

SHIPPING (REGISTRATION OF FOREIGN VESSELS)

Table of Contents

	<i>Page</i>
<i>Principal</i>	
Shipping (Registration of Foreign Vessels) Act 2018	
Table of Provisions	449
Table of Amendments	455
Shipping (Registration of Foreign Vessels) Act 2018	457

Shipping (Registration of Foreign Vessels) Act 2018

TABLE OF PROVISIONS

Section

Title

PART 1 — PRELIMINARY

1	Short title
2	Commencement
3	General Powers of the Minister
4	Delegation of powers of the Minister
5	Definitions

PART 2 — NAURU FOREIGN VESSEL ADMINISTRATION

6	Establishment of the Nauru Foreign Vessel Administration
7	Functions of the office of the Nauru Foreign Vessel Administration
8	Foreign Vessel Administrator

PART 3 — REGISTRATION OF VESSELS

9	Provisions relating to registration
10	Port of registry
11	Vessels to be registered
12	Restriction on registration
13	Survey and measurement of vessel
14	Change of construction of vessel
15	Documents retained by the Administrator
16	Marking of vessel
17	Application for registration
18	Declaration of ownership
19	Registration of vessels
20	Particulars of entry in the Register
21	Certificate of registry
22	Power to grant a new certificate
23	Power to inquire into ownership, etc. of a registered vessel
24	Registration and annual fees
25	Use of certificate
26	Penalty for improper use of certificate
27	Loss of certificate
28	Power to terminate registration
29	Suspension of certificate upon registration in another country
30	Change of ownership

<i>Section</i>	<i>Title</i>
31	Certificate to be surrendered if vessel is lost or no longer a Nauruan vessel
32	Provisional registration
33	Registration by bareboat charterer
34	Jurisdiction over a vessel registered under this Part
35	Transfer of ship
36	Registration of transfer
37	Transmission on death or bankruptcy
38	Transfer of vessel or shares by order of court
39	Power of Court to prohibit transfer
40	No notice of trusts
41	Equities not excluded by Act
42	Liability of beneficial owners
43	Mortgage of vessel or share
44	Discharge of mortgage
45	Priority of mortgages
46	Mortgagee not treated as owner
47	Mortgagee to have power of sale
48	Mortgagee not affected by bankruptcy
49	Transfer of mortgage
50	Transmission of interest in mortgage by death, bankruptcy, etc
51	Registration of mortgage on provisional registration
52	Rules as to name of vessel
53	Registration of alterations
54	Registration anew on change of ownership
55	Wrecked vessel may be registered
56	Provision for cases of infancy or other incapacity
57	Vessel's managing owner to be registered
58	Authority to dispense with declarations and other evidence
59	Inspection of register and admissibility of evidence
60	Fees
61	Form of instruments and documents
62	Forgery of documents
63	False declarations
64	National Character of a vessel to be declared before clearance
65	Penalty for unduly assuming Nauruan character
66	Concealment of Nauruan character or assumption of foreign character
67	Forfeiture for offence under Section 68
68	National colours for vessels
69	Penalty on vessel not showing colours

PART 4 — INTERNATIONAL MARITIME CONVENTIONS

70	Application of International Maritime Conventions
71	Transitional
72	Compliance with International Conventions and Agreements

Section

Title

PART 5 — SAFETY

73	Detention of unsafe vessels
74	Notice to be given of detention of unsafe vessel
75	Offences in relation to unsafe vessels
76	Failure to carry equipment
77	Notification of serious danger to navigation [<i>Repealed</i>]
78	Obligation to assist person in danger of being lost [<i>Repealed</i>]
79	Duty of vessels to assist in case of collision [<i>Repealed</i>]
80	Right to salvage not affected [<i>Repealed</i>]
81	Definitions for the purposes of Part [<i>Repealed</i>]
82	Power to deal with goods suspected of being dangerous [<i>Repealed</i>]
83	Restriction on carriage of dangerous goods [<i>Repealed</i>]
84	Packing, etc of dangerous goods [<i>Repealed</i>]
85	Definitions for the purposes of Part [<i>Repealed</i>]
86	Storage and carriage of bulk and grain cargoes [<i>Repealed</i>]
87	Meaning of ‘casualty’, etc [<i>Repealed</i>]
88	Investigations and inquires [<i>Repealed</i>]
89	Preliminary investigation [<i>Repealed</i>]
90	Marine Inquiry [<i>Repealed</i>]
91	Power of Marine Inquiry [<i>Repealed</i>]
92	Failure to deliver certificate for cancellation, etc [<i>Repealed</i>]
93	Restoration of certificates, etc [<i>Repealed</i>]
94	Appeals [<i>Repealed</i>]

PART 6 — MASTERS AND SEAMEN

95	Application
96	Exemptions
97	Manning
98	Certificate of competency
99	Unqualified person going to sea as qualified officer or seaman
100	Production of certificate of competency
101	Disqualification of officer or seaman
102	Inquiry under Section 137
103	Regulations for certificates of competency
104	Crew agreements
105	Prohibition on seeking rewards for employment
106	Regulations for crew agreements
107	Agreements as to wages
108	Account of wages
109	Right of seaman to wages
110	Seaman cannot waive protection of Act
111	Regulations relating to wages
112	Crew accommodation
113	Regulations for crew accommodation
114	Provisions and water

<i>Section</i>	<i>Title</i>
115	Medical stores, etc
116	Complaints
117	Regulations for welfare
118	Misconduct endangering vessel or persons on board
119	Constant or concerted disobedience, neglect of duty, etc
120	Absence without leave
121	Persons deemed to be seamen
122	Disciplinary offences
123	Appeal
124	List of suspended persons
125	Regulations for disciplinary offences
126	Stowaways
127	Unauthorised presence on board vessel
128	Master's power of arrest
129	Return of births and deaths on Nauru vessel
130	Returns of births and deaths on foreign vessel
131	Registrar of Seamen
132	Register of Seamen
133	Seaman's Discharge Book
134	Official Log Book
135	Crew and Passenger Lists
136	Inquiries into death or serious injury [<i>Repealed</i>]
137	Holding of inquiry [<i>Repealed</i>]
138	Absence of seaman from duty
139	Apprehension of foreign seaman
140	Detention of vessels
141	Regulations relating to seafarers

PART 7 — DIVISION OF LIABILITY

142	Rule as to division of liability [<i>Repealed</i>]
143	Joint and several liability [<i>Repealed</i>]
144	Right of contribution [<i>Repealed</i>]
145	Additional rights of person entitled to contribution [<i>Repealed</i>]

PART 8 — MARINE POLLUTION

146	Marine pollution Conventions [<i>Repealed</i>]
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PART 9 — LEGAL PROCEEDINGS

147	Penalties
148	Limitation of actions
149	Interpretation for purposes of Section 148
150	Jurisdiction
151	Jurisdiction over vessel lying off coast
152	Jurisdiction in case of offence on board vessel

*Section**Title***PART 10 — GENERAL**

153	Mode of making declaration
154	Power of Foreign Vessels Administrator to dispense with declaration evidence
155	False declaration
156	Proof of documents
157	Admissibility of documents in evidence
158	Proceedings on forfeiture of vessel
159	Recovery of fines by distress
160	Inspections
161	Surveyors of vessels
162	Inspectors and authorised officers
163	Regulations
164	Repeal
	SCHEDULE 1 — FORM OF INSTRUMENTS AND DOCUMENTS
	SCHEDULE 2 — INTERNATIONAL MARITIME CONVENTIONS
	SCHEDULE 3 — PENALTIES

Shipping (Registration of Foreign Vessels) Act 2018

TABLE OF AMENDMENTS

The Shipping (Registration of Foreign Vessels) Act 2018 No 2 was certified on 26 January 2018 and commences on [date to be notified in the Gazette].

Amending Legislation	Certified	Date of Commencement
Ports and Navigation Act 2019 No 30	20 December 2019	Sch: 1 February 2020
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

An Act to provide for the establishment of the Nauru Foreign Vessel Administration and for the registration of foreign vessels and for related purposes.

Enacted by the Parliament of Nauru as follows:

PART 1 — PRELIMINARY

1 Short title

This Act may be cited as the *Shipping (Registration of Foreign Vessels) Act 2018*.

2 Commencement

This Act shall commence in whole or in Parts on a date or dates notified by the Minister in the Gazette and came into effect on 26 January 2018.

3 General Powers of the Minister

The Minister may:

- (a) approve and issue any documentation as may be made under this Act; and
- (b) [repealed]
- (c) [repealed]
- (d) [repealed]
- (e) [repealed]
- (f) suspend or to revoke any licence, certificate, permit or document issued under the provisions of this Act as authorised by this Act.

[subs (3) am Act 30 of 2019 Sch clause 1, opn 1 Feb 2020]

4 Delegation of powers of the Minister

The Minister may in writing delegate any of his or her powers under this Act to the Administrator.

5 Definitions

In this Act:

‘Administration’ means the Nauru Foreign Vessel Administration established under Section 6;

‘Administrator’ means the Foreign Vessel Administrator appointed under this Act;

‘appropriate tonnage certificate’ means:

- (a) in the case of a Tonnage Measurement Convention ship, an International Tonnage Certificate as specified in Annex II of the *International Convention on Tonnage Measurement of Ships, 1969*; and
- (b) in any other case, a prescribed Nauru Tonnage Certificate;

‘authorised officer’ means a person designated under Section 162 as an authorised officer for the purposes of this Act;

‘bareboat charter’ means the contract for the lease or sub-lease of a vessel for stipulated period of time by virtue of which the charterer acquires full control

and complete possession of the ship, including the right to appoint the master and crew for the duration of the charter but does not include the right to sell or mortgage the vessel;

‘bankruptcy’ includes insolvency;

‘certificate of competency’ means a certificate issued to a person under Section 98 which entitles the person to be employed in the capacity stated in the certificate;

‘certificate of registry’ means a certificate granted under Section 21;

‘crew’, ‘crewman’ or ‘crewmen’ in relation to a vessel, means the person 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 port;

‘crew agreement’ means an agreement entered into under Section 104;

‘employer’ in relation to a seafarer, means the person who has entered into a crew agreement with the seafarer for the employment of the seafarer on a vessel;

‘equipment’ in relation to a vessel, includes everything or article belonging to or used in connection with, or necessary, for the navigation, safety and working of the vessel;

‘foreign vessel’ means a vessel that is owned by a person who:

- (a) if the person is an individual, is not a citizen of the Republic; or
- (b) if the person is a body corporate, is not established, registered or incorporated under the written laws of the Republic;

‘Harbour Master’ has the same meaning given to it in the *Ports and Navigation Act 2019*;

‘IMO’ refers to the International Maritime Organisation;

‘inspector’ means a person designated under Section 162 as an inspector;

‘load line’ means a line marked on a vessel indicating the depth to which the vessel may safely be loaded;

‘Load Line Convention’ means the *International Convention on Load Lines, 1966* as affected by any amendment made under Article 29 of that Convention, other than an amendment not accepted by the Republic;

‘MARPOL 73/78’ means the *International Convention for the Prevention of Pollution from Ships, 1973* as modified by the Protocol of 1978;

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

‘mortgage’ means an instrument of security of the kind referred to in Section 43;

‘National Flag’ means the National Flag of the Republic;

‘Nauruan vessel’ means a vessel registered under this Act;

‘passenger’ means a person carried on board a vessel with the knowledge or consent of the owner or master of a 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 relation to a vessel, means any person not belonging to the vessel who has the lawful conduct of the vessel;

‘proper return port’ in relation to a seaman, means such port or place as is agreed upon by the master and the seaman and is named in a crew agreement;

‘qualified person’ means a person or corporation referred to in Section 11;

‘Register of Seamen’ means the Register of Seamen referred to in Section 132;

‘Registrar of Seamen’ means the person holding the office of Registrar of Seamen;

‘Safety Convention’ means the *International Convention for the Safety of Life at Sea 1974* as affected by an amendment made under Article VIII of the Convention, other than an amendment accepted by Nauru, and includes the Protocol of 1978 relating to the Convention;

‘seaman’ in relation to a vessel, means a person, other than:

- (a) the master or a pilot or;
- (b) a person temporarily employed on board a vessel while the vessel is at port, being a person who is engaged or employed in any capacity on board the vessel and in the business of the vessel;

‘Seaman’s Discharge Book’ means a book issued under Section 133;

‘STCW Convention’ means the *International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978*;

‘surveyor’ means a person appointed under Section 161 as a surveyor of vessels;

‘the Nauruan flag’ means the flag under Section 68;

‘Tonnage Measurement Convention’ means the *International Convention on Tonnage Measurement of Ships 1969* as affected by an amendment made under Article 18 of that Convention, other than an amendment not accepted by the Republic; and

‘vessel’ means every description of vessel used or capable of being used of any type, class, size or weight, including any vessel less than 10 metres in length engaged in any kind of trade, service or international maritime activity, including a vessel for leisure and recreation but does not include:

- (a) a vessel ordinarily propelled by oars or paddles; or
- (b) a vessel belonging to a disciplined force to the defence force of any country.

PART 2 — NAURU FOREIGN VESSEL ADMINISTRATION

6 Establishment of the Nauru Foreign Vessel Administration

- (1) A Nauru Foreign Vessel Administration is hereby established.
- (2) The Administration is responsible to the Minister for the Nauru Maritime and Port Authority.

[subs (2) am Act 30 of 2019 Sch, opn 1 Feb 2020]

7 Functions of the office of the Nauru Foreign Vessel Administration

The Foreign Vessel Administration shall:

- (a) register foreign vessels and establish the fees procedure relating to registration;
- (b) collect and receive registration fees, tonnage taxes and any other charges payable under this Act on behalf of the Republic;
- (c) provide quarterly reports to the Minister on the operation of the registry;
- (d) recognise foreign seaman documents and establish procedures relating to the same;
- (e) communicate information to the International Maritime Organisation and establish procedures relating to the same;
- (f) maintain records which include but is not limited to registry certificates, bills of sale, crew endorsements, vessel mortgages and establish procedures relating to the same;
- (g) provide to the Republic copies of all records under paragraph (f);
- (h) implement and enforce the requirements of the IMO Conventions that the Republic is party to through the establishment of circulars or instructions;
- (i) establish the requirements in the relevant IMO Conventions that are left to the satisfaction of the Republic;
- (j) establish safe manning requirements;
- (k) establish the selection criteria for Recognised Organisations;
- (l) delegate authority to a Recognised Organisation for the survey and measurement of vessels registered under this Act on behalf of the Republic;
- (m) establish instructions and penalties for direct errors and omissions of Recognised Organisations in order to carry out effective oversight;
- (n) establish penalties and actions for vessels that fail to meet the standards of the IMO Conventions that the Republic is party to;
- (o) establish the selection criteria for the recruitment of inspectors;
- (p) develop and define the requirements of a marine inquiry in the event of a casualty; and
- (q) develop and implement systems and methods to evaluate and review performance for improvement.

8 Foreign Vessel Administrator

- (1) The Minister in consultation with the Cabinet may appoint a reputable and suitable person to be the Foreign Vessels Administrator.
- (2) The Administrator shall be:
 - (a) the Head of the Nauru Foreign Vessel Administration office; and

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- (b) responsible for the administration and management of the Republic's foreign vessel registry.
 - (3) The Administrator shall be appointed for a term of 5 years.
 - (4) The Administrator shall, in relation to foreign vessels, have the powers of the Registrar and Registrar of Seamen under the *Shipping Registration Act 1968*.

PART 3 — REGISTRATION OF VESSELS

9 Provisions relating to registration

The following provisions apply 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 5 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, or in any share therein in respect of which they are jointly registered; and
- (e) a corporation shall be registered as owner by its corporate name.

10 Port of registry

The port of registry of every vessel registered under this Act shall be the Republic of Nauru.

11 Vessels to be registered

- (1) A vessel other than an exempt vessel may be registered under this Act, if the vessel is:
 - (a) owned wholly by a qualified person or by persons each of whom is a qualified person; and
 - (b) is not registered in any other country.
- (2) For the purposes of this Section, '*exempt vessel*' means a vessel that:
 - (a) is ordinarily propelled by oars or paddles;
 - (b) belongs to a disciplined force or the defence force of any other country;
 - or
 - (c) is in the opinion of the Administrator, of traditional build.
- (3) For the purposes of this Section, '*qualified person*' means:
 - (a) if the person is an individual, is not a citizen of the Republic; or
 - (b) if the person is a body corporate, is not established, registered or incorporated under the laws of the Republic.

12 Restriction on registration

- (1) 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 or she may direct the Administrator 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.

- (2) 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 be de-registered.
- (3) A foreign vessel not registered under this Act, shall not be recognised:
 - (a) in the Republic or for the purposes of this Act as a Nauruan vessel; or
 - (b) as being entitled to the rights and privileges accorded to Nauruan vessels.
- (4) The Administrator shall not register a foreign vessel unless the owner or owners of the vessel has lodged a written declaration undertaking that the vessel will not be used for:
 - (a) storage and transportation of illegal drugs;
 - (b) people smuggling, trafficking in person or unlawful carriage or 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 the Republic or any international convention to which the Republic is a party.
- (5) The Administrator shall immediately cancel the registration of any foreign vessel where he or she has reasonable grounds to believe such vessel has been used contrary to the provisions of such undertaking under subsection (4).

13 Survey and measurement of vessel

- (1) Every vessel before being registered shall be surveyed by a surveyor and her tonnage ascertained in accordance with the tonnage regulations.
- (2) The surveyor shall grant his or her tonnage certificate specifying the vessel's tonnage and build and such other particulars descriptive of the identity of the vessel as may be required by the Administrator.
- (3) A tonnage certificate granted pursuant to subsection (1) in respect of a vessel shall, before the vessel is registered, be delivered to the Administrator.
- (4) The fees to be paid by the owner 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 as a Nauruan vessel has been measured and registered in another country, or has already been measured without having been so registered, the surveyor may, for the purposes of subsection (1):
 - (a) accept and use any suitable figures of measurement contained in the latest register relating to that vessel; or
 - (b) in the case of an unregistered vessel, in the latest certificate of measurement relating to that vessel.
- (6) Before acting under subsection (5), a surveyor shall satisfy himself or herself that there have been no changes of measurement since the making of the register or certificate proposed to be used and where any such changes have been made, the surveyor shall measure the vessel to the extent made necessary by those changes.

14 Change of construction of vessel

The owner or master of a vessel registered under this Act, shall advise the Administration of any alteration, change or reconstruction of the vessel which could affect the vessel's classification, measurement, tonnage or load line within 30 days of the completion of the alteration, change or reconstruction.

15 Documents retained by the Administrator

Upon registry of a vessel, the Administrator shall retain:

- (a) the surveyor's certificate;
- (b) the builder's certificate;
- (c) any bill of sale of a vessel previously made;
- (d) the copy of condemnation if any; and
- (e) all declarations of ownership.

16 Marking of vessel

- (1) Every vessel registered under this Act shall before being registered, be marked permanently and conspicuously to the satisfaction of the surveyor as follows:
 - (a) the name shall be marked on each bow and the name and port of registry shall be marked on the stern;
 - (b) these names shall be painted or gilded or consist of cut or carved or cast Roman letters in light colour on dark background or in a dark colour on a light background, secured in place and distinctly visible with the smallest letter not being less than 100 millimetres in height;
 - (c) the official number shall be cut on the main beam or indelibly marked on a metal plate permanently affixed to the bridge or wheelhouse and shall not be less than 100 millimetres in height and of proportionate width;
 - (d) where applicable, the IMO Number shall be plainly visible, clear of any other markings on the hull, not less than 200 millimetres in height and of proportionate width, painted in light colour on dark background or in a dark colour on a light background in a visible place according to the following requirements:
 - (i) either on the stern of the vessel or on either side of the hull, amidships port and starboard, above the deepest assigned load line; or
 - (ii) on the other side of the superstructure, port and starboard or on the front of the superstructure or in the case of passenger ships, on a horizontal surface visible from the air;
 - (e) the IMO number shall be marked in an accessible place not less than 100 millimetres in height and of proportionate width according to the following requirements:
 - (i) either on one of the end transverse bulkheads of the machinery spaces;
 - (ii) on one of the hatchways;
 - (iii) in the case of tankers, in the pump-room; or
 - (iv) in the case of vessels with Ro-Ro spaces, on one of the end transverse bulkheads of the Ro-Ro spaces;
 - (f) a scale of decimetres or of metres and decimetres denoting the vessel's

draught of water shall be marked on each side of the vessel's stern, sternpost and amidships port and starboard according to the following requirements:

- (i) in figures at 200 millimetre intervals if the scale is in decimetres;
 - (ii) in figures at each metre interval and at intervening 200 millimetre intervals if the scale is in metres and decimetres;
 - (iii) the capital letter 'M' being placed after each metre figure;
 - (iv) the top figure of the scale showing both the metre and except where it marks a full metre interval, the decimetre figures; and
 - (v) the lower line of figures or figures and letters as appropriate, coinciding with the draught line denoted thereby, shall not be less than 100 millimetres in height and being marked by being cut in and painted white and yellow on a dark background or, in such other way as the Administrator may approve.
- (2) The vessel where necessary, may retain its draught markings in imperial units of feet and inches.
 - (3) The Minister may exempt the owner or master of any class of vessels from complying either in whole or in part with the requirements of this section.
 - (4) The marks required by this Section shall be permanently continued and no alteration shall be made therein except in the event of any of the particulars thereby denoted being altered in accordance with this Act.
 - (5) Where a surveyor is not satisfied that a vessel is sufficiently or accurately marked, the surveyor may suspend the certificate or registry of the vessel until the mark that is insufficient or inaccurate has been remedied.

17 Application for registration

- (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 Administrator 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 Administrator may require proof to his or her satisfaction of the:
 - (a) ownership of the vessel; and
 - (b) 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.

18 Declaration of ownership

- (1) A person shall not be entitled to be registered as owner of a Nauruan vessel

or a share in it until he or she or, in the case of a corporation, a person authorised on behalf of the corporation, has made and signed a declaration of ownership referring to the vessel as described in the certificate of tonnage and containing the following particulars:

- (a) his or her full name and address; and
 - (b) a statement of the number of shares in the vessel of which he or she or the corporation, as the case may be, is entitled to be registered as owner.
- (2) On the first registration of a vessel, the following evidence shall be produced in addition to the declaration of ownership:
- (a) in the case of a newly built vessel or vessel under construction, a builder's certificate;
 - (b) in the case of a vessel previously registered in another country, a recent certificate by a proper officer in that country of vessel's registration and ownership;
 - (c) in the case of a vessel arrested and sold by auction by any competent court, an official copy of the bill of sale under which the vessel or a share therein has become vested in the applicant for registration; and
 - (d) in the case of a vessel registered under another country and bareboat chartered to a person entitled to be registered as bareboat charterer of a Nauruan vessel or, in the case of a corporation, a person authorised on behalf of the corporation, a recent certificate by a proper officer in that country of the temporary suspension of registration.

19 Registration of vessels

- (1) Where the requirements of this Act relating to a vessel before registration have been complied with, the Administrator shall, upon payment of the prescribed fee, register the vessel by:
- (a) allotting to the vessel an official number;
 - (b) entering in the Register the name of the vessel, the official number allotted to the vessel; and
 - (c) such other particulars in respect of the vessel as are prescribed.
- (2) The Administrator shall not register a vessel by a name by which a vessel is already registered under this Act except in accordance with the direction of the Minister or, by a name that is in the opinion of the Administrator, undesirable.

20 Particulars of entry in the Register

- (1) As soon as the requirements of registration have been complied with, the Administrator shall enter into the Register the following particulars of a vessel:
- (a) the name of the vessel;
 - (b) the official number of the vessel;
 - (c) the details comprised in the surveyor's certificate;
 - (d) the particulars respecting her origin stated in the declaration of ownership; and
 - (e) the name and description of her registered owner or owners, and if there are more owners than one, the proportions in which they are interested in the vessel.
- (2) The copy of the entry shall be forwarded to the Minister.

21 Certificate of registry

- (1) On the completion of the registration of a vessel and upon the payment of fees prescribed under Section 24, the Administrator shall grant to the owner or owners a certificate of registry.
- (2) A person who has possession or control of the certificate of registry of a vessel shall, unless it is not reasonable to 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; or
 - (b) any other person entitled by law to require its delivery.
- (3) Despite Section 24, the certificate of registry issued under this Section may be cancelled by the Administrator upon the failure to pay the annual fee due in respect of the registration.

22 Power to grant a new certificate

The Administrator may, upon the delivery to him or her of the certificate of registry of a vessel, grant a new certificate.

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

- (1) Where 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, 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 provide to the Minister within the period specified in the notice the information required.
- (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 Administrator, direct that the registration of the vessel be cancelled.

24 Registration and annual fees

- (1) A registration fee shall be payable in respect of every vessel registered as a Nauruan vessel.
- (2) The owner of a registered vessel shall, on each anniversary of the date of registration of the vessel, pay the prescribed annual fee.
- (3) Where an annual registration fee is not paid within 30 days after the date on which it became due, the Administrator may suspend the certificate of registry of that vessel.
- (4) An annual fee payable under subsection (1), shall be deemed to be a debt due to the Republic from the owner of the vessel and may be recovered in a court of competent jurisdiction.
- (5) The Minister may by order or regulations:
 - (a) prescribe registration and annual fees; and
 - (b) make provision for different description of vessel or for vessels of the same description in different circumstances.

25 Use of certificate

The certificate of registry of a vessel shall:

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

26 Penalty for improper use of certificate

- (1) A master or owner of a vessel shall not use for the navigation of a vessel, a certificate of registry not legally granted in respect of a vessel.
- (2) A master or owner of a vessel who contravenes subsection (1), is guilty of an offence.

27 Loss of certificate

- (1) Where a certificate of registry of a vessel is mislaid, lost or destroyed, the master or owner of the vessel shall make a declaration containing the facts of the case.
- (2) Where the Administrator is satisfied that the certificate of registry of a vessel has been mislaid, lost or destroyed, he or she may grant a new certificate of registry in its place.

28 Power to terminate registration

- (1) The Administrator may terminate the registration of any vessel registered under this Act:
 - (a) on application by the owner;
 - (b) in the case of a bareboat charter, on the ship no longer eligible to be registered;
 - (c) if having regard to any requirement of this Act or any instrument made under this Act, relating to:
 - (i) the condition of the vessel or its equipment so far as it is relevant to its safety or to any risk of pollution; and
 - (ii) the safety, health and welfare of persons employed or engaged in any capacity on board the vessel,he or she considers that it would be inappropriate for the vessel to remain registered;
 - (d) on the vessel being destroyed;
 - (e) if the vessel is registered in another country except for a Nauruan vessel that is bareboat chartered and registered under the laws of another country for the duration of the charter where the Administrator has been notified by the proper officer of that other country and the Administrator has given permission for such foreign registration under Section 33; and
 - (f) where any annual fee has remained unpaid for a period of more than 90 days.
- (2) Where the Administrator has terminated registration of a Nauruan vessel under subsection (1), the owner shall immediately surrender the vessel's certificate of registry to the Administrator for cancellation.

29 Suspension of certificate upon registration in another country

- (1) Notwithstanding the provisions of this Act, a Nauruan vessel bareboat chartered to any citizen of a foreign country or to any corporation established under the laws of a foreign country may, on application to the proper officer of that foreign country, be registered under the laws of that foreign country.
- (2) Upon notification of such registration from the proper officer, the Administrator shall for that period suspend the certificate of registry of that vessel.

30 Change of ownership

- (1) Where there is a change in the registered ownership of a vessel registered under this Act, the Administrator shall:
 - (a) require the new owner to make a declaration in accordance with Section 18; and
 - (b) issue a new certificate of registry if satisfied with the declaration and all other provisions of this Act.
- (2) The owner of the vessel shall surrender the old certificate of registry to the Administrator as soon as practicable upon receipt of the vessel's new certificate of registry from the Administrator.

31 Certificate to be surrendered if vessel is lost or no longer a Nauruan vessel

- (1) Where a registered vessel is actually or constructively lost, taken by the enemy, burnt or broken up or ceased to be a Nauruan vessel, the owner of the vessel shall immediately upon obtaining knowledge of the event, give notice to the Administrator.
- (2) The Administrator upon receipt of a notice under subsection (1), shall make an entry in the Register and the registration of the vessel shall be considered closed, unless there is an unsatisfied mortgage or existing certificates of mortgage entered in the Register.
- (3) Where a vessel's certificate of registry is lost or destroyed, the master of the vessel shall as soon as practicable after the event occurs, deliver the certificate to the Administrator or Consular officer who shall forward the certificate to the Administrator.
- (4) The owner of a Nauruan vessel who wishes to transfer the vessel to a foreign registry may do so if there are no claims outstanding in favour of the Administration and shall submit to the original registrar:
 - (a) a written application specifying the name of the vessel;
 - (b) the reason for the proposed transfer;
 - (c) the name of the country to whose registry the transfer is desired; and
 - (d) the written consent of every registered mortgagee.
- (5) An owner of a vessel who fails without reasonable excuse to comply with this Section is guilty of an offence.

32 Provisional registration

- (1) When a vessel is first registered:
 - (a) she shall be considered provisionally registered; and

- (b) the certificate of registry issued shall be provisional.
- (2) A certificate of registry shall be issued for a vessel and provisional certificate cancelled when all of the conditions for permanent registration required by subsection (3) are met or waived in accordance with subsection (4).
- (3) A provisionally registered vessel may be issued a permanent certificate of registry if:
 - (a) in the case of a vessel previously registered in another country, a deletion certificate or equivalent from the foreign registry indicating that there are no outstanding mortgages, liens or other encumbrances recorded against the vessel; and
 - (b) any other conditions as may be required by the Administrator, to be met prior to the end of a vessel's provisional registration have been met.
- (4) The Administrator may in exceptional circumstances waive any of the conditions required under subsection (3).
- (5) A provisional certificate of registry may be issued for 6 months in the first instance and may be extended by the Administrator for such time as he or she deems fit.
- (6) A provisional certificate of registry shall entitle a vessel to all the privileges of a Nauruan vessel.

33 Registration by bareboat charterer

- (1) This Section applies to any vessel which is:
 - (a) registered under the laws of a country other than the written laws of the Republic; and
 - (b) chartered on bareboat terms to a bareboat charterer who is a qualified person.
- (2) Subject to subsection (3), a vessel to which this Section applies may be registered as a foreign vessel under this Act upon application by the bareboat charterer.
- (3) No vessel to which this Section applies may be registered as a foreign vessel without the prior approval in writing of the underlying registry.
- (4) The registration of a vessel registered under this Section shall remain in force until the end of the bareboat charter period unless earlier terminated under this Act.
- (5) During the period of registration under this Section, no title, deed, mortgage or other document shall be registered with the Administration.

34 Jurisdiction over a vessel registered under this Part

A vessel registered under Section 33 shall be deemed to be a Nauruan vessel and shall only fly the National Flag as provided for in this Act, except where otherwise provided shall be under the jurisdiction and control of the Republic and comply with all the laws applicable to Nauruan vessels under this Act.

35 Transfer of ship

- (1) The ownership of a registered vessel shall be transferred by Bill of Sale.
- (2) A Bill of Sale shall be:
 - (a) in the prescribed form or a form acceptable to the Administrator;

- (b) executed by the transferor and the transferee in the presence of and be attested by a witness or witnesses; and
 - (c) authenticated by a notary public or commissioner for oaths where the Bill of Sale is executed,
before the Bill of Sale can be registered with the Administrator.
- (3) The Bill of Sale shall contain such description of the vessel as contained in the surveyor's certificate or some other description sufficient to identify the vessel to the satisfaction of the Administrator.

36 Registration of transfer

- (1) Upon receipt of a copy of the Bill of Sale under Section 35, the Administrator shall provisionally enter in the Register the name of the transferee as owner of the vessel or share.
- (2) Upon receipt of the original Bill of Sale under Section 35, the Administrator shall enter permanently in the Register the name of the transferee as owner of the vessel or share and endorse on the Bill of Sale that the original has been sighted.

37 Transmission on death or bankruptcy

- (1) Where the property in a registered vessel or share in a vessel is transmitted to another person upon the death or bankruptcy of any registered owner or, by any lawful means other than a voluntary transfer:
 - (a) that person shall authenticate the transmission by making and signing a declaration of transmission identifying the vessel and a statement of the manner in which and the person whom, the property has been transmitted; and
 - (b) where the transmission is a consequence of bankruptcy, the declaration of transmission shall be accompanied by such evidence as is for the time being receivable in a court as proof of the title of persons claiming under a bankruptcy; or
 - (c) where the transmission is a consequence of death, the declaration of transmission shall be accompanied by the instrument of representation or an official extract.
- (2) The Administrator upon receipt of the declaration of transmission and accompanying statement, evidence, instrument or official extract, shall enter in the Register the name of the person entitled under the transmission of the owner of the vessel or shares therein the property which is transmitted and, where there is more than one such person, the names of all those persons, however numerous, shall for the purpose of this Act and in respect of the number of persons entitled to be registered, be considered as one person.

38 Transfer of vessel or shares by order of court

- (1) Where a court, whether under Section 37 or otherwise, orders the sale of any vessel or share in it, such order will contain a declaration vesting in some person named by the court the right to transfer that vessel or share in a vessel and, that person shall be entitled to transfer the vessel or shares in the manner and to the same extent as if he or she were the registered owner.

- (2) Subject to subsection (1), the Administrator shall comply with the demand of the person named in such transfer to the same extent as if such person was the registered owner.

39 Power of Court to prohibit transfer

- (1) The Supreme 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 registered vessel, make an order prohibiting for the time specified in the order any dealing with a vessel or share in it and, the Supreme Court may make an order on any terms or conditions it thinks just, or refuse to make the order or discharge the order when made, with or without costs and generally may act in the case as the justice of the case requires.
- (2) The Administrator, without being made a party to the proceeding shall, on being served with an order or an official copy thereof, comply with the order.

40 No notice of trusts

No notice of any trust expressed, implied or constructive, shall be entered in a register or received by the Administrator and, subject to any rights and powers appearing by the register to be vested in any other person, the registered owner of a vessel or share in it shall have power absolutely to dispose of the vessel or share in the manner provided in this Act and, to give effectual receipts for any money paid or advanced by way of consideration.

41 Equities not excluded by Act

In this Section, '*beneficial interest*' includes interest arising under contract and other equitable interests and, the intention of this Act is that, without prejudice to:

- (a) the provisions of this Act for preventing notice of trusts from being entered in the register or received by the Administrator; and
- (b) the powers of disposition and of giving receipts conferred by this Act on registered owners and mortgagees,

interests arising under contract or other equitable interests may be enforced by or against owners and mortgagees of vessels in respect of their interest in it, in the same manner as in respect of any other movable property.

42 Liability of beneficial owners

- (1) Subject to subsections (2) and (3), where a person has a beneficial interest in a vessel or share in a registered vessel 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, shall be subject to all penalties imposed by this Act in respect of any offence thereunder on the owners of vessels or shares in it and, proceedings may be taken for the enforcement of any such penalties against both the person holding such interest and the registered owner or either of them jointly and severally.
- (2) A person shall not be liable to any penalty if he or she is able to show that the offence in question was committed without his or her knowledge and consent.
- (3) For the purposes of this Section, a person shall not be considered as being

beneficially interested by reason only that he or she has rights accruing to him or her under an indenture of trust pursuant to which monies were provided to him or her to another person to enable such person to finance the owner or charterer of a vessel in its purchase.

43 Mortgage of vessel or share

- (1) A registered vessel or share in it may be made a security for a loan or other valuable consideration and, on the production of the prescribed mortgage instrument, the Administrator shall record it in the register.
- (2) The Administrator shall record the mortgages in the order in time which they are produced to him or her for that purpose and shall by memorandum under his or her hand, notify on each mortgage that it has been recorded by him or her stating the date and hour of that record.
- (3) Notwithstanding subsections (1) and (2), if the vessel has been previously registered in a foreign country and mortgages were registered against that vessel and at the time of its registration as a Nauruan vessel there is produced to the Administrator the written consent of every mortgagee, on the production of the prescribed instruments those mortgages on being registered shall be recorded in the order or precedence as was indicated in the previous register.
- (4) No mortgage instrument shall be recorded in the register under subsection (1) in respect of any bareboat chartered vessel which has been registered under the laws of a foreign country and which has an existing registration as a Nauruan vessel under Section 19.

44 Discharge of mortgage

- (1) The Administrator, after production to him or her of a discharge of mortgage in the prescribed form, shall make an entry in the register to the effect that the mortgage has been discharged.
- (2) Where an entry is made under subsection (1), 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.

45 Priority of mortgages

Where there is more than one registered mortgage in respect of a registered vessel or share, the mortgages shall, notwithstanding any express, implied, or constructive notice, be entitled in priority one over the other, according to the date and time at which each mortgage is recorded in the register and not according to the dates of the mortgages.

46 Mortgagee not treated as owner

Except as far as may be necessary for making a registered vessel or share available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage deemed to be the owner of the vessel or share and the mortgagor shall not be deemed have ceased to be the owner.

47 Mortgagee to have power of sale

- (1) Every registered mortgagee shall have power absolutely to dispose of the vessel or share in respect of which he or she is registered and, to give effectual receipts for the purchase money.
- (2) Where more than one person is registered as mortgagees of the same vessel or share, a subsequent mortgagee shall not, except under an order of the Supreme Court, sell the vessel or share without the concurrence of every prior mortgagee.

48 Mortgagee not affected by bankruptcy

A registered mortgagee of a vessel or share is not affected by any act of bankruptcy committed by the mortgagor after the date of registration of the mortgage, although the mortgagor at the commencement of the bankruptcy had the vessel in his or her possession, order or disposition or was the reputed owner of the vessel and, the mortgagee shall be preferred to any right, claim, or interest therein of the other creditors of the bankruptcy or any trustee or assignee on their behalf.

49 Transfer of mortgage

- (1) A registered mortgage of a vessel or share may be transferred to any person by an instrument of transfer in the prescribed form.
- (2) On the production to the Administrator of an instrument of transfer of a registered mortgage and of the mortgage to which the instrument of transfer relates, the Administrator shall record it by entering in the register the name of the transferee as mortgagee of vessel or share and, 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.

50 Transmission of interest in mortgage by death, bankruptcy, etc

- (1) Where the interest of a mortgagee in a vessel or share is transmitted on death or bankruptcy or by any lawful means other than a voluntary transfer, the transmission shall be authenticated by declaration of the person to whom the interest is transmitted and shall be accompanied by like evidence as is required in the case of a transmission of an interest in a vessel or share therein under Section 37.
- (2) The Administrator on receipt of such declaration and the evidence subsection (1) shall enter the name of the person entitled under the transmission in the register as mortgagee of the vessel or in respect of which the transmission has taken place.

51 Registration of mortgage on provisional registration

A provisionally registered vessel or share therein may be made security for a loan or other valuable consideration and on the production of the prescribed mortgage instrument and declaration from the mortgagee that the original Bill of Sale has been sighted to the Administrator, he or she shall record it in the register by memorandum under his or her hand, notify on each mortgage that it has been recorded by him or her, stating the date and hour of that recording and such record of the Administrator shall have effect as if made for the purpose of Sections 43 and 45.

52 Rules as to name of vessel

- (1) The Administrator may refuse the registration of a vessel by the name by which it is proposed to be registered if it is already the name of a registered vessel or a name so similar as to be calculated to deceive.
- (2) A registered vessel shall not be described by any name other than that by which she is for the time being registered.
- (3) A registered vessel shall not have her name changed without the prior written approval of the Administrator and, such permission shall not be granted unless the Administrator is satisfied that all registered mortgages have been notified of the proposed change of name.
- (4) Upon permission being granted to change the name, the vessel's name shall be altered in the register book, in the vessel's certificate of registry and, on her bows and stern.
- (5) Subject to the satisfaction of the Administrator that the name of a vessel has been changed without his or her prior approval, he or she shall direct that the vessel name be altered into that she bore before the change and the name shall be altered on her bows and stern accordingly.
- (6) If any person acts or permits any person under his or her control to act in contravention of this Section or, omits to do or permits any person under his or her control to omit to do anything required under this Section, he or she commits an offence and the Administrator shall suspend the certificate of registry of the vessel until this Section has been complied with.

53 Registration of alterations

- (1) Where a vessel registered under this Act is so altered that it no longer corresponds to the particulars relating to her tonnage or description contained in the register, notification of the alteration shall be given within 30 days after the completion of the alteration to the Administrator.
- (2) A notification made under subsection (1), shall be accompanied by a certificate from the surveyor stating the particulars of the alteration.
- (3) The Administrator upon receipt of a notification made under subsection (1) and payment of the prescribed fee, shall register the alteration and grant a new certificate of registry containing the description of the vessel as altered upon the vessel's certificate of registry being produced.

54 Registration anew on change of ownership

- (1) Where the ownership of a vessel changes, the Administrator may, on application of the owners of the vessel, register the vessel anew although the registration anew is not required under this Act.
- (2) Where a vessel is registered anew, the Administrator shall subject to subsection (3), proceed as in the case of the first registration and, on the delivery up to him or her of the existing certificate of registry and, on the other requisites to registration or, in the case of a change of ownership such of them as he or she thinks material, being duly complied with, shall make such registration anew and grant a certificate.
- (3) Where a registration anew is consequent upon change of ownership under subsection (1), there shall be payable such transfer fee as may be prescribed.

- (4) Where a vessel is registered anew, her former registration shall be considered closed except so far as it relates to any unsatisfied mortgage entered thereon but the names of all persons appearing on the former register to be interested in the vessel as owners or mortgages shall be entered on the new register and the registration anew shall not in any way affect the rights of any of those persons.

55 Wrecked vessel may be registered

Where a Nauruan vessel is wrecked and the register is closed and the certificate of registry delivered to the Administrator is cancelled, the Minister may on application, direct that such vessel may be re-registered as a Nauruan vessel, on proof being adduced to his or her satisfaction that the vessel has, at the expense of the applicant for re-registration, been surveyed by a surveyor and certified by the surveyor to be seaworthy.

56 Provision for cases of infancy or other incapacity

Where a person interested in a vessel or shares in a vessel is incapable of making a declaration or doing anything required or permitted under this Act to be done in connection with the registry of the vessel or share due to infancy, lunacy or any other incapacity, the guardian or person appointed on application made on behalf of the person interested, by any court or Judge having jurisdiction in respect of the property of the incapable person, may:

- (a) make such declaration or declarations as circumstances permit;
- (b) act in the name or on behalf of the incapable person; and
- (c) all the acts done will be considered as an act done by the incapable person.

57 Vessel's managing owner to be registered

- (1) The name and address of the managing owner for the time being of every vessel registered under the Act shall be registered with the Administrator.
- (2) Where there is no managing owner there shall be so registered the name of the vessel's master or other person to whom the management of the vessel is entrusted by or on behalf of the owner, and any person whose name is so registered shall, for the purpose of this Act, be under the same obligations, and subject to the same liabilities, as if he or she were the managing owner.

58 Authority to dispense with declarations and other evidence

The Administrator shall dispense with the production of declarations and evidence subject to the Minister's approval, if any person who is required to make a declaration or on behalf of a corporation, has shown to the satisfaction of the Administrator that he or she is unable to make the declaration or evidence cannot be produced.

59 Inspection of register and admissibility of evidence

- (1) A person, upon payment of the prescribed fee, may, on application to the Administrator, at a reasonable time during working hours, inspect the Register.
- (2) The following documents shall be admissible in evidence in the manner provided by this Act:

- (a) any register book under this Act produced which was in the custody of the Administrator or other person having the lawful custody;
 - (b) a certificate of registry under this Act purporting to be signed by the Administrator;
 - (c) an endorsement on a certificate of registry purporting to be signed by the Administrator; and
 - (d) every declaration made pursuant to this Act in respect of a vessel registered under this Act.
- (3) A copy or transcript of the Register of vessels kept by the Administrator under direction of the Minister shall be admissible as evidence in the manner provided by this Act and have the same effect to all intents as the original register of which it is a copy of the transcript.

60 Fees

The Cabinet may make regulations prescribing the tariff of fees for the change of name, transfer, transmission, mortgage, survey and inspection of registers of the vessel registered under this Act.

61 Form of instruments and documents

- (1) The instruments and documents specified in this Part shall be in the prescribed form or as the circumstances permit.
- (2) The Administrator shall not be required to receive and enter in the Register any document specified in Schedule 1 unless the document contains the particulars required by the prescribed form.
- (3) The Minister may direct the Administrator as to:
 - (a) the manner of making entries in the register book;
 - (b) the execution and attestation of powers of attorney;
 - (c) any evidence required for identifying any person;
 - (d) referring to him or her any questions involving doubt or difficulty; and
 - (e) generally any act or thing to be done by him or her under this Act.

62 Forgery of documents

Any person who forges or fraudulently alters any Register, builder's certificate, surveyor's certificate, certificate of registry, declaration, Bill of Sale, instrument of mortgage or any entry or endorsement made in or any of those documents, commits an offence.

63 False declarations

A person in the case of any declaration made in the presence of or produced to the Administrator under this Act, or in any document or other evidence produced to the Administrator, commits an offence if the person:

- (a) wilfully makes, or assists in making, or procures to be made, any false statement concerning the title to or ownership of, or the interest existing in any vessel, or any share in a vessel; or
- (b) utters, produces, or makes use of any declaration or document containing any such false statement, knowing the same to be false.

64 National Character of a vessel to be declared before clearance

- (1) A customs officer shall not grant a clearance for any vessel until the master of such vessel has declared to the customs officer the nationality of the vessel.

- (2) Where a vessel proceeds or attempts to proceed to sea without such clearance the vessel may be detained until the declaration is made.

65 Penalty for unduly assuming Nauruan character

- (1) Where a person uses a Nauruan flag and assumes the Nauruan national character on board a vessel not registered in Nauru for the purpose of making such vessel appear to be a Nauruan vessel, the vessel shall be subject to forfeiture under this Act unless the assumption has been made for the purpose of escaping capture by an enemy or by a foreign vessel of war in the exercise of some belligerent right.
- (2) In any proceeding for enforcing any such forfeiture, the burden of proving the title to use the Nauruan flag and to assume the Nauruan national character shall lie upon the person using and assuming the same.

66 Concealment of Nauruan character or assumption of foreign character

A master or owner of a vessel registered under this Act, commits an offence if he or she does anything or permits anything to be done or carries or permits to be carried on a vessel any papers or documents, with the intent to:

- (a) conceal the Nauruan character of the vessel from a person entitled by law to inquire into the character of the vessel;
- (b) deceive a person; or
- (c) assume a foreign character.

67 Forfeiture for offence under Section 68

Where the master or owner of a vessel is convicted for an offence under Section 68, the vessel shall be liable to forfeiture.

68 National colours for vessels

- (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.
- (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 or she is on board the vessel; and
 - (c) the person hoisting those colours,commits an offence.
- (4) A person who commits an offence under subsection (3), upon conviction is liable to a fine not exceeding \$10,000.
- (5) 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.

69 Penalty on vessel not showing colours

- (1) A Nauruan vessel shall use the Nauruan flag on entering and leaving any port.

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- (2) If a vessel does not comply with subsection (1), the master of the vessel is guilty of an offence.

PART 4 — INTERNATIONAL MARITIME CONVENTIONS

70 Application of International Maritime Conventions

- (1) Subject to this Act, the International Maritime Conventions referred to in Schedule 2 and any amendments thereto may have the force of law in the Republic subject to any reservations the Republic may make at the time of accession from and after the date that convention enters into force for the Republic following the deposit of the instrument of accession with relevant depositary.
- (2) Schedule 2 may be amended by order of the Minister in consultation with the Cabinet.
- (3) The Cabinet may make regulations for the purposes of the implementation of any or all of the Conventions in Schedule 2.

71 Transitional

Where any of the International Maritime Conventions in Schedule 2 has been purportedly brought into effect by regulations made under this Act, that Convention shall be deemed to have been given the force of law from the date, and all actions taken pursuant to the terms of that Convention shall be deemed to have been taken, and any such regulations shall be deemed to have been notified.

72 Compliance with International Conventions and Agreements

- (1) It shall be the duty of the owner and the master to ensure that their vessel complies with the requirements of the International Maritime Organisation Conventions, the International Labour Organisation Conventions and other relevant international instruments as may be prescribed.
- (2) It shall be the duty of the owner and the Master to ensure that their vessel's personnel are provided with publications, instruction booklets and manuals or other information sufficient to enable their vessel to be operated in accordance with the Conventions under subsection (1).
- (3) In the event of failure to comply with subsection (1) or any Conventions or Agreements entered into by the Republic, the Administrator may suspend or cancel a vessel's certificate of registry and impose a monetary penalty not exceeding US\$50,000, and such other conditions as may be necessary to bring about compliance with maritime or maritime-related Conventions and others which are in force, or the provisions of which are applied by the Republic in advance of entry into force of the Conventions.

PART 5 — SAFETY

73 Detention of unsafe vessels

- (1) This Section applies in relation to a vessel:
 - (a) registered under this Act; and
 - (b) required to be registered under this Act.

[subs (1) am Act 30 of 2019 Sch item 3, opn 1 Feb 2020]

- (2) Where, whether on complaint or otherwise, the Harbour Master or an inspector has reason to believe that a vessel in relation to which this Section applies is unsafe, he or she may cause the vessel to be detained until he or she is satisfied that the vessel can go to sea without serious danger to the crew or any passenger on the vessel, having regard to the voyage proposed.
- (3) A vessel is deemed to be unsafe for the purposes of this Section if the vessel cannot proceed to sea without serious danger to the crew or any passengers on the vessel, having regard to the voyage proposed, by reason of:
 - (a) the defective condition of the hull, machinery or equipment;
 - (b) under-manning;
 - (c) overloading or improper loading; or
 - (d) any other matter.
- (4) In considering whether or not a vessel is unsafe, regard shall be had to the requirements of:
 - (a) any International Maritime Convention implemented in the Republic under regulations made for that purpose or otherwise having effect in the Republic, and applying in relation to the vessel; and
 - (b) any of the regulations that apply.

74 Notice to be given of detention of unsafe vessel

- (1) If a vessel is detained under Section 73, the Harbour Master or, as the case may be, the inspector shall give notice in writing to the master setting out the reasons for the detention.
- (2) [subs (2) rep Act 30 of 2019 Sch item 4, opn 1 Feb 2020]
- (3) Where a vessel is detained under Section 73, the master may make written representation to the Minister with respect to the release of the vessel, and the Minister may, if he or she considers that in all the circumstances he or she is justified in doing so, order the release of the vessel.

75 Offences in relation to unsafe vessels

- (1) This Section applies in relation to a vessel:
 - (a) registered under this Act; and
 - (b) required to be registered under this Act.

[subs (1) am Act 30 of 2019 Sch item 5, opn 1 Feb 2020]

- (2) Where a vessel referred to in subsection (1)(a) goes to sea, whether or not from a port or place in the Republic on any voyage or, a vessel referred to in subsection (1)(b) goes to sea on any voyage and the vessel is unsafe:
 - (a) any person who has knowingly sent, or attempted to send; and
 - (b) the master of the vessel who has knowingly taken, or attempted to take,

the unsafe vessel to sea, commits an offence.

- (3) It is a defence to the prosecution for an offence under subsection (2), if the accused person proves that:
- (a) he or she used all reasonable means to ensure that the vessel was being sent or taken to sea in a safe state; or
 - (b) having regard to the circumstances, the sending or taking, or attempted sending or taking, of the vessel to sea was reasonable and justifiable.

76 Failure to carry equipment

- (1) This Section applies in relation to:
- (a) a vessel registered under this Act; and
 - (b) required to be registered under this Act.

[subs (1) am Act 30 of 2019 Sch item 6, opn 1 Feb 2020]

- (2) The master and owner of a vessel commit an offence, where a vessel referred to in subsection (1)(a) goes to sea, whether from a port or place in the Republic, on any voyage or a vessel referred to in subsection (1)(b) goes to sea to engage in near coastal trade, and the vessel:
- (a) does not carry the equipment which is required to be carried on or fitted to the vessel on the voyage by:
 - (i) any international maritime convention implemented in the Republic under regulations made for that purpose or otherwise having effect in the Republic and apply in relation to the vessel; or
 - (ii) any of the Regulations so applying; or
 - (b) carries any such equipment which is not in good order and ready for use.

77 Notification of serious danger to navigation

[s 77 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

78 Obligation to assist person in danger of being lost

[s 78 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

79 Duty of vessels to assist in case of collision

[s 79 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

80 Right to salvage not affected

[s 80 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

81 Definitions for the purposes of Part

[s 81 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

82 Power to deal with goods suspected of being dangerous

[s 82 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

83 Restriction on carriage of dangerous goods

[s 83 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

84 Packing, etc of dangerous goods

[s 84 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

85 Definitions for the purposes of Part

[s 85 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

86 Storage and carriage of bulk and grain cargoes

[s 86 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

87 Meaning of ‘casualty’, etc

[s 87 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

88 Investigations and inquires

[s 88 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

89 Preliminary investigation

[s 89 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

90 Marine Inquiry

[s 90 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

91 Power of Marine Inquiry

[s 91 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

92 Failure to deliver certificate for cancellation, etc

[s 92 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

93 Restoration of certificates, etc

[s 93 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

94 Appeals

[s 94 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

PART 6 — MASTERS AND SEAMEN

95 Application

Subject to this Part and to any exemption granted under this Act:

- (a) the provisions of this Part applies in relation to a vessel registered under this Act not being:
 - (i) a vessel of less than 10 metres in length; or
 - (ii) a pleasure craft;
- (b) the provisions of Section 103 apply in relation to such vessels as may be prescribed; and
- (c) such provisions of this Part as are specified in an order made by the Minister for the purpose apply in relation to:
 - (i) any class or description of the vessels identified in the order, not being vessels registered under this Act or in a country other than the Republic and engaged in near coastal trade; and
 - (ii) the reference to 'vessel' in any provision of this Part shall be construed accordingly.

96 Exemptions

- (1) Subject to subsection (3), the Minister may, by order, exempt a particular vessel or a particular class or description of vessels, from any requirement of this Part which would otherwise apply in relation to the vessel.
- (2) An exemption under subsection (1) may be given in respect of:
 - (a) a particular period;
 - (b) one or more than one, particular voyage; or
 - (c) generally.
- (3) No exemption shall be given under subsection (1) in relation to any prohibition in the Regulations against employing any identified class of persons.

97 Manning

- (1) A vessel shall be manned by such number and grades of persons as may be prescribed.
- (2) The extent to which the persons manning a specified grade or grades on vessels shall be citizens of Nauru may also be prescribed.
- (3) An owner or master of a vessel commits an offence, if he or she permits the vessel to go to sea:
 - (a) without being manned in the manner prescribed; or
 - (b) knowing the vessel to have a crew consisting of fewer citizens of the Republic than the prescribed proportion of the crew.

98 Certificate of competency

- (1) Subject to this Act, the prescribed authority may issue a certificate of competency in the prescribed manner to a person attaining such standard as may be prescribed.

- (2) A certificate of competency issued under this Section is evidence that the person to whom the certificate is issued is of the qualification or grade specified in the certificate.

99 Unqualified person going to sea as qualified officer or seaman

- (1) No person shall go to sea as a master, a qualified officer or a seaman of a particular grade if he or she is not a master, or an officer, or a seaman of that grade.
- (2) A person who contravenes subsection (1), commits an offence and upon conviction is liable to a fine not exceeding \$10,000.

100 Production of certificate of competency

A person serving or engaged to serve in a vessel and holding a certificate of competency or other document which is evidence that he or she is a master, a qualified officer or other qualified seaman, who fails, without reasonable excuse on demand to produce the certificate or other document to:

- (a) his or her employer;
- (b) the master of the vessel on which he or she is employed; or
- (c) an authorised officer,
- commits an offence.

101 Disqualification of officer or seaman

- (1) Subject to subsection (2), the Minister shall cause an inquiry to be held and appoint a person to conduct the inquiry, if in the opinion of the Minister, a master or a qualified officer or seaman:
- (a) is unfit to discharge his or her duties because of:
- (i) incompetence;
- (ii) misconduct; or
- (iii) any other reason;
- (b) has been negligent in the discharge of his or her duties; or
- (c) has failed to give assistance and information after a collision.
- (2) The Minister may suspend the certificate of competency of the master, officer or seaman pending the outcome of the inquiry.
- (3) Where a certificate is suspended under subsection (2), the Registrar of Seamen may direct the master, officer or seaman to deliver the certificate to him or her.
- (4) A master or an officer or seaman who refuses or fails without reasonable cause, to comply with a direction given under subsection (3), commits an offence.

102 Inquiry under Section 137

- (1) Where the Minister has caused an inquiry to be held under Section 137, the person appointed for the purpose of that inquiry, may:
- (a) go on board any vessel;
- (b) require any person to answer questions relating to the subject of the inquiry; and
- (c) require the production of any document or certificate which, in his or her opinion is relevant to the inquiry.

- (2) A person appointed for the purpose of an inquiry:
 - (a) if satisfied as to any of the matters referred to in Section 137:
 - (i) order the cancellation or suspension of any certificate of competency of the master, officer or other seaman; or
 - (ii) censure the master, officer or other seaman;
 - (b) make such order with regard to the costs of the inquiry as he or she thinks fit; and
 - (c) shall make a report on the inquiry to the Minister.
- (3) Where a person appointed for the purpose of an inquiry orders the cancellation or suspension of a certificate of competency, the Minister:
 - (a) may cancel or suspend the certificate, as the case requires; or
 - (b) if the Minister considers the administration of a censure more appropriate, he or she may censure the master, officer or other seaman.
- (4) The master, officer or other seaman concerned may, within 30 days, appeal to the Supreme Court to make such order as the justice of the case requires, if, under this Section:
 - (a) a certificate of competency is cancelled or a censure is administered; or
 - (b) costs of an inquiry are awarded against a master, officer or other seaman.
- (5) A person, in holding an inquiry may be assisted by the following person or persons as the Minister may nominate and appoint be assisted:
 - (a) by one or more assessors with such qualifications as are prescribed; or
 - (b) in such circumstances as are prescribed, by two or more such assessors.

103 Regulations for certificates of competency

The Cabinet may make regulations providing for and in relation to:

- (a) the standards of competence to be attained by a master, an officer or other seaman and other conditions to be satisfied in order for the master, the officer or other seaman to be a master or a qualified officer or other seaman of a particular grade;
- (b) the manner in which the attainment of any standard or the satisfaction of any other condition is to be evidenced;
- (c) the manner and conduct of any examinations and the conditions for admission to examinations;
- (d) the appointment and remuneration of examiners;
- (e) the issue, form and recording of certificates of competency and other documents; and
- (f) the endorsement of certificates of competency and other documents.

104 Crew agreements

- (1) Where a person is employed as a seaman on a vessel, there shall be a crew agreement between the employer, or someone acting on his or her behalf, and the seaman.
- (2) A crew agreement shall be in writing and executed by the parties to the agreement.
- (3) A crew agreement may be with respect to employment in one or more vessels and may be in:
 - (a) a particular period not exceeding 2 years; or
 - (b) one or more than one particular voyage.

- (4) In every crew agreement, despite any express provision to the contrary, there is an implied term that the employer and the owner of the vessel shall use all reasonable means to ensure that the vessel in which the crewman is or is to be employed, is seaworthy for and during any voyage which may take place during the currency of the agreement and any consent or purported consent by the seaman to waive the benefit of that implied term is void and of no effect.

105 Prohibition on seeking rewards for employment

A person who demands or receives, directly or indirectly from another person seeking employment as a seaman any remuneration or reward, whether in cash or otherwise, for providing employment to that other person, commits an offence.

106 Regulations for crew agreements

The Cabinet may make regulations providing for and in relation to the:

- (a) conditions and particulars to be included in a crew agreement including a requirement that the agreement to receive the approval of the Minister;
- (b) form of a crew agreement and the manner in which an agreement is made;
- (c) manner in which a crew agreement shall be:
 - (i) added to;
 - (ii) amended; or
 - (iii) lodged with the Registrar of Seamen;
- (d) circumstances in which a crew agreement or a copy of an agreement, shall be carried in a vessel;
- (e) requirements for a crew agreement, or a copy of an agreement, to be delivered to an authorised officer;
- (f) requirement for a crew agreement or a copy of an agreement, to be made available for perusal by an authorised officer;
- (g) conditions under which a person not under 16 years of age but less than 18 years of age may enter into a crew agreement;
- (h) notice required to be given to the Registrar of Seamen before a crew agreement is entered into or terminated;
- (i) procedures and practices to be followed on the termination of a crew agreement; and
- (j) circumstances under which, other than by reason of termination of a crew agreement, a seaman may be left behind from a vessel outside the Republic.

107 Agreements as to wages

Subject to this Act, a seaman shall be paid wages in accordance with the terms of a crew agreement.

108 Account of wages

An employer who refuses, or fails without reasonable cause, to deliver to a seaman an exact account of the wages due to the seaman under a crew agreement and deductions if any made from those wages, commits an offence.

109 Right of seaman to wages

- (1) The following lien has priority over all other liens irrespective of the date of that lien or those other liens:

- (a) a seaman for his or her wages; and
 - (b) a master of a vessel for his or her wages and for reimbursement of any expenditure or disbursements properly incurred or made by him or her on behalf of the vessel.
- (2) The right of a seaman to wages does not depend on the earnings of freight.

110 Seaman cannot waive protection of Act

A provision in a crew agreement, whether express or implied, which purports to modify, vary or negate the rights of a seaman under this Part is void and of no effect.

111 Regulations relating to wages

The Cabinet may make regulations providing for and in relation to the:

- (a) deductions which may be made from the wages due to a crewman;
- (b) manner in which deductions may be made;
- (c) manner in which wages are to be paid;
- (d) otherwise than on termination of an agreement;
- (e) form and manner in which accounts of wages are to be prepared by an employer and delivered to a seaman;
- (f) form of allotment notes; and
- (g) circumstances in which allotments may be made.

112 Crew accommodation

- (1) A vessel shall have accommodation exclusively reserved for the use of the crew and known as the crew accommodation.
- (2) The crew accommodation of a vessel shall be of the prescribed standard.
- (3) An owner or master of a vessel who suffers or permits the vessel to go to sea without crew accommodation of the prescribed standard, commits an offence.

113 Regulations for crew accommodation

The Cabinet may make regulations providing for and in relation to the:

- (a) crew accommodation requirements for new and existing vessels;
- (b) minimum space per person which is to be provided by way of sleeping accommodation for crewmen and the maximum number of persons by whom a specified part of such sleeping accommodation may be used;
- (c) position on a vessel in which the crew accommodation or any part of the crew accommodation is to be located;
- (d) standards to be observed in the construction, equipment, ventilation, lighting, heating and furnishing of crew accommodation;
- (e) provision of washing, sanitary, toilet, messing and hospital facilities for crewmen;
- (f) standards of maintenance of crew accommodation; and
- (g) prohibition or restriction of the use of crew accommodation for purposes other than those for which it is designed.

114 Provisions and water

- (1) An employer or master of a vessel shall ensure that the provisions and water supplied for the use of crewmen are as prescribed.

- (2) Where 3 or more seamen are of the opinion that the provisions or water supplied for the use of seamen are not as prescribed, they may complain to the master and if they are dissatisfied with the action if any taken by the master or with the master's failure to act, they may complain to the Registrar of Seamen.
- (3) Where a complaint is made the Registrar of Seamen shall forthwith cause the complaint to be investigated.
- (4) For the purposes of an investigation under this Section, the Registrar of Seamen may cause the provisions or water to be examined.
- (5) Where, after an investigation under this Section, the Registrar of Seamen is of the opinion that the provisions or water supplied are not as prescribed, he or she shall direct the employer or the master to replace them.
- (6) An employer or a master shall comply with a direction given under this Section.

115 Medical stores, etc

An owner or master of a vessel who suffers or permits the vessel to go to sea without carrying the prescribed number of qualified first-aid attendants, medicines, medical and surgical stores, commits an offence.

116 Complaints

- (1) The seaman may complain to the master, if he or she has cause to complain about:
 - (a) the master;
 - (b) any other seaman on a vessel; or
 - (c) the conditions on board a vessel.
- (2) Where a seaman has made a complaint under subsection (1) and is dissatisfied with the action taken by the master on that complaint or the failure of the master to take any action, the seaman may:
 - (a) state his or her dissatisfaction to the master; and
 - (b) request the master to make adequate arrangements for the seaman to complain to the Registrar of Seamen, as soon as the service of the vessel permits.
- (3) A master to whom a request has been made under subsection (2), refuses or fails without reasonable cause to make the adequate arrangements under subsection (2), commits an offence.

117 Regulations for welfare

The Cabinet may make regulations providing for and in relation to the:

- (a) quality and quantity of the provisions and water to be supplied for the use of seamen;
- (b) manner of checking and inspecting provisions and water supplied for the use of seamen;
- (c) manner and conduct of medical examinations of seamen and of persons seeking employment as seamen;
- (d) medicines, medical and surgical stores, including books containing instructions and advice, to be carried in a vessel and the manner in which such medicines and stores are to be carried, stored and used in a vessel;

- (e) appointment and certification of first-aid attendants and the circumstances in which first-aid attendants are to be carried on a vessel;
- (f) manner in which medical expenses incurred in respect of a seaman while at a place outside the country may be recovered from an employer;
- (g) circumstances and the manner in which the Minister shall make provision for the relief, maintenance and return to a proper return port of a seaman;
- (h) manner in which any wages due to a distressed seaman and any property left on board a vessel by a distressed seaman are to be dealt with;
- (i) manner in which any expense incurred in bringing ashore a seaman who has been shipwrecked, or in maintaining him or her after he or she has been brought ashore, may be recovered from the person who last employed him or her as a seaman; and
- (j) manner in which the property of a deceased seaman is to be:
 - (i) held in custody; or
 - (ii) sold, converted into cash or otherwise disposed of.

118 Misconduct endangering vessel or persons on board

- (1) This Section applies where a seaman:
 - (a) does any act which causes or is likely to cause the loss or destruction, or serious damage to or 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 or her to preserve:
 - (i) a vessel from loss, destruction, or serious damage; or
 - (ii) any person on board the vessel from death or serious injury.
- (2) Where the act or failure to act, by the seaman referred to in subsection (1) is deliberate, amounts to a breach or neglect of duty or disobedience to a lawful command or occurs when the seaman is under the influence of alcohol or a drug, the seaman commits an offence.

119 Constant or concerted disobedience, neglect of duty, etc

A seaman on a vessel commits an offence, if he or she:

- (a) persistently and willfully:
 - (i) neglects his or her duty; or
 - (ii) disobeys a lawful command; or
- (b) combines with other seamen to:
 - (i) neglect his or her duty;
 - (ii) disobey a lawful command; or
 - (iii) impede the navigation of the vessel or the progress of a voyage.

120 Absence without leave

A seaman commits an offence if:

- (a) he or she is absent without leave from a vessel at a time when he or she is required to be on board;
- (b) his or her absence is:
 - (i) due to his or her recklessness; or
 - (ii) deliberate and without reasonable cause; and
- (c) a vessel:
 - (i) is thereby delayed; or

- (ii) goes to sea without him or her.

121 Persons deemed to be seamen

Notwithstanding any other provision of this Act, a person is deemed to be a seaman on the vessel where:

- (a) a person is carried to sea in a vessel without the consent of the master or of any other person authorised to give consent to his or her being so carried; or
- (b) a distressed seaman is carried on a vessel for the purpose of being returned to his or her proper return port.

122 Disciplinary offences

- (1) The master of a vessel who finds that a seaman has committed a disciplinary offence, shall make a report of his or her findings in the prescribed form to the Registrar of Seamen.
- (2) The Registrar of Seaman may declare a seaman to be a suspended person, where:
 - (a) 2 or more reports under subsection (1) have been made within the prescribed time in respect of a seaman; or
 - (b) a seaman has committed an offence under this Act.

123 Appeal

- (1) The seaman may within 30 days of receiving the prescribed notification of his or her suspension, appeal to the Supreme Court, where:
 - (a) the Registrar of Seamen has declared a seaman to be a suspended person; and
 - (b) the period of suspension exceeds 12 months.
- (2) Where an appeal is made under subsection (1), the Supreme Court shall make such orders as the justice of the case requires.

124 List of suspended persons

- (1) The Registrar of Seamen shall keep a list known as the list of suspended persons.
- (2) The Registrar of Seamen shall include the name of the seaman in the list of suspended person, if a seaman is suspended for a period:
 - (a) of 12 months or less; or
 - (b) exceeding 12 months; and
 - (i) no appeal to the Court is made within the period of 30 days; or
 - (ii) an appeal is made under Section 123 and the Court orders that the appeal be dismissed.

125 Regulations for disciplinary offences

The Cabinet may make regulations providing for and in relation to:

- (a) misconduct on board a vessel which is a disciplinary offence;
- (b) the procedures under which a master may find that a seaman has committed a disciplinary offence;
- (c) the manner in which a declaration of suspension is made and the manner in which that declaration shall be notified to:

- (i) a suspended person; and
- (ii) the person who last employed him or her as a seaman;
- (d) the manner in which the name of a suspended person shall be included in a list of suspended persons; and
- (e) the manner in which a list of suspended persons is to be kept and made available for inspection by any person appearing to the Registrar of Seamen to be interested.

126 Stowaways

A person who, without the consent of the master of a vessel or a person authorised by the master to give that consent, goes to sea or attempts to go to sea in a vessel, commits an offence.

127 Unauthorised presence on board vessel

A person who not being an authorised person or an inspector or authorised by any other written law, commits an offence, if he or she:

- (a) without the consent of the master of a vessel or of a person authorised by the master to give that consent goes on board a vessel in port in the Republic; or
- (b) remains on board a vessel after being requested to leave by the master, a police officer or a customs officer.

[s 127 am Act 30 of 2019 Sch Clause 25, opn 1 Feb 2020]

128 Master's power of arrest

The master of a vessel may cause any person on board the vessel to be put under restraint if and for so long as it appears to him or her necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the vessel.

129 Return of births and deaths on Nauru vessel

- (1) In this Section, '*vessel*' means a vessel registered under this Act.
- (2) The master of a vessel who refuses or fails without reasonable cause, to make a return in the prescribed form to the Harbour Master of any birth occurring in or death occurring or presumed to have occurred, in the vessel, commits an offence.

130 Returns of births and deaths on foreign vessel

- (1) In this Section, '*vessel*' means a vessel registered in a country other than Nauru.
- (2) The master of a vessel who refuses, or fails without reasonable cause, to make a return in the prescribed form to the Harbour Master of any birth of a Nauru citizen occurring in or death of a Nauru citizen occurring, or presumed to have occurred, in, the vessel, on a voyage to a port or place in the Republic, commits an offence.

131 Registrar of Seamen

For the purposes of this Act, the Administrator shall be the Registrar of Seamen.

132 Register of Seamen

- (1) The Registrar of Seamen shall cause to be kept a book to be known as the Register of Seamen.

- (2) The Registrar of Seamen shall cause to be entered into the Register of Seamen:
 - (a) particulars of any Seaman's Discharge Book issued under Section 133;
 - (b) particulars of any period during which a person is a suspended person; and
 - (c) such other particulars as may be prescribed.
- (3) Any person may inspect the Register of Seamen at any time during the hours approved by the Registrar of Seamen.

133 Seaman's Discharge Book

- (1) The Registrar of Seamen may issue to a person a book to be known as a Seaman's Discharge Book.
- (2) A Seaman's Discharge Book shall be in the prescribed form.

134 Official Log Book

- (1) The master of a vessel shall keep a record book relating to the vessel to be known as the Official Log Book.
- (2) Subject to this Act, the master of a vessel who fails without reasonable cause to keep the Official Log Book in the prescribed manner and to carry the Official Log Book in the vessel, commits an offence.
- (3) A person who wilfully destroys or mutilates or renders illegible any entry in an Official Log Book, commits an offence.

135 Crew and Passenger Lists

- (1) An employer or the master of a vessel shall make and, in the prescribed manner, maintain separate lists of:
 - (a) the crew of the vessel, to be known as a Crew List; and
 - (b) the passengers on the vessel, to be known as a Passenger List.
- (2) Up-to-date copies of the lists referred to in subsection (1) are to be maintained ashore by or on behalf of the managing owner of a vessel.

136 Inquiries into death or serious injury

[s 136 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

137 Holding of inquiry

[s 137 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

138 Absence of seaman from duty

- (1) In this Section, '*seaman*' means a seaman who is absent from a vessel at a time when, under a crew agreement he or she is required to be on board.
- (2) A seaman's absence from a vessel is not a breach of contract, where a seaman proves:
 - (a) that his or her absence from a vessel was due to:
 - (i) an accident;
 - (ii) a mistake; or
 - (iii) some cause beyond his or her control; and
 - (b) that he or she took all reasonable precautions to avoid being absent.

- (3) Where, in an action for breach of contract arising from the absence of a seaman from a vessel, a seaman fails to prove the matters under subsection (2), if special damages are:
 - (a) not claimed by his or her employer, his or her civil liability is limited to US\$5,000: or
 - (b) claimed by his or her employer, his or her civil liability is limited to US\$5,000.

139 Apprehension of foreign seaman

- (1) Where it appears to the Minister that due facilities will be given by the Government of a country for apprehending and receiving seamen who desert in that country from vessels registered under this Act, the Minister may, by order, declare that this Section shall apply in relation to that country, subject to any conditions stated in the order.
- (2) Where, a seaman deserts from a vessel registered under this Act, the master of the vessel may apply to the court of competent jurisdiction for aid in apprehending the deserter, and the court of competent jurisdiction and its officers shall give aid within their power, and for that purpose the court of competent jurisdiction may, on information given on oath, issue a warrant for the deserter to be conveyed on board the vessel or delivered to the master or owner of the vessel or his or her agent, to be so conveyed.

140 Detention of vessels

- (1) A vessel registered under this Act may be detained, where the Administrator or Harbour Master is of the opinion that the owner or the master of the vessel or an employer, has failed to comply with the requirements of this Act.

[subs (1) am Act 30 of 2019 Sch Clause 28, opn 1 Feb 2020]

- (2) Where a vessel is detained under subsection (1), the vessel may be detained until such time as the Administrator issues a certificate showing that:
 - (a) the Harbour Master is satisfied that the owner, the employer and the master have complied with the provisions of this Part; and
 - (b) the vessel may go to sea without a contravention of any provision of this Act.

141 Regulations relating to seafarers

The Cabinet may make regulations providing for and in relation to:

- (a) the issue and form of Seaman's Discharge Book;
- (b) entries to be made in the Register of Seamen;
- (c) endorsements to be made in Seaman's Discharge Books;
- (d) the particulars required to be entered in an Official Log Book;
- (e) the persons by whom entries in an Official Log Book are to be made, signed or witnessed;
- (f) the procedure to be followed in the making of entries in an Official Log Book;
- (g) the production, or delivery of an Official Log Book to such person, in such circumstances and within such times as may be specified;
- (h) the particulars to be entered in the Crew List and in a Passenger List;
- (i) the time during which a Crew List or a Passenger List may remain in force;

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- (j) the manner of notification to specified persons of changes in a Crew List or a Passenger List;
 - (k) the places and manner in which a Crew List and a Passenger List and copies of these Lists are to be maintained; and
 - (l) the manner in which a Crew List or a Passenger List or copies are to be made available on demand to specified persons.

PART 7 — DIVISION OF LIABILITY

142 Rule as to division of liability

[s 142 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

143 Joint and several liability

[s 143 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

144 Right of contribution

[s 144 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

145 Additional rights of person entitled to contribution

[s 145 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

PART 8 — MARINE POLLUTION

146 **Marine pollution Conventions**

[s 146 rep Act 30 of 2019 Sch 2 Clause 7, opn 1 Feb 2019]

PART 9 — LEGAL PROCEEDINGS

147 Penalties

- (1) An offence under a provision of this Act specified in column I of Schedule 3 is punishable as indicated in column 3 where a period of time indicates the maximum term of imprisonment, and a monetary amount indicates the maximum fine for the offence.
- (2) Where both a period of time and a monetary amount are indicated in column 3 of Schedule 3, both a fine and imprisonment, not exceeding the maximum indicated in that column, may be imposed in respect of an offence.
- (3) The description of an offence given in column 2 of Schedule 3 is illustrative only and not definitive or exhaustive.
- (4) Subject to any special provision of this Act, no conviction for an offence shall be made under this Act in proceedings instituted in the Republic, unless those proceedings are commenced within 1 year after the commission of the offence.

148 Limitation of actions

- (1) No action shall be maintained to enforce any claim or lien against a vessel or her owners in respect of any damages or loss to another vessel, her cargo or freight, or any property on board her, or damages for loss of life or personal injuries suffered by any person on board her, caused by the fault of the former vessel, whether such vessel be wholly or partly in fault, unless proceedings in the action are commenced within 2 years from the date when the damage or loss or injury was caused.
- (2) No action shall be maintained under this Act to enforce any contribution in respect of an overpaid proportion of any damages for loss of life or personal injuries, unless the proceedings in the action are commenced within 1 year from the date of payment.
- (3) Any court having jurisdiction to deal with an action to which this Section relates may, in accordance with the rules of court, extend any such period, to such 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 within the jurisdiction of the court, or within the territorial sea of the country to which the plaintiff's vessel belongs or in which the plaintiff resides or has his or her principal place of business, extend any such period to an extent sufficient to give such reasonable opportunity.

149 Interpretation for purposes of Section 148

For the purposes of Section 148:

- (a) the expression '*freight*' includes passage money and hire; and
- (b) references to damage or loss caused by the fault of a vessel shall be construed as including reference to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

150 Jurisdiction

For the purposes of this Act, any offence committed under this Act, is deemed to be committed at either the:

- (a) place in which the offence was committed; or
- (b) place in which the offender may be.

151 Jurisdiction over vessel lying off coast

- (1) A court which has jurisdiction in the Republic shall have jurisdiction over any vessel being on or lying or passing off that part, and overall persons on board the vessel, as if the vessel or the persons were within the limits of the original jurisdiction of the court.
- (2) The jurisdiction conferred by subsection (1), is in addition to and not in derogation of any jurisdiction or power of a court under any other written law.

152 Jurisdiction in case of offence on board vessel

- (1) A person who commits an offence or omission on board a vessel registered under this Act, is liable to be prosecuted for any offence or omission as if the offence or omission was committed in the Republic.
- (2) For the purposes of this Section, it is not a defence to prove that such offence or omission was committed beyond the territorial limits of the Republic.

PART 10 — GENERAL

153 Mode of making declaration

- (1) A declaration required by this Act may be made before the Administrator, a magistrate, a notary public, a commissioner for oaths or a diplomatic representative of the Republic.
- (2) A declaration required by this Act may be made on behalf of a corporation by any person authorised in that behalf under the common seal of the corporation.

154 Power of Foreign Vessels Administrator to dispense with declaration evidence

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

155 False declaration

- (1) A person who, in a declaration made under or for the purposes of this Act, or in any document or other evidence produced to the Administrator or the Registrar of Seamen, as the case may be, commits an offence, if the person:
 - (a) makes or assists in making or procures to be made a false statement concerning the title to or ownership of or the interest existing in, a vessel registered under this Act; or
 - (b) utters, produces or makes use of any declaration or document containing any false statement, knowing the same to be false.
- (2) Where, in a declaration made under or for the purposes of this Act, a person makes a false statement in relation either to his or her being a qualified person, the vessel in respect of which that false statement has been made is liable to forfeiture to the extent of the interest in the vessel of the declarant or, unless it is proved that the declaration was made without authority, of a person on behalf of whom the declaration was made.

156 Proof of documents

- (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 prescribed.
- (2) This Section applies to:
 - (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 any person required or authorised by this Act to issue, grant, give or make any such certificate or document;

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

157 Admissibility of documents in evidence

- (1) Where a certificate or other document is by this Act declared to be admissible in evidence, it shall on its production from proper custody, be admissible as evidence in any court, and, subject to all just exceptions, be conclusive evidence of the matters stated in it.
- (2) A copy of any certificate or other document referred to in subsection (1) or extract from any such certificate or document, is also admissible in evidence if proved to be an examined copy or extract, or 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 documents entrusted.
- (3) Any person who is by this Act required or authorised to issue, grant, give or make any certificate or other document, shall provide a certified copy of the certificate or document to any person applying at a reasonable time for such certified copy or certified extract.

158 Proceedings on forfeiture of vessel

- (1) Where a vessel has become liable to forfeiture under this Act, the Minister may cause the vessel to be seized and may detain the vessel and may bring the vessel for adjudication before the Supreme Court.
- (2) The Supreme Court may, where a vessel has been brought before it for adjudication under subsection (1), on such terms and conditions as it thinks just, order that the vessel be forfeited to the Republic.

159 Recovery of fines by distress

Where a court adjudges a person convicted of any offence against this Act to pay any fine or other monies and that person is the master of a vessel, and the fine or other monies are 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.

160 Inspections

- (1) For the purpose of seeing that the provisions of this Act and of any international maritime convention implemented in the Republic under regulations made for the purposes of Section 76, or otherwise having effect in the Republic are complied with, the Administrator, an inspector or an authorised officer in relation to any of those provisions or any such convention, may exercise all or any of the powers specified in subsection (7) in relation to a vessel registered under this Act.

[subs (1) am Act 30 of 2019 Sch Clause 34, opn 1 Feb 2020]

- (2) For the purpose of the effective exercise or performance of his or her functions under this Act or for the purposes of any Convention referred to

- in subsection (1), the Administrator, an inspector or an authorised officer may exercise all or any of the powers specified in subsection (7).
- (3) The Administrator or an inspector may, if he or she considers it necessary in consequence of an accident or for any other reason, require a vessel to be taken into dock for a survey of its hull or machinery.
 - (4) The powers under subsection (1), (2) or (3) may be exercised by the Administrator or an authorised officer in respect of a vessel registered under this Act, despite the fact that the vessel is outside the jurisdiction of the Republic.
 - (5) A person exercising a power under subsection (1) or (2), shall not unnecessarily delay a vessel.
 - (6) Any person who obstructs a person in the exercise of his or her powers under this Section or who fails to comply with a requirement made under subsection (3), commits an offence.
 - (7) For the purposes of subsections (1) and (2), the specified powers are:
 - (a) at all reasonable times, to go on board a vessel and inspect the vessel or any part of the vessel, or any part of the machinery, boats, equipment of the vessel, or any articles on board the vessel;
 - (b) to require the production of, and to inspect, any document or certificate carried in the vessel in pursuance of this Act or any Convention referred to in subsection (1); or
 - (c) to require any person to answer questions relevant to the exercise of a power, being exercised under paragraph (a) or (b) for a purpose referred to in subsection (1) or (2).

161 Surveyors of vessels

- (1) The Administrator may appoint surveyors of vessels for the purposes of this Act from societies which are members of the International Association of Classification Societies.
- (2) The appointment of a surveyor of vessels under this Section, may be restricted to either or both certain types or classes of vessel or certain kinds of survey.
- (3) Where a corporation or an unincorporated body of persons is appointed under subsection (1), the corporation or an unincorporated body of persons shall if the Administrator so directs, nominate a person to carry out surveys, issue certificates and do all other things necessary on its behalf.
- (4) The duties of a surveyor of vessels shall be performed under the direction of the Administrator and in accordance with regulations made by the Cabinet.

162 Inspectors and authorised officers

The Minister may, by notice, designate any person:

- (a) as an inspector for the purposes of this Act; or
- (b) as an authorised officer for the purposes of this Act.

163 Regulations

- (1) The Cabinet may make regulations prescribing all matters necessary or convenient to be prescribed for carrying out or giving effect to this Act, including rules for the:

- (a) 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;
 - (b) forms to be used for or in connection with this Act; and
 - (c) 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 provisions of the regulations.
- (2) The regulations may prescribe the manner in which the tonnage of any vessel shall be ascertained and may:
- (a) for that purpose, apply by reference all or any of the provisions of any law of the United Kingdom relating to tonnage measurement;
 - (b) make different provision for different descriptions of vessels or for the same description of vessels in different circumstances;
 - (c) make any provision in the Regulations dependent on compliance with such condition, to be evidenced in such manner, as may be specified in the Regulations; and
 - (d) prohibit or restrict the carriage of goods or stores in spaces not included in the registered tonnage of a vessel.
- (3) The regulations may make provision:
- (a) prescribing safety requirements and providing for the issue of local safety certificates in prescribed cases;
 - (b) prescribing matters relating to load lines and providing for the issue of local load line certificates in prescribed cases; and
 - (c) prescribing the period during which any such certificate is to remain in force, and providing for the renewal and cancellation of any such certificate.
- (4) Regulations made under subsection (3), may make provision for and in relation to:
- (a) the requirements with which the hull, machinery and equipment of vessels shall comply;
 - (b) 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;
 - (c) the requirements for the holding and recording of musters and drills for crew and passengers;
 - (d) 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;
 - (e) the measures and procedures to be followed and the equipment to be carried on vessels to ensure safety of navigation;
 - (f) the requirements which must be complied with in respect of the stowage and carriage of livestock, deck cargo, grain, dangerous goods and hazardous cargoes in vessels;
 - (g) the observance of safety standards and procedures on board vessels;
 - (h) safety and safe-working practices on board vessels;
 - (i) the measures to be observed for the prevention of collisions;
 - (j) requirements related to the provision and use on vessels of lights and signals;

- (k) the requirements which must be complied with in respect of lights and signals from the shore to vessels;
 - (l) the manner of determining freeboards to be assigned to vessels;
 - (m) 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 to be indicated on each side of the vessel by a mark;
 - (n) the manner of determining, by reference to a mark, the freeboards assigned to a vessel and the position in which each side of a vessel is to be marked with a line indicating the maximum depths to which the vessel may be loaded;
 - (o) the requirements in respect of hull, superstructure, fittings and appliances which are relevant to the assignment of freeboards to vessels;
 - (p) the manner of recording particulars of the requirements under paragraph (o) and the methods of determining the extent of compliance with the conditions of assignment; or
 - (q) the information relating to the stability of a vessel required to be provided by the owner of the vessel to the master of the vessel.
- (5) The regulations may, in relation to a vessel carrying passengers, make provision for and in relation to:
- (a) the accommodation of passengers;
 - (b) the manner of notification of the carriage of unberthed passengers;
 - (c) provisions, water, medical stores and medical inspection;
 - (d) the carriage of medical staff and the provision of hospital accommodation;
 - (e) sanitary facilities;
 - (f) sale of alcohol;
 - (g) passenger lists;
 - (h) the cargo which may be carried and the method of stowing cargo;
 - (i) the maintenance of good order in respect of the passengers;
 - (j) the prevention of wilful damage and injury to the machinery or equipment of a vessel by a passenger;
 - (k) the prevention of any obstruction to any crewman in the execution of his or her duty; or
 - (l) the prevention of the molesting of or interference with any person on board the vessel.
- (6) The regulations made under subsection (5) shall apply only in relation to:
- (a) a vessel registered under this Act; or
 - (b) a vessel engaged in near coastal trade.
- (7) The regulations may make provision with respect to vessels employed in the navigation on lagoons or inland waters and manning of such vessels.
- (8) The regulations may make provision for and in relation to:
- (a) the extent of the ownership of a vessel or class of vessels eligible to be registered under this Act;
 - (b) the proper administration and management of the registration of vessels owned by any person other than a citizen of Nauru; and
 - (c) the appointment of a person or a corporation not registered in the Republic, to administer the registration of foreign vessels.

164 Repeal

The following provisions of the *Shipping Registration Act 1968* are repealed:

- (a) from Section 2 the following definitions:

‘bareboat charter’ means the contract for the lease or sub lease of a vessel for a stipulated period of time by virtue of which the charterer acquires full control and complete possession of the vessel, including the right to appoint the master and crew for the duration of the charter, but excluding the right to sell or mortgage the vessel;

‘foreign vessel’ means a vessel that is owned by a person who:

- (a) if the person is an individual, is not a citizen of Nauru; or
- (b) if the person is a body corporate, is not established, registered or incorporated under the laws of the Republic;

‘Register’ means:

- (a) the Register of Vessels kept by the Registrar under Section 5; or
- (b) the Register of Foreign Vessels kept by the Registrar of Foreign Vessels under Section 5;

‘Registrar of Foreign Vessels’ means the Registrar of Foreign Vessels appointed under Section 4A; and

- (b) Sections 4A, 6A, 8A, 39A, 46A, 65A, 65B, 65C, 66(1)(e) to (p), 67 and 68.

SCHEDULE 1

[Section 61]

FORM OF INSTRUMENTS AND DOCUMENTS

1. Bill of Sale
2. Mortgage
3. Certificate of Surveyor
4. Declaration of ownership of individual owner
5. Declaration of ownership on behalf of a corporation as owner
6. Certificate of Registry Provisional Certificate
7. Declaration of owner taking by transmission
8. Declaration of mortgagee taking by transmission

SCHEDULE 2

INTERNATIONAL MARITIME CONVENTIONS

1. IMO Convention 48 International Convention for the Safety of Life at Sea (SOLAS) 1974, as amended;
2. Protocol of 1988 relating to the International Convention for the Safety of Life at Sea (SOLAS) 1974;
3. International Convention on Load Lines (LL), 1966;
4. Protocol of 1988 relating to the International Convention on Load Lines (LL), 1966;
5. International Convention on Tonnage Measurement of Ships (TONNAGE), 1969;
6. Convention on the international Regulations for Preventing Collisions at Sea (COLREG), 1972;
7. The Torremolinos International Convention for the Safety of Fishing Vessels (SFV), 1977, superseded by the The 1993 Torremolinos Protocol; Cape Town Agreement of 2012 on the Implementation of the Provisions of the 1993 Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels;
8. International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978 as amended;
9. International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), 1995;
10. International Convention for the Prevention of Pollution from Ships (MARPOL), 1973 as modified by the Protocol of 1978 relating thereto for Annex I to V;
11. Protocol of 1997 relating to the International Convention for the Prevention of Pollution from Ships (MARPOL), 1973, as Modified by the Protocol of 1978 Relating thereto for Annex VI;
12. Protocol of 1992 relating to the International Convention on Civil Liability for Oil Pollution Damage (CLC);
13. Protocol of 1992 relating to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND 1992);
14. Convention on Limitation of Liability for Maritime Claims (LLMC), 1976;
15. Protocol of 1996 to the Convention on Limitation of Liability for Maritime Claims (LLMC), 1976;
16. International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001;
17. International Convention on the Control of harmful Anti-Fouling Systems on ships (AFS), 2001;
18. International Convention for the Control and Management of Ship's Ballast Water and Sediments, 2004;
19. Nairobi International Convention on the Removal of Wrecks, 2007.

SCHEDULE 3

[Section 147]

PENALTIES

<i>Section</i>	<i>Description of Offence</i>	<i>Penalty Imprisonment or Fine or Both</i>
26(2)	Improper use of certificate	2 years or \$20,000 or both
31(5)	Failure of owner of a vessel to surrender certificate if vessel is lost or no longer a Nauruan vessel	\$5,000
62	Forgery of documents	\$5,000
63	False declarations	\$5,000
66	Concealing Nauruan character, etc	2 years or \$20,000 or both
68(2)	Using colours other than National Flag	\$5,000
75(2)	Unsafe vessels	2 years or \$20,000 or both
76(2)	Failing to carry proper equipment.	2 years or \$20,000 or both
97(3)	Permitting vessel to go to sea improperly manned.	2 years or \$20,000 or both
100	Failing to produce certificate of competency	2 years or \$20,000 or both
101(4)	Failing, etc to deliver up suspended certificate	\$5,000
105	Seeking, etc rewards for employment	\$5,000
108	Refusing, etc to give seaman account of wages	\$5,000
112(3)	Permitting vessel to go to sea without proper crew accommodation	\$5,000
115	Permitting vessel to go to sea without medical stores, etc	\$5,000
116(3)	Master failing to make arrangements for seaman's complaint.	\$5,000
118(2)	Misconduct endangering vessel or persons on board	2 years or \$20,000 or both
119	Constant or concerted disobedience, etc	\$5,000
120	Absence without leave	\$5,000
126	Stowaways	3 months or \$5,000 or both
127	Unauthorised presence on board vessel	\$5,000
129(2)	Failing to make return of birth or death on Nauru vessel	\$5,000
130(2)	Failing to make return of birth or death on foreign vessel	\$5,000
134(2)	Failing to carry or keep Official Log Book	\$5,000
134(3)	Destroying, etc, Official Log Book	\$5,000
155(1)	Making, etc false declaration	2 years or \$5,000 or both
160(6)	Obstructing, etc inspector	6 months or \$5,000 or both

