

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

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**SCHEDULE 1**

**REPEAL**

**PART I – ACTS OF SOUTH AUSTRALIA**

Section 3(1)

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

PART III – NORTHERN TERRITORY ORDINANCES

Section 3(2)

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

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**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" "100 dollars"	"Territory" "\$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" "200 dollars" (twice occurring)	"Territory" "\$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"

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263	"600 dollars" (wherever occurring) "Special Magistrate" "or by the Court of Vice-Admiralty of the province,"	"\$6,000" "Magistrate"
265	"special magistrate or 2 justices"	"magistrate or 2 justices of the peace"
266	"10 dollars"	"\$100"
268	"or to the Court of Vice-Admiralty of the province;" "100 dollars"	"\$200"
270	"2,000 dollars" (twice occurring)	"\$20,000"
272	"2,000 dollars" (twice occurring)	"\$20,000"
275	"province" (twice occurring)"	"Territory"
277	"province" "100 dollars" (twice occurring)	"Territory" "\$1,000"
278	"province" (twice occurring)	"Territory"
279	"any Supreme Court or of the Court of Vice-Admiralty of the province" "or in the Court of Vice-Admiralty of the province;"	"the Supreme Court"
280	"province" (first occurring) "600 dollars" "or the Court of Vice-Admiralty of the province"	"Territory" "\$6,000"

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## *Marine Act*

### *Notes*

1. The *Marine Act* comprises the *Marine Act 1981* and amendments made by other legislation, the details of which are specified in the following table:

Act	Number and year	Date of assent by Administrator	Date of commencement
<i>Marine Act 1981</i>	No. 93, 1981	2 Nov 1981	ss 129 – 142: N/C; Remainder: 31 Mar 1982 (a)
<i>Statute Law Revision Act 1982</i>	No. 21, 1982	27 Apr 1982	27 Apr 1982
<i>Criminal Law (Regulatory Offences) Act 1983</i>	No. 68, 1983	28 Nov 1983	1 Jan 1984 (b)
<i>Statute Law Revision Act 1985</i>	No. 49, 1985	1 Oct 1985	1 Oct 1985
<i>Statute Law Revision Act 1987</i>	No. 9, 1987	27 May 1987	27 May 1987
<i>Marine Amendment Act 1989</i>	No. 16, 1989	15 June 1989	1 July 1992 (c)
<i>Public Sector Employment and Management (Consequential Amendments) Act 1993</i>	No. 28, 1993	30 June 1993	1 July 1993 (d)
<i>Marine Amendment Act 1994</i>	No. 76, 1994	30 Dec 1994	1 Jan 1995 (e)
<i>Medical (Consequential Amendments) Act 1995</i>	No. 8, 1995	10 Apr 1995	1 June 1995 (f)
<i>Sentencing (Consequential Amendments) Act 1996</i>	No. 17, 1996	19 Apr 1996	1 July 1996 (g)

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<i>Statute Law Revision Act (No. 2) 1998</i>	No. 92, 1998	11 Dec 1998	s. 25(1) 20 Sept 1999 (h)
<i>Statute Law Revision Act (No. 2) 1999</i>	No. 48, 1999	10 Nov 1999	10 Nov 1999
<i>Marine Amendment Act 2000</i>	No. 52, 2000	14 Nov 2000	2 Apr 2001 (i)
<i>Corporations Reform (Consequential Amendments NT) Act 2001</i>	No. 17, 2001	29 June 2001	15 July 2001 (j)
<i>Statute Law Revision Act (No. 2) 2004</i>	No. 54, 2004	15 Sept 2004	27 Oct 2004 (k)
<i>Marine Amendment Act 2005</i>	No. 10, 2005	17 Mar 2005	17 Mar 2005
<i>Statute Law Revision Act 2005</i>	No. 44, 2005	14 Dec 2005	14 Dec 2005

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- (a) See section 2 and *Gazette* G12, dated 26 March 1982, p. 6.
- (b) See section 2, section 2 of the *Criminal Code Act 1983*, *Gazette* G46, dated 18 November 1983, p. 11 and *Gazette* G8, dated 26 February 1986, p. 5.
- (c) See section 2 and *Gazette* G26, dated 1 July 1992, p. 5.
- (d) See section 2, section 2 of the *Public Sector Employment and Management Act 1993* and *Gazette* S53, dated 29 June 1993.
- (e) See section 2.
- (f) See section 2, section 2 of the *Medical Act 1995* and *Gazette* S21, dated 1 June 1995.
- (g) See section 2, section 2 of the *Sentencing Act 1995* and *Gazette* S15, dated 13 June 1996.
- (h) See section 2(2), section 2 of the *Darwin Port Authority Amendment Act 1998* and *Gazette* S37, dated 1 September 1999.
- (i) See section 2 and *Gazette* S16, dated 2 April 2000, p. 1.
- (j) See section 2, section 2 of the *Corporations Act 2001* and *Commonwealth Gazette* S285, dated 13 July 2001.

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(k) *See* section 2 and *Gazette* G43, dated 27 October 2004, p. 3.

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## *Marine Act*

### *Table of Amendments*

Section	
7.	Amended by No. 49, 1985, s. 4; No. 9, 1987, s. 2; No. 16, 1989, s. 4; No. 28, 1993, s. 3; No. 76, 1994, s. 7; No. 8, 1995, s. 4; No. 52, 2000, s. 4; No. 10, 2005, s. 3; No. 44, 2005, s. 22
8.	Amended by No. 16, 1989, s. 5; No. 52, 2000, s. 27
8A.	Inserted by No. 76, 1994, s. 4
11.	Amended by No. 44, 2005, s. 35
20.	Amended by No. 16, 1989, s. 6
23.	Amended by No. 16, 1989, s. 7; No. 52, 2000, s. 5
24.	Repealed by No. 52, 2000, s. 6
25.	Amended by No. 16, 1989, s. 8; No. 52, 2000, ss 7 and 27
26.	Amended by No. 52, 2000, s. 27
27.	Amended by No. 52, 2000, s. 27
28.	Amended by No. 52, 2000, s. 8
29A.	Inserted by No. 16, 1989, s. 9
30.	Amended by No. 16, 1989, s. 10
31.	Amended by No. 16, 1989, s. 11
32.	Amended by No. 52, 2000, ss 9 and 27
33.	Amended by No. 52, 2000, s. 27
34.	Amended by No. 52, 2000, s. 27
Heading	
Division 4	Repealed by No. 52, 2000, s. 10
36.	Repealed by No. 52, 2000, s. 10
37.	Repealed by No. 52, 2000, s. 10
38.	Repealed by No. 52, 2000, s. 10
39.	Repealed by No. 52, 2000, s. 10
40.	Repealed by No. 52, 2000, s. 10
41.	Repealed by No. 52, 2000, s. 10
42.	Repealed by No. 52, 2000, s. 10
43.	Repealed by No. 52, 2000, s. 10
44.	Repealed by No. 52, 2000, s. 10
45.	Repealed by No. 52, 2000, s. 10
46.	Repealed by No. 52, 2000, s. 10
47.	Amended by No. 17, 1996, s. 6; repealed by No. 52, 2000, s. 10
48.	Repealed by No. 52, 2000, s. 10
49.	Repealed by No. 52, 2000, s. 10
50.	Repealed by No. 52, 2000, s. 10
51.	Amended by No. 52, 2000, s. 27
Heading	
Division 6	Repealed by No. 52, 2000, s. 10

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52.	Repealed by No. 52, 2000, s. 10
53.	Repealed by No. 52, 2000, s. 10
54.	Repealed by No. 52, 2000, s. 10
55.	Repealed by No. 52, 2000, s. 10
56.	Repealed by No. 52, 2000, s. 10
Heading	
Division 7	Repealed by No. 52, 2000, s. 10
57.	Repealed by No. 52, 2000, s. 10
58.	Repealed by No. 52, 2000, s. 10
59.	Repealed by No. 52, 2000, s. 10
60.	Repealed by No. 52, 2000, s. 10
61.	Repealed by No. 52, 2000, s. 10
62.	Repealed by No. 52, 2000, s. 10
63.	Repealed by No. 52, 2000, s. 10
Heading	
Division 8	Repealed by No. 52, 2000, s. 10
64.	Repealed by No. 52, 2000, s. 10
65.	Repealed by No. 52, 2000, s. 10
66.	Repealed by No. 52, 2000, s. 10
67.	Repealed by No. 52, 2000, s. 10
68.	Repealed by No. 52, 2000, s. 10
69.	Amended by No. 52, 2000, s. 27
70.	Amended by No. 52, 2000, s. 27
71.	Amended by No. 52, 2000, s. 27
72.	Amended by No. 52, 2000, ss 11 and 27
73.	Amended by No. 52, 2000, s. 12
75.	Amended by No. 16, 1989, s. 12; No. 52, 2000, s. 13
76.	Amended by No. 52, 2000, s. 27
77.	Amended by No. 16, 1989, s. 13
78.	Amended by No. 52, 2000, s. 27
79.	Substituted by No. 16, 1989, s. 14; amended by No. 52, 2000, s. 27
80.	Amended by No. 52, 2000, ss 14 and 27
81.	Amended by No. 52, 2000, s. 27
82.	Amended by No. 52, 2000, s. 27
83.	Amended by No. 52, 2000, s. 27
85.	Amended by No. 52, 2000, s. 15
86.	Amended by No. 52, 2000, s. 16
87.	Substituted by No. 16, 1989, s. 15; amended by No. 52, 2000, s. 27
88.	Amended by No. 16, 1989, s. 16; No. 52, 2000, s. 17
89.	Amended by No. 52, 2000, s. 27
90.	Amended by No. 52, 2000, s. 18
92.	Amended by No. 52, 2000, s. 27
93.	Amended by No. 52, 2000, s. 27

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94. Amended by No. 52, 2000, s. 27
95. Amended by No. 54, 2004, s. 7
97. Amended by No. 16, 1989, s. 17; No. 52, 2000, s. 27
98. Amended by No. 52, 2000, s. 19
99. Amended by No. 52, 2000, s. 27
100. Amended by No. 52, 2000, s. 27
101. Amended by No. 52, 2000, s. 27
102. Amended by No. 52, 2000, s. 27
103. Amended by No. 52, 2000, s. 27
105. Amended by No. 52, 2000, s. 27
106. Amended by No. 52, 2000, s. 27
107. Amended by No. 17, 1996, s. 6
108. Amended by No. 21, 1982, s. 2
109. Amended by No. 52, 2000, s. 27
110. Amended by No. 16, 1989, s. 18; No. 52, 2000, ss 20 and 27
111. Amended by No. 52, 2000, s. 27
112. Substituted by No. 16, 1989, s. 19; amended by No. 52, 2000, s. 21
113. Amended by No. 52, 2000, s. 27
114. Amended by No. 52, 2000, s. 27
115. Amended by No. 52, 2000, s. 27
- 115A. Inserted by No. 16, 1989, s. 20; amended by No. 52, 2000, s. 27
- 115B. Inserted by No. 16, 1989, s. 20; amended by No. 52, 2000, s. 27
- Heading
- Division 6A
- 115C. Inserted by No. 16, 1989, s. 20
- 115D. Inserted by No. 16, 1989, s. 20
117. Amended by No. 52, 2000, s. 27
120. Amended by No. 52, 2000, s. 27
122. Amended by No. 16, 1989, s. 21; No. 52, 2000, s. 27
126. Amended by No. 52, 2000, s. 27
127. Amended by No. 52, 2000, s. 27
128. Amended by No. 52, 2000, s. 27
- Heading
- Part V
129. Substituted by No. 76, 1994, s. 5
129. Substituted by No. 76, 1994, s. 5; amended by No. 52, 2000, s. 22
130. Substituted by No. 76, 1994, s. 5
131. Substituted by No. 76, 1994, s. 5; amended by No. 17, 1996, s. 6
132. Substituted by No. 76, 1994, s. 5
133. Substituted by No. 76, 1994, s. 5

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- 134. Substituted by No. 76, 1994, s. 5; amended by No. 48, 1999, s. 3; No. 17, 2001, s. 21
- 135. Substituted by No. 76, 1994, s. 5
- 136. Substituted by No. 76, 1994, s. 5
- 137. Substituted by No. 76, 1994, s. 5
- 138. Substituted by No. 76, 1994, s. 5
- 139. Substituted by No. 76, 1994, s. 5
- 140. Substituted by No. 76, 1994, s. 5
- 141. Substituted by No. 76, 1994, s. 5
- 142. Substituted by No. 76, 1994, s. 5
- 142A. Inserted by No. 76, 1994, s. 5; amended by No. 17, 2001, s. 21
- 148. Amended by No. 52, 2000, s. 27
- 149. Amended by No. 52, 2000, s. 27
- 152. Amended by No. 52, 2000, s. 27
- 153. Amended by No. 52, 2000, s. 27
- 154. Amended by No. 52, 2000, s. 27
- 155. Amended by No. 52, 2000, s. 27
- 161. Amended by No. 16, 1989, s. 22; No. 92, 1998, s. 25
- 163. Amended by No. 52, 2000, s. 27
- 164. Repealed by No. 16, 1989, s. 23
- 165. Amended by No. 16, 1989, s. 24; No. 52, 2000, s. 27
- 166. Amended by No. 52, 2000, s. 27
- 169. Amended by No. 17, 1996, s. 6
- 171. Amended by No. 52, 2000, s. 23
- 174. Amended by No. 52, 2000, s. 27
- 175. Amended by No. 52, 2000, s. 27
- 176. Amended by No. 52, 2000, s. 27
- 177. Amended by No. 52, 2000, s. 27
- 180. Amended by No. 52, 2000, s. 27
- 182. Amended by No. 16, 1989, s. 25
- 186. Amended by No. 52, 2000, s. 27
- 188A. Inserted by No. 16, 1989, s. 26; amended by No. 52, 2000, s. 27
- 188B. Inserted by No. 16, 1989, s. 26; amended by No. 52, 2000, s. 27
- 191. Amended by No. 17, 1996, s. 6
- 191AA. Inserted by No. 16, 1989, s. 27; amended by No. 52, 2000, s. 27
- 191A. Inserted by No. 68, 1983, s. 72; amended by No. 76, 1994, s. 6; No. 54, 2004, s. 7
- 196. Amended by No. 16, 1989, s. 28; No. 52, 2000, s. 24
- 194. Amended by No. 52, 2000, s. 27
- 201. Repealed by No. 52, 2000, s. 25

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207. Repealed by No. 76, 1994, s. 6  
211. Substituted by No. 52, 2000, s. 26
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