



The Kiribati Gazettes

Acts of 2017

Inside this issue:

. Maritime Act 2017

The Kiribati Gazette is an official publication of the Government of Kiribati. Published on a monthly basis through the Communications Unit of the Office of Te Beretitenti, the Kiribati Gazette contains publications of Instruments, Acts, Notices and Proclamations (public and official announcements) from the Government of Kiribati

REPUBLIC OF KIRIBATI
(No of 2017)



I assent.

Beretitenti

23/10/ 2017

AN ACT

Entitled

**AN ACT TO REGULATE SHIPPING, TO UPDATE AND MODERNISE LAW
RELATING TO SHIPPING TO GIVE EFFECT TO CERTAIN INTERNATIONAL
MARITIME CONVENTIONS AND FOR RELATED PURPOSES.**

MADE by the Maneaba ni Maungatabu and assented to by Te Beretitenti.

**PART I
PRELIMINARY**

Short title

1. This Act may be cited as the Maritime Act, 2017.

Commencement

2. This Act shall come into force on such date as the Minister may by notice published in the Gazette appoint.

**PART II
APPLICATION AND INTERPRETATION**

Application of Act

3. (1) This Act binds the Republic.

(2) Unless a contrary intention appears-

- (a) this Act does not apply in a declared port or an approach to a declared port insofar as it is inconsistent with the Kiribati Ports Authority Act 1990; and
- (b) nothing in this Act derogates from a duty imposed or a power granted by or under the Kiribati Ports Authority Act 1990.

(3) Except where a contrary intention appears this Act does not apply to patrol boat or in relation to vessels belonging to the Kiribati Police Services.

Interpretation and application

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

"agreement", in relation to a vessel, means the agreement made pursuant to the regulations made under section 159 between the owner of the vessel or a person acting in his behalf and the crew of the vessel, and, in relation to a seafarer belonging to a vessel, means the agreement also made under section 159;

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

"appointed day" means, in relation to a provision of this Act, the day notified by the Minister in the Gazette pursuant to section 2 as being the date on which that provision shall come into force;

"approaches to a declared port" means any area or navigable channel adjacent to a declared port so declared under section 3 of the Kiribati Ports Authority Act 1990;

"appropriate near-coastal trade licence" means a near-coastal trade licence which permits, or would permit, the vessel in respect of which the licence is granted to be engaged in the near-coastal trade for the provision of shipping service on which the vessel is, or is about to be, engaged;

"archipelagic waters" means the archipelagic waters of Kiribati;

"authorised agent" means the agent appointed by the Minister under section 42;

"beneficial interest" includes interests arising under contract, and equitable interests;

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

- (a) the loss, presumed loss, stranding, grounding or abandonment of, or damage to, vessel or a boat belonging to the vessel;
- (b) damage caused by the vessel or by boat belonging to the vessel; or
- (c) a loss of life caused by the vessel or by a boat belonging to the vessel;

"certificate of competency" means a certificate of competency issued under section 151(3);

"charterer", means the person who, by virtue of a charter party, has the whole control and possession of the vessel including sole responsibility for its operation and management;

"classification society" means an association or a corporation prescribed for the survey of vessels;

"Collision Convention" means-

- (a) the Convention on the International Regulations for Preventing Collisions at Sea, ; and
- (b) the International Regulations for Preventing Collisions at Sea, 1972, constituted by the rules and other annexes attached to that Convention, as corrected by the Proces-Verbal of Rectification dated 1 December 1973, as affected by any amendment, other than an amendment objected to by Kiribati, made under Article VI of that Convention;

"commercial vessel" means a vessel which is not used solely for pleasure or recreation, and the use of which *is* made, allowed or authorised in the course of a business or in connection with a commercial transaction;

"Court" means the High Court of Kiribati

"crew", in relation to a vessel, means those persons employed on board and in the business of, the vessel but does not include a pilot or a person temporarily employed on board the vessel while the vessel is at a port;

"crew accommodation", in relation to a vessel means such parts of the vessel as are set aside for the exclusive use of the crew;

"Crew List", in relation to a vessel means the list required to be made and maintained in relation to the vessel under section 161;

"dangerous goods" means goods that are dangerous goods for the purposes of the International Maritime Dangerous Goods Code published by the Inter-governmental Maritime Consultative Organisation, London, in 1965 as amended from time to time;

"declared port" means any channel leading in to such place declared to be a port under section 3 of the Kiribati Ports Authority Act 1990;

"Director" means the person holding the public office designated as Director of Marine;

"disciplinary offence" means an act or omission that is declared by regulations made under section 159(r) to be a disciplinary offence;

"effects" includes documents;

"equipment", in relation to a vessel, includes everything or article belonging to, used in connection with or necessary for the navigation, safety and working of the vessel and, in particular, includes boats, tackle, pumps, apparel, furniture, life saving appliances, spars, masts, rigging, sails, fog signals, lights, signals of distress, signalling lamps, pilot ladders, radio equipment, medicines, medical and surgical stores and appliances, fire prevention, detecting and extinguishing appliances, inert gas systems, echo-sounding devices, mechanical pilot hoists, buckets, compasses, charts, axes, lanterns and gear and apparatus for loading or unloading, or otherwise, handling cargo;

"exempt vessel", in Part V, means a vessel-

- (a) that is non-conventional vessel; or
- (b) that is, in the opinion of the Registrar, of traditional build; or
- (c) that is prescribed, or belongs to a class or description of vessels that is prescribed; or
- (d) a vessel less than 10 meters in length; or
- (e) a pleasure craft; or
- (f) a government vessel-except to the extent that registration of the vessel is provided for by regulations made under section 21(2);

"existing vessel" means a vessel that is not a new vessel;

"fishing vessel" means a vessel used or adapted for use for fishing commercially, including a vessel or craft used in support of commercial fishing and a helicopter or light aircraft used in fishing operations, but does not include:

- (a) a sailing boat or paddling canoe of native design; or
- (b) a boat, punt or barge having an overall length of less than 7 metres, whether powered by an engine or not.

"general near-coastal trade licence" means a general near-coastal trade licence referred to in section 171(2);

"Government authority" means an authority or body, whether a body corporate or not, established or incorporated for a public purpose by a written law, and includes a body corporate incorporated under a written law, being a body corporate in which the Government has a controlling interest;

"Government vessel" means a vessel-

- (a) that belongs to the Government or to a Government authority;
- (b) the beneficial interest in which is vested in the Government or in a Government Authority; or
- (c) that is for the time being demised or sub-demised to, or in the exclusive possession of the Government or a Government authority.

"hire and drive vessel" means a vessel which is let for hire or reward or for any other consideration and includes a vessel provided in conjunction with a holiday establishment or hotel for the use of guests or tenants where it is intended that the hirer shall use the vessel solely for pleasure purposes;

"international voyage" means a voyage-

- (a) from a port or place in Kiribati to a port or place outside Kiribati;
- (b) from a port or place outside Kiribati to a port or place in Kiribati; or
- (c) from a port or place outside Kiribati to another port or place outside Kiribati;

"Kiribati person" means-

- (a) a citizen of Kiribati normally resident in Kiribati;
- (b) a corporation, where the Minister is satisfied that-
 - (i) the principal place of business of the corporation is Kiribati;
 - (ii) it is incorporated in Kiribati under the applicable laws of Kiribati.

"Kiribati Waters" means all the waters comprising-

- (a) the territorial seas;
- (b) the archipelagic waters;
- (c) the inland waters, and
- (d) the Exclusive Economic Zone of Kiribati;

"length", in relation to a vessel, means the length of the vessel as determined in accordance with section 4(7);

"licensed pilot" means the holder of a valid Kiribati pilot licence issued under this Act;

"Limitation of Liability Convention" means the International Convention relating to the Limitation of Liability of Owners of Sea-going vessels signed at Brussels on 10 October as affected by any amendment other than an amendment not accepted by Kiribati;

"list of suspended persons" means a list of persons who have been declared by the Registrar to be suspended persons in the manner prescribed by regulations made under section 159(t);

"load line" means a line marked on a vessel indicating the depth to which a vessel when loaded may safely be submerged;

"Load Line Convention" means the International Convention on Load Lines, 1966 as corrected by the Proces-Verbal of Rectification dated 30 January 1969 and the Proces-Verbal of Rectification dated 5 May 1969 as affected, by any amendment other than an amendment not accepted by Kiribati, made under Article 29 of that Convention;

"Load Line Convention vessel" means a vessel to which in accordance with Articles 4 and 5 of the Load Line Convention, that Convention applies;

"Mandatory Survey System" means survey requirements under IMO IMSAS Strategy

"Marine Board" means the Marine Board established by section 96;

"marine checker" means a marine checker referred to under section 238;

"marine inquiry" means an inquiry held under section 131(d);

"marine aid to navigation" means-

- (a) a lighthouse, light vessel, beacon, marker, buoy or any structure, device or apparatus that is established or maintained to be used principally as an aid to marine navigation; and
- (b) a vessel, stores, equipment or other property the principal use of which is the servicing of an aid to marine navigation.,

but in the case of a vessel other than a light vessel, does not include a light, structure, device or apparatus which is part of the vessel;

"MARPOL 73/78" means the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978. ("MARPOL" is short for marine pollution and 73/78 short for the years 1973 and 1978.)

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

"Merchant Shipping Act" means the Merchant Shipping Act 1983.

"mortgage" means an instrument creating the security in a registered vessel in accordance with section 76;

"near-coastal trade", in respect of a vessel engaged in that trade, has the meaning described in section 169;

"near-coastal trade licence" means a licence granted under section 170;

"near-coastal trade permit" means a permit issued under section 179;

"Near coastal voyage" means a voyage or trade or an operation of a vessel of any island in Kiribati within 200 nautical miles off the coast, or a voyage, trade or an operation of a vessel within or between the Gilbert group of islands, the Phoenix group of islands the Line groups of islands and Banaba that comprise the Republic of Kiribati;

"new vessel" means a vessel-

- (a) the keel of which was laid or which was at a similar stage of construction; or
- (b) that has been substantially-
 - (i) altered; or
 - (ii) reconstructed,

on or after the appointed day;

"Official Log Book", in relation to a vessel, means the Official Log Book required by section 160 to be kept in relation to that vessel;

"offshore vessel" means a vessel that is-

- (a) engaged in the exploration or exploitation of either or both of the following -
 - (i) the continental shelf;
 - (ii) the seabed and subsoil of Kiribati waters; and
- (b) operating to, or from, or is based at a port or place in Kiribati;

"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 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 one year;

"pilot", in respect of a vessel, means a person, other than a member of the crew of the vessel, who has the lawful conduct of the vessel;

"pilot licence" means a pilot licence issued under section 199(1);

"pleasure craft" means a vessel that is used exclusively for recreational or sporting activities (otherwise than by way of trade or commerce);

"Port State Control Officer" is as appointed under section 248(1) of this Act;

"proper return port", in relation to the present or past employment of a seafarer under an agreement, means the port or place specified in that agreement as the proper return port of that seafarer;

"provisional certificate of registry" means a provisional certificate of registry granted under section 28 (1);

"Qualified person" means –

(a) in relation to a vessel which is not a foreign vessel –

- (i) a natural person who is a citizen of Kiribati; or
- (ii) a body corporate which is established, registered or incorporated under the law of Kiribati; or

(b) in relation to a foreign vessel –

- (i) a natural person who is not a citizen of Kiribati; or
- (ii) a body corporate which is not established, registered or incorporated under the law of Kiribati;

"qualified seafarer" means a member of the crew of a vessel who holds a certificate appropriate to the capacity in which he is serving in the vessel;

"radio installation" means a radiotelegraphy or radiotelephony installation but does not include a radio navigational aid;

"Register" means the register book kept in accordance with section 17 (2);

"Register of Seafarers" means the Register of Seafarers kept in accordance with section 140;

"registered agent" means an agent registered under section 62;

"registered mortgage" means a mortgage registered under section 76;

"registered vessel" means a vessel registered under section 17;

"registration certificate" means a certificate granted under section 34;

"safety or survey certificate" means a certificate issued under section 108(3);

"Safety Convention" means the International Convention for the Safety of Life at Sea, 1974 as affected by any amendment, other than an amendment objected to by Kiribati, made under Article VIII of that Convention and, after the date on which the Safety Protocol enters into force for Kiribati, as also affected by that Protocol;

"Safety Convention vessel" means a vessel that is of a kind to which the Safety Convention applies and that is entitled to fly the flag of a country the government of which is a party to the Safety Convention;

"safety manning", in relation to a vessel, means the total number of qualified and unqualified seafarers required to navigate that vessel safely;

"Safety Protocol" means the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974 as affected by any amendment, other than an amendment object to by Kiribati, made under Article VIII, of the International Convention for the Safety of Life at Sea, 1974, as incorporated in that Protocol by Article II of that Protocol;

"seafarer" means a person employed or engaged in any capacity on board a vessel on the business of the vessel, other than-

- (a) the master of the vessel;
- (b) a pilot; or
- (c) a person temporarily employed on board the vessel in a port or place;

"seafarer's identity card" means an identity card issued under section 157;

"serious injury" means an injury as a result of which permanent incapacity or death may occur;

"shipping inspector" means a person appointed under section 236;

"shipping officer" means a person appointed under section 109(5);

"shipping service" includes-

- (a) the transport by water of goods, for fee or reward or for sale, resale or exchange;
- (b) the transport by water of passengers for fee or reward; and
- (c) the conduct of commercial marine operations including salvaging, towing, barging, dredging, drilling, survey constructing, lifting and exploring for, or exploiting, the resources of the seabed;

"small craft" means a vessel of less than 10 meters in length.

"special near-coastal trade licence" means a near-coastal trade licence referred to in section 170(3);

"survey master sheet" means the record of surveys and inspections of a vessel required by the regulations to be kept on board the vessel;

"surveyor" means a person appointed as a surveyor under section 98;

"suspended person" means a person whose name is included in the list of suspended persons;

"territorial waters" means the territorial seas of Kiribati;

"the Tonnage Measurement Convention" means the International Convention on Tonnage Measurement of Vessels 1969 as affected by any amendment, other than an amendment not accepted by Kiribati, made under article 18 of the Convention;

"tonnage certificate", in relation to a vessel, means-

- (a) where the vessel is a vessel to which the Tonnage Measurement Convention would apply if the vessel were engaged on an international voyage an International Tonnage Certificate (1969); or
- (b) such other tonnage measurement certificates as the regulations provide should be issued in respect of the vessel;

"under way", in relation to a vessel, means the vessel-

- (a) is not at anchor, made fast to the shore or moored; and
- (b) is not aground;

"vessel" includes-

- (a) in relation to the ownership of a vessel-a share in the vessel and an interest in the vessel or share;
- (b) an air cushioned vehicle; and
- (c) every description of vessel used, or capable of being used, in navigation by water.

(2) A reference in a Part to "this Part" includes a reference to a regulation made in respect of a matter contained in that Part.

(3) Subject to subsection (4), a vessel has-

- (a) been taken or sent to sea;
- (b) gone or proceeded to sea; or
- (c) proceeded on a voyage,

if it is under way for the purposes of-

- (d) going to sea;
- (e) plying or running;
- (f) proceeding on a voyage; or
- (g) in the case of an offshore vessel - undertaking offshore operations.

(4) A vessel has not-

- (a) been taken or sent to sea;
- (b) gone or proceeded to sea; or
- (c) proceeded on a voyage.

if it is merely moving from one berth or place in a port or place to another berth or place in that port or place.

(5) Unless a contrary intention appears, a reference in this Act to the owner of a vessel includes, where the vessel is operated by a person other than the owner, that person.

(6) In this Act, a seafarer, being a member of the crew of a vessel, shall be taken to have been left behind if that seafarer is left behind by the vessel at a port or place that is not the proper return port of that seafarer unless the seafarer, without the consent of the master, quit the vessel at that port or place with the intention of not returning to the vessel.

(7) In this Act, the length of a vessel means-

- (a) the length as ascertained by measuring the distance between:
 - (i) a vertical line passing through the foremost part of the stem; and
 - (ii) a vertical line passing through the aftermost part of the stern, of the vessel; or
- (b) where, by reason of the nature of the constructional features of a vessel, it is, in the opinion of the Director, impracticable to ascertain the length of the vessel in accordance with section 4(7)(a) - the length of the vessel as ascertained in such a manner as the Director determines.

(8) In this Act, unless the contrary intention appears, a reference to the owner of a vessel shall, if there is more than one owner of the vessel be read as a reference to each of the owners.

(9) A reference in this Act to failing to do an act or thing shall be read as including a reference to refusing to do that act or thing.

(10) Where under this Act the performance of a function by a person is dependent upon the opinion, belief or state of mind of that person and that function has been delegated, the function may be performed by the delegate upon the opinion, belief, or state of mind of the delegate in relation to that matter.

Penalties

5.(1) Where in this Act, a penalty-

- (a) is specified without qualification at the foot of a section;
- (b) is specified at the foot of a subsection, but not at the foot of the section; or
- (c) is specified at the foot of a section and expressed to apply to a specified subsection or specified subsections of the section,

then, unless the contrary is expressly provided, that specification indicates that a contravention of the section or subsection, or, as the case may be, any of the subsections, is an offence and that the offence is punishable on conviction by a penalty not exceeding that so specified

(2) Subsection (1) applies to subsidiary legislation made under this Act subject to necessary modifications.

PART III POWERS OF THE MINISTER

General Powers of the Minister

6. In addition to and in exercise of his powers set out in this Act the Minister may, and in accordance with the advice of the Marine Board, established under section 96 of this Act, perform, undertake, or cause to be undertaken, any of the following-

- i. Approve and issue any documentation as may be made under this Act.
- ii. Investigations into Maritime incidents, mishaps or accidents whether or not human life is endangered and to give such directions as he deems necessary to ensure the prevention of or minimisation of loss of human life.
- iii. Make or repeal rules or orders subsequent to the coming into force of this Act
- iv. Prosecutions for any breach of any rule or order made under this Act
- v. Institute, alter or delete any Port or Harbour Limit
- vi. Remove or cause to be removed any wreck which is liable to cause pollution of the Kiribati maritime environment or is a navigational hazard.
- vii. Declare prohibited areas around wrecks mentioned in paragraph (vi) or any other incident, accident or mishap as he sees fit.
- viii. Declare a prohibited area in the airspace above the location where the incident mentioned in paragraph (vii) took place, up to a maximum of 10,000 feet above mean sea level after consultation with appropriate aviation authorities.
- ix. Suspend or to revoke any licence, certificate, permit or document issued under the provisions of this Act as authorised by this Act.
- x. Make such rules and regulations as are deemed necessary for the efficient implementation and administration of this Act.

Delegation

7. The Minister may in writing delegate any of his powers under this Act to be performed by the Director.

PART IV NATIONAL COLOURS AND NATIONAL CHARACTER OF KIRIBATI

National colours

8.(1) The National Flag is the proper national colours for a registered vessel.

(2) A master of a registered vessel shall, except where it would be unreasonable having regard to all the circumstances to do so, cause the National Flag to be hoisted at all times on the vessel.

Penalty: A fine not exceeding \$1,000

(3) Subject to subsection (4), where, except with the Minister's consent, distinctive national colours other than the National Flag are hoisted on board a registered vessel-

- (a) the master of the vessel;
- (b) the owner if he is on board the vessel; and
- (c) the person hoisting those colours,

are each guilty of an offence.

Penalty: A fine not exceeding \$5,000

(4) A registered vessel, while in a port of a foreign country, may, as a courtesy to that country, display the national flag of that country, but so as not to confuse that flag with the National Flag.

Wrongfully using National Flag or claiming the national character of Kiribati

9.(1) Subject to subsections (2) and (3), a person shall not, in respect of a vessel which is owned in whole or in part by a person who is not a qualified person-

- (a) use the National Flag on the vessel; or
- (b) in any other way make the vessel assume the national character of Kiribati.

Penalty: A fine not exceeding \$5,000

(2) Subsection (1) shall not apply where the National Flag is displayed on a vessel within Kiribati waters as a courtesy to Kiribati.

(3) It is a defence to a prosecution for an offence under subsection (1) that the action was taken to prevent the vessel being captured by-

- (a) an enemy; or
- (b) a foreign vessel of war in the exercise of a belligerent right.

(4) A vessel in respect of which an offence has been committed under subsection (1) is liable to forfeiture.

Concealment of registration or assumption of foreign registration

10.(1) Neither the master nor the owner of a registered vessel shall-

- (a) do or permit anything to be done in respect of the vessel: or
- (b) carry or permit to be carried on the vessel, papers or documents, with intent-
 - i. to conceal the registration of the vessel for a person entitled by the law of Kiribati to inquire into its registration;
 - ii. to deceive a person referred to in paragraph (i); or
 - iii. to give the vessel the appearance of -

- (a) having a foreign registration; or
- (b) not being a registered vessel.

Penalty: A fine not exceeding \$10,000

(2) Where, in respect of a vessel, the master or the owner of the vessel is convicted of an offence under subsection (1), the vessel is liable to forfeiture.

Penalty for acquiring ownership if unqualified

11.(1) Subject to subsection (2), if a person, other than a qualified person, acquires as owner an interest, either legal or beneficial, in a registered vessel, that interest is liable to forfeiture.

(2) Subsection (1) does not apply to a transmission provided for by this Act.

Liabilities of unregistered vessels

12.(1) Where a vessel that is required to be registered under this Act is not so registered, that vessel is not entitled-

- (a) to a benefit, privilege, advantage or protection usually enjoyed by a registered vessel;
or
- (b) to use the National Flag or in any other way, indicate that it is a registered vessel.

(2) For the purpose of any law providing for-

- (a) payment of dues, fees or other charges;
- (b) liability to fines and forfeiture;
- (c) punishment of offences committed on board vessels;
- (d) offences committed by persons belonging to vessels,

a vessel to which subsection (1) applies shall be dealt with in the same manner in all respects as if the vessel were a registered vessel.

Declaration of vessel's nationality before clearance

13.(1) A customs officer shall not grant a Certificate of Clearance in respect of a vessel about to leave a port or place in Kiribati for a port or place outside Kiribati until the master of the vessel has declared to that officer the nationality of the vessel

Penalty: A fine not exceeding \$3,000

(2) A declaration made under subsection (1) shall be recorded by the customs officer on the Certificate of Clearance.

PART V
REGISTRATION OF VESSELS

Division 1 – The Director

The Director of Marine to be the Director

14. The person holding the public office designated Director of Marine shall perform the functions and duties of the Director set out in this Act.

Director answerable to Minister

15. In the performance of his duties under this Act the Director shall only be answerable to the Minister.

Division 2 - The Registrar and Register of Vessels

Registrar of Vessels

16. There shall be a Registrar of Vessels who shall be a public officer appointed by the Minister in accordance with this Act.

Register of vessels

17.(1) The Registrar shall cause to be kept at Betio, Tarawa, a Register of Vessels in such form as the Registrar determines.

(2) The Registrar shall cause to be entered in the Register particulars of all vessels registered under this Act and such other entries as may be required by this Act to be entered in the Registers. There shall be maintained in the office recorded or filed, in properly indexed public registers, all documents of the following nature but not limited to—

- (a) bills of sale and other instruments of conveyance of vessels;
- (b) mortgages or hypothecations of vessels;
- (c) assignment of mortgages;
- (d) certificates of permanent and provisional registry and licenses;
- (e) licences and certificates of officers and members of vessel's crew; and
- (f) all other documents relating to vessels which are entitled to be recorded.

(3) Any person may inspect the Register at any time during the hours of official attendance by the Registrar on payment of the fee which is prescribed.

Division 3 - Registration of Vessels

Provisions relating to registration

18. The following provisions apply to, and in relation to, the registration of vessels under this Act:

- (a) the property in a vessel shall be divided into 64 shares;
- (b) subject to the provisions of this Act with respect to joint owners or owners by transmission, not more than 64 persons shall be entitled to be registered at the same time as owners of any vessel but this provision shall not affect the beneficial title of any number of persons or of a company represented by or claiming under or through any registered owner or joint owner;
- (c) a person shall not be entitled to be registered as owner of a fractional part of a share in a vessel but any number of persons not exceeding five may be registered as joint owners of a vessel or of any share or shares in the vessel;
- (d) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose severally of any interest in a vessel, in respect of which they are jointly registered; and
- (e) a corporation shall be registered as owner by its corporate name.

Port of registry

19. The port of registry of every vessel registered under this Act is Betio, Tarawa.

Vessels to be registered

20.(1) Every vessel, other than an exempt vessel, which is owned wholly by a qualified person, or by persons each of whom is a qualified person –

- (a) if the vessel is not a foreign vessel, shall be registered under this Act; or
- (b) if the vessel is a foreign vessel, may be registered under this Act.

(2) Where subsection (1) would apply in relation to a vessel if it were not an exempt vessel, the owner or owners of the vessel may apply for registration of the vessel under this Act.

(3) A vessel required by subsection (1)(a) to be registered is liable to be detained at a port or place in Kiribati until the Master of the vessel, if requested to do so by the Registrar, produces to the Director of Marine the vessel's registration certificate.

Registration of Government vessels

21. (1) The Regulations shall provide for the registration of Government vessels.

(2) The Regulations, if necessary or in special circumstances, may exempt a Government vessel or class of Government vessels from the whole or any of the provisions of this Act.

(3) The special circumstances referred to in subsection (2) shall be determined and considered by the Marine Board.

Restriction on registration of vessels

22. (1) The Registrar shall not register a vessel under this Act unless such vessel or owner or owners of such vessel complies or comply with sections 18, 19 and 20 of this Act.

(2) Where the Minister has reasonable cause to believe, and does believe, that any vessel registered under this Act should not continue to be so registered, he may direct the Registrar to require the master and owner of the vessel, or either of them, to produce evidence to the satisfaction of the Minister that the vessel should continue to be so registered.

(3) If within such time as may be determined by the Minister, not being less than 30 days, the evidence referred to in subsection (2) is not produced, the vessel is liable to forfeiture.

Survey and measurement of vessel

23. (1) Subject to subsection (6), a vessel shall, before registration, be surveyed by a surveyor and, subject to subsection (4), its tonnage shall be ascertained by the surveyor in the prescribed manner.

(2) The surveyor shall grant his tonnage certificate specifying the vessel's tonnage and build and such other particulars as may be prescribed.

(3) A tonnage certificate granted pursuant to subsection (1) in respect of a vessel shall, before the vessel is registered be delivered to the Registrar.

(4) The fees to be paid by the owner or owners of a vessel to a surveyor in respect of a survey under this section are as prescribed.

(5) Subject to subsection (6), where a vessel which is not registered under this Act has been measured and registered under the law of a foreign country, or has already been measured without having been so registered, the vessel owner or master of the vessel shall provide the Registrar with all related certificates and documents issued by a Maritime Authority of foreign country, the surveyor may, for the purpose of subsection (1), accept and use any suitable figures of measurement contained in the latest register relating to that vessel or, in the case of an unregistered vessel, in the latest certificate of measurement relating to that vessels.

(6) Before acting under subsection (5), a surveyor shall satisfy himself that there have been no changes of measurement since the making of the register or certificate which he proposes to use, and where any such change have been made, he shall re-measure the vessel to the extent made necessary by those changes.

(7) Director may establish Mandatory Survey System for all ships registered.

Marking of vessel

24.(1) A vessel in respect of which an application for registration is made shall not be registered unless the vessel has first been marked permanently and conspicuously in the prescribed manner.

(2) The marks required by this section to be placed on a vessel shall be permanently continued and no alteration shall be made to those marks except as provided for under this Act.

(3) An owner or master of a vessel registered under this Act shall ensure that such vessel is marked and continues to be marked as required by this section.

Penalty: A fine not exceeding \$2,000

(4) No person shall conceal, remove, alter, deface or erase any mark required by this section to be placed or kept on a vessel, except as provided by this Act or for the purposes of escaping from an enemy, is guilty of an offence.

Penalty: A fine not exceeding \$2,000

(5) The Minister acting in accordance with advise of the Authority may, by notice published in the Gazette exempt the owner or master of any vessel or class of vessels from complying, either in whole or in part, with the requirements of this section.

Application for registration

25. (1) An application for the registration of a vessel under this Act shall be made by the owner or owners of the vessel to the Registrar in the prescribed form.

(2) An application under subsection (1) shall be made:

- (a) where the owner is a corporation, by the agent of the corporation; or
- (b) where the owner is not a corporation, by the person or persons seeking the registration of the vessel or by his or their agent.

(3) The authority of an agent referred to in subsection (2) shall be in writing, and

- (a) in the case of an agent appointed by a corporation, under the common seal of the corporation; and
- (b) in the case of an agent otherwise appointed, under the hand of the person or persons appointing the agent.

(4) The Registrar may require proof, to his satisfaction:

- (a) of the owner of the vessel; and
- (b) of the seaworthiness.

of a vessel before proceeding with the registration of the vessel under this Act.

(5) An application for the registration of a vessel under this Act shall be accompanied by such evidence in respect of the vessel as may be prescribed.

Declaration of owner of vessel on registry

26. A person shall not be entitled to be registered as owner of a vessel until he, or in the case of a corporation, a person authorised under the common seal of the corporation to make declarations on behalf of the corporation, has made and signed a declaration as owner of vessel referring to the vessel, as described in the certificate of tonnage, and containing the prescribed particulars.

Registration of vessels

27.(1) Where the requirements of this Act relating to a vessel before registration have been complied with, the Registrar shall, upon payment of the prescribed fee, register the vessel by allotting to the vessel a registry number and by entering in the Register the name of the vessel, the registry number allotted to the vessel and such other particulars in respect of the vessel as are prescribed.

(2) The Registrar shall not register a vessel by a name by which a vessel is already registered under this Act or, except in accordance with the direction of the Minister, by a name that is, in the opinion of the Registrar, undesirable.

Provisional registration

28. (1) Where, at a place outside Kiribati a vessel becomes wholly owned by a qualified person, or by persons each of whom is a qualified person, the diplomatic representative of Kiribati in or for that place or the agent appointed by Minister for that place may grant to the master of the vessel, on his written applications a provisional certificate of registry stating-

- (a) the name of the vessel;
- (b) the time and place of the vessel's purchase and the names of her purchasers;
- (c) the name of the vessel's master;
- (d) the best particulars respecting the vessel's tonnage, build and description which the representative is able to obtain.

(2) A diplomatic representative of Kiribati or the agent appointed by Minister for that place shall forward a copy of any provisional certificate of registry granted by him pursuant to subsection (1) to the Registrar at the first convenient opportunity, and in any event within 21 days of the issue of such certificate.

(3) A provisional certificate of registry issued under this section shall be deemed to be a certificate of registry granted under section 34(1) until the expiry of:

- (a) if the vessel in respect of which is granted is not a foreign vessel:
 - (i) 60 days after the date on which it was granted; or
 - (ii) 10 days after the arrival of the vessel in Betio.

which ever first occurs; or

- (b) if the vessel in respect of which it is granted is a foreign vessel, six months after the date on which it was granted.

(4) Upon application of the owner, the Registrar may extend the period of validity of a provisional certificate of registry if the circumstances warrant such an extension.

(5) A master of a vessel shall deliver to the Registrar the provisional certificate of registry granted under subsection (1) in respect of the vessel, within 10 days after the first arrival of the vessel in Betio.

Penalty: A fine not exceeding \$5,000

Loss of certificate of registry

29. (1) Where a certificate of registry of a vessel is lost, mislaid or destroyed the Registrar shall grant a new certificate in its place, upon receiving satisfactory evidence of such loss, mislaying or destruction.

(2) A diplomatic representative of Kiribati or the person or office appointed by Registrar for that place upon receiving, from the master of a vessel or some other person having knowledge of the facts of the case, a declaration giving details of a lost, mislaid or destroyed certificate of registry of the vessel together with particulars of the vessel and its owner or owners, shall grant a provisional certificate of registry containing a statement of the circumstances under which it was granted.

(3) A provisional certificate of registry granted under subsection (2) shall be valid –

- (a) until the expiry of 60 days after the date on which it was granted; or
 - (b) until a new certificate is granted in place of the certificate of registry,
- whichever is the earlier.

(4) Where a Certificate of Registry is granted in lieu of one lost, the lost Certificate, if found, shall be delivered up to the registrar or his duly authorised agent who shall thereupon cancel it.

Change in ownership of vessel

30. Where a change occurs in the ownership of a vessel registered under this Act by reason of a transfer of the vessel to a qualified person:

- (a) notification of the change shall be given to the Registrar; and
- (b) the certificate of registry shall be endorsed in the prescribed manner.

- (c) The owner of a documented vessel who desires to transfer the vessel to a foreign registry may do so provided that there are no unfulfilled obligations owing to the Republic of Kiribati in respect of the vessel. Before such transfer is accomplished the registered owner shall surrender the vessel's document to the registrar or his duly authorised agent or to a consular or diplomatic officer of Kiribati.
- (d) Before a Certificate of Registry shall be accepted for surrender, the registered owner shall submit to the Registrar a written application specifying the name of the vessel, the reasons for the proposed surrender, the name and nationality of the proposed new owner, if any, and, if a transfer to foreign registry is contemplated, the name of the country to whose registry transfer is desired.
- (e) When an application is made for new registry of a vessel, its former Certificate of Registry shall be delivered up to the Registrar or his duly authorised agent to whom such application is made.

Notification where vessel is lost or an owner ceases to be a qualified person

31. (1) If a registered vessel:

- (a) is either actually or constructively lost, taken by an enemy, burnt or broken up; or
- (b) ceases to be entitled to be registered,

the owner of the vessel shall immediately after obtaining knowledge of that event, unless notice has already been given to the Registrar, give written notice of the event to the Registrar.

Penalty: A fine not exceeding \$2,000

(2) The Registrar shall, upon receipt of a notice under subsection (1), make an entry in the Register of the event to which the notice relates.

(3) Where an entry in respect of a vessel is made in the Register under subsection (2)-

- (a) if the entry is in respect of a vessel which has been either actually or constructively lost, taken by an enemy, burnt or broken up - the registration of the vessel is deemed to be closed except in so far as it relates to any unsatisfied mortgage of the vessel; and
- (b) if the entry is in respect of a vessel which has ceased to be entitled to be registered - the registration of the vessel is, subject to this section, deemed to be closed.

(4) Where a vessel, in respect of which the Registrar has received a notice under subsection (1)

(b). is subject to an unsatisfied mortgage or mortgages:

- (a) the registration of the vessel, so far as it relates to the mortgage or mortgages, is not, subject to subsections (5) and (6), deemed to be closed; and

- (b) the Registrar shall give written notice to the mortgagee, or where there is more than one, to each mortgagee that he has received a notice under subsection (1)(b) stating that the vessel has ceased to be entitled to be registered.

(5) Subject to this section, where the Registrar gives a notice under subsection (4)(b) the registration of the vessel, so far as it relates to the mortgage or mortgages, as the case may be, is deemed to be closed at the expiration of a period of 60 days starting on the date that that notice is given.

(6) Where a mortgagee who has received a notice under subsection (4)(b) makes application to the Court within the period of 60 days referred to in subsection (5) or within such extended period as the Court, on application made either before or after the expiration of that period of 60 days, orders, the Court may do all or any of the following things, namely -

- (a) order that the vessel or the vessel's equipment be sold;
- (b) make such other orders for and in relation to the distribution of the proceeds of the sale as it thinks fit;
- (c) make such orders and give such directions with respect to the closure of the registration of the vessel as it thinks fit.

(7) Notice of an application under subsection (6), including an application for an extension of time, must be served on the Registrar.

(8) An order made under subsection (6) can be made on such terms and conditions as to costs or otherwise as the Court considers appropriate in the circumstances.

(9) The Registrar shall give effect to any orders and directions given by the Court under subsection (6) so far as they relate to the Register.

(10) Where the registration of a vessel is closed or deemed to be closed under this section, the Registrar shall direct the person who has in his possession the registration certificate of the vessel to deliver that certificate to the Registrar or to a Proper Officer.

(11) A person shall comply with a direction given to him under subsection (10).

Penalty: A fine not exceeding \$500

(12) This section does not prejudice any rights of a mortgagee existing apart from this section.

Registration of alterations

32. (1) Where a vessel registered under this Act is so altered that it no longer corresponds to the particulars relating to the tonnage certificate or to the description of the vessel contained in the Register, the owner of the vessel shall, within 21 days, make, or cause to be made, to the Registrar an application in writing to register the alteration.

Penalty: A fine not exceeding \$2,000

(2) An application made under subsection (1) shall be accompanied by a tonnage certificate.

(3) The Registrar, upon receipt of an application under subsection (1) and upon receipt of the prescribed fee, shall cause the alteration to be registered.

(4) In causing the alteration of a vessel to be registered, the Registrar shall cancel the certificate of registry and shall grant a new certificate of registry and shall make the prescribed entries in the Register.

Registrar to retain documents

33. Where a vessel has been registered under section 17 the Registrar shall retain those of the documents submitted in connection with the application for registration as are prescribed.

Certificate of registry

34. (1) As soon as practicable after the registration of a vessel the Registrar shall grant to the owner or owners a certificate of registry in the prescribed form.

(2) The certificate of registry of a vessel

- (a) shall be kept in a safe place on the vessel;
- (b) shall be used only for the lawful navigation of the vessel; and
- (c) shall not be subject to detention by reason of any title, lieu, charge or interest had or claimed by any owner, mortgages or other person to, on or in the vessel.

(3) A master or owner of a vessel shall not use, for the navigation of a vessel, a certificate of registry not locally granted in respect of such vessel.

Penalty: A fine not exceeding \$2,000

(4) A person who has in his possession or under his control the certificate of registry of a vessel shall, unless he cannot reasonably do so, deliver the certificate on demand to –

- (a) the person entitled to its custody for the purposes of the lawful navigation of the vessel;
- (b) any other person entitled by law to require its delivery.

Penalty: A fine not exceeding \$2,000

Power to grant new certificate

35. The Registrar may grant a new certificate in accordance with section 32(3).

Power to inquire into ownership, etc. of a registered vessel

36.(1) If the Minister suspects that a registered vessel is not entitled to be registered, he may, by written notice served on the registered owner of the vessel, require that owner to furnish to the Minister, within the period specified in the notice, being a period of not less than 30 days starting on the date of the service of the notice, information relating to, and evidence as to, whether or not the owner is a qualified person.

(2) The owner of a vessel upon whom a notice is served under subsection (1) shall furnish to the Minister, within the period specified in the notice, the information sought.

Penalty: A fine not exceeding \$2,000

(3) Where the owner of a vessel served with a notice under subsection (1) is unable to produce evidence that satisfies the Minister that the vessel is entitled to remain registered the Minister may, by written notice given to the Registrar, direct that the registration of the vessel be closed.

(4) Upon the receipt by the Registrar of a notice referred to in subsection (3), section 31(3) shall apply as if:

- (a) the vessel had ceased to be entitled to be registered; and
- (b) the notice where a notice given under section 31(1)(a) or section 31(1)(b) stating that fact.

Annual registration fees

37. (1) The owner of a registered vessel shall, on each anniversary of the date of registration of the vessel, pay the prescribed annual registration fee.

(2) Where an annual registration fee is not paid within 30 days after the date on which it became due a court of competent jurisdiction may, upon application by the Registrar, direct the amount unpaid to be levied by distress or by sale of the vessel or the equipment of the vessel.

(3) Notwithstanding subsection (2), an annual registration fee payable under subsection (1) shall be deemed to be a debt due to the Government from the owner of the vessel and may be recovered in a court of competent jurisdiction.

(4) Where, in respect of a registered vessel, a person is liable to pay an annual registration fee under subsection (1) and during the whole of the period of 12 months prior to the date that fee became due a prescribed proportion of the crew has consisted of citizens, that person shall be entitled to a rebate of such part of the fee as may be prescribed.

Registration Regulations

38. The Minister may make regulations in relation to:

- (a) the registration under this Part of Government vessels:

- (b) the ascertainment of the tonnage of vessels under section 23(1) and the issue and use of tonnage certificates;
- (c) the manner of making application under section 25 for the registration of a vessel under this Act;
- (d) the marking of the vessel for the purposes of section 24(1)
- (e) the manner in which the Registrar shall register a vessel;
- (f) the manner in which a change in ownership of a vessel is to be recorded;
- (g) the manner in which an alteration to a vessel is to be recorded;
- (h) the documents required:
 - (i) to accompany a declaration of transmission; or
 - (ii) to accompany a declaration of transmission of a mortgage;
- (i) the approval by the Registrar of the name in which a vessel is to be registered and the change of the name of a registered vessel;
- (j) the fees payable on the first registration of a vessel and, the annual registration fees of a vessel.

Power of Registrar to dispense with evidence

39. When under this Act any person is required to make a declaration on behalf of himself or of any corporation, or any evidence is required to be produced to the Registrar and it is shown to the satisfaction of the Registrar that for any reasonable cause that person is unable to make the declaration, or that the evidence cannot be produced, the Registrar may, on the production of such other evidence and subject to such terms as he may see fit, dispense with the declaration or evidence.

Division 4 –Registration of Foreign Vessels

Application of Part V to Foreign Vessels

40. Subject to the provisions under Part V of this Act, this Division, shall apply to the registration of foreign vessels.

Application to register foreign vessels

41. (1) The owner of a foreign vessel may apply to the Registrar for registration under the Act by using the prescribed forms which should be obtainable from the office of the Registrar.

(2) The owner of a foreign vessel must submit all the certificates required by the Registrar along with their application to the Registrar's authorised agent.

Appointment of authorised agent

42. (1) There shall be an authorised agent, whether a company or a person, appointed by the Minister who shall be responsible for assisting the Registrar with the registration of foreign vessels.

(2) An authorized agent may be a resident or citizen of a country other than Kiribati.

Powers and functions of authorised agent

43. The authorised agent shall be responsible for the following: -

- (a) Receiving of applications for the registration of foreign vessels and to ensure that the vessels to be registered comply with all the safety and other requirements of this Act.
- (b) Keeping records of all applications received including records of applications approved or rejected by him
- (c) Where appropriate the issuing of a provisional certificate of registry to a successful applicant.
- (d) Where appropriate the issuing of provisional recognition certificate to a seafarer who intend to or seafarers who are employed on vessels the registration for which he is handling after being satisfied that such seafarers possess the relevant certificates of competency as required under this Act.
- (e) Appointing a surveyor to carry out the surveyor's duties under this Act except that in making such appointment he shall appoint a surveyor from amongst those appointed by the Minister under this Act.
- (f) Collecting and receiving fees, tonnage taxes and other charges payable under this Act for the registration, maintenance and renewal of registration of any foreign vessel and for any other service provided by him in connection with a foreign vessel for the purposes of this Act on behalf of the Republic.

Duties in respect of seafarers

44. The authorised agent shall also be responsible for assisting the Registrar of Seafarers by:

- (a) receiving and processing applications by seafarers who intend to work or who will be employed on the vessels registration of which he is handling to ensure that the qualifications of the said seafarers meet the requirements of this Act; and
- (b) recording the prescribed details of all seafarers employed on the foreign vessels for which he has granted a provisional registration certificate.

Provisional certificate

45. The provisional registration certificate issued by an authorised agent under section 43(c) shall expire after a period of 3 months from the date of issue.

Authorised Agent to submit details of vessels to Registrar of Vessels

46.(1) An Authorised Agent shall, as soon as practicable, submit all the prescribed details of the vessel for which he has granted a provisional certificate to the Director for the registration to be entered in the register of vessels and for the issuing of a registration certificate in respect of the said vessel.

(2) The issuing of a registration certificate by the Director, as Registrar of Vessels, shall only be done after obtaining a report from the Registrar of Seafarers under section 48.

Authorised Agent to submit details of seafarers to Registrar of Seafarers

47.(1) The Authorised Agent shall, as soon as practicable, submit all the prescribed details of seafarers and copies of the relevant certificates or documents that he has accepted to work on a vessel for which he has granted a provisional registration certificate to enable the Registrar to verify the details of such seafarers and if in order to enter such details in the Register for Seafarers.

(2) The Registrar of Seafarers shall verify the details and issue the Certificate of Recognition in accordance to the STCW Regulations.

Report to Registrar

48. Upon satisfying the requirement under sections 46 and 47 the Registrar shall verify the details to enable him to decide whether or not to register the vessel.

Authorised Agent to notify Registrar of Seafarers of change in Vessel's Manning Composition

49. Any change to a vessel's crew shall be processed by and through the authorised agent who shall report any such change to the Registrar of Seafarers.

Requirements before Registration of foreign vessels

50.(1) The Registrar shall not register a foreign vessel unless the owner or owners of the vessel have lodged a declaration in writing, undertaking that the vessel will not be used for any of the following activities –

- (a) storage and transportation of illegal drugs;
- (b) people smuggling, trafficking in persons or unlawful carriage of refugees;
- (c) involvement in any war or armed conflict;
- (d) supporting civil unrest in any State or territory;
- (e) terrorism or activities in support of terrorism; and
- (f) any other activity which would be contrary to the laws of Kiribati or any international convention to which Kiribati is a party.

(2) The Registrar shall immediately cancel the registration of any foreign vessel which he has reasonable grounds to believe has been used contrary to the provisions of the undertaking.

PART VI AGENTS

Interpretation

51. In this Part –

“agent” means an agent who is licensed under this Part, for a vessel; and
“vessel” means a vessel registered in or outside Kiribati.

Licensing of agents

52. (1) The Minister may, on the application of any person, license such person to be an agent for a vessel for transacting business relating to the entry or clearance or any other related matters of any vessel in Kiribati waters.

(2) The Minister may, at any time, limit the number of persons to be licensed under subsection (1).

(3) The Minister may, by order, revoke the licence issued to any person –

- (a) if that person has been guilty of fraud or misconduct as agent;
- (b) if that person, being a natural person, is unable efficiently to act as agent by reason of mental or physical incapacity; or
- (c) for any other reasonable cause.

Licence

53. The licence referred to in section 52 shall

- (a) be in such form as may be prescribed;
- (b) authorise the person named therein to operate as agent from the place of business and at the ports named in the licence;
- (c) be subject to the payment of the prescribed fee;
- (d) expire on 31 December in each year;
- (e) be personal to the licensee named therein;
- (f) not be transferable.

Security

54. (1) No licence shall be issued under this Act unless the applicant has furnished to the Minister a security in such form and/or amount as may be prescribed for the due and proper performance of the duties and obligations of an agent under this Act.

(2) The prescribed amount of the security under this Act shall be maintained and replenished at all times by the holder of a licence under this Act whenever any payment out of such security is made in accordance with this Act.

(3) Where a licence issued under this Act is revoked pursuant to section 55, then the balance of the security provided under this section shall be returned in due course to the person whose licence has been revoked.

Revocation of licence

55. Whenever a copy of an order made by the Minister setting forth the reason for which a licence is revoked is delivered to the person concerned to his usual place of abode or business, such licence shall cease to have effect.

Agents for principals

56. In this Part, the expression “agents” include agents for vessels entering or clearing vessels of their principals in the discharge of their duties as agents or proxies.

Liability of agents for vessels debts

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

Authority of agent or sub-agent may be required

58. Whenever a person makes an application to an officer to enable such person to transact business on behalf of any other person, it shall be lawful for that officer to require the person so applying to produce a copy of his licence issued under this Act or a written authority from the person on whose behalf the application is made and in default of the production of such licence or authority the said officer may reject the application.

Liability of licensed agent

59.(1) Subject to subsection (2), a licensed agent who performs any act on behalf of the owner or master of a vessel, for the purposes of this Act, shall be deemed to be the owner or master of such vessel and shall accordingly be personally liable for the payment of any moneys to which such vessel is liable and for the performance of all acts in respect of such vessel which the owner or master thereof is required to perform under this Act.

(2) Nothing contained in this section shall relieve the owner or master of such vessel from any such liability

(3) The liability of the agent under this section shall not extend to the payment of any such moneys, which become payable, or the performance of any such act which falls to be performed, after the agent has ceased, in respect of that vessel, to be the agent of such vessel

Liability of owner for acts of licensed agent

60. (1) Subject to subsection (2), an owner or master of a vessel who authorises a licensed agent to act for him in relation to such vessel for any of the purposes of this Act shall be liable for the acts and declarations of such duly authorised agent and may accordingly be prosecuted for an offence committed by such agent in relation to such vessel as if such owner or master had himself committed the offence.

(2) An owner or master of a vessel shall not be sentenced to imprisonment for any offence committed by his duly authorised agent unless such owner or master of such vessel actually consented to the commission of the offence;

(3) Nothing herein contained shall relieve the duly authorised agent from any liability to prosecution in respect of any such offence.

Clearance to sail

61.(1) No vessel engaged on an international voyage shall be given clearance to depart a port within Kiribati unless –

- (a) the agent has proof of payment of all outstanding statutory port and harbour dues; and
- (b) a licensed pilot, who may be appointed by the agent, has been engaged.

Registered agents

62. (1) This section applies to a registered vessel which is not wholly owned by a person who, or by persons each of whom is:

- (a) a citizen of Kiribati; or
- (b) a body corporate established by or under a law of Kiribati the principal place of business of which is in Kiribati, but is a vessel which calls at ports or places in Kiribati, and the operations of which are managed on behalf of its owner from a place of business in Kiribati.

(2) There shall be entered in the Register in respect of a vessel to which this section applies the name and address of the agent in Kiribati who is managing the vessel on behalf of its owner.

(3) Where a change occurs in the person or the address of the person registered in relation to a vessel in accordance with subsection (2), the owner of that vessel shall lodge with the Registrar, within 14 days after the change, a notice specifying the change.

Penalty: A fine not exceeding \$1,000.

(4) Where a person fails to comply with subsection (3) the Minister may, in addition to any other action which may be taken in respect of the failure, take action under section 36(3) to close the registration of the vessel.

PART VII TRANSFERS AND TRANSMISSION

Transfer to be by Bill of Sale

63.(1) Where a vessel registered under this Act is disposed of to a qualified person, or to persons each of whom is a qualified person, the vessel shall be transferred by a bill of sale.

(2) A bill of sale shall:

- (a) be in the prescribed form; and
- (b) be executed by the transferor and the transferee in the presence of, and be attested by, a witness or witnesses.

Declaration of transfer

64. Where a vessel registered under this Act is transferred, the transferee is not entitled to be registered as owner of the vessel until he, or in the case of a corporation, a person authorized by this Act to make declarations on behalf of the corporation, has made and signed a declaration of transfer in the prescribed form referring to the vessel containing –

- (a) statements that show that the transferee is a qualified person, or, where there is more than one transferee, that each transferee is a qualified person; and
- (b) a statement that, to the best of his knowledge and belief, only a qualified person, or persons each of whom is a qualified person, is or are entitled as owner to any legal or beneficial interest in the vessel or a share in the vessel.

Registration of transfer

65. (1) Every bill of sale for the transfer of a vessel registered under this Act, when duly executed, shall be produced to the Registrar with the declaration of transfer referred to in section 64 and the Registrar shall enter into the Register the name of the transferee as owner of the vessel, and shall endorse on the bill of sale the fact of that entry having been made, with the day and hour of the entry.

(2) Bills of sale of a vessel rostered under this Act shall be entered in the Register in the order of their production to the Registrar.

Transmission of vessel on death, bankruptcy, etc.

66. (1) Where the property in a vessel registered under this Act is transmitted to a qualified person, or to persons each of whom is a qualified person, on the death or bankruptcy of any registered owner, or by any lawful means other than by a transfer made under this Act, that person shall authenticate the transmission by making and signing a declaration of transmission in the prescribed form identifying the vessel, and the declaration of transmission shall contain such statements and shall be accompanied by such documents as are prescribed.

(2) The Registrar, on receipt of the declaration of transmission under subsection (1), accompanied by the statements and documents referred to in that subsection, shall enter in the Register the name of the person entitled under the transmission as owner of the vessel the property in which has been transmitted, and where there is more than one such person, the Registrar shall enter the names of all such persons, but those persons, however numerous, shall, for the purposes of the provisions of this Act with respect to the number of persons entitled to be registered as owners, be considered as one person.

Order for sale on transmission to unqualified person

67. (1) Where the property in a vessel registered under this Act is transmitted on death or bankruptcy or otherwise to a person who is not a qualified person, or to persons one or more of whom is not a qualified person, the Court may, on application by or on behalf of that person or one or more of those persons, order a sale of the property so transmitted, and direct that the proceeds of the sale, after deducting the expenses of the sale, be paid to the person or persons entitled under the transmission or otherwise as the Court directs.

(2) The Court may require any evidence it thinks fit in support of the application and may make the order on any terms and conditions it thinks just, or may refuse to make the order, and generally may act in the case as the justice of the case requires.

(3) An application under this section shall be made within 30 days after the occurrence of the event on which the transmission has taken place, or within such further time (not exceeding in the whole one year from the date of the occurrence) which the Court allows.

(4) If the application is not made within the time specified in subsection (3) or if the Court refuses an order for sale, the vessel transmitted is liable to forfeiture.

Transfer of vessel or sale by order Court

68. (1) Where the Court orders the sale of a vessel registered under this Act, the order shall contain a declaration vesting in a person or persons specified in the order the right to transfer the vessel, and that person is entitled to transfer the vessel in the manner and to the same extent as if he was the registered owner of the vessel.

(2) The Registrar shall obey the requisition of the person named in a declaration under subsection (1) in respect of any such transfer to the same extent as if that person were the registered owner.

Court may prohibit transfer

69. (1) The Court may, if it thinks fit, and without prejudice to any other of its powers, on the application of a person claiming an interest in a vessel registered under this Act, make an order prohibiting for the time specified in the order any dealing with that vessel.

(2) The Court may make an order under subsection (1) on any terms or conditions it thinks just, or may refuse to make the order, and generally may act in the case as the justice of the case requires.

(3) The Registrar, after being served with a copy of an order made under this section, shall not register any dealing prohibited by the order.

Transfer of vessel or sale of vessel by order of the Court

70. Where the Court orders the sale of a registered vessel, the Court shall include in the order a declaration vesting in a person specified in the order the right to transfer the vessel, and that person is entitled to transfer the vessel in the manner, and to the same extent as if he were the registered owner of the vessel.

Trusts not recognisable, etc.

71. Notice of a trust in respect of a registered vessel, whether the trust is express, implied or constructive, is not capable of being:

- (a) received by the Registrar; or
- (b) entered in the Register.

Powers of disposal by owner

72. Subject to this Act, and subject to any rights and powers appearing on the face of the Register to be vested in any other person, the person registered as owner of a registered vessel has absolute power to dispose of the vessel and to give effectual receipts in respect of the disposal.

Equities not excluded by the Act

73. Subject to sections 70 and 71, beneficial interests can be enforced by or against the owner or mortgagee of a registered vessel in respect of his interest in that vessel in the same manner as beneficial interests can be enforced in respect of any other personal property.

Liability of owners of vessels

74.(1) Subject to subsection (2), where a person has a beneficial interest in a registered vessel and that vessel is registered in the name of some other person as owner, the person having that beneficial interest is, as well as the person registered as the owner, capable of being made subject to all pecuniary penalties imposed by this Act on the owners of vessels, and proceedings can be

taken for the enforcement of those penalties against both or either of those persons, with or without joining the other of them.

(2) Subsection (1) does not apply to a person having a beneficial interest in a registered vessel by way of mortgage, except a mortgagee in possession of the vessel.

(3) The registered agent of a registered vessel is capable of being made subject to all pecuniary penalties imposed by this Act as if he were the owner of the vessel and proceedings can be taken for the enforcement of any such penalties against that person.

Proceedings on forfeiture of a vessel

75. (1) Where a vessel is liable to be forfeited under this Act, an officer may seize and detain the vessel and the Minister may apply to the Court for an order under subsection (2).

(2) Upon application being made under subsection (1) in relation to a vessel the Court may order the vessel and its equipment to be forfeited.

(3) In subsection (1) 'officer' means any of the following, namely-

- (a) a person authorised in writing by the Minister for the purposes of that subsection;
- or
- (b) a police officer.

PART VIII MORTGAGE

Registered vessel can be a security

76.(1) A registered vessel is capable of being made a security for the discharge of an obligation by way of a mortgage under this Act.

(2) The instrument making a registered vessel a security for the discharge of an obligation by way of a mortgage under this Act must be in the prescribed form.

(3) The Registrar, upon the production to him of a mortgage, shall register the mortgage by making an entry of the mortgage in the Register.

(4) The Registrar shall:

- (a) register mortgages in the order in which they are produced to him for that purpose; and
- (b) endorse and sign a memorial on each mortgage, stating the date and time it was produced to him.

Discharge of mortgage

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

Priority of mortgages

78.(1) Where there is more than one registered mortgage in respect of a registered vessel, the mortgagees are, notwithstanding any express, implied, or constructive notice, entitled in priority, one over the other, according to the date and time at which each mortgage was produced to the Registrar and not according to the date of each mortgage itself.

(2) A registered mortgage is not affected by any act of insolvency committed by the mortgagor after the date of registration of the mortgage, notwithstanding that the mortgagor, where he is adjudicated to be insolvent, at the commencement of his insolvency had the vessel in his possession, order or disposition, or was the reputed owner of the vessel, and the mortgage will be preferred to any right, claim, or interest in the vessel of the other creditors of the insolvent or any trustee or assignee on their behalf.

Powers of mortgagee

79.(1) Except as may be necessary for making a registered vessel in respect of which a mortgage has been registered under this Act available as a security under that mortgage, a mortgagee is not by reason of the mortgage deemed to be the owner of the vessel nor is a mortgagor deemed to have ceased to be the owner of the vessel.

(2) Subject to this Act, a person registered under this Act as mortgagee in respect of a registered vessel has absolute power to dispose of that vessel and to give effectual receipts for the purchase money.

(3) Where more than one person is registered under this Act as mortgagees of a registered vessel, a subsequent mortgagee is not capable, except under an order of the Court, of selling the vessel except with the concurrence of every prior mortgagee.

Transfer of mortgage

80.(1) A registered mortgage of a vessel is capable of being transferred by registration of an instrument of transfer in the prescribed form.

(2) On the production to the Registrar of an instrument of transfer of a registered mortgage and of the mortgage to which the instrument of transfer relates, the Registrar shall:

- (a) register the transfer by making an entry of the transfer in the Register: and

- (b) endorse and sign on the mortgage and on the instrument of transfer the fact of the entry having been made, stating the date and time of the making of the entry.

Transmission of mortgage by operation of law

81. (1) Where the interest of a mortgagee in a vessel is transmitted to another person by any lawful means, other than by a transfer under this Act, the transmission must be authenticated by a declaration of the person to whom the interest is transmitted.

(2) A declaration referred to in subsection (1) must be in the prescribed form and must contain a statement of the manner in which, and the person to whom, the interest has been transmitted, and must be accompanied by such documents as are prescribed.

(3) Upon receipt of the declaration and documents referred to in subsection (2), the Registrar shall enter the name of the person entitled under the transmission in the Register as the mortgagee of the vessel.

Maritime liens

82.(1) Notwithstanding anything contained in this Act or the Liens and Mortgages Convention, a maritime lien is not enforceable against a vessel owned by a bona fide purchaser for value without notice unless such lien has been registered in the Register, but it is enforceable against the owner and vendor who has incurred the debt from which the maritime lien arises, irrespective of registration.

(2) The Registrar shall, at the request of the holder of a maritime lien, register the maritime lien by making the entry in the Register –

- (a) describing the claim against the owner, demise charterer, manager or operator of the vessel secured by the maritime lien on the vessel; and
- (b) the date of the event which gave rise to the maritime lien against the vessel; and
- (c) the name and address of the lien holder for the service of notice or documents.

Time limitation for maritime liens

83. Subject to Article 9 of the Liens and Mortgages Convention, a maritime lien shall be extinguished after the period of one year.

**PART IX
SAFETY**

Division 1 - Application

Application of Part

84.(1) Subject to subsection (2), unless the contrary intention appears, this Part applies to and in relation to, a vessel that is:

- (a) a registered vessel; or
- (b) not a registered vessel, but is registered in another country and:
 - (i) is an offshore vessel; or
 - (ii) is at a port or place in Kiribati.

(2) This Part does not apply to, or in relation to the following vessels –

- (a) a vessel that-
 - (i) in the ordinary course of its voyage would not be required to comply with this Part; and
 - (ii) is compelled by stress of weather or force majeure to take refuge in a port or place in Kiribati;
- (b) a fishing vessel;
- (c) a pleasure craft;
- (d) a vessel that is less than 10 metres in length;
- (e) an air-cushioned vehicle.

Ships carrying in excess of 12 passengers and ships greater than 500GT engaged on Domestic and International voyages

85. (1) All ships which can carry more than 12 passengers on international voyages shall comply fully with the provisions of the Convention of Safety of Life at Sea (SOLAS) 1974 and any subsequent amendments or protocols thereto, which are applicable to the class of ship.

(2) All ships over 500GT other than those mentioned in subsection (1) engaged in international voyages shall comply fully with the provisions of the Convention of Safety of Life at Sea (SOLAS) 1974 and any subsequent amendments or protocols thereto, which are applicable to the class of ship and cargo carried.

(3) All ships capable of carrying more than 12 passengers or are over 500GT and engaged in International voyages shall be constructed according to the construction rules of a full member of the International Association of Classification Societies.

(4) The construction of such ships shall be overseen by the accredited representative(s) of a full member of the International Association of Classification Societies during all stages of construction.

(5) Such ships shall remain classified with a classification society which has been approved by the administration whilst registered under this Act.

Ships of less than 500GT engaged in either domestic or International voyages and not built using traditional building methods

86. (1) Ships of less than 500GT whether engaged on International or Domestic voyages shall comply with the International Association of Classification Societies recommendation number 99 with regard to the provision of equipment required to ensure the safety of life at sea.

(2) Ships of less than 500GT unless being constructed by traditional methods shall be constructed to comply with any rules which may be made under this Act by the Minister acting under the advice of the Director.

Division 2 –Musters and Drills

Duty of Master to Muster Crew

87. (1) The Master of every ship other than a passenger ship shall ensure all crew are mustered at their emergency stations and take part in an emergency drill at least once every 14 days.

(2) The drill in subsection (1) shall be a fire fighting drill and an abandon ship drill which shall be carried at least every 28 days. The drills may be combined into one drill.

(3) The Master of a passenger ship shall ensure that an emergency drill to include abandon ship and fire fighting scenarios is carried out prior to departure from port if more than 20% of the passengers or 25% of the crew have been changed in that port and at least every 7 days thereafter.

(4) The occurrence of these drills are to be entered in the ships log book.

(5) The Master of any other ship shall ensure that an emergency drill is carried out prior to departure if more than 25% of the crew of their ship has been changed in that port.

(6) The equipment and machinery associated with the ships emergency equipment shall be tested for function during any emergency drill as appropriate, such function tests shall be noted in the ships log book.

(7) All maintenance on and replacement of such equipment and machinery is to be recorded and placed in the appropriate places.

(8) Offences -

- i. A Master shall carry out the drills as required by section 87(1)

Penalty: \$10,000 and/or suspension or revocation of his Certificate of Competency.

- ii. A Master and the person or persons designated must ensure that the maintenance and function tests of the equipment and machinery associated with the ships emergency equipment is carried out and recorded as required by sections 87(6) and 87(7)

Penalty: \$10,000 and/or a suspension or revocation of Certificate of Competency.

Division 3 – Safe Ship Management Systems

Duty to have safety Management System

88. (1) All passenger ships and ships of 500GT or more engaged in International voyages shall have in place a safety management system that complies with the International Safety Management (ISM) Code.

(2) The system mentioned in subsection (1) shall be audited at the appropriate intervals as indicated in the ISM Code by an approved auditor and a Safety Management System (SMS) certificate shall be issued to attest the compliance with the ISM Code,

(3) The original of this certificate shall always be carried on board the ship and the certificate shall valid for no more than 5 (five) years.

(4) The managing office of the ships shall also be audited at the appropriate intervals as indicated in the ISM Code by an approved auditor and a Document of Compliance (DOC) (which complies with the format indicated in the annex to the ISM Code) shall be issued to attest the compliance with the ISM Code. A copy of the Document of Compliance shall be carried on all the ships.

(5) A ship entering the registry shall be issued with an interim SMS certificate valid for a maximum of six months from the day of issue only after she has undergone an interim audit in entry to the registry.

Domestic Ship Safety Managements System

89. (1) A ships which carry more than twelve passengers or are 24 metres or more in length between perpendiculars wholly between ports situated within the Republic of Kiribati more than 300 nautical miles apart, and not built using traditional methods, shall have in place a safety management system which provides for the following:

- (a) An instruction manual which gives concise clear instructions as to the use of each individual piece of equipment fitted to the ship,
 - (b) Operational instruction of emergency equipment which shall be posted in a permanent pictorial form adjacent to the piece of equipment concerned
- (2) There shall be a maintenance schedule instituted for each piece of equipment fitted to the ship which is essential to the safe running of the ship, a system of recording when such maintenance has taken place shall be developed.
- (3) The owner of the ship shall cause to have developed basic routines or checklists which cover the operation of the ship these shall include but not be limited to:
- (a) Mooring and letting go
 - (b) Basic pre-departure checklists which shall contain such items as number of passengers and crew on board, checks of mechanical equipment such as engines and steering systems, safety radio equipment etc.,
 - (c) Anchoring and weighing anchor
 - (d) Checklists for emergency situations likely to be encountered
 - (e) Handover of watch if applicable

Division 4 - Required Certificates

International voyages

90. (1) All ships shall be surveyed and verified by surveyors appointed by the Minister under this Act so that relevant certificates can be issued to establish that the ships are designed, constructed, maintained and managed in compliance with the requirements of IMO Conventions, Codes and other instruments.

(2) International Classification Societies appointed by the Minister as surveyors under this Act shall be appointed from members of the International Association of Classification Society and shall be deemed Recognised Organisations under the relevant Code and Resolutions of the ROs and the Convention.

(3) All vessels carrying more than twelve passengers on International voyages or are 500GT or over registered under this Act, and including all foreign ships operating in Kiribati waters shall carry on board all certificates and statutory records set out in Schedule 3.

Domestic voyages

91. Certification and Statutory Records to be carried by Ships engaged in Domestic voyages are provided for in Schedule 3 of this Act.

Division 5 - Safety of Navigation

Collision Avoidance

92. (1) All vessels entitled to fly the National Ensign whether registered under this Act or not shall comply fully with the provisions of the International Regulations for the Prevention of Collisions at Sea (COLREG)1972

(2) Subsection (1) shall also apply to all vessels operating within the Exclusive Economic Zone of the Republic of Kiribati regardless of size or flag.

Duty to assist after a collision

93. The Master of any vessel which has been involved in a collision with another, shall stop and render any assistance as is practicable to the other vessel.

Penalty: A fine not exceeding \$10,000 and/or suspension of licence

Duty to furnish details if no assistance required

94. If no assistance is required or in any case the Master shall furnish the Master of the other vessel with the following details:

- (a) The name of their ship
- (b) The IMO number of the ship
- (c) Its port of registry
- (d) Its last port of call, and
- (e) Its next port of call

Penalty: A fine not exceeding \$20,000 and/or suspension or revocation of licence

Duty to respond to a distress signal

95. (1) On reception of a distress signal whether by electronic or visual means, the Master of a ship shall carry out the followings:

- (a) Rebroadcast the distress signal using the most appropriate means available,
- (b) If practicable, proceed towards the distress position with all possible dispatch
- (c) Inform handling Rescue Coordination Centre (RCC) of the response with Estimated Time of Arrival at the position, if distress received via RCC.
- (d) Continue proceeding to distress position unless released by RCC or On Scene Commander if one appointed.

- (e) On arrival at distress position, if own vessel is the first on scene, assume the role of On Scene Commander until relieved by a more appropriate vessel or aircraft
- (f) Control or assist with search and rescue as the case may be, and
- (g) Note all actions and times in the ships' log book

Penalty: A fine not exceeding \$50,000 and imprisonment for 5 years and revocation of Certificate of Competency or Certificate of Recognition.

Division 6 –Marine Board and Surveyors

Establishment of the Marine Board and directions of Minister

96.(1) There is hereby established a Board, to be known as the Marine Board, which shall consist of:

- (a) The Director.
- (b) The Port Master, appointed under the KPA Act 1990,
- (c) Surveyor appointed by the Minister,
- (d) A Representative from any existing piloting service providers to be appointed by the Minister, and
- (e) Not more than 2 other persons to be appointed by the Minister, who in the opinion of the Minister, have wide knowledge and experience in the Marine Industry.

(2) The functions, allowances and meeting procedures of the Marine Board are as prescribed by regulation.

Duty to act under Minister's directions

97.(1) Marine Board, in carrying out their respective powers and duties under this Act, shall act in accordance with any directions given to him or to the Board, as the case may be, by the Minister under subsection (2).

(2) The Minister may give the Director and the Marine Board general or special directions in respect of the administration of this Act.

Surveyors of vessels and Auditing of Appointed Classification Society

98. (1) The Minister may, on the advice of the Marine Board, appoint a person (including any member of the International Association of Classification Societies), with such qualifications as he considers appropriate, to be a Surveyor of vessels.

(2) Where a member of the International Association of Classification Society is appointed under subsection (1) to be a surveyor it shall, if the Minister so directs, nominate persons to carry out surveys or issue certificates or do all other things necessary on its behalf, in accordance with the IMO Guidelines.

(3) Auditing of appointed Classification Societies or Recognised Organisations will be carried out as prescribed by the regulation in accordance to IMO guidelines.

(4) 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: A fine not exceeding \$1,000

Division 7 - International Maritime Conventions and Survey Requirements and Certificate

Application of International Conventions

99.(1) The International Conventions set forth in Schedule 1, and any amendments thereto (unless an amendment has been objected to by Kiribati), shall have the force of law in Kiribati, subject to any reservation as Kiribati may make at the time of accession, from and after the date that convention enters into force for Kiribati following the deposit of the instrument of accession with relevant depositary. Schedule 1 may be amended by order of the Minister in accordance with the advice of the Cabinet.

(2) The owner and the master of a vessel that is-

- (a) a registered vessel; and
- (b) a Load Line Convention vessel,

shall each ensure that the vessel complies with the Load Line Convention.

Penalty: A fine not exceeding \$2,000

(3) The owner and the master of a vessel that is:

- (a) a registered vessel; and
- (b) a Safety of Life At Sea Convention vessel,

shall each ensure that the vessel complies with the Safety of Life At Sea Convention.

Penalty: A fine not exceeding \$2,000

(4) Where the Collisions Convention places an obligation on the master, the owner or any other person to comply with a requirement of that Convention in respect of a vessel that is:

- (a) registered vessel: or
- (b) within the territorial seas of Kiribati.

that requirement shall be complied with by the master, the owner or other person.

Penalty: A fine not exceeding \$2,000

(5) Regulations may make provision for, or in relation to, the implementation of, or giving effect to the Conventions referred to in subsections (1), (2) and (3).

(6) Where, under:

- (a) the Load Line Convention; or
- (b) the Safety of Life at Sea Convention,

the several countries which are parties to those Conventions, as the case may be, have a discretion as to whether any, and if so, what action should be taken under them, that discretion is exercisable by the Minister.

(7) Notwithstanding any requirement under this Act for the purpose of giving effect to, or implementing a requirement of:

- (a) the Load Line Convention; or
- (b) the Safety of Life at Sea Convention,

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

(8) Where, under

- (a) the Load Line Convention;
- (b) the Safety of Life At Sea Convention; or
- (c) the Tonnage Measurement Convention,

the several countries which are parties to those Conventions are under a duty to do any act or thing, that act or thing is to be done by the Minister.

(9) Where a vessel is,

- (a) a Load Line Convention vessel;
- (b) a Safety of Life At Sea Convention vessel; or
- (c) a Tonnage Measurement Convention vessel.

this Part does not apply except in so far as it is applicable to and relevant to such a vessel.

(10) A person shall not exhibit on a vessel a signal prescribed in the Collision Convention of Schedule 1 as a signal indicating that a vessel is in distress and needs assistance unless the vessel in which the signal is exhibited is in distress and needs assistance.

Penalty: A fine not exceeding \$1,000.

Vessels not to go to sea without certificate

100. Subject to section 101, neither the owner nor the master of a vessel shall allow the vessel to go to sea unless there is in force in respect of the vessel such certificates as are required under this Part.

Penalty: A fine not exceeding \$20,000 or imprisonment not exceeding 5 years or both.

Vessel may go to sea without certificate in certain circumstances

101.(1) This section applies where the Director is satisfied that a vessel that is not:

- (a) a registered vessel;
- (b) a Load Line Convention vessel; or
- (c) a Safety of Life At Sea Convention vessel.

can proceed to sea without danger to the vessel, to passengers on the vessel or to the crew of the vessel.

(2) Where this section applies, the Director may, notwithstanding any other requirement of this Part, and subject to such conditions as he thinks fit, allow a vessel to go to sea without a survey certificate.

(3) Where, under subsection (2), the Director allows a vessel to go to sea without a survey certificate, he shall give to the master of the vessel a written statement setting out-

- (a) the circumstances of the case; and
- (b) the conditions, if any, under which the vessel is allowed to go to sea.

(4) Where this section applies in respect of a vessel, the master and the owner of the vessel shall each take such action as may be necessary to ensure that any conditions imposed under subsection (2) are observed.

Penalty: A fine not exceeding \$2,000

Certificates to be produced before vessel goes to sea

102.(1) The Director may, before a vessel goes to sea, direct the master of the vessel to produce to him:

- (a) such certificates as are required under this Part to be in force in respect of the vessel; or
- (b) the written statement referred to in section 101(3).

(2) The master of a vessel shall not fail, without reasonable cause, to comply with a direction given to him under subsection (1).

Penalty: A fine not exceeding \$2,000.

Vessel to be surveyed

103. A vessel must undergo the surveys and inspections prescribed by or by virtue of this Act and under the Mandatory Survey System as per IMSAS Strategy as required under section 23(7).

Powers of a surveyor

104.(1) Subject to subsections (2) and (3), a surveyor may:

- (a) go on board a vessel, including a vessel under construction, and survey or inspect, as the case may be:
 - i. the vessel and its equipment;
 - ii. any part of the vessel or its equipment;
 - iii. any cargo or articles on board the vessel; and
 - iv. 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 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; and
- (c) require the master or the owner of a vessel to give an explanation to him of any matter concerning the vessel or the documents produced or required to be produced under subsection (1)(b).

(2) A surveyor shall not exercise his powers under subsection (1) except:

- (a) in the course of a survey - and then only at reasonable times; or
- (b) in a situation which, in his opinion, is or may be or may become dangerous.

(3) A surveyor shall not exercise a power under subsection (1) so that a vessel is unreasonably detained or delayed.

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

Penalty: A fine not exceeding \$1,000

(5) A person shall not fail to comply with a request made to him by a surveyor under subsection (1)(b) or (c).

Penalty: A fine not exceeding \$1,000

Special examination of vessels

105. (1) For the purposes of a survey or an inspection of a vessel, the Director may, if he thinks it necessary to do so, direct the owner or the master of a vessel to have the vessel slipped, taken into dock or otherwise dealt with.

(2) A person shall not fail to comply with a direction given to him under subsection (1).

Penalty: A fine not exceeding \$1,000

Requirement to notify the Director of change in the condition of a vessel

106. (1) Subject to this Act, this section applies to a vessel:

- (a) that is a registered vessel
- (b) that is not a registered vessel but is a vessel in respect of which a safety certificate has been granted under this Act.

(2) Where the operation or safety of a vessel to which this section applies is impaired because of-

- (a) replacement of, or damage or alteration to, a part of the vessel; or
- (b) any other circumstances,

the owner or master of the vessel shall, within 7 days of that impairment (unless prevented from doing so for reasonable cause) notify the Director of the fact or those circumstances.

Penalty: A fine not exceeding \$5,000

Application for survey

107.(1) Where an owner or the master of a vessel seeks the issue of a survey certificate he may apply in the prescribed manner to the Director for the vessel to be surveyed.

(2) Where the vessel is a foreign vessel registered in Kiribati and the vessel is a Load Line Convention vessel or a Safety of Life at Sea Convention vessel the owner or master of such vessel must apply to a classification society appointed under section 98(1)

(3) On receipt of an application under subsection (1) the Director shall nominate a surveyor and shall cause the vessel to be surveyed.

Issue of survey or safety certificate

108.(1) A surveyor nominated by the Director under section 107(3) shall, on completion of a survey under that section, deliver a written report of the survey to the Director.

(2) Where the surveyor nominated under section 107(3) is satisfied that the vessel complies with the requirements of this Part he shall complete a declaration to that effect in the prescribed form and shall deliver it to the Director.

(3) When, in respect of a vessel, the Director has received a report referred to in subsection (1) and a declaration referred to in subsection (2) and he is satisfied that the vessel complies with the requirements of this Part, he shall, subject to any conditions he thinks fit, grant a survey certificate in respect of the vessel.

(4) Where, in respect of a vessel, a surveyor acting on behalf of a classification society appointed in accordance with section 107(2) is satisfied that he may do so, he shall issue a safety certificate in respect of the vessel.

Cancellation or suspension of survey or safety certificate

109. (1) Where, in the opinion of the Director

- (a) a report delivered to him under section 108(1) or a declaration delivered to him under section 108(2) has, in any particular, been made fraudulently or erroneously;
- (b) a survey or a safety certificate has been issued upon false or erroneous information; or
- (c) since the making of the last declaration in respect of a survey, a vessel has been altered, replaced or damaged to such an extent or in such a manner as to affect adversely the seaworthiness of the vessel,

the Director shall refer the matter to the Marine Board and if, after it has investigated the matter, the Board is satisfied that the opinion of the Director is correct it shall cancel or suspend the survey or safety certificate of the vessel.

(2) Where the Marine Board suspends or cancels a survey or a safety certificate under subsection (1) the Director shall, as soon as practicable after the suspension or cancellation, serve a written notice on the owner or the master of the vessel which shall specify:

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

(3) A person served with a notice under subsection (2) shall surrender to the Director the certificate specified in the notice.

Penalty: A fine not exceeding \$500

(4) Where a survey or safety certificate is cancelled or suspended under subsection (1) the Director may require the owner of the vessel to which the certificate relates to have the vessel resurveyed before the issue of a new certificate in respect of the vessel or the removal of the suspension.

(5) The Minister may appoint a person or persons occupying the public office designated as a Marine Officer to be a Shipping Officer or Shipping Officers

Alteration of a vessel

110. The owner or master of a vessel in respect of which a survey or a safety certificate has been issued shall notify the Director of any alterations to the vessel that make that certificate inapplicable to the altered state of the vessel.

Penalty: A fine not exceeding \$2,000

Certificate to be displayed

111. The master of a vessel, other than an unmanned barge, in respect of which a survey or a safety certificate has been granted shall cause the certificate or a certified copy of the certificate to be continuously displayed in some prominent and accessible place on the vessel.

Penalty: A fine not exceeding \$500

Division 8 – Safety Equipment

Requirement to carry certain equipment

112. The owner and master of a vessel that is required by virtue of this Part to carry or be fitted with certain equipment shall each ensure that that equipment:

- (a) is carried or fitted in the vessel; and
- (b) is in good order and ready for use,

before the vessel goes to sea.

Penalty: A fine not exceeding \$2,000

Master of vessel to be qualified in global maritime distress and safety system (GMDSS)

113. The master of a vessel which is required by this Part to carry a radio installation shall be qualified in global maritime distress and safety system (GMDSS).

Penalty: A fine not exceeding \$2,000

Radio reports to be made of danger to navigation

114.(1) The master of a registered vessel shall (unless prevented from doing so for reasonable cause) make by radio a report, in the prescribed manner, of any serious danger to navigation which comes to his notice while the vessel is at sea.

Penalty: A fine not exceeding \$1,000

(2) The master of a registered vessel shall (unless prevented from doing so for reasonable cause), when the vessel is at sea within the prescribed area, make by radio:

- (a) in the prescribed manner;
- (b) at the prescribed times; and
- (c) to the prescribed officer,

reports of the position of the vessel and of the movements of the vessel.

Penalty: A fine not exceeding \$500

Division 9 – Duty of Vessels to Assist

Assistance to persons in danger at sea

115.(1) The master of a registered vessel shall, as far as he can do so without serious danger to his vessel, her crew, and passengers, render assistance to any person who is found at sea in danger of being lost.

Penalty: A fine not exceeding \$5,000 or imprisonment for a term not exceeding 2 years or both.

(2) Compliance by the master of a vessel with subsection (1) does not affect his right or the right of any other persons to salvage.

Duty of vessel to assist in case of collision

116. Where vessels collide, the person in charge of each vessel, if and so far as he can do so without danger to his own vessel, crew and any passengers, shall:

- (a) render to the other vessel, the vessel's master, crew and any passengers such assistance as is practicable and necessary in order to save them from danger caused by the collision;
- (b) stay by the other vessel until he has ascertained that the vessel has no need of further assistance; and
- (c) give to the person in charge of the other vessel:

- (i) the name of his own vessel and of the port to which the vessel belongs; and
- (ii) the names of the ports from which the vessel comes and to which the vessel is bound.

Penalty: A fine not exceeding \$5,000 or imprisonment for a term not exceeding 2 years or both

Division 10 – Hazardous Goods

Hazardous goods endangering vessel or human life

117.(1) This section applies to cargo or goods (other than dangerous goods) where the cargo or goods, if carried in a particular vessel would, in the opinion of the Director, endanger that vessel or constitute a danger to human life.

(2) The Director may, by direction to the master of a vessel-

- (a) prohibit the loading into the vessel;
- (b) prohibit the carriage in the vessel;
- (c) order the removal from the vessel; or
- (d) direct the manner of the stowage or carriage in the vessel,

of cargo or goods to which this section applies.

(3) The master of a vessel shall comply with a direction given to him by the Director under subsection (2).

Penalty: A fine not exceeding \$2,000

(4) Where the master of a vessel has been given a direction under subsection (2) the vessel can be detained until such time as the master has complied with that direction.

Powers of the master in relation to dangerous goods

118.(1) The master or the owner of a vessel may:

- (a) refuse to take on board a package which he suspects contains dangerous goods;
- (b) open and inspect a package which he suspects contains dangerous goods; and
- (c) discharge, destroy, render innocuous or otherwise deal with goods which:
 - (i) in his opinion are dangerous goods; and
 - (ii) have been shipped on board the vessel without his knowledge and consent.

(2) The master or the owner of a vessel shall not be subject to any liability of any kind for taking any action specified in subsection (1).

Powers of the Director in relation to dangerous goods

119.(1) The Director may, where he is satisfied that dangerous goods are being loaded into, unloaded from, or stowed, carried or used in a vessel otherwise than in accordance with this Act or with the. Safety of Life At Sea Convention, direct the owner or the master of the vessel to take such action in relation to the vessel or to the whole or to a part of the cargo of the vessel as he thinks fit.

(2) The master or the owner of a vessel, as the case may be, shall comply with a direction given to him under subsection (1).

Penalty: A fine not exceeding \$5,000

Requirements in relation to dangerous goods

120.(1) A person shall not-

- (a) send by;
- (b) send on to;
- (c) bring on to; or
- (d) carry or use in,

a vessel dangerous goods otherwise than as required or permitted by this Act or by the Safety of Life At Sea Convention.

Penalty: A fine not exceeding \$5,000

(2) A person shall not, with intent to conceal the character of dangerous goods-

- (a) send by;
- (b) send on to; or
- (c) carry or use in,

a vessel dangerous goods under a false description.

Penalty: A fine not exceeding \$5,000

Forfeiture of dangerous goods

121.(1) The Court may order that dangerous goods carried or shipped or used in a vessel in contravention of this Act or the Safety of Life At Sea Convention be forfeited.

(2) Where an order is made under subsection (1) the dangerous goods shall be forfeited, notwithstanding-

- (a) that no offence has been committed by the owner of the goods;
- (b) that the owner of the goods has had no notice of the proceedings; or
- (c) that there is no evidence as to the ownership of the goods.

Division 11 - Passengers

Number of persons that may be carried in a vessel

122.(1) Neither the master nor the owner of a vessel shall permit to be carried in the vessel more persons than the permitted number of passengers.

(2) In subsection (1) "the permitted number of passengers", in respect of a vessel, means the number of passengers stated in the survey or safety certificate issued in respect of the vessel as being the maximum number of passengers that may be carried in the vessel.

Penalty: A fine not exceeding \$1,000, and in addition, a fine not exceeding \$350 for each person carried on board the vessel in excess of the permitted number of passengers.

Division 12 - Compliance with Load Line requirements

Vessels over 24 metres or more in length

123. (1) All vessels registered under this Act with a length between perpendiculars (LBP) of 24 metres or more shall be assigned a freeboard in accordance with the International Load Line Convention 1966 and its subsequent amendments or its protocols.

(2) If it is impossible to ascertain the vessel LBP, then the length (L) shall be 96% of the water line length at 85% of the least moulded depth measured from the top of the keel.

(3) All vessels assigned a freeboard under subsection (1) shall be marked in accordance with the International Load Line Convention 1966

(4) All vessels assigned a freeboard under subsection (1) shall on either side of the bow and stern post, or if the vessel does not have a stern post then either side of a line which coincides with the centre line of the rudder stock be marked with draught marks.

(5) The marks under subsection (4) are to commence at the keel or as close to the lower most part of the vessel as practicable and terminate 1,000 millimetres (mm) above the line marking the assigned freeboard, they are to be at least 100mm high and no more than 200mm apart. These marks are to be either in Roman or Arabic numerals.

Vessels of less than 24 metres

124. (1) All vessels of less than 24 metres whether of traditional build or not shall have load lines assigned to which are based as per tables included in rules for the construction of non – convention vessels.

(2) Marking shall be as far as practicable as provided for in section 14.

Penalty: A fine not exceeding \$2,000

Submerged load line

125.(1) In this section a passenger vessel means a vessel that is engaged in an international voyage and is carrying more than 12 passengers.

(2) A vessel (other than a passenger vessel) must not be so loaded that

- (a) if the vessel is in still salt water of specific gravity of 1.025 and has no list, the appropriate load line on each side of the vessel is submerged; or
- (b) the appropriate load line on each side of the vessel would be submerged if the vessel were in still salt water of specific gravity of 1.025 and had no list.

(3) A passenger vessel must not be so loaded that:

- (a) if the vessel is in still salt water of specific gravity of 1.025 and has no list the appropriated subdivision load line on each side of the vessel is submerged; or
- (b) the appropriate subdivision load line on each side of the vessel would be submerged if the vessel were in still salt water of specific gravity of 1.025 and had no list.

(4) Neither the owner nor the master of a vessel shall permit the vessel to be loaded in contravention of subsection (2) or (3).

Penalty: A fine not exceeding \$2,000 and in addition, a fine not exceeding \$1,000 for every complete centimetre and for part of a centimetre over one or more complete centimetres by which the appropriate load line was, or would have been, submerged.

(5) Where a vessel is loaded in contravention of this section, the vessel may be detained until it ceases to be so loaded.

(6) Where a vessel is not a registered vessel:

- (a) the master or owner of the vessel cannot be prosecuted under subsection (4);
and
- (b) the vessel cannot be detained under subsection (5),

unless the vessel has been inspected by a surveyor.

(7) It is a defence to a prosecution for an offence under subsection (2) or (3) to prove that the vessel was overloaded as a result:

- (a) of an alteration in the route of the vessel; or

- (b) of delay to the vessel caused by stress of weather, force majeure or other circumstances, which the master or the owner of the vessel could not have prevented or forestalled.

Division 13 - Unsafe vessels

Unsafe vessel defined

126.(1) For the purpose of this section and section 127 a vessel is an unsafe vessel if because of-

- (a) the defective condition of its hull, machinery or equipment;
- (b) undermanning;
- (c) improper loading; or
- (d) any other reason,

it is unfit to go to sea without danger to human life having regard to the voyage which is proposed.

(2) A person shall not knowingly send, and a master shall not knowingly take, an unsafe vessel to sea.

Penalty: A fine not exceeding \$2,000

(3) It is a defence to a prosecution for an offence under subsection (2) if the person charged with the offence proves that-

- (a) he used all reasonable care to ensure that he sent or took the vessel to sea in a safe state; or
- (b) having regard to the circumstances, the sending or taking of the vessel to sea was reasonable and justifiable.

Manning of Ships

127. (1) The minimum number of seafarers needed to ensure the safe operation of a ship of 300GT or over entered into the Registry, including certification required by the Master, number of certified Officers of the watch and their certification, and number of ratings shall be determined by the Director using the table prescribed in Schedule 2 of this Act. In making such determination the Director shall also take into consideration the following non exhaustive factors:

- i. Size of ship
- ii. Proposed trading pattern of the ship
- iii. Proposed cargoes
- iv. Whether in excess of twelve passengers will be carried if so maximum number of passengers
- v. Type of life saving appliances including radio equipment, fire - fighting equipment etc. carried by the vessel

- vi. Whether crew expected to work cargo at load and discharge ports
- vii. Size of main engines and auxiliaries
- viii. Whether engine room is continuously manned or not
- ix. Anchoring and mooring equipment
- x. Method of internal communications used within the ship

(2) On being satisfied that the vessel has on board the minimum number of seafarers required to safely operate the vessel the Director shall issue or caused to be issued a Safe Crewing Certificate for that ship using the prescribed form.

(3) The Director may, in his discretion, revise, amend or withdraw a Safe Crewing Certificate if it comes to his attention that the information used to enable the issuance of the original certificate has changed in such a way as to alter the number of seafarers required to operate the ship safely.

(4) A Master or owner who permits a ship to go to sea with less crew than specified on the Safe Crewing Certificate shall be guilty of an offence.

Penalty: Person - a fine not exceeding \$50,000

Corporation - a fine not exceeding \$500,000

No vessel to go to sea undermanned

128. Unless authorized to do so by the Director, neither the owner nor the master of a vessel shall take or send a vessel to sea or permit the vessel to remain at sea with fewer qualified seafarers on board than the complement prescribed in respect of that vessel.

Penalty: Master- a fine not exceeding \$10,000

Owner- a fine not exceeding \$50,000

Detention of unsafe vessels

129.(1) An unsafe vessel can be detained by:

- (a) the Director; and
- (b) at least one surveyor,

until it ceases to be an unsafe vessel.

(2) Where an unsafe vessel is detained under subsection (1), the Director shall within 24 hours of the detention give written notice to the owner or to the master of the vessel setting out the reasons for the detention.

(3) Where a vessel that is registered in a country other than Kiribati is detained under subsection (1) the Director shall, as soon as practicable, cause-

- (a) the Consul; or
- (b) other diplomatic representative,

of the country in which the vessel is registered, to be informed of the reasons of the detention.

Division 14 – Reporting and Inquiries

Reporting of casualties and incidents

130.(1) In subsection (2) "vessel to which this section applies" means a vessel that is-

- (a) a registered vessel;
- (b) not a registered vessel, but is-
 - (i) in Kiribati waters; or
 - (ii) on a voyage where the next port of call of the vessel is a port or place in Kiribati; or
- (c) an offshore vessel.

(2) Where a vessel to which this section applies:

- (a) causes or is involved in an accident;
- (b) receives damage which renders, or is likely to render the vessel unsafe;
- (c) has been in a position of great peril from:
 - (i) the act of some other vessel; or
 - (ii) danger of wreck or collision;
- (d) fouls, or does damage to:
 - (i) a pipe line;
 - (ii) a submarine cable; or
 - (iii) a marine navigational aid; or
- (e) having left a port or place in Kiribati to proceed on a voyage but has to return back to that port or place due to difficulties encountered,

The master of the vessel shall, as soon as practicable:

- i. report the event to the Director; and
- ii. if so requested by the Director, provide a written report of the event to the Director.

Penalty: A fine not exceeding \$20,000

Inquiry into certain casualties

131. Where, at any time, a casualty occurs in relation to a vessel that, at that time is:

- (a) a registered vessel; or
- (b) not a registered vessel but is:
 - (i) in Kiribati waters; or
 - (ii) on a voyage from a port or place in Kiribati to another port or place in Kiribati,

the Marine Board may:

- (c) cause a preliminary investigation to be held in relation to the casualty in accordance with section 132; or
- (d) request the Minister to cause a marine inquiry to be held in relation to the casualty in accordance with section 133.

Preliminary investigation

132.(1) For the purposes of a preliminary investigation of a casualty, the Marine Board shall appoint a person as the investigator in respect of the casualty.

(2) An investigator may, for the purpose of conducting an investigation into a casualty:

- (a) go on board any vessel involved in the casualty;
- (b) require any person to answer questions relating to the casualty; and
- (c) require production of documents or certificates relating to a vessel involved in the casualty.

(3) A person shall not:

- (a) hinder or obstruct an inspector carrying out a preliminary investigation under this section;
- (b) fail to answer a question put to him by an investigator under subsection (2)(b); or
- (c) fail to produce a document or certificate he has in his possession or under his control when requested to do so by an inspector under subsection (2)(c).

Penalty: A fine not exceeding \$2.000

(4) An investigator carrying out an investigation under this section shall, upon the conclusion of his investigation send to the Marine Board a written report containing a full statement of his conclusions in respect of the casualty accompanied by such report on, or extracts from, the evidence and such observations as he thinks fit.

(5) Upon receipt of a report under subsection (4), the Marine Board may:

- (a) request the Minister to cause a marine inquiry to be held in relation to the casualty in accordance with section 133; and
- (b) if the Board considers it is necessary or desirable to do so, suspend any certificate of competency issued to a qualified seafarer pending the outcome of that marine inquiry.

Marine inquiries

133.(1) Where the Minister agrees to a request made to him under section 132(5)(a) the Chief Justice shall, on the request of the Minister, appoint a person appearing to the Chief Justice to be suitably qualified-

- (a) by the holding of or by having held judicial office; or
- (b) by experience as a barrister and solicitor,

to hold an inquiry into a casualty.

(2) A person appointed under subsection (1) shall conduct the inquiry with the assistance of at least 2 assessors who possess such qualifications as are prescribed, appointed conjointly by the Director and the person appointed under subsection (1).

(3) Subject to subsections (4) and (5), the marine inquiry shall be conducted in the prescribed manner.

(4) Where it is likely that during the course of a marine inquiry the conduct of a person will be called into question or it is likely that a person will be affected by a decision of the inquiry the person appointed under subsection (1) to hold the inquiry shall:

- (a) give to that first mentioned person at least 72 hours' notice of the place, day and hour for the holding of the inquiry; and
- (b) furnish to that person:
 - (i) where a preliminary investigation has been held in accordance with section 132 – a copy of the report and any other documents sent to the Marine Board in accordance with section 132(4); or
 - (ii) in any other case-a statement of the case on which the inquiry was ordered.

(5) A person:

- (a) whose conduct is likely to be questioned during the course of a marine inquiry; or
- (b) who is likely to be affected by a decision of the inquiry,

is entitled –

- i. to attend the inquiry personally and also to be represented at the inquiry by a barrister and solicitor;
- ii. to be sworn and given evidence before the inquiry;
- iii. to subpoena and call witnesses;
- iv. to examine, cross-examine and re-examine in accordance with the customary rules of courts of law all witnesses giving evidence before the inquiry;
- v. to take all proper exception to the admissibility of evidence; and
- vi. at the conclusion of the inquiry or other proper time, to address the inquiry.

(6) For the purpose of a marine inquiry the person appointed under subsection (1) and the assessors assisting him may:

- (a) go on board any vessel where it is relevant to the inquiry to do so;
- (b) require any person to answer questions relating to the subject matter of the inquiry; and
- (c) require the production of any document or certificate relevant to the inquiry.

(7) A person shall not:

- (a) hinder or obstruct a person carrying out a assessor appointed under subsection (2);
- (b) fail to answer fully and truthfully a question put to him by a person acting in accordance with subsection (6)(b); or
- (c) fail to produce a document or certificate he has in his possession or under his control when requested to do so by a person acting in accordance with subsection (6)(c).

Penalty: A fine not exceeding \$2,000

(8) The person conducting a marine inquiry, shall, after the conclusion of inquiry-

- (a) give his decision; and
- (b) make a full report to the Minister together with such report of or extracts from the evidence and such observations as he thinks fit,

and each assessor shall either sign the report referred to in subsection (8)(b) or state in writing to the Minister his dissent from the report and his reasons for his dissent.

(9) A person conducting a marine inquiry may make such order as he thinks just to regain the costs of the inquiry or any part of those costs, and any such costs which a person may be ordered to pay may be recovered from that person by the Government as a debt due to the Government.

Powers of marine inquiry as to Certificates of Competency

134.(1) Where as a result of a marine inquiry the person conducting the inquiry is satisfied that a qualified seafarer-

- (a) is unfit to discharge his duties because of incompetence or misconduct or for any other reason;
- (b) has been seriously negligent in the discharge of his duty; or
- (c) has failed to give any assistance or information required by section 133(7),

and, in a case coming under subsection (1)(a) or (b), is further satisfied that the unfitness or negligence caused or contributed to the casualty, he may:

- (d) order the Registrar of Seafarers to cancel or suspend for such period as shall be specified any certificate of competency issued to the qualified seafarer concerned; or
- (e) censure the seafarer concerned.

(2) The Registrar of Seafarer shall comply with an order given to it under subsection (1)(d).

(3) Where a cancellation or suspension of a certificate of competency is ordered under subsection (1)(d) the seafarer concerned shall forthwith deliver that certificate to the Director.

Penalty: A fine not exceeding \$200

(4) A person conducting a marine inquiry shall not order the cancellation or suspension of a certificate under subsection (1)(d) unless:

- (a) at least half of the number of assessors appointed to assist at the inquiry concur with the cancellation or suspension; and
- (b) the provisions of section 134(1)(e) were complied with in respect of the seafarers to whom the certificate was issued.

Re-hearings and the power of the Minister to restore certificates

135.(1) Where a marine inquiry has been held under this Part the Minister may order the whole or a part of the inquiry to be re-heard, and shall do so, if:

- (a) in his opinion new an important evidence which could not be produced at the inquiry has been discovered; or
- (b) there appears to the Minister to be other grounds for suspecting that a miscarriage of justice may have occurred.

(2) Where a certificate has been cancelled or suspended under section 134(1)(d) the Minister may, on the recommendation of the person who conducted the marine inquiry, order the issue by the Marine Board of a new certificate of a lower grade in place of the cancelled or suspended certificate.

(3) The Marine Board shall comply with an order given to it by the Minister under subsection (2).

Appeals

136.(1) Subject to subsections (2) and (3), where:

- (a) the certificate of a seafarer is cancelled or suspended under section 134(1)(d);
- (b) a seafarer is censured under section 134(1)(e);
- (c) the costs or a part of the costs of any inquiry are awarded against any person under section 133(9); or
- (d) the person conducting a marine inquiry finds that the casualty has been caused or contributed to by the wrongful act of any person,

the seafarer, in the case of subsections (1)(a) or (1)(b), or, in the case of subsections (1)(c) or (1)(d), any person who appeared at the hearing and is affected by the decision, may appeal to the Court and the Court may make such order as the justice of the case requires.

(2) Subject to subsection (3), an appeal under subsection (1) shall be made within:

- (a) the period of 30 days starting:
 - (i) on the date the person conducting the marine inquiry gives his decision under section 133(8)(a); or
 - (ii) where a re-hearing has been ordered under section 135(1) - on the date the decision in respect of that re-hearing is given; or
- (b) such extended period as the Court, on application made either before or after the relevant period of 30 days referred to in subsection (2)(a), orders.

(3) Where a re-hearing has been ordered under section 135(1) no appeal may be made under subsection (1) until the decision in respect of the re-hearing under section 135(1) has been given.

Division 15- Safety on Non Convention but Registered Vessels

Director to notify Master of opinion on danger to safety etc. of passengers

137:(1) This section applies to a vessel which:

- (a) is not a Safety Convention vessel; but
- (b) is a registered vessel.

(2) Where, in the opinion of the Director, there would be a danger to the safety, comfort, health or wellbeing of any passenger on a vessel by reason of the manner in which the vessel:

- (a) is equipped or manned or is carrying cargo, livestock or ballast; or
- (b) is provided with passenger accommodation or sanitary, health and medical services or provisions, water or stores.

the Director may notify the master of the vessel of his opinion.

(3) Where a notification is given under subsection (2) the carriage of passengers in the vessel in respect of which the notification has been given is prohibited until such time as the Director is satisfied that passengers may be carried without danger to their safety, comfort, health or wellbeing.

(4) The master of a vessel carrying passengers shall not take the vessel to sea while the carriage of passengers is prohibited under subsection (3).

Penalty: A fine not exceeding \$1,000 and in addition, a fine not exceeding \$350 for each passenger carried onboard the vessel.

Division 16 – Safety Regulations

Minister to make regulations

138.(1) The Minister may make regulations providing for and in relation to the safety and survey of vessels and the conduct of investigations and marine inquiries under this Part.

(2) Without prejudice to the generality of subsection (1) the regulations may provide for:

- (a) the safety certificates which are required to be in force in respect of a vessel;
- (b) the manner of survey or inspection of vessels;
- (c) periods within which vessels are required to be inspected;
- (d) the circumstances in which, at the request of the owner of a vessel, a survey or inspection of the vessel can be carried out;
- (e) the manner in which a surveyor shall report to the Director on completion of a survey or of an inspection of a vessel;
- (f) the exemptions from survey which can be granted in respect of a particular vessel or a particular class or description of vessels;
- (g) the type and form of survey certificates;
- (h) the duration of, or extension to the duration of the validity of survey certificates;
- (i) the circumstances in which survey certificates can be cancelled or suspended;
- (j) the manner in which survey and safety certificates can be endorsed;
- (k) the requirements with which the hull, machinery and equipment of vessels must comply;
- (l) the appliances to be carried, and the measures to be observed, on vessels for the saving of life at sea and for the prevention, detection and extinction of fires on vessels;
- (m) the requirements for the holding and recording of musters and drills for crews and passengers;
- (n) the number of berthed and unberthed passengers to be carried on a vessel;
- (o) the requirements with respect to the equipping of vessels with radio-telephones and radio navigational aids, the operation, maintenance and use of radio-telephones and radio-navigational aids in vessels and the number and qualifications of the radio-telephone operators to be carried on vessels;

- (p) the measures and procedures to be followed and the equipment to be carried on vessels to ensure safety of navigation;
- (q) the requirements which must be complied with in respect of the stowage and carriage of livestock, deck cargo, grain, dangerous goods and hazardous cargoes on vessels;
- (r) the security of ships and ports;
- (s) the observance of safety standards and procedures on board vessels;
- (t) safety and safe working practices on board vessels;
- (u) the measures to be observed for the prevention of collisions at sea;
- (v) requirements related to the provision and use on vessels of lights and signals;
- (w) the manner of determining freeboards to be assigned to vessels;
- (x) the manner of determining, in relation to a vessel, the deck which is to be the freeboard deck and for requiring the position of that deck too be indicated on each side of the vessel by marks;
- (y) the manner of determining, by reference to a mark, the freeboards assigned and the position in which each side of a vessel is to be marked with a line indicating the maximum depth to which the vessel may be loaded;
- (z) the requirements in respect of hull, superstructure, fittings and appliances which are relevant to the assignment of freeboards to vessels;
- (aa) the manner of recording particulars of the requirements under paragraph (y) and the method of determining and extent of compliance with the conditions of assignment;
- (bb) the information relating to the stability of a vessel required to be provided by the owner of the vessel to the Director and to the master of the vessel;
- (cc) the manner in which investigations and marine inquiries are to be conducted;
- (dd) the selection of assessors;
- (ee) the qualifications of assessors;
- (ff) the circumstances in which assessors shall assist in the conduct of a marine inquiry;
- (gg) the manner in which any facts may be proved at a marine inquiry;
- (hh) the persons who can be allowed or required to appear before a person conducting a marine inquiry;
- (ii) the notices to be given to persons affected by a marine inquiry;
- (jj) in relation to a vessel carrying passengers, to make provisions for:
 - (i) the accommodation of passengers;
 - (ii) provisions, waters, medical stores and medical inspection;
 - (iii) the carriage of medical staff and the provision of hospital accommodation;
 - (iv) sanitary facilities;
 - (v) the sale and consumption of alcohol;
 - (vi) passenger lists;
 - (vii) the cargo which can be carried in the vessel and the method of stowing cargo;
 - (viii) the maintenance of good order in respect of the passengers;
 - (ix) the prevention of wilful damage or injury to the machinery or equipment of a vessel by a passenger;

- (x) the prevention of any obstruction to any seafarer in the execution of his duty;
- (xi) the prevention of the molesting of or interference with any person on board the vessel; and
- (kk) the regulation and control of marine aquatic sports and the specification of areas in which such sports can or cannot be carried on.

PART X REGISTRATION OF SEAFARERS

The Registrar of Seafarers

139. There shall be a Registrar of Seafarers who shall be a public officer appointed by the Minister in accordance with this Act.

Register of Seafarers

140.(1) The Registrar shall keep at Betio a book to be known as the Register of Seafarers.

(2) Any person may inspect the Register of Seafarers during normal working hours.

Duties of Registrar

141. The Registrar shall perform the following functions and duties –

- (a) keep in the Marine Division a Register of all I-Kiribati Seafarers with details of their certificates, the address and all the particulars of the Seafarers in accordance with STCW '78 as amended 2010 and STCW – F
- (b) keep in the Marine Division a Register of all Foreign Seafarers employed on Kiribati Flagged vessels with details of their certificates and the certificates of recognitions issued, the address and all the particulars of the Seafarers in accordance with STCW '78 as amended 2010 and STCW – F
- (c) issue to an I-Kiribati Seafarer a book to be known as a Discharge book;
- (d) issue to an I-Kiribati Seafarer a book to be known as a Service record book
- (e) maintain a list of suspended Seafarers;
- (f) maintain a list of dismissed Seafarers;
- (g) receive and record a dismissed Seafarers' Discharge book;
- (h) maintain a list of deceased Seafarers;
- (i) receive and record a deceased Seafarers' Discharge book.
- (j) to cancel or suspend certificate of competency in accordance to section 134(1)(d) of this Act.

**PART XI
SEAFARERS**

Division 1 – Application

Vessels covered under this Part

142.(1) Unless the contrary intention appears, this Part applies to and in relation to the following vessels:

- (a) a registered vessel that is 7 metres or more in length;
- (b) a vessel licensed under this Act to engage in the near-coastal trade and which is, in the opinion of the Director, engaged in that trade, that is 7 metres or more in length;
- (c) a Government vessel that is 7 metres or more in length.

(2) The provisions of this Part do not apply to or in relation to the following vessels:

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

Exemption of particular vessels

143.(1) The Minister may, by notice in the Gazette, and subject to any conditions he thinks fit, exempt a particular vessel or a particular class or description of vessel from all or any of the requirements of this Part.

(2) An exemption under subsection (1) can be in respect of:

- (a) a specified period; or
- (b) one or more specified voyages.

(3) Any conditions subject to which an exemption is given under subsection (1) must be set out in the notice published under that subsection.

(4) Where this section applies in respect of a vessel, the master and the owner of the vessel shall each take such action as may be necessary to ensure that any conditions imposed under subsection (1) are observed.

Penalty: A fine not exceeding \$1,000

Division 2 – Seafarer Certification

Issuing of Certificates

144. (1) All certificates issued by the Director for service on ships of more than 300GT (Gross Tons) shall comply with the provisions of the Convention of Standards of Training, Certification and Watchkeeping (STCW) 2010 as provided for in Schedule 2 of this Act or any such amendments to the convention as may subsequently be made.

(2) All such certificates shall be issued by the Director once he is satisfied that all conditions have been met to enable issuance of such certification.

(3) All certificates issued to watch keeping officers shall be signed by the Minister or such other persons delegated by them to sign such certificates.

(4) Certification for service on ships of less than 300GT shall comply with section 143 of this Act.

(5) Marine Training Centre is the recognised national training centre which delivers training courses in accordance with STCW 78, as amended, and STCW-F conventions.

Variation of certification

145. (1) The Director may vary a seafarers certificate if he is satisfied the criteria for such a variation have been met.

(2) Without limiting subsection (1) the Director may vary a seafarers certificate to impose, vary or remove a condition on a seafarers certificate.

Certificates to be endorsed

146. Certificates of competency for masters and officers shall be endorsed by the Director to signify that the holder has been found duly qualified in accordance with the provisions of the Convention.

Seafarers to hold proper certificates

147. (1) Every person serving on a Kiribati registered ship shall hold the appropriate certificate or other qualification for his position in accordance with the provisions of this Act and any regulations made there under.

(2) Certificates and endorsements under this Act shall be in the Kiribati and English languages and shall be in such forms as may be prescribed.

(3) The Director of Marine may issue a certificate under subsection (1):

(a) subject to such conditions as he considers appropriate; and

(b) for any period of validity not exceeding 5 years as he considers appropriate.

Continuing fitness and competence

148. (1) The holder of a certificate of competency to be a master or officer who is serving at sea, or who intends to return to sea after a period ashore, shall, in accordance with regulations made under this Act, satisfy the Director at regular intervals not exceeding 5 years as to his continuing medical fitness and professional competence for the capacity in which the holder of such certificate intends to serve.

(2) Where more than 5 years have elapsed since the certificate holder referred to in subsection (1) has:

- (a) satisfied the Director as to his continuing fitness and competence as required by subsection (1); or
- (b) performed in a substantial manner, sea-going service,

then without prejudice, but in addition, to subsection (1), the Director may require that person to perform sea-service, medical examinations, pass tests, oral or otherwise, or attend courses before certifying that the holder is qualified for sea-going service.

(3) Where the Director is satisfied that the holder is fit and competent as required by subsections (1) or (2) for the position, he shall certify that the holder is qualified for sea-going service in the capacity in which the holder intends to serve, and the Director of Marine may only certify to that effect if satisfied that it will not adversely affect safety of life at sea or harm the public interest.

Dispensations

149. (1) Subject to the conditions specified in subsection (2), the Director may issue a dispensation in accordance with STCW '78 Convention and Code, as amended, to the extent and on such conditions he considers appropriate, permitting a seafarer to serve in a capacity for which he is not properly certificated. In such cases, the Director shall inform the Secretary General of IMO accordingly.

(2) The conditions referred to in subsection (1) are as follows:

- (a) a dispensation shall only be issued in circumstances of exceptional necessity;
- (b) the Director must be of the opinion that granting the dispensation will not cause danger to persons, property or the environment;
- (c) a dispensation shall only be issued to a named individual seafarer to serve on a named specified ship for a fixed period not exceeding 6 months;
- (d) where a dispensation is to be granted to a radio officer or to a radio-telephone operator, the dispensation shall be granted in accordance with the relevant Radio Regulations of the Convention;
- (e) the Director must be of the opinion that the person to whom the dispensation is to be granted is otherwise suitably qualified to fill the vacant post in a safe manner;

- (f) where the dispensation will allow a person to serve as master or chief engineer officer, it shall only be granted in circumstances of force majeure, and only for the shortest possible period;
- (g) subject to paragraph (h), a dispensation shall be granted to a person who is properly certificated to fill the post immediately below the vacant one; and
- (h) where a certificate is not required for a lower post, the applicant for the dispensation shall satisfy the requirements of subsection (3) before he is granted the dispensation.

(3) For the purposes of subsection (2)(h), the applicant for the dispensation shall possess the qualifications and experience that, in the opinion of the Director, is of a clear equivalence to the requirements of the post to be filled, and where the person holds no appropriate certificate, he shall pass a test, oral or otherwise, accepted by the Director as demonstrating that the dispensation may be safely issued.

(4) The post referred to in subsection (3) shall be filled by a properly certificated person as soon as possible.

(5) The Director may issue a dispensation in such form as he thinks fit and, where he considers it appropriate, require an applicant for a dispensation to undergo an oral test in relevant subjects.

Falsification of qualifications and certification

150. (1) No person shall knowingly use documents of qualification which are false to obtain a certificate of competency of any rank or rating.

Penalty: A fine not exceeding \$20,000 or 12 months imprisonment.

(2) No person shall supply an applicant for a certificate of competency with evidence of qualifications which he knows to be false.

Penalty: A fine not exceeding \$20,000 or 12 months imprisonment

(3) No person shall use a certificate of competency in order to obtain employment on a ship knowing such a certificate is forged.

Penalty: A fine not exceeding \$20,000 or 12 months imprisonment

(4) No master or owner of a registered vessel shall employ a seafarer who presents a certification as proof of qualification which he suspects or knows to be false or a forgery.

Penalty: A fine not exceeding \$20,000 or 12 months imprisonment

Recognition of qualifications and Certificates of Competency issued by other Flag States

151. (1) The Director shall recognise qualifications and certificates of competency issued by another Flag State provided such Flag State is a Party to the Convention on Standards of Training, Certification and Watch Keeping 1978 (STCW), as amended and any code attached thereto.

(2) Any person making an application for a Certificate of Recognition shall do so in time for such a certificate to be issued before the maximum allowable period under STCW 2010 has expired, and at latest no more than 14 days after joining a ship registered on the Registry

(3) The Director may issue a Certificate of Recognition only after being satisfied after consultation with the issuing Flag State that the documents of qualification presented are true and valid.

Application for certificates

152.(1) A person may apply to the Registrar for the issue to that person a certificate of competency.

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

(3) The Registrar shall refer any application received by him under subsection (1) to the Director and if the Director is satisfied of the prescribed matters in relation to the applicant, he shall issue a certificate of competency to the applicant.

(4) A Certificate of competency must be in the prescribed form and must set out the grade or designation in respect of which it is issued.

(5) The holder of a valid certificate of competency is a qualified seafarer of the grade and designation specified in the certificate.

Suspension or cancellation of certificate by the Director

153.(1) Where it appears to the Director that the holder of a certificate issued under section 151(3) is unfit to be the holder of that certificate whether by reason of medical unfitness, incompetency, misconduct, dereliction of duty or for any other reason the Director may give the holder written notice that he is considering referring the suspension or cancellation of the certificate to the Marine Board.

(2) The notice referred to in subsection (1) must:

- (a) state the reasons why it appears to the Director that the holder is unfit to be the holder of the certificate; and
- (b) state that within a period specified in the notice, being not less than 14 days, the holder may make written or oral representations to the Director.

(3) After considering any representations made in accordance with subsection (2)(b) the Director shall decide whether or not to refer the question of the suspension or cancellation of the certificate to the Marine Board and shall give the holder written notice of his decision.

(4) Where, in accordance with subsection (3), the Director decides to refer the question of the suspension or cancellation of a certificate to the Marine Board the written notice given by the Director under that subsection must-

- (a) state the reasons why it appears to the Director that the holder is unfit to be the holder of the certificate; and
- (b) state that:
 - (i) within a period specified in the notice, being not less than 14 days, the holder may make written representation to the Marine Board; or
 - (ii) the holder may appear before the Marine Board, either in person or by another person, when it considers the reference.

(5) The Marine Board shall consider any reference made to it by the Director under this section considering any written or oral representations made to it by or on behalf of the holder of the relevant certificate shall-

- (a) decide whether or not to suspend or cancel the certificate; and
- (b) give the holder written notice of its decision.

(6) Where in accordance with subsection (5) the Marine Board decides to suspend or cancel a certificate the notice given under subsection (5)(b) must:

- (a) in the case of a decision to suspend the certificate - state the date from which and the period for which the suspension is to take effect;
- (b) in the case of a decision to cancel the certificate - state the date from which the cancellation is to take effect; and
- (c) require the holder to deliver the certificate to the Director or a shipping officer not later than the date specified in the notice in accordance with subsections 6(a) or 6(b).

(7) A person who is required to deliver a certificate in accordance with subsection (6)(c) shall not fail to deliver that certificate.

Penalty: A fine not exceeding \$200

Appeals

154.(1) Where under section 153(5) the Marine Board decides that a certificate of competency should be:

- (a) suspended for a period exceeding 6 months; or
- (b) cancelled.

the holder of the certificate may appeal to the Court against the decision within:

- (c) 30 days of the date on which notice of the Director's decision is given to him in accordance with section 153(5)(b); or
- (d) such extended period as the Court, on application made either before or after the period of 30 days referred to in subsection (1)(c), orders.

(2) On an appeal under subsection (1) the Court may:

- (a) confirm the decision of the Marine Board;
- (b) revoke the suspension or cancellation, as the case may be; or
- (c) vary the decision of the Marine Board in such manner as it considers appropriate.

(3) A decision of the Court under subsection (2) shall be deemed to be a decision of the Marine Board and shall have effect accordingly.

Production of certificate

155. A person who holds a certificate of competency shall, upon being requested to do so, produce the certificate to:

- (a) the Director;
- (b) a shipping officer; or

acting in the course of his duties, or to the owner or the master of a vessel on which he is employed.

Penalty: A fine not exceeding \$100

Offences related to qualifications of seafarers

156.(1) A person shall not go to sea purporting to be a qualified seafarer of a particular grade or designation if he is not a qualified seafarer of that grade or designation.

Penalty: A fine not exceeding \$500

(2) Neither the master nor the owner of a vessel shall knowingly permit a person who is not a qualified seafarer of a particular grade or designation to go to sea on the vessel as a seafarer of that grade or designation.

Penalty: A fine not exceeding \$1,000

Seafarer's Identity Card

157.(1) The Registrar may issue to a person who is a Kiribati citizen and is a seafarer, a card to be known as a 'Seafarer's Identity Card'.

(2) A person to whom a Seafarer's Identity Card has been issued shall not fail, without reasonable cause:

- (a) (a) to keep the card securely;
- (b) to produce it when required to prescribed circumstances.

Penalty: A fine not exceeding \$100

Employment Record Book

158.(1) The Registrar may issue to a seafarer a book to be known as an Employment Record Book.

(2) An Employment Record Book shall:

- (a) be in the prescribed form; and
- (b) be applied for, issued and dealt with in the manner prescribed.

Seafarers Regulations

159. The Minister may make regulations, giving effect to the Standard of Training Certification and Watch-keeping Convention 1978 as amended and Standard of Training Certification and Watch-keeping- F and such regulations may also provide for the following:

- (a) the grades and designations of certificates;
- (b) the syllabus and general requirements for entry to examination;
- (c) the conditions and particulars to be included in an agreement;
- (d) the form of an agreement and the manner in which an agreement is made;
- (e) the manner in which an agreement is added to or amended or lodged with a shipping officer;
- (f) the circumstances in which an agreement or a copy of an agreement is carried in a vessel;
- (g) the requirements for an agreement, or a copy of an agreement to be delivered to or made available to a shipping officer;
- (h) the conditions under which a person 16 years of age or more but less than 18 years of age may enter into an agreement;
- (i) the circumstances under which, other than by reason of termination of an agreement, a seafarer may be left behind from a vessel outside Kiribati;
- (j) the crew accommodation requirements for new and existing vessels;
- (k) the standards to be observed in the construction, equipment, ventilation, lighting, heating, furnishing and maintenance of crew accommodation;
- (l) the form and manner in which accounts of wages are to be prepared by the owner and delivered to a seafarer;
- (m) the quality and quantity of the provisions and water to be supplied for the use of seafarers;
- (n) the conduct of medical examinations of seafarers and persons seeking employment as seafarers;

- (o) the medicines and medical and surgical stores to be carried in a vessel and the manner in which those medicines and stores are to be carried, stored and used in a vessel;
- (p) the appointment and certification of first-aid attendants and the circumstances in which first-aid attendants are to be carried on a vessel;
- (q) the manner in which effects of a deceased seafarer are to be dealt with;
- (r) the misconduct on board a vessel which is to be a disciplinary offence by a seafarer;
- (s) procedures under which a master may find that a seafarer has committed a disciplinary offence;
- (t) the manner in which a declaration of suspension is to be made and the manner in which that declaration is to be notified to:
 - i. a suspended person; and
 - ii. the person who last employed him as a seafarer;
- (u) the manner in which the name of a suspended person is included in the list of suspended persons;
- (v) the manner in which the list of suspended persons is to be kept and made available for inspection;
- (w) the circumstances, manner and form in which Seafarer's Identity Cards and Seafarers' Employment Record Books are to be issued, recorded and dealt with;
- (x) the Log Books, in addition to the official Log Book, to be kept in respect of vessels or any class of vessels;
- (y) the manner in which and the persons by whom entries in an Official Log Book or any other prescribed Log Books are to be made, signed and witnessed;
- (z) the production, or delivery of an Official Log Book or any other prescribed Log Books to such person in which circumstances and within such times as may be specified;
- (aa) the particulars to be entered into and the place and manner in which a Crew List or a copy of that List is to be maintained;
- (bb) the manner in which a Crew List or a copy of that List is to be made available on demand to specified persons;
- (cc) the reporting of births and deaths occurring in or from a vessel; and
- (dd) the hours of work of seafarers.

PART X11 VESSEL'S RECORDS

Official Log Book

160.(1) The master of a vessel shall keep in respect of the vessel a book to be known as the Official Log Book Log Books, a survey master sheethand such other Log Books as may be prescribed.

Penalty: A fine not exceeding \$1,000

(2) Subject to this Act, the master of a vessel shall not fail, without reasonable cause:

- (a) to keep the Official Log Book and any other prescribed Log Books of the vessel in the prescribed manner; and

(b) to carry the Official Log Book and any other Log Books in that vessel.

Penalty: A fine not exceeding \$1,000

Crew Lists

161. The owner or the master of a vessel shall:

- (a) make; and
- (b) in the prescribed manner, maintain,

a list of the crew of the vessel to be known as a Crew List.

Penalty: A fine not exceeding \$1,000

PART XIII ACCIDENTS ON BOARD A VESSEL

Reports of accidents

162. The master of a vessel shall not, without reasonable cause, fail to notify a shipping officer of any serious injury caused to a person on board the vessel.

Penalty: A fine not exceeding \$1,000

Inquiries into accidents on board vessels

163.(1) Subject to subsection (2) where:

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

the Director may authorise a shipping officer to hold an inquiry into the matter and the cause of the death or injury.

(2) The person holding an inquiry under this section shall, if not a surveyor or a shipping inspector, have for the purpose of holding the inquiry the powers of a shipping inspector set out in section 238(2) and section 238(6) shall apply accordingly.

Reports of inquiries

164.(1) The person conducting an inquiry under section 163 shall immediately upon completing the inquiry forward a written report of his findings to the Director.