

REPUBLIC OF KIRIBATI
(No of 2017)

I assent.

Beretitenti
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 a 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.

(2) The Director shall make a copy of the report referred to in subsection (1) available upon request to:

- (a) if the report relates to the death of a person:
 - (i) the next of kin of that person; and
 - (ii) any person who appears to the Director to have a sufficient interest in the contents of the report; and
- (b) the report relates to a serious injury to a person:
 - (i) that person or a person acting with the authority of that person; and
 - (ii) any other person who appears to the Director to have a sufficient interest in the contents of the report.

PART XIV NEAR – COASTAL TRADE

Certificates of seaworthiness

165. (1) The Minister may, on the advice of the Director, appoint a person with such qualification as he considered appropriate to be a Principal Surveyor of vessels.

(2) The Principal Surveyor may grant to a vessel a certificate of seaworthiness in the form prescribed or as near thereto as circumstances permit and such certificate shall be liable to be revoked at any time on good cause by the licensing officer.

(3) The certificate referred to in subsection (1) shall state:

- (a) whether the vessel in respect of which the certificate is granted shall be employed in coastal voyage, Pacific region voyage or unlimited voyage;
- (b) the name of the owner of the vessel;
- (c) the number of passengers (including crew) and the quantity of cargo which may be carried under different circumstances;
- (d) the period during which the vessel may be engaged in any voyage; and
- (e) the date on which the certificate shall expire.

(4) Such certificate shall, unless revoked, remain in force for not more than 12 months for steel vessels and not more than 6 months for wooden vessels from the date thereof:

Provided always that if any such vessel has been absent from Kiribati for 30 days previous to the date of expiration of the certificate last granted in respect of such vessel, such last certificate, if not revoked, shall continue in force till the return of such vessel to Kiribati.

Penalty on ship proceeding to sea without certificate

166. A master or an owner shall not allow a vessel, whatever its means of propulsion, to proceed upon any voyage or excursion unless such vessel has a certificate of seaworthiness issued under section 165 or by other competent authority, valid and unexpired, which must be produced together with the certificates of competency of the officers and engineer required for the voyage, on demand, to a customs officer or other lawfully appointed officers.

Penalty: \$20,000 or 5 years imprisonment

Limit of passengers to be carried

167. A master or person who is in charge of any vessel shall not carry passengers in excess of the number authorised such vessel's certificate.

Penalty: A fine not exceeding \$5,000 or 12 months imprisonment

Fees for application for certificates of seaworthiness

168. The owner of any vessel requiring a certificate of seaworthiness under this Act shall pay on application such fee as may be prescribed.

Near-coastal trade defined

169. For the purposes of this Part a vessel is engaged in the near-coastal trade in the following instances, namely, where the vessel-

- (a) takes on board passengers or goods at a port or place in Kiribati to be carried to or landed at another port or place in Kiribati or the same port or place in Kiribati;
- (b) takes on board passengers or goods at a place in Kiribati to be carried inside the lagoon area of the same place in Kiribati
- (c) leaves a port or place in Kiribati to undertake a shipping service within the territorial sea.

Near-coastal trade licences

170. Subject to this Act, the Minister may, in respect of a vessel and subject to any conditions he thinks fit to impose, grant to a person a licence to engage that vessel in the near-coastal trade.

Categories of near-coastal trade licences

171.(1) A licence granted under section 170 shall be either-

- (a) a general near-coastal trade licence;
- (b) a special near-coastal trade licence or
- (c) a lagoon near-coastal trade license

(2) A general near-coastal trade licence entitles the holder of the licence to engage the vessel in respect of which the licence is granted in the near-coastal trade.

(3) A special near-coastal trade licence entitles the holder of the licence to engage the vessel in respect of which the licence is granted in the particular shipping service specified in the licence.

(4) A lagoon near-coastal trade license entitles the holder of the license to engage the vessel in respect of which the license is granted in the particular shipping service specified in the license

Requirement to hold near-coastal trade licence

172.(1) In this section 'owner', in relation to a vessel, includes, where the vessel is operated by a person other than a owner, that person.

(2) Neither the master nor the owner of a vessel shall engage the vessel in the near-coastal trade unless an appropriate near-coastal trade licence is held in respect of the vessel.

Penalty: A fine not exceeding \$10,000

Limitation on grant of licences

173.(1) A near-coastal trade licence in respect of a registered vessel can be granted to:

- (a) the owner of the vessel if he is a Kiribati person; or
- (b) a Kiribati person who is, either by himself or with other persons each of whom is a Kiribati person, the charterer of the vessel.

(2) Where, in respect of a particular shipping service, the Minister is satisfied that no Kiribati person is able to offer an efficient and adequate service in respect of a registered vessel he may, in respect of a vessel which is not a registered vessel, grant a near-coastal trade licence to a Kiribati person, either by himself or with other persons each of whom is a Kiribati person who is the charterer of the vessel, to operate that service.

Duration of near-coastal trade licences

174.(1) Subject to subsection (3), the Minister shall determine the period for which a near-coastal trade licence is granted in respect of a vessel.

(2) In making a determination under subsection (1) the Minister shall have regard to:

- (a) the age, size and condition of the vessel;
- (b) the adequacy of existing licensed services to provide the proposed service; and
- (c) the suitability of the vessel for the proposed trade or the service.

(3) A near-coastal trade licence must not be granted for a period exceeding 12 months.

Licence fees for vessels registered outside Kiribati

175. Every vessel which is registered outside Kiribati and is engaged in coasting trade shall take out a licence in the form which may be prescribed and pay such fee as may be prescribed.

Licence for vessels employed in trading

176. (1) Without prejudice to section 178, no vessel shall engage in a coasting trade unless there is in force at that time a licence in the form which may be prescribed granted in respect of that vessel by the Director under this section and such fee as may be prescribed for such licence has been paid.

Provided that the Minister may by notice exempt any vessel from the restriction imposed by this subsection.

(2) Subject to subsection (3) a licence granted under this section shall:

- (a) contain such terms and conditions as regards the use for the purpose of coasting trade of the vessel concerned as the Director may in each case direct;
- (b) remain in force for 1 voyage.

Provided that the Director may revoke a licence where he is satisfied that there has been a wilful breach of any term or condition thereof.

Penalty: A fine not exceeding \$60,000 or 10 years imprisonment

Powers of the Minister in relation to near-coastal trade licences

177.(1) Where, in the opinion of the Minister, it is necessary or desirable in the public interest to do so, the Minister may:

- (a) cancel or suspend a near-coastal trade licence; or
- (b) vary any condition subject to which a near-coastal trade licence was granted.

(2) Where a near-coastal trade licence:

- (a) expires;
- (b) is cancelled or suspended;
- (c) is granted to a Kiribati person and that person ceases to be a Kiribati person; or
- (d) is granted in respect of a registered vessel and the vessel ceases to be a registered vessel

the Director may require the holder of the licence to deliver the licence to him.

(3) A person shall not, without reasonable cause, fail to deliver a near-coastal trade licence to the Director within 7 days of being required to do so under subsection (2).

Penalty: A fine not exceeding \$500

Exemption from requirement to hold near-coastal trade licence

178. The Minister may, by notice in the Gazette, declare that section 176 shall not apply:

- (a) in relation to a specified shipping service; or
- (b) for a period specified in the notice in relation to:
 - (i) a specified vessel or vessels of a specified class of vessel; or
 - (ii) vessels trading or going between a specified port or place and another specified port or place, and that declaration shall have effect accordingly.

Near-coastal trade permits

179.(1) Where in the opinion of the Minister:

- (a) no vessel in respect of which a near-coastal trade licence has been granted is available to provide a particular shipping service; or
- (b) a particular shipping service offered by a vessel in respect of which a near-coastal trade licence has been granted is inadequate, inefficient or unreasonably costly,
- (c) and where, also in the opinion of the Minister, it is desirable in the public interest to do so,

the Minister may, subject to any conditions he thinks fit to impose, issue a near-coastal trade permit to the owner or master of any vessel, to operate that service.

(2) The Minister should not issue a permit under subsection (1) except in respect of a single voyage by a specified vessel.

Effects of the issue of a near-coastal trade permit

180. A vessel in respect of which a permit is issued under section 179(1) shall not, for the purposes of this Part, be deemed to be engaged in the near-coastal trade solely by reason of the fact that the vessel is engaged in the shipping service specified in the permit.

Failure to observe the conditions of a near-coastal trade licence or permit

181. (1) The holder of a near-coastal trade licence or a near-coastal trade permit that was granted or issued subject to conditions shall not fail to comply with those conditions.

Penalty: A fine not exceeding \$2,000

(2) Where, in the case of a vessel in respect of which a near-coastal trade licence or a near-coastal trade permit has been granted or issued to a person, an offence is committed under subsection (1) or under section 182(3) the Minister may cancel the near-coastal trade licence or the near-coastal trade permit.

Requirement to furnish information

182.(1) The Minister may require:

- (a) the holder of a near-coastal trade licence or a near-coastal trade permit; or
- (b) an applicant for the grant of a near-coastal trade licence or the issue of a near-coastal trade permit,

to furnish him with such information as is prescribed about the shipping service in respect of which the licence or permit is granted or issued or is sought to be granted or issued.

(2) Where the Minister has reasonable cause to believe that a person has in respect of a vessel failed to comply with a requirement of this Part, a public officer authorised by the Minister to do so may, for the purposes of this Part:

- (a) go on board the vessel;
- (b) make a check on cargo or passengers carried on board the vessel; and
- (c) examine any accounts, shipping documents, manifests and other documents relating to the vessel.

(3) A person shall not fail, without reasonable cause:

- (a) to comply with a requirement made under subsection (1); or
- (b) to permit an officer authorised by the Minister to do so to do any of the acts referred to in subsection (2).

Penalty: A fine not exceeding \$1,000

(4) A public officer shall not, otherwise than in the performance of his official duties-

- (a) make available any record; or
- (b) divulge or communicate to any person any information, acquired by him or furnished to the Minister under subsection (1) or (2).

Penalty: A fine not exceeding \$2,000 or imprisonment not exceeding 12 months, or both

Licence and permit fees

183.(1) The holder of a near-coastal trade licence shall pay the prescribed fee on the grant of the licence.

(2) The holder of a near-coastal trade permit shall pay the prescribed fee on the issue of the permit.

Near-coastal trade Regulations

184.(1) The Minister may make regulations providing for or in relation to:

- (a) applications for the grant of near-coastal trade licences;
- (b) application for the issue of near-coastal trade permits;
- (c) the submission and verification of information related to the operation of vessels in respect of which near-coastal trade licences or near-coastal trade permits have been granted or issued.

(2) The Minister may make regulations to promote and provide for the efficient and orderly conduct of shipping services in Kiribati.

(3) Regulations made for the purposes of subsection (2) may provide for the introduction of a scheme for the establishment and licensing of trade routes.

PART XV AIDS TO NAVIGATION

Interpretation

185. In this Part, unless the context otherwise requires:

"aid" means a marine aid to navigation;

"light" includes a fire, lamp, streetlight or other illuminating device;

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

Establishment of aids

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

(2) A person shall not, without the Minister's written approval, establish, operate, alter or remove an aid.

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

(3) A person desiring to establish, operate, alter or remove an aid, must make written application to the Minister for his approval to do so.

Control of private aids

187. (1) The owner of an aid shall not maintain, add to, alter or remove or vary the character of, or the mode of operating, or the position of the aid without the Minister's written approval.

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

(2) The Minister may, if in his opinion it is desirable for the safety or convenience of marine navigation to do so, by notice in writing served on the owner of an aid or a light, require the owner of the aid or the light to:

- (a) remove it entirely or to remove it to some other position, within the time specified in the notice;
- (b) modify it or alter its character or mode of exhibition to the extent and in the manner specified in the notice, within the time specified in the notice;
- (c) cease using it; or
- (d) not to use it except at the times and in the manner specified in the notice.

(3) A person, served with a notice under subsection (2) shall not fail, without reasonable cause, to comply with the requirements specified in the notice.

Penalty: A fine not exceeding \$2,000

(4) Where:

- (a) an owner of an aid or light fails, without reasonable cause, to comply with a requirement specified in a notice served on him under subsection (2); or
- (b) for any reason a notice under subsection (2) cannot be served on the owner of an aid or light,

the Minister may:

- (c) take possession or control of the aid or light; and
- (d) do anything:
 - (i) which the owner of the aid or light, was required to do under any notice served on him under subsection (2); or
 - (ii) which, in the opinion of the Minister, must be done for the safety of marine navigation.

(5) Costs incurred by the Government in doing anything in relation to an aid or light under subsection (4) are a debt due to the Government from the owner of the aid or light and may be sued for in a court of competent jurisdiction.

Inspection of aids and lights

188.(1) A person authorised by the Minister to do so may, at any time, inspect an aid or light which, in the Minister's opinion, may affect the safety or convenience of marine navigation.

(2) Where, for the purpose of inspecting or maintaining an aid or light, it is necessary for a person authorised under subsection (1) to do so he may enter property and transport goods through or over property.

(3) A person shall not obstruct or hinder a person authorised under subsection (1) in the exercise of his powers or in the performance of his duties under subsections (1) or (2).

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

Offences in relation to aids

189.(1) A person shall not without lawful authority:

- (a) make fast to, damage, destroy or allow a vessel to foul an aid;
- (b) do anything which causes the view of an aid to be obstructed so as to lessen its efficiency;
- (c) remove or do anything which interferes with an aid so as to hinder the effective use of the aid; or
- (d) go on:
 - (i) an aid; or
 - (ii) land on which an aid is situated.

Penalty: A fine not exceeding \$1, 000

(2) The Master of a vessel which damages, destroys or interferes with an aid shall give the Director notice, as soon as practicable, of the damage, destruction or fouling.

Penalty: A fine not exceeding \$1,000

Detention of a vessel which damages an aid

190. Where a vessel damages, destroys or fouls an aid, that vessel may be detained until the cost of repairing or replacing the aid or of rendering the aid effective has been paid.

Navigational aid contributions

191.(1) The owner or the master of a vessel that enters or leaves a port or place in Kiribati shall pay any prescribed navigational aid contributions in respect of the vessel.

(2) The owner or the master of a vessel shall not, without reasonable cause, fail to pay any prescribed navigational aid contributions in respect of the vessel within the prescribed time.

Penalty: A fine not exceeding \$1,000

(3) Where navigational aid contributions are payable in respect of a vessel, the vessel may be detained until the contributions are paid.

Navigational aids Regulations

192. The Minister may make regulations for or in relation to:

- (a) the rates of navigational aid contributions payable in respect of vessels and the manner in which contributions are paid;
- (b) the exemption of particular vessels or of vessels of a particular class of vessels from the requirements relating to the payment of navigational aid contributions;
- (c) the returns to be made and the information to be supplied to the Director by the owner of an aid.

PART XVI PILOTAGE

Piloting Compulsory in Kiribati ports

193. Piloting in ports and harbours operated by the Kiribati Ports Authority and other ports and harbours approved by the Minister is compulsory for the following vessels when entering such ports or harbours whether on commercial purposes or not:

- (a) Passenger vessels engaged on international voyages
- (b) Any vessel carrying a marine pollutant as defined under the International Convention for the Prevention of Pollution from Vessels 73/78 and all subsequent amendments and protocols
- (c) Any vessel carrying a bulk liquid cargo with a flash point of less than 60 (sixty) degrees Celsius
- (d) Any vessel carrying any Maritime Pollutant in bulk liquid form as cargo
- (e) Any vessel carrying dangerous packaged goods as defined by the International Maritime Dangerous Goods Code.
- (f) Any other foreign vessel of 20 metres or more in length.

Vessel to be piloted by licensed pilot

194. A vessel in a piloting area shall not be piloted by a person other than a licensed pilot.

Penalty: A fine not exceeding \$10,000

Procedure for vessels before entering port

195. Before a vessel enters a port the master of the vessel shall:

- (a) present the vessel at the boarding ground for that port;
- (b) give the vessel in pilotage charge to a licensed pilot who may be appointed by the registered agent.

Penalty: A fine not exceeding \$2,000

Circumstances in which vessels required to be piloted

196. Neither the owner nor the master of a vessel shall permit the vessel to ply in, move in (other than by warping) or leave a any port area unless a licensed pilot is in charge of the vessel.

Penalty: A fine not exceeding \$5,000

Pilot not required in certain circumstances

197. Where:

- (a) a vessel is in grave and imminent danger; or
- (b) the life of a person on board a vessel is in danger,

and it is necessary in those circumstances that the vessel be immediately brought into, moved within or taken out of a port area, that action may be taken without a licensed pilot being onboard to guide the vessel.

Minister to Determine Number of Pilot licenses

198. The Minister in consultation with the Marine Board, may, by notice in the Gazette, determine the maximum number of pilot licences that may be issued.

Pilot licence, training and validity

199. (1) The Director, through the advice of the Marine Board, may issue a pilot licence for a prescribed fee to a person who satisfies the Board that he holds a minimum qualification of Certificate of Competency as a Master Mariner Class 1 (Deck) and is qualified to be in pilotage charge of a vessel in a port for which the license relates but such license shall only be issued after such person has undergone a training scheme which has been approved by the Minister on the advice of the Marine Board and has passed any examination subsequent to the training scheme.

(2) The training scheme and examination shall be developed and set by the Marine Board.

(3) Any license issued by the Marine Board shall be in a form prescribed by the Minister and shall be valid for a period of 5 years.

(4) The Marine Board shall specify in a pilot licence the area in respect of which it is issued.

(5) A pilot licence is not valid except in respect of the area in which it is issued.

Penalty: A fine not exceeding \$2,000

Medical fitness of a pilot

200. (1) A pilot shall maintain and may be examined for medical fitness following guidelines set out in the International Convention for Standards, Training and Certification of Watchkeeping '78 as amended 2010.

(2) Any proof of medical fitness issued after such an examination shall be valid for two years.

Revalidation of Pilot Licence

201. (1) Subject to section 199 (5) above, a pilot's licence will automatically be revalidated if the pilot concerned:

- (a) has a valid medical certificate under section 200.
- (b) has completed a minimum of 20 inward and 20 outward passages as pilot within the previous 12 months and a minimum of 60 inward and 60 outward passages as a pilot within the last five years.

(2) If a pilot has not completed sufficient inward and outward passages as described in subsection (1) then he must undergo such examination as provided for in sections 199(1) and 199(2).

Suspension of a pilot licence

202. (1) Where the Marine Board is of the opinion that a licensed pilot:

- (a) is unfit to discharge his duties as a licensed pilot because of incompetence, incapacity, or misconduct or for any other reason; or
- (b) has been seriously negligent in the discharge of his duties as a licensed pilot,

it may request the Minister to cause an inquiry to be held into the matter.

(2) Where the Minister agrees to a request made to him under subsection (1) the Marine Board may, if it thinks fit, suspend the pilot licence of the licensed pilot in relation to whom the inquiry is to be held pending the outcome of the inquiry.

Inquiry into incompetence, etc. of a licensed pilot

203.(1) Where the Minister agrees to a request made to him under section 202(1), 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 the inquiry.

(2) A person appointed under subsection (1) shall conduct the inquiry with the assistance of one or more assessors of nautical and pilotage experience appointed conjointly by the Director and the person appointed under subsection (1).

(3) Subject to subsection (4), an inquiry under this section is to be conducted in the prescribed manner.

(4) A pilot in respect of whom an inquiry under this section is to be held must be given, by the person appointed under subsection (1) to hold the inquiry, at least 72 hours notice of the place, day and hour for the holding of the inquiry, and is entitled:

- (a) to attend the inquiry personally and also to be represented at the inquiry by a lawyer admitted to practise in the High Court;
- (b) to be sworn and give evidence before the inquiry;
- (c) to subpoena and call witnesses;
- (d) to examine, cross examine and re-examine in accordance with the customary rules of courts of law all witnesses giving evidence before the inquiry;
- (e) to take all proper exceptions to the admissibility of evidence; and
- (f) at the conclusion of the inquiry or other proper time, to address the inquiry.

(5) The person holding an inquiry under this section and assessors appointed under subsection (2) may, for the purpose of the inquiry-

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

(6) A person shall not:

- (a) hinder or obstruct a person carrying out an inquiry under subsection (1) or an 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 (5)(c); or
- (c) fail to produce a document or certificate he has in his possession or under his control when required to do so by a person acting in accordance with subsection (5)(d).

Penalty: A fine not exceeding \$2,000

(7) A person holding an inquiry under this section shall, on the conclusion of his inquiry, make a written report on the inquiry to:

- (a) the Minister; and
- (b) the Marine Board.

(8) Where, after receiving a report under subsection (7), the Marine Board is satisfied as to any of the matters referred to in section 202(1)(a) or (b), it may:

- (a) cancel the pilotage licence of the licensed pilot in respect of whom the inquiry was held; or
- (b) suspend that licence for such period as it considers appropriate, and shall inform the licensed pilot accordingly.

(9) Where, under subsection (8), a pilotage licence is:

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

the holder of the licence may appeal to the Court against the decision within-

- (c) the period of 30 days starting on the date the Marine Board informs the licensed pilot of its decision in accordance with subsection (8); or
- (d) such extended period as the Court, on application made either before or after the period of 30 days referred to in paragraph (c), orders.

(10) On an appeal under subsection (9) 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.

(11) A decision of the Court under subsection (10) is deemed to be a decision of the Marine Board and has effect accordingly.

Production of pilot licence

204. A licensed pilot who goes on board a vessel for the purpose of acting as pilot of the vessel shall produce his pilotage licence to the master of the vessel if requested to do so by that master.

Penalty: A fine not exceeding \$500

Unqualified persons not to act as licensed pilot

205.(1) A person, not being a licensed pilot, shall not:

- (a) hold himself out to be a licensed pilot; or
- (b) be in pilot charge of a vessel in respect of which a licensed pilot is required to be on board.

Penalty: A fine not exceeding \$2,000

Misconduct by a licensed pilot

206.(1) Subsection (2) applies where a licensed pilot or person:

- (a) does an act which causes, or is likely to cause:
 - (i) the loss or destruction of or serious damage to a vessel; or
 - (ii) the death of or serious injury to a person on board a vessel; or
- (b) fails to do anything required to be done by him to preserve:
 - (i) a vessel from loss, destruction or serious damage; or
 - (ii) any person on board a vessel from death or serious injury.

(2) A licensed pilot shall not perform an act referred to in subsection (1)(a) or fail to do anything referred to in subsection(1)(b):

- (a) in a manner which amounts to a wilful breach or neglect of duty; or
- (b) when he is under the influence of alcohol or drugs.

Penalty: A fine not exceeding \$5,000.

(3) A licensed pilot shall not, either within or outside the pilot area for which he is licensed:

- (a) be concerned in any corrupt practice relating to a vessel, its tackle, furniture, cargo, crew, or passengers, or to persons in distress at sea or by shipwreck, or to their moneys, goods, or chattels;
- (b) lend his licence;
- (c) act as pilot when he knows his pilotage licence is suspended;
- (d) act as a pilot when in a state of intoxication;
- (e) employ on board a vessel he is piloting a boat, anchor, cable, or other store, matter, or thing beyond what is necessary for the service of that vessel, with intent to enhance the expenses of pilotage for his own gain or for the gain for any other person;
- (f) refuse, or wilfully delay, without reasonable cause, to pilot a vessel upon being required to do so by the master, the owner or agent of the vessel;
- (g) unnecessarily cut a cable belonging to a vessel;
- (h) refuse, otherwise than on reasonable ground of danger to the vessel, when requested by the master of the vessel, to conduct a vessel he is piloting into a port or place within the pilotage area in respect of which he is licensed; or
- (i) quit a vessel he is piloting before the service for which he was engaged has been performed and without the consent of the master of the vessel.

Penalty: A fine not exceeding \$2,000

Licensed pilot not civilly liable

207. A licensed pilot is not personally liable in civil proceedings:

- (a) for damage done by him; or
- (b) for loss suffered by a person as a result of an act done by him or of a failure to do anything required to be done by him,

while acting as a licensed pilot.

Presence of licensed pilot not to diminish responsibility of Master

208.(1) The duty of a licensed pilot is to pilot a vessel subject to the authority of the master of the vessel.

(2) The master of a vessel is not relieved of his responsibility for the conduct and navigation of the vessel by reason of the vessel being in pilotage charge of a licensed pilot.

Owner liable for damage

209. The owner of a vessel is liable for loss or damage caused by the vessel, as a result of a fault in the navigation of the vessel, notwithstanding that a licensed pilot was in pilotage charge of the vessel at the time the loss or damage was caused.

Civil liability for loss or damage

210. Neither the Government, nor the Marine Board is liable in civil proceedings for:

- (a) damage done by; or
- (b) a loss suffered as a result of:
- (c) an act done by; or
- (d) a failure to do anything required to be done by

a licensed pilot while acting as a licensed pilot.

Pilot dues and charges for pilot services

211. Pilot dues and charges payable are a debt due to the person to whom they are payable and may be sued for in a court of competent jurisdiction by that person.

Licensed pilot not to be taken to sea

212.(1) Except in circumstances of unavoidable necessity, neither the owner nor the master of a vessel shall take a licensed pilot acting in the course of his duties to sea in the vessel beyond the limits of the area for which he is a licensed pilot.

Penalty: A fine not exceeding \$2,000

(2) If a licensed pilot is taken to sea-

- (a) in circumstances unavoidable necessity;
- (b) without his consent,

the Marine Board shall assess the damages suffered by the licensed pilot as a result of that action and the amount so assessed shall be deemed to be a debt due to that pilot from both the owner and operator of the vessel and may be sued for in a court of competent jurisdiction by the pilot.

Piloting Regulations

213. The Minister may make regulations prescribing all matters that are required or permitted by this Part to be prescribed, for the carrying out or giving effect to this Part, and in particular for prescribing-

- (a) the measures necessary to facilitate the boarding of vessels by pilots;
- (b) the manner of application for the issue of a pilotage licence or a pilotage exemption certificates;
- (c) the qualifications required by an applicant for the issue of a pilot licence or a pilotage exemption certificate;
- (d) the maintenance of the efficiency of licensed pilots;
- (e) health standards of licensed pilots and medical examination to be undergone by licensed pilots; and
- (f) the procedure for and conduct of inquiries held under section 203.

PART XVII SAFETY REQUIREMENTS FOR SMALL CRAFT

Small craft Regulations

214. The Minister may, in relation to:

- (a) commercial vessels less than 10 meters in length; and
- (b) hire and drive vessels,

make regulations providing for and in relation to the following:

- i. recording of information;
- ii. identification and marking;
- iii. licensing of persons to operate or use;
- iv. operation and navigation;
- v. construction and equipment; and
- vi. survey and inspection.

**PART XVIII
MARINE RIGHTS AND LIABILITIES**

Division 1-Owner's liability

Owners' liability in collisions for loss and damage to goods, etc.

215.(1) Subject to this section, where, by the fault of 2 or more vessels, damage or loss is caused:

- (a) to one or more of them;
- (b) to their cargoes or freight; or
- (c) to property on board one of either of them,

the liability to make good the damage or loss is in proportion to the degree to which each vessel was at fault.

(2) Where in respect of an incident referred to in subsection (1), after having regard to all the circumstances, it is not possible to establish different degrees of fault, the liability is to be apportioned equally.

(3) Subsection (1) does not render a vessel liable for loss or damage to which her fault has not contributed.

(4) Subsection (1) does not affect the liability of a person under a contract of carriage, or any other contract.

(5) Subsection (1) does not:

- (a) impose any liability on a person from which he is exempted by a contract or by a written law; or
- (b) affect the right of a person to limit his liability.

(6) Damage or loss referred to in subsection (1) and caused by the fault of a vessel includes any salvage or other expenses consequent on that fault recoverable at law by way of damages.

Owner's liability in collisions for death and personal injury

216.(1) Where a person on board a vessel:

- (a) is killed; or
- (b) suffers personal injury,

due to the fault of that vessel and another vessel or vessels, the liability of the owners of those vessels is joint and several.

(2) Subsection (1) does not:

- (a) deprive a person of a defence on which, independently of this subsection, he might have relied in an action brought against him by a person entitled to sue in respect of the deceased person or by the injured person; or
- (b) affect the right of a person to limit his liability in cases to which that subsection relates.

(3) Where, in the circumstances referred to in subsection (1), damages are awarded and a proportion of the damages is recovered against the owner of one of the vessels which exceeds the proportion in which that vessel was at fault, the owner of that vessel may recover by way of contribution the amount of the excess from the owner of the other vessel to the extent to which that other vessel was at fault.

(4) An amount is not recoverable under subsection (3) if it could not, by reason of a statutory or contractual limitation of or exemption from liability, or for any other reason, have been recovered in the first instance as damages by the persons entitled to sue for those damages.

(5) In addition to any other remedy a person might have, a person entitled to recover contribution under subsection (3) has, for that purpose, the same rights and powers as the persons entitled to sue for damages in the first case.

Application of the Collisions Convention

217. In the case of a collision a vessel shall not, for the purposes of sections 215 and 216, be deemed to be in fault solely by reason of the fact that the vessel has infringed a provision of the Collisions Convention.

Division 2-Limitation of liability

Interpretation (Limitation of Liability Convention)

218.(1) In this Division, unless the contrary intention appears:

"applied provisions of the Convention" means the provision of the Convention that, by virtue of section 99(1), have the force of law as part of the law of Kiribati;

"Convention" means the Limitation of Liability Convention.

(2) In this Part, except in so far as the contrary intention appears, a word or expression used in this Part and defined in the Convention has the same meaning as in the Convention.

Limitation of owners' liability

219.(1) Subject to this Act and to any other law, the provisions of the Limitation of Liability Convention (other than sub-paragraph 1(c) of Article I of the Convention) have the force of law as part of the law of Kiribati.

(2) For the purposes of this Part and the applied provisions of the Convention a vessel, not being a seagoing vessel that:

- (a) is engaged in trade or commerce within Kiribati or with any other country or, being a vessel in the course of construction, is intended for use in trade or commerce within Kiribati or with any other country; or
- (b) belongs to or is under the control of the Government (including a vessel belonging to the Kiribati Police Maritime Unit) or being a vessel in the course of construction that does not belong to the Government is being built by or on behalf of or to the order of the Government,

shall be treated as if it were a seagoing vessel.

(3) In subsection (2) a vessel in the course of construction includes a vessel that has been launched but not completed and delivered under the building contract.

Application to determine owners' liability

220.(1) Where a claim is made against or apprehended by a person in respect of liability of that person which that person may limit in accordance with the applied provisions of the Convention he may apply to the Court to determine the limit of his liability in accordance with those provisions.

(2) Where an application is made under subsection (1) the Court may:

- (a) determine the limit of the applicant's liability; and
- (b) make such order or orders as it thinks fit in respect to the constitution, administration and distribution in accordance with the applied provisions of the Convention, of a limitation fund for the payment of claims in respect of which the applicant is so entitled to limit his liability.

Evidence of certain matters related to the Limitation of Liability Convention

221.(1) The Minister may, by notice in the Gazette, declare:

- (a) that a country specified in the notice has:
 - (i) ratified or acceded to the Convention; or
 - (ii) ratified or acceded to the Convention subject to reservations specified in the notice, as the case may be, and that the Convention has or will come into force or has or will come into force subject to those reservations, as the case may be, in respect of that country on a date specified in the notice;
- (b) that a country specified in the notice has, at the time of deposit of its instrument of ratification or accession to the Convention or at any later time, declared that the Convention extends to a territory or territories specified in the notice and that extension of the Convention has, or will, come into force on a date specified in the notice;

- (c) that a country specified in the notice has denounced the Convention and that that denunciation has taken or will take effect on a date specified in the notice; or
- (d) that a country specified in the notice has declared that the Convention shall cease to extend to a territory or territories specified in the notice and that that denunciation has taken, or will take effect on a date specified in the notice.

(2) A notice under subsection (1) is, for all purposes, prima facie evidence of the matter declared in the notice.

Limitation of liability Regulations

222. The Minister may make regulations to prescribed matters that are necessary or convenient to be prescribed for the purpose of carrying out or giving effect to the applied provisions of the Convention and for or in connection with that purpose may make provision for and in relation to:

- (a) the ascertainment of the tonnage of vessels including the estimation of the tonnage of vessels in circumstances where it is not possible or reasonably practicable to measure their tonnage;
- (b) the conversion of amounts of money expressed in the terms of the units of account mentioned in Article 3 of the Convention into amounts of money expressed in the currency of Kiribati; and
- (c) such matters as under the Convention are to be governed by the national law of a country that is a party to the Convention.

Division 3-Exclusion of liability

Owners not to be liable in certain cases of loss of, or damage to goods

223.(1) The owner of a vessel, other than a foreign vessel, shall not be liable to make good, to any extent whatever, loss or damage happening without his actual fault or privity where:

- (a) goods, merchandise or other things taken in or put on board the vessel are lost or damaged by reason of fire on board the vessel; or
- (b) specified goods taken in or put on board the vessel are lost or damaged by reason of any robbery, embezzlement, making away with or secreting of those goods.

(2) In subsection (1):

"foreign vessel" means a vessel that is capable of being registered;

"specified goods" means gold, silver, diamonds, jewels or precious stones where the true nature and value of those goods have not, at the time of shipment, been declared by the owner or shipper of those goods in the bills of lading or otherwise in writing.

PART XIX
MARINE POLLUTION

Division 1 – Marine Pollution Fees and Prevention

Marine Pollution Fees

224. (1) For the purpose of this Part, there shall be a marine pollution fee payable by every vessels entering Kiribati port.

(2) The rates shall be as prescribed in the regulation made by the Minister under this Act.

Reporting of Marine Pollution Incidents

225. All incidents during which a marine pollutant escapes into the marine environment or is suspected of escaping into the marine environment shall be reported to the Director as soon as practicable after the incident.

Penalty: A fine not exceeding \$50,000

Ships capable of carrying 2,000 tonnes or more of Oil or Oil products as cargo

226. All ships capable of carrying 2,000 tonnes or more of Oil or Oil products as cargo, shall comply with the following:

- (a) carry an International Certificate of Civil Liability,
- (b) have proof that their owners are members of the International Tanker Owners Pollution Federation (ITOPF), and
- (c) have coverage under the Small Tanker Owners Pollution Indemnification Agreement (STOPIA) or the Tanker Owners Pollution Indemnification Agreement (TOPIA) schemes, depending on the size of the ship.

Insurance requirements for all ships not covered by the Civil Liability Convention 2001

227. (1). Any ship that carries Heavy Fuel Oil or Distillate Oils in tanks whether adjacent or not to the hull of the ship must have proof of insurance cover to the amount sufficient to provide for response, clean-up costs and damage liabilities incurred if a marine pollutant is released into the marine environment,

(2) If the oils mentioned in subsection (1) are solely for the use of the ship that contains them as bunkers then the provisions of the International Convention of Civil Liability for Bunker Oil Pollution Damage 2001 shall apply. This subsection does not apply to oils maintained on board for the supply of bunkers to other ships or fishing boats.

(3) Any ship that carries bulk liquid chemicals or other marine pollutants as defined in the International Convention for the Prevention of Pollution from Ship 73/78 annex II supplemented by the rules and regulations of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (CBC) which if released into the marine environment would cause damage to the flora and fauna of that environment shall carry proof of insurance cover to the amount sufficient to provide for response, clean-up costs and damage liabilities incurred if a marine pollutant is released into the marine environment.

(4) Any ship that carries in packaged form substances which are classified in the International Convention for the Prevention of Pollution from Ship 73/78 annex II supplemented by the rules and regulations of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk which if released into the marine environment would cause damage to the flora and fauna of that environment shall carry proof of insurance cover to the amount sufficient to provide for response, clean-up costs and damage liabilities incurred if a marine pollutant is released into the marine environment.

(5) Except as provided for any ship classed in subsections (1), (2) and (3) the contributions to any response, clean-up costs and compensations for any liabilities arising shall be governed by the rules of the International Convention on Civil Liability for Oil Pollution Damage or the International Fund for Compensation for Oil Pollution Damage 1971 and all subsequent protocols and amendments or the International Convention on Limitation of Liability on Marine Claims 1976 whichever is applicable.

(6) In the case of ships which comply with subsection (3) if the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea 1996 (HNS) and any subsequent protocols and amendments are ratified by the Republic of Kiribati then the rules governing the HNS convention will take precedence over subsection (5)

Register for vessels carrying liquids in bulk

228. The Director shall cause to be made available a register in which the record of vessels carrying liquids in bulk arriving in Kiribati shall be made.

Compliance with International Convention Requirements

229.(1). All ships designed to carry liquids in bulk 150GT and over and all other ships 400GT and over entered in the register shall comply fully with MARPOL 73/78 and all subsequent amendments and protocols.

(2) All foreign ships of the same tonnages mentioned in subsection (1) entering or operating within Kiribati exclusive economic zone shall comply fully with MARPOL 73/78 as far as their flag states have ratified the Convention,

(3) Any foreign vessel that does not comply with the requirements in subsection (2) shall be denied entry into any port in Kiribati, except the right of innocent passage of a ship transiting Kiribati waters and not calling at any port.

Procedure to ensure compliance

230. (1). The Director or any shipping inspector authorised by him or any suitably trained Police Officer may board any vessel referred to in this section and ascertain compliance by that vessel with the provisions of MARPOL 73/78 as it applies within Kiribati waters.

(2) Any vessel found not to be in compliance may:

- (a) if in a port within Kiribati, be detained by any of those monitoring officers described in subsection (1) until the vessel has complied with provisions of MARPOL 73/78,
- (b) if boarded at sea by any of those monitoring officers during the course of normal fisheries compliance monitoring operations, and found to be non-compliant, the vessel may either be directed to the nearest port for further inspection and assessment or instructed to leave Kiribati waters.

(3) An officer or officers who boards or board a vessel under subsection (1) shall identify himself or themselves to the Master of the vessel boarded and state the reason or purpose for boarding the vessel.

(4) A Master, Officer or crew member of the vessel boarded shall not obstruct a monitoring officer in the performance of his duties.

Penalty: A fine of not exceeding \$10,000 or 12 months imprisonment

Discharge of Marine Pollutants

231. No ship shall discharge or cause to be discharged any marine pollutant whilst within Kiribati waters, except in exceptional circumstances for the safety of life.

Offences

232.(1)A Master and crew of any vessel within Kiribati territorial waters or exclusive economic zone, and any Kiribati registered ship engaged on an international voyage whether within Kiribati territorial waters of exclusive economic zone or not, shall ensure that the vessel does not discharge a marine pollutant in excess of the concentration provided in the Convention or which causes a sheen upon the water, or within an area proscribed by the Convention.

Penalty: A fine not exceeding \$250,000 and /or a maximum of 3 years in prison.

(2) A Master and crew of any vessel shall not cause a vessel by their omission or negligence to discharge a marine pollutant during the course of collision or grounding within Kiribati waters.

Penalty: A fine not exceeding \$500,000 and / or a maximum of 5 years in prison.

(3) The Master of any ship shall not cause another ship to discharge a marine pollutant.

Penalty: A fine not exceeding \$500,000 and / or a maximum of 5 years imprisonment.

(4) When fixing a penalty for offences committed under this section of the Act the Court shall take into account any reparations made by the owners or charterers of the vessel or vessels involved to any organisation, person or persons who have a legitimate claim against them.

(5) Any organisation, person or persons making a civil damages claim against the owners or charterers of the vessel or vessels involved in an incident must prove their claim as required by law.

Strict Liability and Statutory Defences

233. (1) An owner of a vessel involved in an incident which results in the release of a pollutant into the maritime environment in addition to any costs and fines imposed by the previous section shall be held strictly liable for any costs incurred by the Republic in responding to incident and in restoring the maritime environment to the condition it was in prior to the incident and any civil claims brought by any individual affected in any way whatsoever by the release.

(2) If two or more vessels are involved in an incident which results in the release of a pollutant into the maritime environment, the liability shall be apportioned in the same manner as to their blame for the incident.

(3) An owner may escape the provisions of subsection (1) if he can prove that the release was caused by any of the following:

- (a) An act of war, hostilities, civil war, insurrection, or an exceptional, inevitable and irresistible natural phenomenon; or
- (b) Was due wholly to anything done, or left undone by another person, not being a servant or agent of the owner, with intent to do damage; or
- (c) Was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

Division 2 – Marine Pollution response

Response, Command and Plan Levels and Organisation

234. (1) The Minister shall appoint a National On-Scene Commander from amongst the shipping inspectors.

(2) The responses, commands and plans to any marine pollution shall be carried out in accordance to the prescribed level of procedures provided in Schedule 4.

Powers of the National On – Scene Commander

235. (1) In the event of a marine pollution incident there shall be a National On-Scene Commander who shall be the final decision maker in the time of the incident.

(2) The National On-Scene Commander shall have the following powers:

- a) direct the marine pollution response and if necessary may direct any on-going salvage operations;
- b) declare exclusion zones whether on the surface or aerial at the site of any accident, incident and mishap as they think necessary.
- c) give to any salvor deadlines with regard to the production of reports and salvage plans
- d) give approval to any salvage plan ;
- e) right to enter any property or public space in order to enact clean-up operations or place pollution prevention equipment. This right of entry does not extend to the entry of dwellings or other buildings unless it necessary for on- going operation then only with the express permission of the owners or occupiers of the dwellings or buildings

(3) No person or organisation shall interfere or obstruct a National On - Scene Commander in the performance of his duties.

Penalty: A fine not exceeding \$20,000 and /or six months imprisonment.

(4) A person or organisation shall not continue to interfere with or obstruct the On-Scene Commander in the performance of his duties.

Penalty: A fine not exceeding \$1,500 for each day the offence is committed.

Reporting of Accidents, Incidents or Mishaps

236. (1) The Master of any ship involved in an accident, incident or mishap that may result in marine pollution within Kiribati territorial waters shall report such an accident, incident or mishap to the Director as soon as is practicable by the most practical means

(2) The Master of any ship involved in an accident, incident or mishap within Kiribati exclusive economic zone which results in the escape of a pollutant into the marine environment shall report such an accident, incident or mishap to the Director Marine as soon as is practicable by the most practical means.

(3) The Master of a ship registered under this Act involved in an accident, incident or mishap whether within Kiribati territorial waters, exclusive economic zone or not shall report such an accident, incident or mishap to the Director as soon as is practicable by the most practical means.

Penalty: A fine not exceeding \$50,000 for each of any subsection in this section

(4) The Director shall develop or cause to be developed a database of accidents, incidents and mishaps involving ships registered under this Act.

PART XX SHIPPING INSPECTORS

Appointment of Shipping Inspectors

237 The Director may appoint any person or marine officer of Marine Division to be a Shipping Inspector.

Functions and powers of a Shipping Inspector

238.(1) Upon receiving a complaint or when he has reason to believe that any vessel, by reason of an accident or of by reason of the defective condition of her hull or other reasons the Director may, by writing signed by him, authorise a shipping inspector to report to him:

- (a) upon the condition of the vessel or the nature or cause of an accident or damage to a vessel;
- (b) as to whether or not this Act has been complied with; or
- (c) as to whether or not a vessel is fit to proceed to sea without serious danger to human life.

(2) Where a shipping inspector:

- (a) is required to report under subsection (1); or
- (b) has reasonable cause to believe that a vessel is being used in the commission of an offence against this Act,

he may do all or any of the following:

- (i) go on board a vessel, including a vessel under construction, and inspect the vessel or its equipment or any part of the vessel and its equipment, any cargo or articles on board the vessel and any document carried in or on the vessel pursuant to this Act;
- (ii) enter premises and make such examination and investigation and require the production of such books and documents as he considers necessary for the performance of his duty;
- (iii) require the owner or master of a vessel or a seafarer on a vessel to produce any document in his possession or under his control relating to the crew of the vessel;

- (iv) require the master of a vessel to produce a list of all persons on board the vessel;
- (v) require the master of a vessel to muster the crew of the vessel;
- (vi) require the master of a vessel to give an explanation of any matter concerning the vessel or her crew.

(3) A shipping inspector shall not exercise any of his powers under subsection (2) so that the vessel is unreasonably detained or delayed.

(4) The Director shall issue to each shipping inspector an identification card containing:

- (a) a photograph of the inspector and the signature of the inspector, verified by the signature of the Director; and
- (b) a note of any limitations in the instrument of appointment of the inspector.

(5) Before a shipping inspector enters premises, boards a vessel or makes a requirement of a person under subsection (2), he shall, if requested to do so, produce his written authorisation from the Director and the identification card issued to him under subsection (4).

(6) A person shall not:

- (a) obstruct or hinder a shipping inspector in the exercise of his powers under subsection (2);
- (b) fail to produce books or documents in his possession or under his control when required to do so by a shipping inspector; or
- (c) fail to comply with a request made by a shipping inspector under subsection(2)(iii), (iv), (v) and (vi).

Penalty: A fine not exceeding \$1,000

Persons deemed to be marine checkers

239. A person who is a Shipping Officer or a Surveyor shall, for the purposes of section 240, be deemed to be a marine checker.

Clearance of vessels by marine checkers, etc.

240.(1) This section applies to a vessel:

- (a) which is a registered vessel; or
- (b) in respect of which a licence is held to engage the vessel in the near-coastal trade and the vessel is so engaged; and
- (c) which is at a prescribed port or place in Kiribati.

(2) A vessel to which this section applies shall not go to sea unless a marine checker at the prescribed port or place has issued in respect of the vessel a Marine Clearance in the prescribed form.

(3) Neither the owner nor the master of a vessel to which this section applies shall allow the vessel to go to sea from a prescribed port or place without the clearance required by subsection (2).

Penalty: A fine not exceeding \$1,000

(4) Where a marine checker has reasonable cause to believe that a vessel is being used in the commission of an offence against this Act (whether or not the vessel is at a prescribed port or place) he shall have and may exercise the powers of a shipping inspector under section 238(2) and section 238(6), with appropriate modifications, shall apply accordingly.

Detention of a vessel

241.(1) Where, under this Act, a vessel is liable to be detained, the Director may, without warrant and with such assistance as he considers necessary, take or cause to be taken such action as he thinks necessary to detain that vessel.

(2) For the purpose of detaining a vessel under subsection (1) the Director may require any person to do or refrain from doing any specified act.

(3) A person shall not fail to comply with a requirement made of him under subsection (2).

Penalty: A fine not exceeding \$5,000

(4) A seafarer who does or refrains from doing an act in pursuance of a requirement made of him under subsection (2) is not by virtue of his compliance with that requirement in breach of his agreement.

Special exemptions

242.(1) Where this Act requires a vessel or person to take a specified action or to comply with a specified requirement and:

- (a) the action actually taken or the provision actually made as regards the subject matter of the requirement is at least as effective as actual compliance with the requirement;
- (b) compliance with the requirement would cause undue hardship; or
- (c) compliance with the requirement would not be in the public interest,

the Minister may, by notice in the Gazette, direct that the vessel or person shall not be required to take the specified action or to comply with the specified requirement.

(2) The Minister shall lay before Parliament, at least once in each year, a report stating the cases and circumstances in which he has exercised his power under subsection (1) during the preceding year.

PART XXI

SUBMARINE CABLES WRECKS AND HULKS

Break or injury to submarine cable or pipeline

243.(1) Subject to subsection (2), a person shall not wilfully, or through negligence:

- (a) break or injure, or cause a vessel to break or injure, a submarine telegraph or telephone cable in such manner as might interrupt or obstruct telegraphic or telephonic communications; or
- (b) break or injure, or cause a vessel to break or injure, a submarine pipeline or a submarine high-voltage power cable.

Penalty: A fine not exceeding \$1,000 or not exceeding 6 months imprisonment or both.

(2) It is not an offence under subsection (1) if:

- (a) the breakage of, or injury to, the cable or pipeline was caused by persons acting with the sole object of saving their lives or their vessels; and
- (b) those persons took all necessary precautions to avoid breaking or injuring the cable or pipeline.

Vessels wrecked

244.(1) In this section and section 245, unless the contrary intention appears:

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

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

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

"vessel wrecked" means a vessel that:

- (a) is wrecked, stranded, sunk or abandoned; or
- (b) is lying on the sea-bed within the territorial seas of Kiribati, and includes a wreck.

(2) Where, in respect of a vessel wrecked, the Minister is of the opinion that:

- (a) it is, or is likely to be or become, an obstruction or danger to navigation; or
- (b) it is in the public interest to do so,

he may do all or any of the following:

- (c) serve a notice on the owner of the vessel wrecked requiring him to raise, remove or destroy the vessel within the time specified in the notice, or to light or buoy the vessel until it is raised, removed or destroyed;
- (d) where the owner of a vessel wrecked fails to comply with the requirements of a notice served on him under subsection (2)(c);
 - (i) remove, destroy or deal with the vessel wrecked in such manner as he thinks fit; or
 - (ii) sell, in such manner as he thinks fit:
 - i. the vessel or any part of it so raised or removed; and
 - ii. and any other property recovered in the raising or removal;

and out of the proceeds of sale, pay, after deduction of any expenses incurred by him, the net proceeds of the sale to the persons entitled to them;

- (e) recover from the owner, as a debt due to the Government, any and all expenses incurred by him in the lighting, buoying, raising, removal or destruction of the vessel wrecked and not recovered from the proceeds of any sale under subsection (2)(d).

(3) Subject to subsection (4), where, after reasonable enquiry, the Minister is unable to ascertain the identity or place of abode of the owner of a vessel wrecked, notice for the purposes of subsections (2)(c) and (d) shall be deemed to have been served on the owner of the vessel wrecked if the Minister publishes the notice in the Gazette.

(4) Notice served must state:

- (a) any action the Minister intends to take under subsection (2)(d); and
- (b) the period (not being less than 14 days after the date of the publication of the notice) after which he intends to take that action.

(5) The powers given to the Minister under this section for the removal of vessels wrecked are in addition to and not in derogation of any other powers given in respect of vessels wrecked under this or any other law.

Wreck Removal Insurance

245. (1) All ships of 300GT or over operating between ports within Kiribati and all foreign fishing vessels operating within Kiribati territorial waters and exclusive economic zone shall carry sufficient insurance cover, so that if such a vessel became a wreck or constructive total loss either within Kiribati territorial waters or exclusive economic zone, that such a wreck can be removed without recourse to funds provided by the Republic.

(2) Proof of such cover shall be carried on board the ship.

Penalty: A fine not exceeding \$5,000

Sinking of hulks

246.(1) In this section "hulk" includes any vessel, lighter or wreck.

(2) A person shall not, without the permission of the Director, deliberately sink or cause to be sunk a hulk within Kiribati waters.

Penalty: A fine not exceeding \$5,000

(3) A person who wishes to sink a hulk within Kiribati waters must make a written application for permission to do so to the Director.

(4) The Director in granting permission to sink a hulk within Kiribati waters may direct or specify:

- (a) a place or places at which the hulk may not be sunk;
- (b) a place at which alone the hulk may be sunk;
- (c) the minimum depth of water in which the hulk may be sunk;
- (d) the method of sinking the hulk;
- (e) the time at which the hulk is to be sunk;
- (f) that the hulk be not sunk except in the presence of the Director or a person appointed by the Director to witness the sinking of the hulk.

(5) A person given permission to sink a hulk by the Director shall comply with or observe any directions or specifications imposed by the Director under subsection (4).

Penalty: A fine not exceeding \$5,000

Prohibition on approaching dangerous wrecks

247.(1) Subject to subsection (2) of this Part, where the Director is satisfied that:

- (a) because of anything contained within a vessel wrecked, the vessel wrecked is in a condition which makes it a potential danger to life or to property; and
- (b) the vessel wrecked ought to be protected from unauthorised interference.

The Director may, by notice in the Gazette, declare an area around the vessel to be a prohibited area.

(2) A notice under subsection (1) must contain a description of:

- (a) the vessel wrecked;
- (b) the place where that vessel is; and
- (c) the extent of the area declared to be a prohibited area.

(3) Subject to subsection (4) a person shall not, without the written authority of the Director, enter an area declared to be a prohibited area in accordance with subsection (1).

Penalty: A fine not exceeding \$1,000

(4) It is not an offence under subsection (3) if the person entered the prohibited area:

- (a) in pursuance of some duty or function imposed on him by law; or
- (b) out of necessity due to stress of weather or navigational hazard.

PART XXII PORT STATE CONTROL

Port State Inspection on foreign ships

248. (1) The Minister shall, by notice in writing published in the Gazette, appoint a reputable and suitably qualified person to be the Port State Control Officer to inspect and survey foreign vessels for the purpose of this Part.

(2) The Port State Control Officer shall be responsible and have the power to board and to carry out, in relation to foreign ships, obligations in respect of port state control contained in the relevant international conventions set forth in Schedule 1.

Duties and Functions of the Port State Control Officer

249. (1) The Port State Control Officer shall carry out a port state control inspections on all ships.

(2) During the inspection the Port State Control Officer shall inspect the followings:

- (a) certificates and documents;
- (b) the crew and the overall condition of the ships; and
- (c) the hygienic conditions of the ship.

(3) In the absence of a certificate or documents, or there is clear grounds for believing that the crew or the condition of the ship does not substantially meet the requirement, a more detailed inspection shall be carried out in accordance with the IMO recommendations.

(4) In the case of deficiencies in which to the Port State Control Officer are clearly hazardous to safety, health or environment, a detention or a formal prohibition of the ship to continue operation may be ordered.

(5) In the case of a detention, the Port State Control Officer shall, as soon as possible, notify in writing the flag state or its consul or its nearest diplomatic representative of all the circumstances in which intervention was deemed necessary.

(6) Where deficiencies which caused the detention cannot be remedied in the port of inspection, the Port State Control Officer may allow the ship to proceed to the nearest appropriate repair port available as chosen by the master and agreed to by the Port State Control Officer, provided that the conditions determined by the Port State Control Officer and agreed to by the competent authority of the flag state are complied with.

(7) If the ship proceeds to sea without complying with the conditions, the Port State Control Officer or the Director shall immediately alert the next port, if known, the flag state and all other Maritime Authorities it considers appropriate.

(8) The Authority may, upon the request of another Authority, endeavour to secure evidence and provide assistance relating to the suspected violations of the requirement under the International Conventions and Protocols.

Non-Convention vessels

250. The Minister may make regulations in respect of vessels that are excluded from the provisions of the Convention.

PART XXIII LEGAL PROCEEDINGS

Government vessels not subject to certain proceedings

251. (1) This Act does not:

- (a) authorise proceedings in rem in respect of a claim against the Republic for the arrest, detention or sale of a Government vessel; or
- (b) give a person a right to take a lien on a Government vessel or on cargo or other property belonging to the Republic.

(2) Where proceedings in rem have been instituted in a court against a Government vessel or cargo or other property belonging to the Republic, the court may, if satisfied that the proceedings were instituted in the reasonable belief that the vessel was not a Government vessel or the cargo or other property did not belong to the Republic, order, upon such terms as it thinks fit, that the proceedings shall be treated as if they were in personam duly instituted against the Government or against such person as the court regards as the proper person to be sued in the circumstances.

False declaration as to ownership, etc.

252.(1) A person shall not, in a declaration made under or for the purposes of this Act, or in a document required to be produced for the purposes of this Act:

- (a) wilfully make or assist in making, or procure to be made a false statement concerning the title to, ownership of, or the interest existing in, a vessel; or
- (b) utter, produce or make use of a declaration or document containing a false statement, knowing the statement to be false.

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

(2) A person shall not in a declaration made under or for the purposes of this Act, wilfully make a false statement in relation either to his being a qualified person or a Kiribati person or to another person being a qualified person or a Kiribati person.

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

False declarations and statements

253. A person shall not knowingly:

- (a) make a false declaration, statement or representation;
- (b) give false evidence on oath; or
- (c) alter, produce or make use of a false declaration, statement or representation,

in connection with an application, report, record or proceeding under this Act.

Penalty: A fine not exceeding \$2,000 or not exceeding 12 months imprisonment or both

Mode of making declaration

254.(1) A declaration required by this Act may be made before the Director, a delegate of the Director, the Registrar, a delegate of the Registrar, a Justice of the Peace, a Single Magistrate or a lawyer of the High Court of Kiribati.

(2) For foreign vessels a declaration shall be made before persons authorized to witness declarations or affidavits in the country where the authorized agent or a Kiribati diplomat has an office

(3) A declaration required by this Act may be made on behalf of a corporation by any person so authorised under the common seal of that corporation.

Service of notices and documents

255. Where a notice or other document authorised or required by this Act is to be served upon or given or delivered to the master of a vessel, it can be served upon, given or delivered to him:

- (a) by leaving it for him on board the vessel with a person being or appearing to be in command or charge of the vessel; and
- (b) by explaining to that person the purport of the notice or document.

Proof of documents

256.(1) All certificates or other documents (including endorsements on certificates or other documents) to which this section applies are admissible in evidence in the manner provided by section 257.

(2) This section applies to the following documents:

- (a) certificate or other document issued, granted, given or made under this Act or purporting to be issued, granted, given or made under this Act and signed, or purporting to be signed, by a person required or authorised by this Act to issue, grant, give or make such a certificate or document;
- (b) an endorsement made, or purporting to be made, under this Act and signed, or purporting to be signed, by a person required or authorised by this Act to make such an endorsement;
- (c) a certificate given or made by the Director asserting the negative of any circumstance, fact or thing.

Admissibility of documents in evidence

257.(1) Where a certificate or other document is by this Act declared to be admissible in evidence it is, on its production from proper custody, admissible in evidence in any court, and, subject to all just exceptions, is conclusive evidence of the matters stated in it.

(2) A copy of a certificate or other document referred to in subsection (1) or an extract from such a certificate or document is also admissible in evidence:

- (a) if proved to be an examined copy or extract; or
- (b) if it purports to be signed and certified as a true copy or extract by the officer or person to whom custody of the certificate or other document is entrusted.

(3) A person who is required or authorised by this Act to issue, grant, give or make a certificate or other document, shall furnish a certified copy of the certificate or document to any person applying at a reasonable time for a certified copy or certified extract.

Averment

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

- (a) a specified person was a delegate of the Minister or the Registrar or the Director;
- (b) a specified person was a shipping officer, a surveyor, a shipping inspector or a marine checker;
- (c) a specified person was or was not the holder of a specified licence or certificate;
- (d) a specified safety, load line or survey certificate was or was not in force in respect of a specified vessel, is prima facie evidence of the matter averred.

Recovery of fines by distress

259. Where:

- (a) a court adjudges a person convicted of an offence against this Act to pay a fine or any other money, and that person is the master of a vessel or the owner of a vessel; and
- (b) the fine or other money is not paid within the time and in the manner limited by the conviction or specified in the order of the court,

the court may, in addition to any other power it may have to compel payment, direct the amount remaining unpaid to be levied by distress or by the sale of the vessel or the equipment of the vessel, as the case requires.

Limitation of actions

260.(1) An action is not maintainable:

- (a) to enforce a claim or lien against a vessel or its owners in respect of any damage or loss to another vessel, its cargo or freight, or any property on board the vessel, or damage for loss of life or personal injuries suffered by any person on board the vessel, caused by the default of the former vessel, whether that vessel was wholly or partly in fault; or
- (b) in respect of any salvage services, unless proceedings in that matter are commenced within 2 years from the date when the damage or loss or injury was caused or the salvage services were rendered.

(2) An action is not maintainable under this Act to enforce any contribution in respect of an over-paid proportion of any damages for loss of life or personal injuries unless proceedings in that matter are commenced within one year from the date of payment.

(3) A court having jurisdiction to deal with an action to which this section relates may, in accordance with the rules of court, extend any period mentioned in this section to such an extent and on such conditions as it thinks fit, and shall, if satisfied that there has not during such period been any reasonable opportunity of arresting the defendant vessel (not being a Government vessel) within Kiribati waters, or within the territorial waters of the country to which the plaintiff's vessel belongs or in which the plaintiff resides or has his principal place of business, extend any such period to an extent sufficient to give such reasonable opportunity.

(4) For the purposes of this section, the expression "freight" includes passage money and hire, and reference to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

PART XXIV REPEAL AND TRANSITIONAL

Repeals and transitional provisions

261.(1) Subject to section 262(2), the following Acts are repealed:

- (a) the Merchant Shipping Act 1983;
- (b) the Harbour Ordinance Chapter 40;
- (c) the Shipping Act 1990;

together with all subsidiary legislation made under those Acts.

(2) A certificate, licence, instrument or document having a like or a similar effect to a:

- (a) registration certificate;
- (b) certificate of competency;
- (c) safety certificate;
- (d) survey certificate;
- (e) near-coastal trade licence;
- (f) a pilot licence,

in force immediately prior to the commencement day remains in force:

- i. for a period of 1 year from the appointed day; or
- ii. until the date of the expiration of that certificate, licence, instrument or document,

whichever is the earlier.

Automatic registration of certain vessels, etc.

262. (1) A vessel that:

- (a) was, immediately before the appointed day, registered at a port in Kiribati in accordance with the Merchant Shipping Act; and
- (b) is wholly owned by a qualified person or by persons each of whom is a qualified person,

shall immediately on receipt by the Director of an application by its owner or owners, as the case may be, be deemed to be a registered vessel, and the Director shall in that case issue a registration certificate in respect of the vessel and cause the name of the vessel to be entered in the Register.

(2) Notwithstanding section 261(1), the Merchant Shipping Act shall continue to apply to and in respect of a vessel referred to in subsection (1) until-

- (a) the vessel is registered under this Act; or
- (b) the expiration of a period of 1 year after the appointed day,

whichever first occurs.

Transitional provision in respect of tonnage certificates

263. Until regulations are made prescribing the manner in which the tonnage of a vessel is to be ascertained for the purpose of section 23, the tonnage of a vessel may, if the Director so approves in a particular case, be taken to be the tonnage of the vessel as ascertained in, and evidenced in writing in a form generally recognised in, another country, unless, in the opinion of the Director, the vessel has been altered since the tonnage of the vessel was so ascertained.

PART XXV MISCELLANEOUS

Regulations

264. (1) The Minister may make regulations prescribing all matters that are required or permitted by this Act to be prescribed or that are necessary or convenient to be prescribed, for the carrying out or giving effect to this Act, and in particular for: miscellaneous

- (a) regulating or prohibiting the discharge of polluting matter from vessels including prescribing areas of Kiribati waters where such matters may or may not be discharged;

- (b) prescribing the manner of doing, and the fees payable in respect of, any matter or thing that is required or permitted to be done under this Act;
- (c) prescribing forms to be used for or in connection with this Act;
- (d) prescribing the means by which, and the conditions subject to which, a vessel or a class of vessel may be exempted from compliance with the regulations or any provision of the regulations;
- (e) regulating the timing and scheduling of vessels, especially domestic vessels; and
- (f) specifying penalties not exceeding:
 - i. where the offender is a natural person - a fine not exceeding \$5,000 or imprisonment for a term not exceeding 2 years or both; or
 - ii. where the offender is a body corporate; a fine not exceeding \$20,000, for a contravention of, or a failure to comply with the regulations.

(2) The Minister may make regulations for or in respect of any savings or transitional matter connected with the coming into force of this Act.

Delegation by the Director

265. (1) The Director may, by writing signed by him, delegate all or any of his powers and functions under this Act, except this power of delegation.

(2) A delegation under subsection (1) may be made subject to such conditions, exceptions or qualifications as are specified in the instrument of delegation.

(3) A delegation under subsection (1) is revocable, in writing, at will, and does not affect the exercise of a power or the performance of a function by the Director.

Minister, etc. to have seal

266. (1) For the purposes of this Act:

- (a) the Minister;
- (b) the Director;
- (c) the Registrar;
- (d) the Principal Surveyor, and
- (e) the Marine Board,

are each to have a seal, the design of which is to be approved by the Minister in writing.

(2) All courts or other persons acting judicially shall take judicial note of a seal referred to in subsection

SCHEDULE 1
(section 99, 248(2))

List of international conventions having force of law in Kiribati

1. The Salvage Convention 1989.
2. The International Convention for the Prevention of Pollution from Ship 73/78 annexes 1 to 6 (Marpol 73/78) and all amendments and protocols subsequent to the convention.
3. The 1992 protocols to the International Convention Civil Liability for Oil Pollution Damage (CLC) and the International Fund for Compensation for Oil Pollution Damage 1971(The Fund) and all subsequent protocols and amendments.
4. The International Convention of Civil Liability for Bunker Oil Pollution Damage 2001.
5. The International Convention for the Safety of Life At Sea, 1974, (SOLAS) together with all Protocols, Codes and IMO Resolutions made mandatory under SOLAS;
6. The Maritime Labour Convention 2006 (MLC2006)
7. The International Convention on Tonnage Measurements of Ships (1969) as amended;
8. The International Convention on Load Lines, 1966 and Protocol of 1988, as amended in 2003 and as amended from time to time;
9. The Convention on the International regulations for Preventing Collisions at Sea (1972), as amended (COLREG);
10. The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995 and 2010 and any other amendments.

SCHEDULE 2
(section 127(1), 144(1))

Serving Capacity and STCW Regulation Endorsement

Deck

1 Regional Certificate	Function	STCW Regulation	Alternative name for certificate
Master Class 1	Master unlimited GT, unlimited area	Reg. II/2	Master Unlimited
Master Class 2	Master <3000 GT, unlimited area Ch. Mate unlimited tonnage, unlimited area	Reg. II/2 Regs. II/2	Master <3000
Master Class 3	Master <3000 GT, near coastal area Subject to endorsement: Master <500 GT, unlimited area	Reg. II/2.8 Regs. II/3.7	Master <3000 (NCV)
OOW Deck	OOW Deck >500 GT, unlimited area Subject to endorsement: Ch. Mate <3000 GT unlimited area Ch. Mate <500 GT unlimited area Ch. Mate <3000 GT near coastal area	Reg. II/1 Reg. II/2.8 Reg. II/3 Reg. II/2.8	OOW Deck
Master Class 4	Master <500 GT, near coastal area Subject to endorsement: OOW Deck <500 GT unlimited area OOW Deck <3000 GT near coastal area	Reg. II/3.7 Regs. II/3 Regs II/2.8	Master <500
Master Class 5	Master <200 GT, near coastal area Chief Mate <500 GT, near coastal area	Reg. II/3.7	Master <200
Master Class 6	Master <20 GT, near coastal area	-	Master <20
Certificate of Proficiency Able Seafarers Deck	Watchkeeper Rating as able seafarer deck	Reg. II/5	>500GT
Certificate of Proficiency	Ratings forming part of a navigational watch	Reg. II/4	>500GT

- Deck Rating			
---------------	--	--	--

Engineering

Engineer Class 1	Ch. Engineer >3000 kW unlimited area	Reg. III/2	Engineer Unlimited
Engineer Class 2	Ch. Engineer <3000 kW unlimited area 2 nd Engineer >3000kW unlimited area Ch. Engineer >3000 kW, near coastal area	Reg. III/3 Reg. III/2 Reg. III/2	Engineer <3000
OOW Engine	OOW Engine, unlimited propulsion power, unlimited area Subject to endorsement: 2 nd Engineer <3000 kW unlimited area 2 nd Engineer >3000 kW near coastal area	Reg. III/1 Reg. III/3 Reg. III/2	OOW Engine
Engineer Class 3	Ch. Engineer <750 kW, near coastal area 2 nd Engineer <3000kW near coastal area Subject to endorsement: Ch. Engineer <750 kW, unlimited area Ch. Engineer <3000 kW, near coastal area	- - Reg. III/3 Reg. III/3	Engineer <750
Engineer Class 4	Ch. Engineer <500 kW, near coastal area 2 nd Engineer <750 kW, near coastal area OOW Engine <3000 kW, near coastal area Subject to endorsement: Ch. Engineer <300 kW unlimited area 2 nd Engineer <750 kW unlimited area	- - Reg. III/1 -	Engineer <500
Engineer Class 5	Ch. Engineer < 300 kW, near coastal area 2 nd Engineer <500 kW, near coastal area	-	Engineer <300
Certificate of Proficiency Able Seafarers Engine	Watchkeeper Rating as Able Seafarer Engine	Reg. III/5	>750kW
Certificate of Proficiency Engine Rating	Ratings duly certified to be a part of an engine-room watch	Reg. III/4	>750kW

SCHEDULE 3
(Section 90(3), 91)

International Certificate and Statutory Records

International Voyage

- i. Certificate of registry
- ii. Official Log Book in format prescribed by the Administration
- iii. Safe Manning Certificate
- iv. International Tonnage Certificate
- v. International Load Line Certificate
- vi. International Passenger Ship Safety Certificate including all appendices and addendums if certified to carry more than 12 passengers
- vii. International Cargo Ship Safety Equipment Certificate including all appendices and addendums
- viii. Certificate of Compliance with the Bunker Convention 2000
- ix. International Safety Management System Certificate
- x. Document of Compliance
- xi. Certificate of entry into an International Protection and Indemnity Club including marine pollution according to the class of vessel, and wreck removal cover
- xii. Certificate of Insurance for Hull and Machinery
- xiii. Certificate of Civil Liability if tanker over 2,000 deadweight tonnes
- xiv. If vessel certified to carry oil in bulk then if vessel is 150GT or above otherwise all vessels 400GT or above an International Oil Pollution Prevention Certificate and any supplements attached thereto
- xv. Oil Record Book or Books in the format proscribed by the convention
- xvi. International Pollution Prevention Certificate for the Carriage of Noxious Liquids in Bulk if vessel so classed
- xvii. International Maritime Dangerous Goods (IMDG)Code if vessel classed to carry harmful substances in packaged form
- xviii. International Sewage Pollution Prevention Certificate
- xix. If 400GT or above or certified to carry more than 15 persons a Garbage Management Plan
- xx. If 400GT or above or certified to carry more than 15 persons a Garbage Record Book in the format prescribed in the convention
- xxi. If 400GT or above an International Air Pollution Prevention Certificate
- xxii. International Cargo Safety Construction Certificate
- xxiii. Certificate of Class issued by Recognised Organisations
- xxiv. International Cargo Ship Safety Radio Certificate
- xxv. International Ship Security Certificate
- xxvi. Certificate of Financial Security which complies with the provisions of the Maritime Labour Convention 2006 as amended by June 2014 amendments.

Domestic Voyage

- i. Domestic Passenger Ship Certificate if carrying more than 12 passengers
- ii. If vessel certified to carry oil in bulk then if vessel is 150GT or above otherwise all vessels 400GT or above an International Oil Pollution Prevention Certificate and any supplements attached thereto
- iii. If over 400GT Oil Record Book or Books in the format proscribed by the convention
- iv. International Maritime Dangerous Goods (IMDG)Code if vessel classed to carry harmful substances in packaged form
- v. International Sewage Pollution Prevention Certificate if applicable
- vi. If 400GT or above or certified to carry more than 15 persons a Garbage Management Plan
- vii. If 400GT or above or certified to carry more than 15 persons a Garbage Record Book in the format prescribed in the convention
- viii. If 400GT or above an International Air Pollution Prevention Certificate
- ix. If less than 24 metres between perpendiculars and not constructed using traditional methods a Domestic Load Line Certificate
- x. If 24 metres or more in length between perpendiculars and not constructed using traditional methods an International Load Line Certificate
- xi. If 24 metres or more in length between perpendiculars and not constructed using traditional methods an International Tonnage Certificate
- xii. If carrying 12 or more passengers a Safe Crewing Document
- xiii. Domestic Safety Construction Certificate unless build using traditional methods
- xiv. If certified to carry 12 or more passengers and not of traditional build a Certificate of Class from a recognised organisation
- xv. Domestic Cargo Ship Safety Certificate
- xvi. Domestic Safety Radio Certificate

SCHEDULE 4
(section 234(2))

Marine Pollution Response, Command and Plans

Response

(1) There shall be three levels of response to any marine pollution incident

(i).Local Response: this is for a minor incident which can be handled by the installation or ship at the centre of the incident where no pollutants actually enter the marine environment or those that do can be handled by the equipment on site.

(ii).Regional Response: This is for an incident where a marine pollutant has escaped into the marine environment the quantity of which cannot be handled by the equipment on site or that there may be a need to use small quantities of dispersants to effect the clean - up operation

(iii). National Response: This response level is for any escape of marine pollutants into the marine environment which cannot be handled by the responses indicated in (i) and (ii) or has occurred in an area which is extremely sensitive and/or contains species which may be endangered by the marine pollutant released or dispersant which may be used to effect clean-up if any. The Director of Marine can at their discretion class any release of a marine pollutant into the environment as a National Response, and release which is outside of declared port or harbour limits or within the Exclusive Economic Zone will automatically become a National Response.

Commands

(2) There shall be three levels of command in any marine pollution response they being:

- i. Local On Scene Commander (LOSC): Shall be suitably qualified and trained so that they can take command in any situation where the response level described in (1)(i) is adequate too effect a clean – up operation, they shall be appointed by the owners or operators of the facility involved
- ii. Regional On Scene Commander (ROSC): Shall be suitably qualified and trained so that they can take command of any situation where the response level described in (1)(ii) is adequate to effect a clean – up operation. They shall be appointed by local authority, or in the absence of a local authority the next level of government
- iii. National On Scene Commander (NOSC): Shall be suitably qualified and trained so that they can take command in all other situations. They shall be appointed by the Minister or if so delegated the Director of Marine

- iv. As the response level increases it is expected that the commander at the lower level will assist the person relieving them.

Plans

(3) For the purpose of this section the Local Response Level the following procedures shall be observed

–

- i. The operators or controllers of any facility which is capable of transferring a Marine Pollutant capable of entering the marine environment from that facility shall develop or cause to be developed a Marine Pollution Response Plan which shall be approved by the Minister on the advice of the Director of Marine. The facility shall also appoint a suitably qualified and trained person to act a Local On-Scene Commander
- ii. Any facility which handles any bulk liquid marine pollutant shall have on site sufficient floating booms to encircle the largest ship capable of using their facility, a stock of absorbent material capable of absorbing any marine pollutant the facility is likely to handle, and any other equipment necessary to comply with the facilities Marine Pollution Response Plan or have in place contracts with third party organisations which enables rapid access to such equipment.
- iii. All other facilities shall carry a stock of equipment necessary to comply with the facilities Marine Pollution Response Plan or have in place contracts with third party organisations which enables rapid access to such equipment.

(4) For the purpose of the Regional Response Plan the following shall be observed –

- i. The Regional On-Scene Commander is responsible for the Marine Pollution Response at a regional level that person shall develop or cause to be developed a Marine Pollution Response Plan which shall be approved by the Minister on the advice of the Director of Marine.
- ii. The organisation responsible for the Marine Pollution Response shall either maintain such stocks of equipment necessary to comply with the Marine Pollution Response Plan or have in place contracts with third party organisations which enables rapid access to such equipment.

(5) For the purpose of the National Response Plan the following be observed -

- i. The National On-Scene Commander shall develop or cause to be developed a National Marine Pollution Response Plan which shall be approved by the Minister. The Director of Marine shall appoint a suitably qualified and trained person to be National On – Scene Commander
- ii. The National On-Scene Commander shall ensure that sufficient stocks of equipment is maintained necessary to comply with the National Marine Pollution Response Plan or that contracts are in place with third party governments and organisations to enable such equipment as necessary be deployed as rapidly as possible

MARITIME ACT 2017

Explanatory Memorandum

The maritime sector of the Republic of Kiribati is covered by numerous Acts and Ordinances, many of which are contradictory or are no longer relevant to the modern maritime world. This has made it difficult for operators of shipping services to find with ease the law that governs the shipping service they operate and of the safety requirements for the vessels they operate.

More importantly Kiribati has become a party to a number of International Maritime Conventions promulgated by the International Maritime Organisations. The commitment of Kiribati to these conventions would be made manifest if a new legislation were made to give recognition to these conventions as part of the laws of Kiribati and to make provisions that ought to be complied with by domestic and foreign shipping operators. This Act is meant to address those issues and with the ultimate view of ensuring that all shipping operators need not look into a number of Acts to ascertain their rights and obligations when operating a shipping service. The relevant provisions of the Merchant Shipping Act of 1983, the Shipping Act of 1990 and the Harbour Ordinance from the colonial days are now consolidated in one single Maritime Act.

Part I covers the name of the Act which is the Maritime Act 2017. It also sets out how the date when the Act will come into force.

Part II covers the interpretation of certain words and the application of the Act.

The Minister is empowered to do a number of things under the Act. Part III of the Act however sets out the general powers of the Minister in addition to what is set out in the Act itself. Bearing in mind the multiple powers and duties of the Minister under the Act, this Part makes it clear that the Minister may delegate his powers to the Director of Marine.

The Act also deals with registration of vessels in Kiribati. Part IV deals with the nationality of vessels and the use of the Kiribati flag for Kiribati registered vessels. It obliges such vessel to fly the Kiribati flag and prohibits other vessels, which are not registered in Kiribati to fly the Kiribati flag unless they do so as a matter of courtesy when in Kiribati ports.

Part V deals with the Registration of Vessels under the Act. There are many aspects of the registration of vessels and therefore this Part is divided into a number of divisions.

Division 1 introduces one important figure in our Maritime Law. It is the Director of Marine who will be referred to in the Act as the Director. Recognising that the Director occupies a central

position in the Act with a number of powers and obligations under the Act and further recognizing that the position he holds is a technical position the Act makes it clear that when exercising his powers or performing his duties under the Act he is answerable to the Minister only. This accountability does not extend to the performance of his duties as an administrative officer of the Marine Division of the Ministry.

Division 2 introduces two other important features in the registration of vessels. It is the Registrar of vessels and the Register of vessels. This Division makes it clear the Director would be the Registrar of Vessels. The register would hold all prescribed particulars of vessels registered under the Act. The register would be open to public inspection.

Division 3 deals with the actual registration of vessels. Section 18 deals with shares in a vessel and how those shares may be registered. Section 19 makes it clear that the port of registry is Betio and section 20 makes it mandatory for vessels, which are not foreign vessels and which are owned by qualified persons, to be registered. Section 21 provides for regulations to be made for the registration of government vessels which regulations may provide for circumstances in which government vessels may be exempt. The body that will consider the circumstances in which government vessels may be made exempt is the Marine Board.

Section 22 provides for restrictions in the registration of vessels. It also gives the power to the Minister to take steps to remove a vessel from the register if he has reasonable cause to believe or he does believe that should not continue to be registered.

Section 23 provides for the survey of a vessel. The survey in this regard is the survey for the tonnage and measurement of a vessel. All these things must be performed by a surveyor. This is an important requirement for without the certificate of a surveyor under this section, a vessel cannot be registered.

Section 24 provides for the marking of vessels before they can be registered. It also gives the Minister power to exempt certain vessels from having to comply with this section by publishing the names of such vessels in the gazette.

Section 25 deals with who can apply for the registration of a vessel and section 26 deals with the need for a declaration as to ownership before a vessel is registered. Section 27 deals with the actual registration of the vessel in the register by the Registrar.

The other sections in this division are as follows: -

Section 28: provisional registration of vessels acquired by qualified persons outside Kiribati; when it can be granted, how it can be granted and who can grant it.

Section 29: deals with loss of registry certificate and how a new one can be issued.

Section 30: deals with change in ownership and includes the duty to report change in ownership and powers of Registrar when he receives notice of change of ownership.

Section 31 deals with circumstances where a vessel is lost or a qualified person no longer owns such vessel.

Section 32 deals with the obligation by an owner to register alterations to a vessel.

Section 33: deals with the duty of the Registrar to retain documents used in registration of vessel.

Section 34: deals with when the obligation by the Registrar arises to issue a registry or registration certificate along with the duty to keep the certificate and when it can be used.

Section 35: deals with the power of the Registrar to grant new certificate of registration.

Section 36: deals with power of Minister to inquire into ownership of registered vessels.

Section 37: deals with the duty by ship owners to pay for annual registration fees.

Section 38: deals with the power of the Minister to make regulations and the kind of subjects which can be covered by such regulations.

Section 39 gives the Registrar power to dispense with evidence by persons required to provide such evidence if such evidence could be obtained from other sources.

Division 4 deals with the registration of foreign vessels. It provides for the appointment of authorised agents who would assist with the registration of foreign vessels. The aim of this division is to provide for one register for all vessels registered in Kiribati including foreign vessels and how foreign vessels with their seafarers can end up registered in the Register for Vessels or the Register for Seafarers kept in Betio registry.

Part VI deals with agents and the regulation of agents, especially for foreign vessels. It sets out the need for agents to take out a license and their duties for their principals and how they can be answerable for the default of their principals. It also sets out the need for a security to be provided and the power of the Minister to cancel the licence issued to agents.

Part VII with transfers or transmission of ownership in a vessel. Three main things, amongst other things, are highlighted for compliance. One is the importance of a Act of sale; another is the declaration of transfer and the third is the registration of the transfer. This Part also deals with transmission on the death of an owner or transmission following a sale ordered by the Court. It also deals with liabilities of owners to those having a beneficial interest in the vessel and also the proceedings to be adopted where a vessel is to be forfeited.

Part VIII deals with the way a vessel can be made a security. It covers such matters as the creation of a mortgage, the priority of mortgages, the rights and powers of a mortgagee, the transfer of a mortgage, the transmission of a mortgage by operation of the law, maritime liens and time limitation for maritime liens.

Part IX deals with safety. It is a very important element in maritime law and for this reason a large portion of the Act is devoted to it. In fact, one fifth of the Act is directly on the issue of safety whilst the whole Act itself concentrates on the issue of safety. This is the obligation of Kiribati under the Safety on the Law of the Sea Convention, Load Line Conventions and other Conventions to which Kiribati is a party to.

Division 1 of Part IX deals with the type of vessels that are covered under the Act and to which the safety requirements apply. It also sets out the type of vessels that are not covered. It also provides vessels obligations under International Laws in terms of the vessels capacity and construction.

Division 2 deals with the mustering requirements. This is to ensure that all crew and the vessel itself is ready and able to deal with emergencies that may arise when the vessel is operated.

Division 3 deals with safety management systems for certain vessels and in respect of certain voyages which management systems must comply with the International Safety Management Code or the ISM Code. The System has to be audited at the appropriate intervals and certificate would be issued,

Division 4 deals with safety certificates required for vessels constructed to undertake or vessels undertaking international voyages. Again the need to comply with International Maritime Conventions, Code and other instruments by such vessels is reiterated. Certification and Statutory Records to be carried by vessels engaged in domestic voyage are provided for in Schedule 3 of this Act.

Division 5 deals with safe navigation. What is stressed here is the obligations or duties of a Master of a vessel to assist when there is a collision and to respond to distress signal.

Divisional 6 deals with the establishment of another body which will also assist the Minister as he ensures Convention safety requirements are met and satisfied. This is the Marine Board established under section 96 of the Act. Both the Director and the Board must act in accordance with the directions of the Minister although both the Director and the Marine Board are key advisors to the Minister on marine safety issues under the Act. Section 98 deals with the appointment of internationally recognized surveyors who would be required to survey vessels to ensure such vessels comply with international safety standards. The Division is also deals with the auditing of the internationally recognized surveyors.

Division 7 deals with International Maritime Conventions which are covered by this Act and which will have the force of law in Kiribati once this law comes into force. Such conventions are set out in Schedule 1 of the Act. Schedule 1 however may be amended by order of Minister. This Division also sets out specific requirements to be satisfied by certain types of vessels pursuant to such Conventions. It also deals with applications for a survey and the issue of survey certificates and includes the power of a surveyor to board a vessel or a vessel under construction in the performance of his duties.

Division 8 deals with safety equipment. This Division highlights the need for vessels not to go to sea without being fitted with the equipment that the vessel is required to carry. Further such equipment must be ready for use and that Master should have knowledge to operate such equipment.

Division 9 deals with duties of a vessel to assist a person found at sea including a duty to assist in case of a collision.

Division 10 deals with the power of the Director in respect of hazardous goods and the duties of a Master or owner to comply with the directions given by the Director in the exercise of his powers under this Division.

Division 11 deals with the duty of a Master not to carry passengers in excess of the numbers permitted for the vessel that he is a Master of.

Division 12 deals specifically with the requirement to comply with load line requirements.

Division 13 deals specifically with unsafe vessels. It defines unsafe vessels. The division also deals with the need to comply with manning requirements as failure to do so may render the vessel unsafe.

Division 14 deals with the need to report incidents on vessels and where necessary the power to cause inquiries to be conducted in respect of such incidents.

Division 15 deals with the comfort and well-being of passengers in a vessel which is not a convention vessel but it is registered under this Act. It sets out the power of the Director and the duty of the Master to comply.

Division 16 deals with the power of the Minister to make regulations on all safety issues. It sets out the kind of matters that can be covered by the regulations including matters relating to the safety of vessels.

Part X deals with the Registrar of Seafarers and the Register for Seafarers. It provides for who the Registrar of Seafarers is and also provides for what is to be entered in the Register for Seafarers.

Part XI deals with seafarers in general. It comprises of 2 divisions.

Division 1 deals with the application of this Part of this Act. It sets out which vessels must comply with the requirement for seafarers set out in the Act. It also sets out how vessels can be exempted from the requirements of the Act.

Division 2 deals with the certification of seafarers. It sets out the power of the Director to issue certificates and to vary certificates. These certificates have to comply with the STCW provisions as provided for in Schedule 2 of this Act. It also sets out the requirement for all seafarers to hold the necessary certificates and the need for them to maintain their fitness. It also provides for the recognition of certificates issued by other flag states.

It further provides for procedures in the application for certificates and the power of the Director to receive reports on seafarers and to pass the question of a suspension or cancellation of seafarers certificates to the Marine Board. It also provides for the appeal procedure to be followed by a seafarer where a seafarer is aggrieved by the decision of the Marine Board. This division is concluded with the Minister's power to make regulations for seafarers including certification and employment agreements.

Part XII deals with the vessel's records. These are the records that must be maintained on a vessel and include a Log Book, a Crew's List and other prescribed log books.

Part XIII deals with what should be done in case of an accident on board a vessel. It also provides for the requirement of reporting and inquiring where necessary.

Part XIV deals with near coastal. It covers such matters as the need for the seaworthiness of vessels issued by the Principal Surveyor appointed by the Minister, and certificates that may be issued in that regards and how it operates in terms of limits on passengers. It also deals with the issuance of near coastal licences and the types of licences or permits that may be granted. It also provides for powers of the Minister to suspend or revoke such licences.

Part XV deals with aids to navigation. It provides for how such aids may be provided, how they should be maintained including penalties for damaging such aids. It also provides with need the Minister's power to make regulation for these aids.

Part XVI deals with piloting. It makes piloting compulsory in Kiribati ports and also sets out how piloting may be avoided in certain circumstances. It also covers areas from the examinations to be passed by pilot applicants and the role of the Marine Board in setting examinations and in issuing piloting licences. It also provides for the suspension of pilot licences including powers to carry out inquiries in relation to piloting negligence and appeals by affected pilots. It further provides for the limitation of liabilities in respect of the government and the Marine Board from damages arising out of piloting incidences. The Minister is also given a power to make regulation for the carrying out or giving effect to this Part.

Part XVII provides for regulations to be made by the Minister in relation to safety on small crafts.

Part XVIII deals with Marine Rights and Liabilities in general. It is divided into 3 divisions.

Division 1 deals with the owner's liability in specified instances especially in collision instances. It covers such areas as the apportionment of liability amongst the vessels involved in a collision as well as liabilities of an owner in respect of death or injuries resulting from a collision. It makes clear the application of the Collision Convention in respect of collisions involving vessels governed by this Act.

Division 2 deals with Limitation of Liability of an owner as applicable under the Convention. It also deals with the power of the Minister to make regulations governing the limitation of liability as provided for in the Convention.

Division 3 deals with circumstances where an owner's liability may be excluded.

Part XIX deals with marine pollution fee and prevention. It is divided into divisions.

Division 1 deals with marine pollution fees payable by vessels entering Kiribati ports. The rates shall be as prescribed by the regulation. It also aims to highlight the obligations of an owner or master to comply with the International Convention for the prevention of marine pollution and other related conventions, codes and other requirements.

Division 2 relates to responses to marine pollution. It provides for the appointment of a National On-Scene Commander who would be responsible for providing on the scene responses to marine pollution. The responses, commands and plans to any marine pollution shall be carried out in accordance to the prescribed level of procedures provided in Schedule 4 of the Act

Part XX provides for the appointment of shipping inspectors. Such inspectors would be the right hand persons for the Director when it comes to the inspection of vessels. This Part provides for powers which they have when they inspect vessels.

Related to this is the position of a marine checker. Like the shipping inspector a marine checker assists the Director in ensuring compliance with maritime law before such vessels are cleared to go to sea. It also provides the Minister to exempt vessels from having to comply with the provisions under this Part but when he does exercise such power he must put a report to Parliament each year setting out how he has exercised such power.

Part XXI deals with submarine cables, wrecks and hulks. It provides for powers of the Minister in relation to wrecks and hulks that may become an obstruction to navigation. It further provides for the removal of wrecks or the sinking of hulks.

Part XXII deals with the duties of Kiribati as a port state control. It provides for the powers of a port state control officer to board a vessel for survey to ensure compliance with international conventions. A failure to comply with international convention requirements may subject a vessel to detention.

Part XXIII deals with legal proceedings that may be related to this Act. It provides actions in rem in respect of government vessels and also sets out how declarations may be made. It also touches on how documents may be proved in legal proceedings and it creates offences relating to declarations made under this Act. It also provides for the sale of a vessel to recover an unpaid fine. It also provide for a limitation of action of 2 years in respect of claims to enforce a lien.

Part XXIV deals with repeal and transitional provisions. It provides for the repeal of the Merchant Shipping Act, 1983, the Shipping Act 1990 and the Harbours Ordinance. It also

provides for steps to be taken in the transitional period in respect of the registration of vessels and other related matters. It also gives the Director power to delegate his powers and functions under the Act.

Part XXV deals with miscellaneous matters including the Minister power to make regulations. It also allows the Director to delegate all or any of his powers and functions under this Act. This Part also provides for a seals for the Minister, Director, the Registrar, Principal Surveyor and the Marine Board and makes the Court take judicial notice of such seals in court proceedings.

Hon. Willie Tokataake
Minister for MICTTD
August, 2017

LEGAL REPORT

I hereby certify that in my opinion none of the provisions of the above Act conflicts with the Constitution and that the Beretitenti may properly assent to the Act.

Mrs Tetiro MaateSemilota
Attorney General
August, 2017

**CERTIFICATE OF THE CLERK OF THE MANEABA NI
MAUNGATABU**

This printed impression of the Maritime Act 2017 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 17th August 2017 and is found by me to be a true and correctly printed copy of the said Bill.

.....

Eni Tekanene
Clerk of the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu this day of
..... 2017.

.....

Eni Tekanene
Clerk of the Maneaba ni Maungatabu