

SHIPPING REGISTRATION

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Shipping Registration Act 1968

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Shipping Registration Act 1968

TABLE OF AMENDMENTS

The Shipping Registration Act 1968 No 7 was certified and commenced on 12 July 1968 (GN No 121/1968; Gaz 24/1968).

Amending Legislation	Certified	Date of Commencement
Statute Law Revision Act 2011 No 8	15 April 2011	15 April 2011
Shipping Registration (Amendment) Act 2017 No 17	3 August 2017	3 August 2017
Shipping (Registration of Foreign Vessels) Act 2018 No 2	26 January 2018	26 January 2018
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

An Act to provide for the registration of vessels and for related purposes.

Enacted by the Parliament of Nauru as follows:

1 Short title and commencement

This Act may be cited as the *Shipping Registration Act 1968* and came into effect on 12 July 1968.

[s 1 am Act 8 of 2011 s 12 and Sch 1[134], opn 15 Apr 2011]

2 Definitions

In this Act:

‘bankruptcy’ includes insolvency;

‘bareboat charter’

[def rep Act 2 of 2018 s 164, opn 26 Jan 2018]

‘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 written laws of the Republic;

[def insrt Act 17 of 2017 s 4, opn 3 Aug 2017]

‘Harbour Master’ as defined in Section 4 of the *Ports and Navigation Act 2019*;

‘master’ includes every person (except a pilot) having command or charge of any vessel;

[def am Act 17 of 2017 s 5, opn 3 Aug 2017]

‘Minister’

[def rep Act 8 of 2011 s 12 and Sch 1[135], opn 15 Apr 2011]

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

[def am Act 17 of 2017 s 5, opn 3 Aug 2017]

‘Register’

[def rep Act 2 of 2018 s 164, opn 26 Jan 2018]

‘Registrar of Foreign Vessels’

[def rep Act 2 of 2018 s 164, opn 26 Jan 2018]

‘ship’

[def rep Act 17 of 2017 s 4, opn 3 Aug 2017]

‘surveyor’ or **‘surveyor of vessels’** means a person appointed under Section 61 of this Act as a surveyor of vessels;

[def am Act 17 of 2017 s 5, opn 3 Aug 2017]

‘the Nauruan flag’ means the flag prescribed by the Cabinet under Section 54;

‘the Registrar’ means the Registrar of Nauruan vessels appointed under Section 4; and

[def am Act 17 of 2017 s 5, opn 3 Aug 2017]

‘vessel’ means any vessel, ship or other water-going craft, carrier or transport vessel, except for a small boat.

[def insrt Act 17 of 2017 s 4, opn 3 Aug 2017]

2A Application of this Act to foreign vessels

- (1) Subject to subsection (2):
 - (a) this Act applies to foreign vessels; and
 - (b) unless the context otherwise requires, a reference in this Act to a vessel, includes a reference to a foreign vessel.
- (2) This Act applies to foreign vessels with the following modifications:
 - (a) the powers and functions of the Registrar of Nauruan Vessels shall be exercised and performed in relation to foreign vessels by the Registrar of Foreign Vessels;
 - (b) particulars of all foreign vessels registered under this Act, and such other entries as may be required under this Act, shall be entered in the Register of Foreign Vessels, to be kept by the Registrar of Foreign Vessels;
 - (c) the functions of a surveyor under Section 61 shall be performed in relation to a foreign vessel by a surveyor;
 - (d) for the avoidance of doubt, the powers and functions to be exercised or performed by the Registrar of Foreign Vessels under this Act, shall be exercised and performed exclusively by the Registrar of Foreign Vessels, as the case may be; and
 - (e) while the Registrar of Nauruan Vessels and the Registrar of Foreign Vessels exercise and perform similar functions and powers under this Act, each are considered as separate office holders.

[s 2A insrt Act 17 of 2017 s 6, opn 3 Aug 2017]

3 Obligation to register

- (1) Every vessel wholly owned by:
 - (a) a Nauruan citizen;
 - (b) a company registered in the Republic; or
 - (c) a statutory corporation incorporated by a written law in force in the Republic,
 or any combination shall be registered under this Act unless exempted from registry.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (2) If a vessel required by this Act to be registered is not registered under this Act, she shall not be recognised as a Nauruan vessel.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (3) A vessel required by this Act to be registered may be detained until the master, if so required, produces the certificate of registry of the vessel.

[subs (3) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (4) The Cabinet may exempt a vessel from registration under this Act.

[subs (4) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (5) Vessels not exceeding 30 ton burden and employed solely in the navigation of the coast of the Republic are exempted from registry under this Act.

[subs (5) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (6) A vessel which is not required by this Act to be registered may be registered under this Act.

[subs (6) am Act 17 of 2017 s 5, opn 3 Aug 2017]

4 Registrar of Nauruan vessels

(1) The Minister shall appoint a person to be the Registrar of Nauruan vessels.
[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

(2) The Registrar shall not be liable to damages or otherwise for any loss accruing to a person by reason of any act done or default made by him or her in his or her character of Registrar, unless the same has happened through his or her neglect or wilful act.

4A Registrar of Foreign Vessels

[s 4A rep Act 2 of 2018 s 164, opn 26 Jan 2018]

5 Register book

The Registrar shall keep a book to be called the register book, and entries in that book shall be made in accordance with following provisions:

- (a) the property in a vessel shall be divided into 64 shares;
- (b) subject to the provision of this Act with respect to joint owners or owners by transmission, not more than 64 individuals shall be entitled to be registered at the same time as owners of any one vessel,

but this rule shall not affect the beneficial title of any number of persons or of any 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 it;
- (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 in severalty of any interest in a vessel, on any share in respect of which they are registered; and
- (e) a company or statutory corporation may be registered as owner by its corporate name.

[s 5 am Act 17 of 2017 s 5, opn 3 Aug 2017]

6 Survey and measurement of vessel

Every vessel shall before registry be surveyed by a surveyor of vessels and her tonnage ascertained in accordance with the Tonnage Regulations, and the surveyor shall grant his or her certificate specifying the vessel's tonnage and build, and such other particulars descriptive of the identity of the vessel as may for the time being be required by the Minister, and such certificate shall be delivered to the Registrar before registry.

[s 6 am Act 17 of 2017 s 5, opn 3 Aug 2017]

6A Port of registry

[s 6A rep Act 2 of 2018 s 164, opn 26 Jan 2018]

7 Marking of vessel

(1) Every vessel shall before registry under this Act, be marked permanently and conspicuously to the satisfaction of the Minister as follows:

- (a) her name shall be marked on each of her bows, and her name and the name of her port of registry shall be marked on her stern, on a dark

ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than 4 inches, and of proportionate breadth;

- (b) her official number and the number denoting her registered tonnage shall be cut in on her main beam; and
- (c) a scale of feet denoting her draught of water shall be marked on each side of her stem and of her stern post in Roman capital letters or in figures, not less than 6 inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby, and those letters or figures shall be marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Minister approves.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (2) The Minister may exempt any class of vessels from all or any of the requirements of this Section.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (3) Where the scale of feet showing in the vessel's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the vessel shall be liable to a fine not exceeding \$200.

[subs (3) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (4) The marks required by this Section shall be permanently continued, and no alteration shall be made except in the event of any of the particulars thereby denoted being altered in the manner provided by this Act.

- (5) Where the owner or master of a Nauruan vessel neglects to cause his or her vessel to be marked as required by this Section, or to keep her so marked, or if a person conceals, removes, alters, defaces, or obliterates, or suffers a person under his or her control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event aforesaid, or except for the purpose of escaping capture by an enemy, that owner, master, or person shall for each offence be liable to a fine not exceeding \$200.

[subs (5) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (6) A certificate from a surveyor of vessels under this Act, that a vessel is insufficiently or inaccurately marked, the vessel may be detained until the insufficiency or inaccuracy has been remedied.

8 Application for registration

An application for registration of a vessel shall be made in the case of individuals by the person requiring to be registered as owner, or by one or more of the persons so requiring if more than one, or by his or her or their agent, and in the case of a corporation or statutory corporation by its agent, and the authority of the agent shall be testified by writing, if appointed by individuals, under the hands of the appointors, and, if appointed by a corporation or statutory corporation, under the common seal of that corporation or statutory corporation.

[s 8 am Act 17 of 2017 s 5, opn 3 Aug 2017]

8A Restriction on registration of vessel

[s 8A rep Act 2 of 2018 s 164, opn 26 Jan 2018]

9 Declaration of ownership on registry

- (1) A person shall not be entitled to be registered as owner of a vessel or of a share in the vessel until he or she, or in the case of a corporation or

statutory corporation the person authorised by this Act to make declarations on behalf of the corporation or statutory corporation, has made and signed a declaration of ownership, referring to the vessel as described in the certificate of the surveyor, and containing the following particulars:

- (a) a statement of the time when and the place where the vessel was built or, if the time and place of building is unknown, a declaration that he or she does not know the time and place of her building;
- (b) if the vessel has previously been registered in any country, a statement of the name or names under which she has previously been registered;
- (c) if the vessel has been condemned, a statement of the time, place and court at and by which she was condemned;
- (d) a statement of the name of the master;
- (e) a statement of the number of shares in the vessel of which he or she or the corporation or statutory corporation, as the case may be, is entitled to be registered as owner; and
- (f) a statement of his or her nationality and if he or she is acting as agent for a corporation or statutory corporation, a copy of the certificate of registration of that corporation or a copy of the written law by which that statutory corporation was incorporated.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

(2) On the first registry of a vessel the following evidence shall be produced in addition to the declaration of ownership:

- (a) a certificate signed by the builder of the vessel and containing a true account of the proper denomination and of the tonnage of the vessel, as estimated by him or her, and of time when and the place where she was built, and of the name of the person, if any, on whose account the vessel was built, unless the declarant who makes the declaration of ownership declares that the time and place of her building are unknown to him or her, or that the builder's certificate cannot be procured;
- (b) if the vessel has been subject to any sale, the bill of sale under which the vessel, or a share in the vessel became vested in the applicant for registration; and
- (c) if the vessel has been condemned by any competent court, an official copy of the condemnation.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

10 Entry of particulars in register book

As soon as the requirements of this Act prior to registration have been complied with, the Registrar shall enter in the register book the following particulars respecting the vessel:

- (a) the name of the vessel and the name of the port to which she belongs;
- (b) the details comprised in the surveyor's certificate;
- (c) the particulars respecting her origin stated in the declaration or ownership; and
- (d) the name and description of her registered owner or owners, and if there are more than one owner, the proportions in which they are interested in her.

[s 10 am Act 17 of 2017 s 5, opn 3 Aug 2017]

11 Documents to be retained by Registrar

On the registry of a vessel the Registrar shall retain in his or her possession the

surveyor's certificate, the builder's certificate, any bill of sale of the vessel previously made, the copy of the condemnation, if any and all declarations of ownership.

[s 11 am Act 17 of 2017 s 5, opn 3 Aug 2017]

12 Certificate of registry

On completion of the registry of a vessel, the Registrar shall grant a certificate of registry comprising the particulars respecting her entered in the register book, with the name of her master.

[s 12 am Act 17 of 2017 s 5, opn 3 Aug 2017]

13 Custody of certificate

(1) The certificate of registry shall be used only for the lawful navigation of the vessel, and shall not be subject to detention by reason of any title, lien, charge, or interest whatsoever had or claimed by any owner, mortgagee, or other person to, on, or in the vessel.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

(2) Where a person, whether interested in the vessel or not refuses on request to deliver up the certificate of registry when in his or her possession or under his or her control to the person entitled to the custody for the purposes of the lawful navigation of the vessel or to the Registrar, any customs officer, or other person entitled by law to require such delivery, a court by warrant hand and seal, or any court capable of taking cognizance of the matter, may summon the person so refusing to appear before such court, and to be examined touching such refusal, and unless it is proved to the satisfaction of such court that there was reasonable cause for such refusal, the offender shall be liable to a fine not exceeding \$200, but if it is shown to such court that the certificate is lost, the person summoned shall be discharged, and the court shall certify that the certificate of registry is lost.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

(3) Where the person so refusing is proved to have absconded so that the warrant or process of a court cannot be served on him or her or if he or she persists in not delivering up the certificate, the court shall certify the fact, and the same proceedings may then be taken as in the case of a certificate mislaid, lost, or destroyed, or as near to it as circumstances permit.

14 Penalty for use of improper certificate

Where the master or owner of a vessel uses or attempts to use for her navigation a certificate or registry not legally granted in respect of the vessel, he or she shall, in respect of each offence, be guilty of a misdemeanour, and the vessel shall be subject to forfeiture under this Act.

[s 14 am Act 17 of 2017 s 5, opn 3 Aug 2017]

15 Power to grant new certificate

The Registrar may, upon delivery to him or her of the certificate of registry of a vessel, grant a new certificate *in lieu*.

[s 15 am Act 17 of 2017 s 5, opn 3 Aug 2017]

16 Provision for lost certificate

- (1) In the event of the certificate of registry of a vessel being mislaid, lost, or destroyed then the master of the vessel, or some other person having knowledge of the facts, shall make a declaration stating the facts of the case and the names and descriptions of the registered owners of the vessel to the best of the declarant's knowledge and belief and the Registrar shall grant a provisional certificate containing a statement of the circumstances under which it is granted.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (2) Where the Registrar is satisfied that the certificate of registry of a vessel has been mislaid, lost, or destroyed, he or she shall grant a new certificate of registry *in lieu* of her original certificate and the master shall deliver up any provisional certificate issued under this Section upon receipt of the new certificate.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

17 Change of master

- (1) Where the master of a Nauruan vessel is changed the owner shall notify the Registrar of the name of the new master without delay.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (2) The Registrar shall enter the change of masters in the register book and shall issue to the owner a memorandum of that entry.

18 Endorsement of change of ownership

Whenever a change occurs in the registered ownership of a Nauruan vessel, the Registrar shall either retain her certificate of registry and grant a new certificate of registry containing the altered particulars of ownership, or endorse the change of ownership on her certificate of registry.

[s 18 am Act 17 of 2017 s 5, opn 3 Aug 2017]

19 Delivery up of certificate of vessel lost or ceasing to be registered

- (1) In the event of a registered vessel being either actually or constructively lost, taken by the enemy, burnt or broken up or otherwise ceasing to be a Nauruan vessel, every owner of the vessel or any share in the vessel shall, immediately on obtaining knowledge of the event, if no notice has already been given to the Registrar, give notice to the Registrar, and the Registrar shall make an entry in the register book and the registry of the vessel in that book shall be considered as closed except so far as relates to any unsatisfied mortgages or existing certificates or mortgage entered in it.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (2) In any such case, except where the vessel's certificate of registry is lost or destroyed, the master of the vessel shall, within 10 days of the day upon which the vessel ceased to be a Nauruan vessel, deliver up the certificate to the Registrar.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (3) An owner or master of a vessel who fails, without reasonable cause, to comply with the provisions of this Section shall be liable to a fine not exceeding \$200.

[subs (3) am Act 17 of 2017 s 5, opn 3 Aug 2017]

20 Transfer of vessels or shares

- (1) A registered vessel or a share in the vessel shall be transferred by a bill of sale.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (2) The bill of sale shall be in the prescribed form, shall contain such description of the vessel as is contained in the surveyor's certificate, or some other description sufficient to identify the vessel to the satisfaction of the Registrar, and shall be executed by the transferor in the presence of, and be attested by, a witness or witnesses.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

21 Registry of transfer

- (1) Every bill of sale for the transfer of a registered vessel or of a share in the vessel, when duly executed, shall be produced to the Registrar, with the declaration of transfer, and the Registrar shall enter in the register book the name of the transferee as owner of the vessel or share, and shall endorse on the bill of sale the fact of that entry having been made, with the day and hour.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (2) Bills of sale of a vessel or share in it shall be entered in the register book in the order of their production to the Registrar.

[subs (12) am Act 17 of 2017 s 5, opn 3 Aug 2017]

22 Transmission of property in vessel on death, bankruptcy, marriage, etc

- (1) Where the property in a registered vessel or share in the vessel is transmitted to a person on the marriage, death, or bankruptcy of any registered owner, or by any lawful means other than by a transfer under this Act, the following rules shall apply:

- (a) that person shall authenticate the transmission by making and signing a declaration (in this Act called a *declaration of transmission*) identifying the vessel and containing the several statements hereinbefore required to be contained in a declaration of transfer, or as near to it as circumstances admit and also a statement of the manner in which and the person to whom the property has been transmitted;
- (b) if the transmission takes place by virtue of marriage, the declaration shall be accompanied by a copy of the register of the marriage or other legal evidence of the celebration of it, and shall declare the identity of the female owner;
- (c) if the transmission is consequent on bankruptcy, the declaration of transmission shall be accompanied by such evidence as is for the time being receivable in court or as proof of the title of persons claiming under a bankruptcy; and
- (d) if the transmission is consequent on death, the declaration of transmission shall be accompanied by the instrument of representation or an official extract of the same.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (2) The Registrar, on receipt of the declaration of transmission so accompanied, shall enter in the register book the name of the person

entitled under the transmission as owner of the vessel or share the property in which has been transmitted, and, where there is more than one such person, shall enter the names of all those persons, but those persons shall, for the purpose of the provisions of this Act with respect to the number of persons entitled to be registered as owners, be considered as one person.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

23 Transfer of vessel or sale by order of court

Where a court orders the sale or any vessel or share in the vessel, the order of the court shall contain a declaration vesting in some person named by the court, the right to transfer that vessel or share in the vessel, and that person shall be entitled to transfer the vessel or share in the vessel in the manner and to the same extent as if he or she were the registered owner and the Registrar shall obey the requisition of the person so named in respect of any such transfer to the same extent as if such person were the registered owner.

[s 23 am Act 17 of 2017 s 5, opn 3 Aug 2017]

24 Power of Court to prohibit transfer

The Supreme Court may, without prejudice to the exercise of any other power vested in it, on the application of any interested person, make an order prohibiting for a time specified any dealing with a vessel or share in the vessel, and the Court may make the order on any terms or conditions it thinks just, or may refuse to make the order, or may discharge the order when made, with or without costs, and generally may act in the case as the justice of the case requires and the Registrar, without being made a party to the proceeding, shall on being served with the order or an official copy, obey the same.

[s 24 am Act 17 of 2017 s 5, opn 3 Aug 2017]

25 Mortgage of vessel or share

(1) A registered vessel or a share in the vessel may be made a security for a loan or other valuable consideration, and the instrument creating the security (in this Act called a mortgage) shall be in the prescribed form, and on the production of such instrument the Registrar shall record it in the register book.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

(2) Mortgages shall be recorded by the Registrar in the order of time in which they are produced to him or her for that purpose, and the Registrar shall by memorandum under his or her hand notify on each mortgage that it has been recorded by him or her, stating the day and hour of that record.

26 Entry of discharge of mortgage

Where a registered mortgage is discharged, the Registrar shall, on the production of the mortgage deed, with a receipt for the mortgage money endorsed on it, duly signed and attested, make an entry in the register book to the effect that the mortgage has been discharged, and on that entry being made the estate, if any, which passed to the mortgagee shall vest in the person in whom, having regard to intervening acts and circumstances, if any, it would have vested if the mortgage had not been made.

27 Priority of mortgages

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

[s 27 am Act 17 of 2017 s 5, opn 3 Aug 2017]

28 Mortgagee not treated as owner

Except as far as may be necessary for making a mortgaged vessel or share available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage be deemed the owner of the vessel or share, nor shall the mortgagor be deemed to have ceased to be the owner of it.

[s 28 am Act 17 of 2017 s 5, opn 3 Aug 2017]

29 Mortgagee to have power of sale

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 but where there are more than one person registered as mortgagees of the same vessel or share, a subsequent mortgagee shall not, except under the order of a court of competent jurisdiction, sell the vessel or share, without the concurrence of every prior mortgagee.

[s 29 am Act 17 of 2017 s 5, opn 3 Aug 2017]

30 Mortgagee not affected by bankruptcy

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

[s 30 am Act 17 of 2017 s 5, opn 3 Aug 2017]

31 Transfer of mortgages

A registered mortgage of a vessel or share may be transferred to a person, and the instrument effecting the transfer shall be in the prescribed form, and on the production of such instrument the Registrar shall record it by entering in the register book the name of the transferee as mortgagee of the vessel or share, and shall by memorandum under his or her hand notify on the instrument of transfer that it has been recorded by him or her, stating the day and hour of that record.

[s 31 am Act 17 of 2017 s 5, opn 3 Aug 2017]

32 Transmission of interest in mortgage by death, bankruptcy, marriage, etc

(1) Where the interest of a mortgagee in a vessel or share is transmitted on marriage, death or bankruptcy or by any lawful means, other than by a transfer under this Act, the transmission shall be authenticated by a declaration of person to whom the interest is transmitted, containing a

statement of the manner in which and the person to whom the property has been transmitted, and shall be accompanied by the like evidence as is by this Act required in case of a corresponding transmission of the ownership or a vessel or share.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (2) The Registrar on the receipt of the declaration, and the production of the evidence aforesaid, shall enter the name of the person entitled under the transmission in the register book as mortgagee of the vessel or share.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

33 Rules as to name of vessel

- (1) A vessel shall not be described by any name other than that by which she is for the time being registered.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (2) A change shall not be made in the name of a vessel without the prior written permission of the Minister.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (3) Application for that permission shall be in writing, and if the Minister is of the opinion that the application is reasonable he or she may entertain it, and require notice of it to be published in such form and manner as he or she thinks fit.

- (4) On permission being granted to change the name, the vessel's name shall forthwith be altered in the register book, in the vessel's certificate of registry, and on her bows and stern.

[subs (4) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (5) Where it is shown to the satisfaction of the Minister that the name of any vessel has been changed without his or her permission, he or she shall direct that her name be altered into that which she bore before that change, and the name shall be altered in the register book, in the vessel's certificate of registry, and on her bows and stern accordingly.

[subs (5) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (6) Where a vessel having once been registered has ceased to be so registered, no person unless ignorant of the previous registry (proof whereof shall lie on him or her) shall apply to register, and the Registrar shall not knowingly register, the vessel, except by the name which she was previously registered, unless with the prior written permission of the Minister.

[subs (6) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (7) Where a foreign vessel, not having at any previous time been registered as a Nauruan vessel, becomes a Nauruan vessel, no person shall apply to register, and the Registrar shall not knowingly register, the vessel, except by the name which she bore as a foreign vessel immediately before becoming a Nauruan vessel, unless with the prior written permission of the Minister.

[subs (7) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (8) Where a person acts, or suffers a person under his or her control to act, in contravention of this Section, or omits to do, or suffers a person under his or her control to omit to do, anything required by this Section, he or she shall, for each offence be liable to a fine not exceeding \$200, and (except in the case of an application being made under this Section with respect to

a foreign vessel which not having at any previous time been registered as a Nauruan vessel has become a Nauruan vessel) the vessel may detained until this Section is complied with.

[subs (8) am Act 17 of 2017 s 5, opn 3 Aug 2017]

34 Registry of alterations

- (1) Where a Nauruan vessel is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book then the Registrar shall, upon application being made to him or her and upon receipt of a certificate from a surveyor of vessels stating the particulars of the alterations, either cause the alteration to be registered, or direct that the vessel be registered anew.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (2) If default is made in registering anew a vessel, or in registering as alteration of vessel so altered as aforesaid, the owner of the vessel shall be liable to a fine not exceeding \$200 and to a fine not exceeding \$10 for every day during which the offence continues after conviction.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

35 Regulations for registry of alterations

- (1) For the purpose of the registry of an alteration in a vessel, the vessel's certificate of registry shall be produced to the Registrar, and the Registrar shall, in his or her discretion, either retain the certificate of registry and grant a new certificate of registry containing a description of the vessel as altered, or endorse and sign on the existing certificate a memorandum of the alteration.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (2) The particulars of the alteration so made, and the fact of the new certificate having been granted, or endorsement having been made shall be entered by the Registrar in the register book.

36 Grant of provisional certificate of registry

- (1) Where the Registrar is required by this Act to endorse altered particulars on the certificate of registry of a Nauruan vessel which is not in Nauruan waters, he or she may grant in respect of that vessel a provisional certificate of registry containing the altered particulars.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (2) A provisional certificate of registry shall remain in force for the period stated in the certificate, unless it is earlier withdrawn.
- (3) A provisional certificate of registry shall be surrendered to the Registrar on his or her request, and if it is not surrendered promptly the master and owner shall each be liable to a fine not exceeding \$200.

37 Registry anew on change of ownership

Where the ownership of a Nauruan vessel is changed the Registrar may, on application of the owners of the vessel, register the vessel anew although the registration anew is not required under this Act.

[s 37 am Act 17 of 2017 s 5, opn 3 Aug 2017]

38 Procedure for registry anew

(1) Where a vessel is to be registered anew, the Registrar shall proceed as in the case of first registry, and on the delivery up to him or her of the existing certificate of registry, and on the other requisites to registry, 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 registry anew, and grant a certificate.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

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

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

39 Restrictions on re-registration of abandoned vessels

Where a vessel has ceased to be registered as a Nauruan vessel by reason of having been wrecked or abandoned or for any reason other than capture by an enemy, the vessel shall not be re-registered until she has, at the expense of the applicant for registration, been surveyed by a surveyor of vessels and certified by him or her to be seaworthy.

[s 39 am Act 17 of 2017 s 5, opn 3 Aug 2017]

39A Bareboat charters

[s 39A rep Act 2 of 2018 s 164, opn 26 Jan 2018]

40 Provision for cases of infancy or other incapacity

Where by reason of infancy, lunacy, or any other cause any person interested in any ship, or share in the vessel, is incapable of making any declaration or doing anything required or permitted by this Act to be made or done in connection with the registry of the ship or share, the guardian or committee, if any, of that person, or, if there is none, any person appointed on application made on behalf of the incapable person, or of any person interested, by any court having jurisdiction in respect of the property of incapable persons, may:

- (a) make such declaration or a declaration as nearly corresponding to it as circumstances permit; and
- (b) do such act or thing in the name and on behalf of the incapable person, and all acts done by the substitute shall be as effectual as if done by the person for whom he or she is substituted.

[s 40 am Act 17 of 2017 s 5, opn 3 Aug 2017]

41 Notice of trusts not received

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

[s 41 am Act 17 of 2017 s 5, opn 3 Aug 2017]

42 Equities not excluded by this Act

The expression 'Beneficial interest', where used in this Act, includes interests arising under contract and other equitable interests, and the intention of this Act is, that without prejudice to the provisions of this Act for preventing notice of trusts from being entered in the register book or received by the Registrar, and without prejudice to the powers of disposition and of giving receipts conferred by this Act on registered owners and mortgages of a Nauruan vessel, interests arising under contract or other equitable interests may be enforced by or against the owners and mortgagees of vessels in respect of their interest in it in the same manner as in respect of any other personal property.

[s 42 am Act 17 of 2017 s 5, opn 3 Aug 2017]

43 Liability of owners

Where a person is beneficially interested, otherwise than by way of mortgage, in any vessel or share in a vessel registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this Act or any other written law on the owners of vessels or shares in the vessels proceedings may be taken for the enforcement of any such penalties against both or either of the aforesaid parties, with or without joining either of them.

[s 43 am Act 17 of 2017 s 5, opn 3 Aug 2017]

44 Vessel's managing owner or manager to be registered

(1) The name and address of the managing owner for the time being of every Nauruan vessel shall be notified to the Registrar, who shall record it.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

(2) Where there is no managing owner, there shall be so registered the name of the vessel's husband or such other person to whom the management of the vessel is entrusted by or on behalf of the owner; and a person whose name is so registered shall, for the purposes of this Act be under the same obligations, and subject to the same liabilities, as is if he or she were the managing owner.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

(3) If default is made in complying with this Section the owner shall be liable, or, if there are more owners than one, each owner shall be liable in proportion to his or her interest in the vessel, to a fine not exceeding \$200.

[subs (3) am Act 17 of 2017 s 5, opn 3 Aug 2017]

45 Power of Registrar to dispense with declarations and other evidence

Where a person is required to make a declaration on behalf of himself or herself or of any corporation or statutory corporation, or any evidence is required to be produced to the Registrar, and it is shown to the satisfaction of the Registrar that from any reasonable cause that person is unable to make the declaration, or that the evidence cannot be produced, the Registrar may, with the approval of the Minister, and on the production of such other evidence, and subject to such terms as they may think fit, dispense with the declaration or evidence.

46 Mode of making declarations

- (1) A declaration required by this Act shall be made before the Registrar, a Judge or magistrate or any other person authorised by law to take declarations at the place where the declaration is made.
- (2) Declarations required by this Act may be made on behalf of a corporation or statutory corporation by the secretary or any other officer of the corporation or statutory corporation authorised by it under seal for the purpose.

46A International Maritime Conventions

[s 46A rep Act 2 of 2018 s 164, opn 26 Jan 2018]

47 Evidence of register book, certificate of registry, and other documents

- (1) A person, upon payment of the prescribed fee, may, on application to the Registrar, at a reasonable time during the hours of his or her official attendance, inspect the register book.
- (2) The following documents shall be admissible in evidence in the manner provided by this Act:
 - (a) any register book under this Act on its production from the custody of the Registrar or other person having lawful custody;
 - (b) a certificate of registry under this Act purporting to be signed by the Registrar;
 - (c) an endorsement on a certificate of registry purporting to be signed by the Registrar; and
 - (d) every declaration made in pursuance of this Act in respect of a Nauruan vessel.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (3) A copy or transcript of the register of Nauruan vessels kept by the Registrar under direction or the Minister, shall be admissible in 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 or transcript.

[subs (3) am Act 17 of 2017 s 5, opn 3 Aug 2017]

48 Forms of documents and instruments as to registry

- (1) The instruments and documents specified in Schedule 1 shall be in the form prescribed by the Minister or as near to it as circumstances permit.
- (2) The Registrar shall not register an instrument or document specified in Schedule 1 unless it contains the particulars required by the prescribed form, but he or she may, with the consent of the Minister, register that instrument or document if the Minister, in the circumstances of the case, directs him or her so to do.
- (3) The Minister may direct the Registrar as to the manner of making entries in the register book, as to the execution and attestation of powers of attorney, as to any evidence required for identifying a person, as to referring to him or her any questions involving doubt or difficulty, and generally as to any act or thing to be done by him or her pursuant to this Act.

49 **Forgery of documents**

Where a person forges, fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any of the following documents:

- (a) the register book;
- (b) builder's certificate;
- (c) surveyor's certificate;
- (d) certificate of registry;
- (e) declaration;
- (f) bill of sale;
- (g) instrument of mortgage;
- (h) certificate of mortgage or sale under this Act; or
- (i) any entry or endorsement required by this Act to be made in or on any of the documents in paragraphs (a) to (h),

such person shall be guilty of an offence.

50 **False declarations**

Where a person in the case of any declaration made in the presence of or produced to the Registrar under this Act, or in any document or other evidence produced to the Registrar:

- (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,

he or she shall, in respect of each offence, be guilty of a misdemeanour.

[s 50 am Act 17 of 2017 s 5, opn 3 Aug 2017]

51 **National character of a vessel to be declared before clearance**

- (1) A customs officer shall not grant a clearance or manifest for any vessel until the master of such vessel has declared to that officer the name of the nation to which he or she claims that she belongs, and that officer shall inscribe that name on the clearance or manifest.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

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

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

52 **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 this 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.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (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.

53 Penalty for concealment of Nauruan or assumption of foreign character

Where the master or owner of a Nauruan vessel does anything or permits anything to be done, or carries or permits to be carried any papers or documents, with intent to conceal the Nauruan character of the vessel from a person entitled by Nauruan law to inquire into the same, or with intent to deceive a person so entitled as aforesaid, the vessel shall be subject to forfeiture under this Act, and the master, if he or she commits or is privy to the commission of the offence, shall in respect of each offence be guilty of a misdemeanour.

[s 53 am Act 17 of 2017 s 5, opn 3 Aug 2017]

54 National colours for vessels and penalty on carrying improper colours

(1) The Cabinet may, by regulations, prescribe a flag to be worn by Nauruan vessels.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

(2) If any distinctive national colours, except the Nauruan flag, is used on board a Nauruan vessel without the permission of the Cabinet, the master of the vessel, or the owner if he or she be on board, and every other person using these colours shall for each offence incur a fine not exceeding \$200.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

55 Penalty on vessel not show-colours

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

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

(2) Where a vessel does not comply with subsection (1), the master of the vessel shall for each offence be liable to a fine not exceeding \$200.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

56 Rules for ascertaining register tonnage

(1) Subject to subsection (2), the tonnage of every vessel shall prior to her being registered, be ascertained by Rule I in Schedule 2, and the tonnage of every vessel to which that Rule I can be applied, whether she is about to be registered or not, shall be ascertained by the same rule.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

(2) Vessels which, requiring to be measured for any purpose other than registry, have cargo on board, and vessels which, requiring to be measured for the purpose of registry, cannot be measured by Rule I, shall be measured by Rule II in Schedule 2, and the owner of any vessel measured under Rule II may at any subsequent period apply to the Minister to have the vessel re-measured under Rule I, and the Minister may, upon payment of such fee as he or she may authorise, direct a vessel to be re-measured accordingly, and the number denoting the register tonnage shall be altered accordingly.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (3) For the purpose of ascertaining the register tonnage of a vessel, the allowance and deductions under this Section shall be made from the tonnage of the vessel ascertained as aforesaid.

[subs (3) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (4) In the measurement of a vessel for the purpose of ascertaining her register tonnage, no deduction shall be allowed in respect of any space which has not been first included in the measurement of her tonnage.

[subs (4) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (5) In ascertaining the tonnage of open vessels, Rule IV in Schedule 2 shall be observed.

[subs (5) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (6) Throughout the rules in Schedule 2, the tonnage deck shall be taken to be the upper deck in vessels which have less than three decks, and to be the second deck from below in all other vessels, and in carrying those rules into effect all measurements shall be taken in feet and fractions of feet shall be expressed in decimals.

[subs (6) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (7) The Minister may make such modifications and alterations as from time to time become necessary in the rules in Schedule 2 for the purpose of the more accurate and uniform application, and the effectual carrying out of the principle of measurement in it adopted.

- (8) The provisions of this Act relating to tonnage, together with the rules for the time being in force, are in this Act referred to as the Tonnage Regulations.

57 Allowance for engine room space in steam vessels

- (1) In the case of any vessel propelled by steam or other power requiring engine room, an allowance shall be made for the space occupied by the propelling power, and the amount so allowed shall be deducted from the gross tonnage of the vessel ascertained in Section 56, and the remainder shall, subject to any deductions hereinafter mentioned, be deemed to be the register tonnage of the vessel, and that deduction shall be estimated as follows:

- (a) as regards vessels propelled by paddle wheels in which the tonnage of the space solely occupied by an necessary for the proper working of the boilers and machinery is above 20 per cent and under 30 per cent of the gross tonnage of the vessel, the deduction shall be thirty-seven one-hundredths of the gross tonnage; and in vessels propelled by screws, in which the tonnage of such space is above thirteen per cent and under twenty per cent of the gross tonnage, the deduction shall be thirty-two one-hundredths of the gross tonnage;
- (b) as regards all other vessels, the deductions shall, if the Minister and the owner both agree, be estimated in the same manner, but either may in his or her discretion, require the space to be measured and the deduction estimated, and whenever the measurement is so required, the deduction shall consist of the tonnage of the space actually occupied by or required to be enclosed for the proper working of the boilers and machinery, with the addition in the case of vessels propelled by paddle wheels of one-half, and in the case of vessels propelled by screws of

three-fourths of the tonnage of the space, and in the case of vessels propelled by screws, the contents of the shaft trunk shall be added to and deemed to form part of the space, and the measurement of the space shall be governed by Rule III in Schedule 2.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (2) The amount allowed under subsection (1) for deduction from the gross tonnage shall not, except in the case of vessels exclusively employed as tugs, exceed 55 per cent of the tonnage which remains after deducting from the gross tonnage calculated under Section 56 any deductions allowed under Section 58.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (3) Such portion of the space above the crown of the engine room and above the upper deck as is framed in for the machinery or for the admission of light and air shall not be included in the measurement of the space occupied by the propelling power, except in pursuance of a request in writing to the Minister by the owner of the vessel, but shall not be included in pursuance of that request unless:

- (a) that portion is first included in the measurement of the gross tonnage; and
- (b) a surveyor of vessels certifies that the portion so framed in is reasonable in extent and is so constructed as to be safe and seaworthy, and that it cannot be used for any purpose other than the machinery or for the admission of light and air to the machinery or boilers of the vessel.

[subs (3) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (4) Goods or stores shall not be stowed or carried in any space measured for propelling power, and if the same are so carried in any vessel, the master and owner of the vessel shall each be liable to a fine not exceeding \$200.

[subs (4) am Act 17 of 2017 s 5, opn 3 Aug 2017]

58 Deductions for ascertaining tonnage

- (1) In measuring or re-measuring a vessel for the purpose of ascertaining her register tonnage, the following deductions shall be made from the space included in the measurement of the tonnage:

- (a) in the case of any vessel:
 - (i) any space used exclusively for the accommodation of the master; and any space occupied by seamen or apprentices and appropriated to their use, which is certified under Schedule 3 with regard to it;
 - (ii) any space used exclusively for the working of the helm, the capstan, and the anchor gear, or for keeping the charts, signals, and other instruments of navigation, and boatswains stores;
 - (iii) the space occupied by the donkey engine and boiler if connected with the main pumps of the vessel; and
 - (iv) any space, other than a double bottom, adapted only for water ballast; and any space, other than a double bottom, adapted only for water ballast; and
- (b) in the case of a vessel wholly propelled by sails, any space set apart and used exclusively for the storage of sails.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (2) The deductions allowed under this Section, other than a deduction for a space occupied by seamen or apprentices, and certified as aforesaid, shall be subject to:
- (a) the space deducted shall be certified by a surveyor of vessels as reasonable in extent and properly and efficiently constructed for the purpose for which it is intended;
 - (b) there shall be permanently marked in or over every such space a notice stating the purpose to which it is to be applied and that whilst so applied it is to be deducted from the tonnage of the vessel; and
 - (c) the deduction on account of space for storage of sails shall not exceed two and a half per cent of the tonnage of the vessel.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

59 Vessels with double bottoms

In the case of a vessel constructed with a double bottom for water ballast, if the space between the inner and other plating of it is certified by a surveyor of vessels to be not available for the carriage of cargo, stores, or fuel, then the depth required by the provisions of Rule I relating to the measurement of transverse areas shall be taken to be the upper side of the inner plating of the double bottom, and that upper side shall, for the purposes of measurement, be deemed to represent the floor timber referred to in Rule I.

[s 59 am Act 17 of 2017 s 5, opn 3 Aug 2017]

60 Tonnage once ascertained to be the tonnage of vessel

Whenever the tonnage of any vessel has been ascertained and registered in accordance with the Tonnage Regulations, the same shall thenceforth be deemed to be the tonnage of the vessel, and shall be repeated in every subsequent registry, unless any alteration is made in the form or capacity of the vessel, or unless it is discovered that the tonnage of the vessel has been erroneously computed, and in either of those cases the vessel shall be re-measured, and her tonnage determined and registered according to the Tonnage Regulations.

[s 60 am Act 17 of 2017 s 5, opn 3 Aug 2017]

61 Surveyors of vessels

The Minister may, at such ports as he or she thinks fit, appoint either generally or for special purposes and on special occasion persons to be surveyors of vessels for the purposes of this Act.

[s 61 am Act 17 of 2017 s 5, opn 3 Aug 2017]

62 Regulations for measurement of vessel

- (1) All duties in relation to the survey and measurement of vessels shall be performed by surveyors of vessels under this Act in accordance with the directions of the Minister.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (2) The Minister may prescribe the maximum fees to be paid in respect of the survey for measurement of a vessel under this Act.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

63 Penalties for offences

- (1) An offence under this Act declared to be a misdemeanour shall be punishable by imprisonment for a term not exceeding 6 months or a fine not exceeding \$200 or both.

- (2) An offence under this Act declared to be a felony shall be punishable by imprisonment for a term not exceeding 5 years or a fine not exceeding \$2,000 or both.

64 Service of documents

- (1) Where for the purposes of this Act, any document is to be served on a person, that document may be served:
- (a) in any case by delivering a copy personally to the person to be served, or by leaving the same at his or her last place of abode;
 - (b) if the document is to be served on the master of a vessel, where there is one, or on a person belonging to a vessel, by leaving the same for him or her on board that vessel with the person being or appearing to be in command or charge of the vessel; and
 - (c) if the document is to be served on the master of a vessel, where there is no master, and the vessel is in the Republic, on the managing owner of the vessel, or if there is no managing owner, on some agent of the owner residing in the Republic, or where no such agent is known or can be found, by affixing a copy to the mast of the vessel.

[subs (1) am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (2) Where a person obstructs the service on the master of a vessel of any document under the provisions of this Act relating to the detention of vessels as unseaworthy, that person shall for each offence be liable to a fine not exceeding \$20, and if the owner or master of the vessel is party or privy to the obstruction, he or she shall in respect of each offence be guilty of a misdemeanour.

[subs (2) am Act 17 of 2017 s 5, opn 3 Aug 2017]

65 Proof etc of exemption

Any exception, exemption proviso, excuse, or qualification in relation to any offence under this Act, whether it does or does not accompany in the same Section the description of the offence, may be proved by the defendant, but need not be specified or negated, in any information or complaint, and, if so specified or negated, no proof in relation to the matter so specified or negated shall be required on the part of the informant or complainant.

65A Jurisdiction

[s 65A rep Act 2 of 2018 s 164, opn 26 Jan 2018]

65B Jurisdiction over vessel lying off coast

[s 65B rep Act 2 of 2018 s 164, opn 26 Jan 2018]

65C Jurisdiction in case of offence on board vessel

[s 65C rep Act 2 of 2018 s 164, opn 26 Jan 2018]

66 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:
- (a) prescribing rules for the safety of vessels, seamen and passengers at sea;

- (b) prohibiting vessels which do not comply with those rules from going to sea;
- (c) prescribing penalties not exceeding \$200, or imprisonment for 6 months, or both for offences against the regulations; and
- (d) prescribing fees to be paid upon making application under this Act or the regulations.
- (e) [Repealed]
- (f) [Repealed]
- (g) [Repealed]
- (h) [Repealed]
- (i) [Repealed]
- (j) [Repealed]
- (k) [Repealed]
- (l) [Repealed]
- (m) [Repealed]
- (n) [Repealed]
- (o) [Repealed]
- (p) [Repealed]

[subs (1) am Act 17 of 2017 ss 5 and 15, opn 3 Aug 2017; Act 2 of 2018 s 164, opn 26 Jan 2018]

- (2) An application under this Act or the regulations shall be accompanied by the prescribed fee, if any.

67 Compliance with International Conventions and Agreements

[s 67 rep Act 2 of 2018 s 164, opn 26 Jan 2018]

68 Transitional

[s 68 rep Act 2 of 2018 s 164, opn 26 Jan 2018]

SCHEDULE 1

[Section 48(1)]

FORMS OF INSTRUMENTS AND DOCUMENTS

Bill of Sale

Mortgage

Certificate of Surveyor

Declaration of ownership by individual owner

Declaration of ownership on behalf of a company as owner

Declaration of ownership on behalf of a statutory corporation as owner

Certificate of Registry

Provisional Certificate

Declaration of owner taking by transmission

Declaration of mortgagee taking by transmission

SCHEDULE 2

[Section 56(1), (6) and (7) and 57(1)(b)]

MEASUREMENT OF TONNAGE

[Sch 2 am Act 17 of 2017 s 5, opn 3 Aug 2017]

Rule I

- (1) Measure the length of the vessel in a straight line along the upper side of the tonnage deck from the inside of the inner plank (average thickness) at the side of the stem to the inside of the midship stern timber or plank there, as the case may be (average thickness), deducting from this length what is due to the rake of the bow in the thickness of the deck, and what is due to the rake of the stern timber in the thickness of the deck, and also what is due to the rake of the stern timber in one-third of the round beam; divide the length so taken into the number of equal parts required by the following table, according to the class in such table to which the vessel belongs:-

TABLE

- | | |
|----------|---|
| Class 1. | Vessels of which the tonnage deck is according to the above measurement 50 feet long or under, into 4 equal parts: |
| Class 2. | Vessels of which the tonnage deck is according to the above measurement above 50 feet long and not exceeding 120, into 6 equal parts: |
| Class 3. | Vessels of which the tonnage deck is according to the above measurement above 120 feet long and not exceeding 180, into 8 equal parts: |
| Class 4. | Vessels of which the tonnage deck is according to the above measurement above 180 feet long and not exceeding 225, into 10 equal parts: |
| Class 5. | Vessels of which the tonnage deck is according to the above measurement above 225 feet long, into 12 equal parts: |

- (2) Then the hold being first sufficiently cleared to admit of the required depths and breadths being properly taken, find the transverse area of the vessel at each point of division of the length as follows:-Measure the depth at each point of division, from a point at a distance of one-third of the round of the beam below the tonnage deck, or, in case of a break, below a line stretched in continuation thereof, to the upper side of the floor timber at the inside of the limber strake, after deducting the average thickness of the ceiling which is between the bilge planks and limber strake (subject, however, to the provisions of this Act in the case of a vessel constructed with a double bottom for water ballast); then if the depth at the midship division of the length do not exceed sixteen feet, divide each depth into four equal parts; then measure the inside horizontal breadth at each of the three points of division, and also at the upper and lower points of the depth, extending each measurement to the average thickness of that part of the ceiling which is between the points of measurement; number these breadths from above (ie, numbering the upper breadth one, and so on down to the lowest breadth); multiply the second and fourth by four, and the third by two; add these products together, and to the sum add the first breadth and the fifth; multiply the quantity thus obtained by one-third of the common interval between the breadths, and the product shall be deemed the transverse area; but if the midship depth exceed sixteen feet, divide each depth into six equal parts instead of four, and measure as before directed the horizontal breadths at the five points of division, and also at the upper and lower points of the depth; number them from above as before; multiply the second, fourth, and sixth by four, and the third and fifth by two; add these products together, and to the sum add the first breadth and the seventh; multiply the quantity thus obtained by one-third of the common interval between the breadth, and the product shall be deemed the transverse area.

- (3) Having thus ascertained the transverse area at each point of division of the length of the vessel as required by the above table, proceed to ascertain the register tonnage under the tonnage deck in the following manner:- Number the areas respectively 1, 2, 3 etc, No 1 being at the extreme limit of the length at the bow, and the last No. at the extreme limit at the length at the stern; then, whether the length be divided according to the table into four or twelve parts as in classes 1 and 5, or any intermediate number as in classes 2, 3, and 4, multiply the second and every even numbered area by four, and the third and every odd numbered area (except the first and last) by two; add these products together, and to the sum add the first and last if they yield anything; multiply the quantity thus obtained by one-third of the common interval between the areas, and the product will be the cubical contents of the space under the tonnage deck, divide this product by one hundred, and the quotient, being the tonnage under the tonnage deck, shall be deemed to be the register tonnage of the vessel subject to any additions and deductions under this Act.
- (4) If the vessel had a third deck, commonly called a spar deck, the tonnage of the space between it and the tonnage deck shall be ascertained as follows:-Measure in feet the inside length of the space at the middle of its height from the plank at the side of the stem to the lining on the timbers at the stern, and divide the length into the same number of equal parts into which the length of the tonnage deck is divided as above directed; measure (also at the middle of its height) the inside breadth of the space at each of the points of division, also the breadth at the stem and the breadth at the stern; number them successively 1, 2, 3 etc, commencing at the stem; multiply the second and all the other even numbered breadths by four, and the third and all other odd numbered breadths (except the first and last) by two; to the sum of these products add the first and last breadths; multiply the whole sum by one-third of the common interval between the breadths and the result will give in superficial feet the mean horizontal area of space; measure the mean height of the space, multiply by it the mean horizontal area, and the product will be the cubical contents of the space; divide this product by one hundred and the quotient shall be deemed to be the tonnage of the space and shall be added to the tonnage of the vessel ascertained as aforesaid. If the vessel has more than three decks, the tonnage of each space between decks above the tonnage deck shall be severally ascertained in manner above described, and shall be added to the tonnage of the vessel ascertained as aforesaid.
- (5) If there be a break, a poop, or any other permanent closed-in space on the upper deck, available for cargo or stores, or for the berthing or accommodation of passengers or crew, the tonnage of that space shall be ascertained as follows:- Measure the internal mean length of the space in feet, and divide it into two equal parts; measure at the middle of its height three inside breadths, namely, one at each end and the other at the middle of the length; then to the sum of the end breadths add four times the middle breadth, and multiply the whole sum by one-third of the common interval between the breadths, the product will give the mean horizontal area of the space; then measure the mean height, and multiply by it the mean horizontal area; divide the product by one hundred, and the quotient shall be deemed to be the tonnage of the space, and shall be added to the tonnage under the tonnage deck ascertained aforesaid. Provided that no addition shall be made in respect of any building erected for the shelter of deck passengers and approved by the Board of Trade.

Rule II

- (1) Measure the length on the uppermost deck from the outside of the outer plank at the stem to the aftside of the stern post, deducting therefrom the distance between the aftside of the stern post and the rabbet of the stern post at the point where the counter plank crosses it; measure also the greatest breadth of the vessel to the outside of the outer planking or wales, and then, having first marked on the outside of the vessel on both sides thereof the height of the upper deck at the vessel's sides, girth the vessel at the greatest breadth in a direction perpendicular to the keel from the height so marked on the outside of the vessel on the one side to the height so marked on the other side by passing a chain under the keel; to half the girth thus taken add half the main breadth; square the sum; multiply the result by the length of vessel taken as aforesaid; then multiply this product by the factor .0018 (eighteen ten-thousandths) in the case of vessels built of wood, and .0021 (twenty-one ten-thousandths) in the case of vessels built of iron, and the product shall be deemed the register tonnage of the vessel, subject to any additions and deductions under this Act.
- (2) If there be a break, a poop, or other closed-in space on the upper deck, the tonnage of that space shall be ascertained by multiplying together the mean length, breadth, and depth of the space, and dividing the product by 100 and the quotient so obtained shall be deemed to be the tonnage of the space, and shall be added to the tonnage of the vessel ascertained as aforesaid.

Rule III

- (i) Measure the mean depth of the space from its crown to the ceiling at the limber strake, measure also three, or, if necessary, more than three breadths of the space at the middle of its depth, taking one of those measurements at each end, and another at the middle of the length; take the mean of those breadths; measure also the mean length of the space between the foremost and aftermost bulkheads or limits of its length, excluding such parts, if any, as are not actually occupied by or required for the proper working of the machinery; multiply together these three dimensions of length, breadth, and depth, divide the product by 100 and the result shall be deemed the tonnage of the space below the crown; then find the cubical contents of the space or spaces, if any, above the crown aforesaid, which are framed in for the machinery or for the admission of light and air, by multiplying together the length, depth, and breadth thereof; add such contents to the cubical contents of the space below the crown; divide the sum by 100; and the result shall (subject to the provisions herein-after contained) be deemed to be the tonnage of the space.
- (ii) If in any vessel in which the space for propelling power is to be measured the engines and boilers are fitted in separate compartments, the contents of each shall be measured severally in like manner according to the above rules, and the sum of their several results shall be deemed to be the tonnage of the said space.
- (ii) In the case of screw steamers in which the space for propelling power is to be measured, the contents of the shaft trunk shall be ascertained by multiplying together the mean length, breadth, and depth of the trunk, and dividing the product by 100.
- (iv) If in any vessel in which the space aforesaid is to be measured any alteration to be made in the length or capacity of the spaces or if any cabins be fitted in the space, the vessel shall be deemed to be a vessel not registered until remeasurement.

Rule IV

In ascertaining the tonnage of open vessels the upper edge of the upper strake is to form the boundary line of measurement, and the depths shall be taken from an athwart ship line extended from upper edge to upper edge of the said strake at each division of the length.

SCHEDULE 3

[Section 58(1)(a)(i)]

REGULATIONS TO BE OBSERVED WITH RESPECT TO ACCOMMODATION ON BOARD VESSELS

[Sch 3 am Act 17 of 2017 s 5, opn 3 Aug 2017]

- (1) Every place in a vessel occupied by seamen or apprentices, and appropriated to their use, shall be securely constructed, properly lighted and ventilated, properly protected from weather and sea, and as far as practicable properly shut off and protected from effluvia which may be caused by cargo or bilge water.
- (2) A place so occupied and appropriated as aforesaid shall not authorise a deduction from registered tonnage under the tonnage regulations of this Act unless there be in the vessel properly constructed privies for the use of the crew, of such number and of such construction as may be approved by the surveyor of vessels.
- (3) Every place so occupied and appropriated as aforesaid shall, whenever the vessel is registered or re-registered, be inspected by one of the surveyors of vessels under this Act, who shall, if satisfied that the same is in all respects such as is required by this Act, give to the Registrar a certificate to that effect, and if the certificate is obtained, but not otherwise, the space shall be deducted from the register tonnage.
- (4) No deduction from tonnage as aforesaid shall be authorised unless there is permanently cut in a beam, and cut in or painted on or over the doorway or hatchway of every place so occupied and appropriated, the number of men which it is constructed to accommodate, with the words 'Certified to accommodate seamen'.
- (5) Upon any complaint concerning any place so occupied and appropriated as aforesaid, a surveyor of vessels may inspect the place, and if he or she finds that any of the provisions of this Act with respect to the same are not complied with he or she shall report the same to the Registrar, and thereupon the registered tonnage shall be altered, and the deduction aforesaid in respect of space disallowed, unless and until it be certified by the surveyor, or by some other surveyor of vessels, that the provisions of this Act in respect of the place are fully complied with.

