

Shipping Ordinance 1963

*Although repealed by 1985, No 3 (CI), restored by 1986, No 4 (CI)
but repealed again by Shipping Act No 17 of 1998*

COOK ISLANDS

SHIPPING ORDINANCE, 1963 1963, No. 9

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1963, No. 9

An Ordinance of the Legislative Assembly of the Cook Islands relating to shipping and seamen.

(29 November 1963.)

1. Short Title and Commencement - (1) This Ordinance may be cite as the Cook Islands Shipping Ordinance, 1963.

(2) This Ordinance shall come into force on the day after the day on which it is publicly notified by the [High Commissioner] in such manner as he may think fit.

[Ordinance came into force on 1 January 1964. Public notice was published in the Cook Islands Gazette on 27 January 1964.]

2. Interpretation - In this Ordinance unless the context of otherwise requires -

"The Act" means the Cook Islands Act, 1915; "Board" or "the Board" means the Cook Islands Marine Board constituted by section 3 of this Ordinance;

"Boat" means any small craft, whether open or decked, and includes barges, lighters and like vessels;

"Classification certificate" means a Certificate of Class issued by a Classification Society;

"Comptroller" means the Comptroller of Customs or other principal officer of customs at the port or place of arrival of any ship or boat to which this Ordinance applies;

"Cook Islands" means the Cook Islands as defined in Part I of the Cook Islands Amendment Act, 1957;

"The Crown" means Her Majesty in right of Her Government in the Cook Islands;

"Executive Committee" means the Executive Committee of the Cook Islands in terms of section 8 of the Cook Islands Amendment Act 1957;

"Dangerous goods" means goods which, by reason of their nature, quantity or mode of stowage are liable, either singly or collectively, to endanger the lives of persons on or near the ship, or to imperil any ship; and includes aquafortis, vitriol, naphtha, benzine, aviation motor-spirit, gunpowder or other explosives, lucifer-matches, nitro-glycerine, petroleum and any other goods which are of a dangerous nature or any other goods declared to be dangerous goods for the purposes of this Ordinance by rules or regulations made there under or by the [High Commissioner] by notice in the Cook Islands Gazette;

"Load Line certificate" means a load line Convention certificate;

"Master" means any person (except a pilot) having command or charge of any ship;

"Passenger" means any person carried on a ship or boat, other than –

(a) A person employed or engaged in any capacity on board the ship on the business of the ship;

(b) A person on board the ship either in pursuance of an obligation laid upon the master to carry shipwrecked, distressed, or other persons, or by reason of any circumstances that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled;

(c) A child under one year of age;

"Pilot", in relation to any ship, means any person not belonging to the ship who has; the conduct thereof;

"Receiver" means a Receiver of Wreck appointed under Section 53 of this Ordinance;

"[High Commissioner]" means the [High commissioner] of the Cook Islands appointed under Part I of the Cook Islands Act 1957, and includes a Deputy [High Commissioner] of the Cook Islands lawfully acting as such;

"Salvage" includes all expenses properly incurred by the salvor in the performance of the salvage;

"Seaman" means any person employed or engaged in any capacity on board any ship (except a master, pilot, or apprentice, or a person temporarily employed on the ship while in port);

"Ship" means any vessel customarily used for the carriage of passengers or goods but does not include barges, lighters and like vessels;

"Tidal water" means any part of the sea;

"Wreck" includes any property which a Receiver is required or authorised by this Ordinance to take into his possession.

PART I - COOK ISLANDS MARINE BOARD

3. Cook Islands Marine Board - (1) For the purposes of this Ordinance there is hereby established a Board to be called the Cook Islands Marine Board, consisting of –

(a) The Comptroller of Customs;

(b) The Superintendent of Radio;

(c) Three other persons (whether officers of the Cook Islands Public Service or not), to be appointed by the [High Commissioner], and to hold office during his pleasure.

(2) In the absence or incapacity of the Comptroller of Customs the [High Commissioner] may appoint some other officer of the Cook Islands Public Service to act in his stead for the purposes of this Ordinance and such officer shall have all the powers and functions conferred on the Comptroller of Customs by this Ordinance.

(3) Subject to any directions issued by the [High Commissioner], acting with the approval and consent of the Executive Committee, the Board shall be charged –

(a) Except as may otherwise be provided by this or any other Ordinance or in the exercise of any power or authority conferred by any such Ordinance or otherwise, with the superintendence of all matters relating to shipping and seamen.

4. Meetings of the Board - (1) The Comptroller of Customs or in his absence any person appointed by the [High Commissioner] under the provisions of section 3(2) above, shall be the Chairman of the Board, and shall preside at all meetings of the Board at which he is present.

(2) In the absence of the Chairman from any meeting of the Board, the members present shall elect one of their number to be chairman of the meeting.

(3) In the absence from any meeting of the Board of any member appointed under paragraph (a) or paragraph (b) of sub-section (1) of section 3 of this Ordinance, any officer of his department appointed by him may attend the meeting, and while so attending any meeting he shall be deemed for all purposes to be a member of the Board. The fact that any such person attends and acts as a member of the Board at any meeting shall be conclusive proof of his authority to do so.

(4) Meetings of the Board shall be held at such times and places as the Board or the Chairman may from time to time appoint.

(5) On all questions before the Board the Chairman shall have a deliberative vote and, in the case of equality of votes, shall also have a casting vote.

(6) All proceedings and resolutions of the Board shall be recorded in minutes kept by the Board.

5. Powers of the Board - (1) The Board shall have all the powers and authorities reasonably necessary for and incidental or conducive to the effective performance or exercise of any duties or responsibilities by which the Board is charged by or under this Ordinance or any other Ordinance or otherwise

(2) The Board shall have the power to delegate all or any of its powers to any Resident Agent or other officer of the Cook Islands Public Service.

(3) In the event of any emergency arising which in his opinion might involve risk of life the Chairman may without further authority assume and exercise any or all of the powers conferred on the Board by this Ordinance; the Chairman shall report to the Board at its next meeting any decisions given by him pursuant to this subsection.

(4) The Board or any member of the Board or any person authorised by the Board in writing may go aboard any ship or boat and examine the same or part thereof, or any of the machinery; life boats, equipments, stores, or articles aboard that ship or boat to which the provisions of this Ordinance apply.

(5) The Board shall have power to make any inquiries it thinks fit to make whether or not a shipping casualty shall be deemed to have occurred and for this purpose it may –

(a) Require the attendance of all such persons as it thinks fit to call before it and examine; and

(b) Require answers or returns to any questions or requests for information it thinks fit to make; and

(c) Require and enforce the production of all books, papers or documents which it thinks fit; and

(d) Obtain such statements on oath as it deems necessary or require the person examined by it to make and subscribe a declaration of the truth of the statements made by him in his examination.

6. Persons obstructing the Board - Every person who obstructs any member of the Board or any person authorised by the Board in writing in the execution of his duty, whether on board ship or elsewhere, shall for each offence be liable to a fine not exceeding twenty pounds.

7. Remuneration of members of the Board - The [High Commissioner] may, in writing under his hand or by regulation under this Ordinance specify what fee or fees are to be paid to members of the Board in respect of each attendance at a meeting of the Board or otherwise.

8. Board to report to [High Commissioner] - The Board shall cause to be prepared a report on its activities for the year ended thirty-first day of December in any year and shall present such report to the [High Commissioner] not later than the following thirty-first day of January.

PART II - MASTERS, ENGINEERS AND SEAMEN

9. Ships to have certificated master and engineer – (1) Every ship which is not exempted by subsection 21 (2) of this Ordinance, when proceeding to sea from any port or island of the Cook Islands shall be provided with a master and an engineer who are the holders for the time being of a valid certificate of competency issued by the Board.

(2) If, in the case of any ship, there is failure to comply with the provisions of sub-section (1), the owner and the master of the ship shall each be deemed to commit an offence against this Ordinance, and the ship may be detained.

(3) Every person commits an offence against this Ordinance who -

(a) Suffers himself to be engaged, or who acts, as either master or engineer on a ship without being the holder of a valid certificate of competency issued by the Board; or,

(b) Knowingly or negligently employs any such person as aforesaid.

(4) Every owner of a ship who fraudulently engages the holder of a Certificate of Competency for the purpose only of enabling the ship to clear and not for the purpose of the whole voyage, commits an offence against this Ordinance.

10. Examination for certificate - (1) For the purpose of granting certificates of competency as master or engineers to persons desirous of obtaining the same, examinations may be held at such times and places and by such Examiners as the Board may from time to time appoint.

(2) The Board may make rules pursuant to this section to -

(a) Prescribe the qualifications as to nationality and citizenship, age, physical fitness, experience, length of service, character, or otherwise for the grant: of certificates of competency; and

(b) Provide for the conduct of examinations; of candidates for certificates of competency;

(c) Exempt from examination any applicants for a certificate of competency who satisfy the Board, by the production of certificates or otherwise, that they are qualified without further examination to receive and hold the certificates for which they have applied; and

(d) Prescribe the fees to be paid by candidates for examination and the remuneration to be paid to Examiners.

11. Certificates of competency - (1) The Comptroller shall on the payment of any fees which may be prescribed by rules made pursuant to paragraph (d) of Sub-section 10(2) of this Ordinance cause to be delivered to every applicant who possesses the necessary qualifications

and is duly reported by the Examiners to have passed the examination satisfactorily or exempted from examination, and to have given satisfactory evidence of his sobriety, experience, ability, and general conduct on board ship, such a certificate of competency as the case requires.

(2) The Comptroller may, in any case in which a report to him has been unduly made; remit the case to the Examiners, and may require a re-examination of the applicant, or a further inquiry into his testimonials and character before granting him a certificate.

12. Certificates to be in duplicate and provisions as to lost certificates - A certificates of competency shall be made in a form approved by the Board and shall be in duplicate, one part to be delivered to the person entitled to the certificate and one to be preserved.

(2) If a master or engineer proves to the satisfaction of the Comptroller that he has, without fault on his part, lost or been deprived of a certificate already granted to him, the Comptroller shall cause a copy of the certificate to which he appears to be entitled to be delivered to him; and a copy purporting to be so certified shall have all the effect of the original.

13. Power as to certificates, etc. - (1) The Board may suspend or cancel the certificate of competency of any master or engineer if -

- (a) The person to whom the certificate was granted has been convicted of any offence or crime under this Ordinance; or
- (b) The person to whom the certificate was granted has been convicted of any offence punishable by fine or imprisonment which occurred aboard any ship on which he was or is serving after the issue of the certificate; or
- (c) The person to whom the certificate was granted is sixty-five years of age or over; or
- (d) The person to whom the certificate was granted is, in the opinion of a Medical Officer physically or mentally incapable of performing his duties in a satisfactory manner.

(2) For the purposes of this section the Board may, at any time, direct the holder of a certificate of competency to be examined by a Medical Officer nominated by the Board and if such holder fails to comply with such direction the certificate shall be cancelled on this account and a new certificate shall not be issued until such time as the Board has considered a medical report on the applicant made by the Medical Officer previously nominated.

14. Agreements with crew - (1) The master of every ship proceeding outside the limits of the Cook Islands shall enter into an agreement with every seaman whom he carries to sea as one of his crew in accordance with the provisions of this section.

(2) If the master of any ship to which this section applies carries any seaman to sea without entering into an agreement with him in accordance with this Ordinance, the owner and the master shall each be deemed to commit an offence against this Ordinance.

(3) The agreement required by this Section shall be made in a form approved by the [High Commissioner], and shall be dated at the time of the first signature thereof, and shall be

signed by the master before a seaman signs it, and shall contain as the terms thereof the following particulars:-

- (a) Either the nature, and, as far as is practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is to extend;
- (b) The name of the seaman, the capacity in which he is to serve, and the amount of wages which he is to receive;
- (c) The time at which each seaman is to be on board or to begin work;
- (d) The scale of provisions to be furnished to each seaman.

(4) The agreement with the crew shall be so framed as to admit of such stipulations, to be adopted at the will of the master and seaman in each case, whether respecting the advance and allotment of wages or otherwise, as are not contrary to law; and shall be signed by both parties thereto in the presence of an officer of customs who shall retain one copy thereof and hand one to the master.

(5) Every agreement required by this section shall be in the English language but if made with a member of the crew who does not speak the English language it shall be read and explained to him in his own language in the presence of an officer of police or customs who shall endorse on the agreement a certificate that this has been done.

(6) The master of every ship for which an agreement with the crew is required shall at all reasonable times make his copy of the agreement available to any seaman who requests it for perusal and if the master fails without reasonable cause to comply with this section he commits an offence against this Ordinance.

(7) Every seaman who, during; the currency of the agreement, removes or wilfully defaces or destroys any copy of the agreement; either before or after it has been made available to him by the master in accordance with the preceding sub-section and every other person who, during the currency of the agreement removes or wilfully destroys or defaces any copy of the agreement, commits an offence against this Ordinance.

(8) Every person is guilty of an offence who -

- (a) Fraudulently alters, makes any false entry in, or delivers a false copy of any agreement with the crew; or
- (b) Assists in committing or procures to be committed any such offence.

(9) Every erasure, interlineation, or alteration in any agreement with the crew shall be wholly inoperative unless proved to have been made with the consent of all the persons interested in the erasure, interlineation, or alteration, by the written attestation of an officer of customs.

(10) If a seaman is engaged at a place within the Cook Islands where there is no officer of customs, the agreement shall be made and signed by both parties thereto in the presence of a Resident Agent or officer of police who shall attest each signature and forward one copy of

the agreement to the Comptroller by the first available rail.

(11) Notwithstanding anything to the contrary in this section, the [High Commissioner] may make such rules or regulations relating to agreements with the crew in respect of voyages either outside the limits of the Cook Islands or within those limits, as he thinks fit.

15. Employment of young persons as seamen or apprentices - (1) No person under the age of sixteen years shall be employed in any capacity on any ship.

(2) The parent or guardian of any person shall not knowingly cause or permit him to be employed in contravention of the terms of this section.

(3) Every person commits an offence against this Ordinance who fails to comply with any provision of this section; and if any person is employed on any ship in contravention of this section, the owner and the master of the ship shall each be deemed to commit an offence against this Ordinance.

16. Discharge of Seamen - (1) Subject to any agreement with the crew, where any seaman is engaged in the Cook Islands to be entered on board any ship for a voyage or voyages which are to terminate in the Cook Islands:-

(a) the engagement may be determined in the Cook Islands at any time after the ship's arrival at her final port of discharge in the Cook Islands, consequent on the completion of a round voyage, by twenty-four hours' previous notice on either side;

(b) If, at any port within the Cook Islands other than that at which the seaman was engaged, the master determines the agreement, or the agreement expires by the effluxion of time, the seaman shall, if he so desires, be entitled to a free passage back to the port at which he was engaged.

(2) With the approval of the master, the chief engineer may give notice of the termination of the engagement to members of the crew employed in the engine room.

(3) Where a seaman serving on any ship for which an agreement with the crew is required is, on the termination of his engagement, discharged in the Cook Islands, he shall be discharged in manner provided by this Ordinance, in the presence of an officer of customs, if the discharge takes place at Rarotonga, or in the presence of a Resident Agent or officer of police if the discharge takes place where there is no officer of customs.

(4) If in the case of any seaman discharged from any ship in the Cook Islands there is failure to comply with the provisions of this section, the owner (if in fault) and the master (if in fault) commit an offence against this Ordinance.

(5) Notwithstanding anything to the contrary in this section the [High Commissioner] may make such regulations as he thinks fit relating to the discharge of seamen after or during any voyage, or for the payment of any fees upon the engagement or discharge of any seaman.

17. Payment of wages - (1) Where a seaman is discharged before an officer of customs or other person specified in this section he shall receive his wages in the presence of such officer of

customs or other person so specified unless a Court of competent jurisdiction directs otherwise, and in such a case if the master or owner of a ship pays his wages within the Cook Islands in any other manner he commits an offence against this Ordinance.

(2) The master of any ship, being a ship for which an agreement with the crew is required, shall before paying off or discharging a seaman in the Cook Islands, deliver at the time and in the manner provided by this Ordinance a full and true account in a form approved by the [High Commissioner], of the seaman's wages, and of all deductions to be made therefrom on any account whatever.

(3) The said account shall be delivered either to the seaman himself at or before the time of his leaving the ship, or to the officer of customs or other person specified as in sub-section (1) hereof not less than twenty-four hours before the seaman is discharged or paid off.

(4) The master of a ship, or the owner thereof (if any fault), who fails without reasonable cause to comply with this section commits an offence against this Ordinance.

(5) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of sub-section (3) hereof, except in respect of a matter happening after the delivery.

(6) The master shall during the voyage enter the various matters in respect of which the deductions are made, with the amounts of those deductions, which shall be initialled or signed by the seaman, as they occur, in a book to be kept for that purpose, and shall, if required, produce the book at the time of the payment of wages and also upon, the hearing of any competent authority of any complaint or question relating to that payment.

(7) The master or owner of every ship shall pay to every seaman his wages -

(a) If the seaman is discharged before an officer of customs, or other specified officer, at the time of discharge;

(b) In any other case, within two days after the termination of his engagement.

(8) If a master or owner fails without reasonable cause to make payment in accordance with the preceding sub-section, he shall pay to the seaman a sum not exceeding the amount of two days' double pay. Any sum payable under this sub-section may be recoverable as wages.

(9) All wages earned shall be paid monthly, on the first day of the month or within seven days thereafter, or as soon thereafter as the ship arrives at Rarotonga:

Provided that Sundays or public holidays shall not count as days within the meaning of this sub-section.

(10) In the event of any dispute between the master or owner and a seaman regarding the amount of wages due and payable or the amount of any deduction from those wages, the officer of customs shall cause the dispute to be notified to the Board which shall determine the dispute on the facts of the case and which may for this purpose call such witnesses and examine such persons and papers as it thinks fit:

Provided that if the Board is of the opinion that the question is one which ought to be decided by a Court of law, the Board may refuse to decide it.

17A. Seamen to be members of the Union - Every seaman employed on any ship or which a general safety certificate is required in terms of section 21 of this Ordinance shall be a member of the Cook Islands (except Niue) Industrial Union of Workers and every owner or Master who employs a seaman who is not a member of the aforesaid Union commits an offence against this Ordinance.

18. Allotment of wages - (1) Any stipulation made at the commencement of a voyage by a seaman engaged in the Cook Islands to be entered on board any ship for which an agreement is required for the allotment of any part of his wages during his absence shall be inserted in the agreement with the crew, and shall state the amounts and times of the payments to be made.

(2) An officer of customs shall, upon the discharge of any seaman from whose wages a deduction has been made in respect of any allotment of wages, satisfy himself that such allotment has in fact been paid to the person or persons stated in the agreement with the crew.

19. Ship's log to be kept - (1) The master of every ship shall keep a log in such form as may be prescribed and shall sign and date each entry made therein.

(2) The master shall enter or cause to be entered in the log book as soon as practicable after the occurrence the following matters, that is to say:-

- (a) Every offence committed by a member of his crew for which it is intended to prosecute;
- (b) A statement of the misconduct of any member of his crew;
- (c) Every case of injury or serious illness happening to a member of his crew or to a passenger together with the place, time, manner and cause thereof;
- (d) Every birth, marriage or death taking place on board, with the names and ages of the parties;
- (e) The wages due to any member of his crew who dies during the voyage and the gross amount of any deductions to be made therefrom;
- (f) The sale of the effects of any member of his crew who dies during any voyage, including a statement of each article sold, and the sum received for it;
- (g) Every collision with any other ship, and the circumstances under which it occurred;
- (h) Every stranding, or fire, and the circumstances under which the same occurred;
- (i) Full particulars respecting any accident to machinery or boilers, the date, time and nature thereof and details of what was done to repair the same;
- (j) Full details of any damage caused to the ship or its equipments by any means whatsoever or any loss of boats or equipments or any other matter which may affect the seaworthiness of the ship or the granting of a certificate thereto under this Ordinance;
- (k) Every other matter directed to be entered by this Ordinance or by rules or regulations made thereunder.

(3) Every entry made in the log-book shall be countersigned, in the case of accident to machinery or boilers or of other matters relating to the engine room, by the Chief Engineer and in all other cases by the mate or other responsible member of the crew.

(4) Every entry made in the log-book in the manner provided by this section shall be admissible in evidence.

(5) If a log-book is not kept in the manner required by this section, or if an entry directed thereby to be made therein is not made at the time and in the manner directed by this section, the master shall be liable for each offence to a fine not exceeding five pounds.

(6) Every person who makes, or procures to be made, or assists in making any entry in a log-book in respect of any occurrence happening previously to the arrival of the vessel at her final port of discharge more than twenty-four hours after that arrival is liable for each offence to a fine not exceeding twenty pounds.

(7) Every person commits a crime who wilfully destroys or mutilates or renders illegible any entry in a log-book or wilfully makes, or procures to be made or assists in making a false or fraudulent entry in or omission from a log-book.

(8) The log-book shall at all times be open to inspection by any officer of customs or by any member of the Board.

(9) Upon any change of masters taking place the log-book shall be handed to the new master.

(10), In the event of the ship becoming a total loss, or becoming stranded, the log-book shall if recovered be handed or forwarded to the Comptroller.

20. Notice of deaths or accidents to be given - (1) In the case of death or of accident whereby a seaman employed on or about any ship or a passenger carried on any ship is killed or becomes totally, permanently, or temporarily incapacitated the master shall, on arrival at any port or island in the Cook Islands, if the death occurs at sea, or if it occurs at a port or island in the Cook Islands, then before sailing from that port or island, report the same to the Comptroller or Resident Agent, who shall inquire into the cause of death or accident, and shall, in the case of death or of total incapacity, make in the official log an entry to the effect either that the statement of the cause of the death or accident therein contained is in his opinion true or otherwise, as the result of the inquiry requires; and the Comptroller or Resident Agent shall, for the purpose of that inquiry, have the powers of the Board under this Ordinance.

(2) If in the course of the inquiry it appears to the Comptroller or Resident Agent that any such death or accident as aforesaid has been caused by violence or improper means, he shall either report the matter to the Police, or, if the emergency of the case so requires take immediate steps to bring the offender or offenders to justice.

(3) The Comptroller or Resident Agent shall report to the [High Commissioner] on every inquiry held by him under this section.

(4) If the master fails to comply with the provisions of this section or to render such assistance as may be necessary to facilitate the inquiry he commits an offence against this Ordinance.

PART III - SAFETY

21. Prohibition on proceeding to sea without appropriate certificate - (1) No ships shall proceed to sea from any port or island in the Cook Islands unless there is in force in respect of the ship a General Safety Certificate.

(2) Part III of this Ordinance shall not apply to any ship which is required by the laws of some other country or territory to comply with regulations or rules of any equivalent nature except that the Board may declare by notice published in the Cook Islands Gazette that this subsection shall not apply to that particular ship.

22. Application for certificate - (1) Every owner who wishes to obtain a General Safety Certificate for a ship shall complete the application form prescribed in the First Schedule to this Ordinance and send it to the Comptroller.

(2) It shall be the duty of the Comptroller to refer the application form to the Board and if directed by the Board to issue a certificate in the form prescribed in the Second Schedule to this Ordinance.

23. Duration of certificate - (1) Except as provided in sub-sections an every certificate shall be issued for a period of up to but not exceeding twelve months from the date of issue.

(2) The Board may, at its discretion, grant an application for the extension of a certificate for a period not exceeding two months beyond the date of its expire.

(3) The Board may, at its discretion, revoke such certificate by giving notice in writing to the owner of the ship and any person who takes the ship to sea without there being a valid certificate for that ship shall be guilty of an offence.

24. Certificate to be displayed in a conspicuous place - Every certificate issued under this Ordinance shall be fixed and kept in a conspicuous place on the ship in respect of which the certificate was issued.

25. Onus of proof - In any prosecution under this Ordinance charging any person with taking a ship to sea without a certificate, the charge shall be deemed proved if it is shown to the satisfaction of the High Court that the accused did actually take the ship to sea unless the accused can produce a valid certificate in the High Court or can show to the satisfaction of the Court that such certificate was duly taken out.

26. Penalty for proceeding to sea without a certificate - Any person who commits an offence against this Part of the Ordinance shall be liable in respect of each offence to a fine not exceeding one hundred pounds and where the offence is a continuing one he shall, in addition, be liable to a fine of twenty pounds for every day or part of a day during which the offence continues.

27. Shipping rules - (1) The Board may make such rules as it thinks fit for the safety of any ship or boat or its passengers or crew and such rules shall have the same force and effect as if they were rules or regulations passed under this Ordinance and failure to comply with such rules shall be an offence against this Ordinance.

(2) The preceding sub-section shall not apply to any ship which is required by the laws of some other country or territory to comply with regulations or rules of an equivalent nature except that the Board may declare by notice published in the Cook Islands Gazette that this sub-section shall not apply to any particular ship.

(3). Subject to the provisions of this Ordinance the Board may prescribe by rules -

(a) The number of passengers or crew that may be carried either within or outside the limits of the Cook Islands;

(b) The type and numbers of life-boats, inflatable life-rafts, life-jackets, life-buoys, lights, flares, fire-extinguishers, pumps and any other safety equipment or apparatus, including ladders for use where passengers or crew are required to embark or disembark into or from lighters or launches, that shall be carried;

(c) The equipments, apparatus and stores to be provided for life-boats, inflatable life-rafts or ship's launches;

(d) The maximum depth to which the ship may be loaded and the markings to indicate: the same;

(e) The type and quantity of deck cargo that may be carried;

(f) Any special ventilation or other modifications to be provided or made to any ship permitted by the Board to carry motor spirit, aviation spirit or any other inflammable liquid or explosives on any specified voyage or voyages;

(g) The equipments, apparatus, stores and supplies to be carried for the maintenance or repair of the hull, machinery and equipments of the ship in a seaworthy condition;

(h) The certificates to be obtained at each annual survey;

(i) Any other thing which, in the Board's opinion, is necessary for the safety of the ship, its passengers or its crew.

[Rules relating to inter-island vessels have been reprinted verbatim following this Ordinance.]

28. Carrying passengers or crew in excess of specified numbers - Every owner or master who receives or permits to be on board or carries passengers or crew in contravention of any rule specifying numbers made under paragraph (a) of sub-section 27(3) commits an offence against this Ordinance and shall be liable to a fine not exceeding one hundred pounds and to a further fine not exceeding double the amount of the fares of all the passengers so received or permitted to be on board or carried, reckoned at the highest rate of fare payable by any passenger on board.

29. Bad weather - (1) Notwithstanding any other provision in this Ordinance the Comptroller or any Resident Agent if of the opinion that the weather as existing or as forecast is sufficiently bad as to involve risk of life may by notice given to the master of a ship in any manner whatsoever -

- (a) Order that all passengers be removed from that ship; or
- (b) Fix the number of passengers that may be carried on that ship and on that particular trip at such number as is deemed reasonable under the circumstances; or
- (c) Order that all or part of any deck cargo be removed from that ship.

(2) The provisions of sub-section (1) of this section shall also apply to boats except that the Comptroller or any Resident Agent may in addition order the master or any member of the crew or any passenger of any boat not to put to sea.

(3) Every person who fails to comply with any notice given in accordance with this section is guilty of an offence against this Ordinance.

30. Fire appliances - (1) Every ship shall carry not less than two Froth fire extinguishers of 2 gallon capacity in the machinery space, and not less than two such extinguishers in the wheel house.

(2) Every ship shall carry a pump operated by power and a hose whereby a jet of water can be directed into any part of the ship.

31. Lifesaving appliances - (1) On any voyage life jackets of a sign approved by the Board shall be carried and maintained in good order and condition and shall be readily accessible to both passengers and crew and sufficient in number to provide one life jacket for every seaman and passenger on board.

(2) Ship's boats and inflatable life-rafts of a design approved by the Board shall be sufficient to carry the total number of passengers and crew as authorised by the Board together with such additional margin for safety as the Board may determine. Sails, row-locks and oars shall be readily available for ship's boats and a reasonable supply of fresh water and provisions shall likewise be available therefore. Ship's boats shall be swung out on their davits at least once every three months and shall be tested in the water at least once every three months and any necessary repairs or replacement shall be made before the ship proceeds to sea. Inflatable life rafts should be tested by a competent authority from whom a certificate shall be obtained every 12 months.

(3) The master shall enter or cause to be entered in the ship's log-book the dates of any tests carried out to life-saving equipment in terms of this section and the results thereof.

32. Maintenance of ship and equipment - (1) Every ship together with its tackle, machinery, and lifesaving and other equipment shall be at all times maintained in good order and condition.

(2) Any material defects in or damage to the ship, or its machinery, or equipment shall be reported by radio or in writing by the owner or master to the Comptroller at the first opportunity.

33. Medical stores - Every ship shall provide and cause to be kept on board a supply of medicine and medical stores according to a scale laid down by the Board.

34. Compasses - (1) Every ship shall be equipped with a standard compass placed in a suitable position and furnished with appliances for taking accurate observations and bearings of terrestrial and celestial objects and with the proper means of making the necessary adjustments. In addition to the standard compass, every ship shall be equipped with one good compass in or on a binnacle.

(2) The compass shall be adjusted following each annual survey.

35. Dangerous goods - (1) No person shall send or attempt to send by any ship and a person not being the master or owner of the ship shall not carry or attempt to carry in any such ship, any dangerous goods without distinctly marking their nature on the outside of the package containing the same, and upon the same side as the address or mark, and giving written notice of the nature of those goods, and of the name and address of the sender or carrier thereof, to the master, or owner of the ship at or before the time of sending the same to be shipped or taking the same on board.

(2) Every person who fails without reasonable cause to comply with this section is liable for each offence to a fine not exceeding one hundred pounds; unless he shows that he was merely an agent in the shipment of any such goods as aforesaid, and was not aware and did not suspect and had no reason to suspect that the goods shipped by him were of a dangerous nature, then to a fine not exceeding ten pounds.

(3) For the purposes of this section the expression "dangerous goods" means aquafortis, vitriol, naphtha, benzine, aviation motor-spirit, gun-powder or other explosives, lucifer matches, nitro-glycerine, petroleum, and any other goods which are of a dangerous nature.

(4) The thirg Commissioner] may from time to time, by notice in the Cook Islands Gazette, declare that any-goods mentioned in such notice are or are not, as the case may be, dangerous goods within the meaning of this section.

(5) A person shall not knowingly send or attempt to send by, or carry or attempt to carry in, any ship, any dangerous goods under a false description, and shall not, falsely describe the sender or carrier thereof and if he acts in breach of this sub-section he shall for each offence be liable to a fine not exceeding five hundred pounds.

36. Master may refuse to carry dangerous goods - (1) The Master or owner of any ship may refuse to take on board any package or parcel which he suspects to contain any dangerous goods, and may require it to be opened to ascertain the fact.

(2) Where any dangerous goods, or any goods which in the judgment of the master or owner of the ship are dangerous goods, have been sent or brought aboard any ship, without being marked as provided in sub-section (1) of section 35 hereof, or without such notice having been given as is required thereunder, the master or owner of the ship may cause those goods to be thrown overboard at sea, together with any package or receptacle in which they are contained or may otherwise remove, or require the removal of the said goods; and neither the master nor the owner of the ship shall be subject to any liability, civil or criminal in respect of the goods so thrown overboard.

37. Passenger ships not to carry explosives - (1) ship carrying passengers shall not carry any explosives, except such reasonable quantity as may be required for the purpose of making signals or as may be allowed by the Board and subject to such conditions as to the restriction of passengers and stowage of the explosives as the Board may impose.

(2) If explosives are carried on any ship contrary to the provisions of the last preceding subsection, the master and the owner of the ship shall each be deemed to have committed an offence against this Ordinance:

Provided that it shall be a good defence to a charge under this section that neither the owner nor the master was aware, or suspected, or had reason to suspect, that those explosives were being carried on that ship.

(3) Any member of the Board or any officer of customs may, without warrant, seize any explosives found on board any ship contrary to this section, and all explosives so seized shall be forfeited.

(4) The term "explosives" in this section means any substance or mixture or combination of substances which in its normal state is capable of either decomposition at such rapid rate as to result in an explosion or of producing a pyrotechnic effect; and without limiting the foregoing provisions of this definition, includes -

(a) Gunpowder, nitroglycerine, dynamite, gun-cotton, blasting powder, fulminate of mercury or of other metals, coloured flares, fog signals, fireworks, fuses, rockets, percussion caps, detonators, cartridges and ammunition of all descriptions;

(b) Any device, contrivance or article which utilises an explosive as an integral part of it for the purposes of producing an explosive, ballistic or pyrotechnic effect;

(c) Any preparation or adaptation of an explosive as hereinbefore defined: -

but does not include an explosive substance or explosive mixture or combination or substances that has been effectively rendered inert by a suitable form of treatment, whether by way of solution, dilution, admixture with other materials, or any other effective method, nor an explosive substance or mixture or combination of substances, that has been declared not to be an explosive by the [High Commissioner] by notice published in the Cook Islands Gazette.

38. Unseaworthy ships - (1) Every person is guilty of a crime who sends or attempts to send, or is party to sending or attempting to send, any ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered, unless he proves either that he used all reasonable means to ensure her being sent to sea in a seaworthy state, or that her going to sea in such an unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purpose of giving that proof he may give evidence in the same manner as any other witness.

(2) Every master or captain of a ship or boat is guilty of a crime who knowingly takes the same to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered, unless he proves that her going to sea in such an unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purpose of giving such proof he may

give evidence in the same manner as any other witness.

(3) The Board may, at its discretion, authorise in writing the owner or master of an unseaworthy ship to proceed to a port either inside or outside of the Cook Islands for the purpose of undergoing repairs to make the ship seaworthy and the Board may make such conditions to minimise or limit the risk to seamen or passengers as it deems fit.

(4) A prosecution under this section shall not be instituted otherwise than by or with the consent of the [High Commissioner], or unless not less than half the crew petition the [High Commissioner] to take action thereunder.

(5) For the purpose of this section the [High Commissioner] may appoint a Board of Inquiry comprising such competent persons as he thinks fit with power to make full investigation, to call and examine witnesses, and report its findings to the High Commissioner] who shall take such action as the findings require or as he considers appropriate.

39. Collisions - (1) All owners and masters of ships shall take notice of all rules and regulations from time to time made under this Ordinance relating to the prevention of collisions.

(2) If an infringement of such rules or regulations relating to the prevention of collisions is caused by the wilful default of the master or owner of the ship, that master or owner is guilty of a crime.

(3) if any damage to person or property arises from the non-observance by any ship of any rules or regulations relating to the prevention of collisions, the damage shall be deemed to have been occasioned by the wilful default of the master, unless it is shown to the satisfaction of the Court that the damage was due to the refusal, expressed or implied, of the owner to supply the materials or machinery of equipment necessary for compliance with the said rules or regulations or that the circumstances of the case made a departure from the regulations necessary.

(4) The Board shall cause a copy of any such rules or regulations to be furnished to any master or owner of a ship who applies for it.

(5) In every case of collision between two ships the master or person in charge of each ship, if and so far as he does so without danger to his own ship, crew, and passengers (if any), shall -

(a) Render to the other ship, her master, crew and passengers (if any), such assistance as may be practicable and necessary to save them from any danger caused by the collision, and shall stay by the other ship until he has ascertained that there is no need for further assistance; and also

(b) Give to the master or person in charge of, the other ship the name of his own ship and such other information as may reasonably be requested;

and if the master or person in charge of a ship fails without reasonable cause to comply with this section, he commits a crime and the Board may refuse to accept him as being a person fit to command a ship.

(6) The failure of the master or person in charge of a ship to comply with the provisions of paragraph (a) sub-section (5) of this section shall not raise any presumption of law that the collision was caused by his wrongful act, neglect, or default.

(7)(a) In every case of collision in which it is practicable so to do the master of every ship shall immediately after the occurrence cause a statement thereof, and of the circumstances under which the same occurred, to be entered in the log-book, and the entry shall be signed by the master and also by the mate or one of the crew.

(b) Every master who fails to comply with this sub-section is liable for each offence to a fine not exceeding twenty pounds.

40. General duty to assist person in danger at sea - (1) The master or person in charge of a ship shall, so far as he can do so without serious danger to his own ship, her crew, and passengers (if any), render assistance to every person, even if that person is a subject of a State at war with Her Majesty, who is found at sea in danger of being lost; and if he fails to do so he is guilty of a crime.

(2) Compliance by the master or person in charge of a ship with the provisions of this section shall not affect his right or the right of any other person to salvage.

41. Obligation to assist vessels etc, in distress - (1)The master of a ship, on receiving at sea a signal of distress or information from any source that a ship or other vessel or an aircraft or any person is in distress at sea, shall proceed with all speed to the assistance of the persons in distress (informing them, if possible, that he is doing so), unless he is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to do so, or unless he is released under the provisions of subsection four of this section.

(2) Where the master of any ship in distress has requisitioned any ship that has answered his call, it shall be the duty of the requisitioned ship to comply with the requisition by continuing to proceed with all speed to the assistance of the persons in distress.

(3) A master shall be released from the obligation imposed by sub-section one of this section as soon as he is informed of the requisition of one or more ships other than his own and, that the requisition is being complied with by the ship or ships requisitioned.

(4) A master shall be released from the obligation imposed by sub-section one of this section, and, if his ship has been requisitioned, from the obligation imposed by sub-section two of this section, if he is informed by the persons in distress, or by the master of any ship that has reached the persons in distress, that assistance is no longer required.

(5) If a master fails to comply with the preceding provisions of this section he shall be guilty of a crime.

(6) Compliance by the master or person in charge of a ship with the provisions of this section shall not affect his right or the right of any other person to salvage.

42. Accidents - (1) When any ship has sustained or cause or has received any material damage affecting her seaworthiness or her efficiency either in her hull or in any part of her machinery, or has been in collision with another ship, the owner or master shall, within twenty-four hours after the happening of the accident, or as soon thereafter as possible, inform the Comptroller either by letter signed by the owner or the master, or by radio, or both, of the accident or damage and of the probable occasion thereof, stating the name of the ship and the place where she is and any ship carrying passengers shall not thereafter proceed from any port or island unless authorised so to do by the Controller.

(2) Every owner or master of a ship who fails without reasonable cause to comply with this section is liable for each offence to a fine not exceeding fifty pounds.

43. Notice to be given of apprehended loss of ship - (1) If the managing owner, or, in the even of there being no managing owner, the agent, of any ship has reason, owing to the non-appearance of the ship or to any other circumstance, to apprehend that the ship has been wholly lost, he shall as soon as conveniently may be sent to the Comptroller notice in writing of the loss and of the probable occasion thereof, stating the name of the ship and the names and addresses of the master, crew and passengers (if any).

(2) Every managing owner or agent who fails without reasonable cause to comply with this section within a reasonable time is liable for each offence to a fine not exceeding fifty pounds.

44. Dangers to navigation - (1) The master of a ship, on meeting with a tropical storm or any other direct danger to navigation, shall send information accordingly, by all means of communication at his disposal, to ships in the vicinity, and to such authorities on shore as the Board may direct.

(2) If the master of a ship fails to comply with the provisions of sub-section (1) of this section he commits an offence against this Ordinance.

(3) For the purpose of this section, the expression tropical storm means a hurricane, typhoon, cyclone or other storm of a similar nature, and the master of a ship shall be deemed to have met with a tropical storm if he has any reason to believe that there is such a storm in his vicinity.

45. Signals of Distress - The Board may, by notice published in the Cook Islands Gazette, prescribe what signals shall be used by ships as signals of distress.

46. Fuel, provisions and fresh water - (1) It shall be the duty of the owner and the master of any ship before it puts to sea to ensure that there is sufficient fuel, provisions and fresh water on board to provide for an additional seven days at sea over and above the normal requirements for any voyage to any island or islands in the Cook Islands and return to Rarotonga or to its destination outside of the Cook Islands.

(2) If there failure to comply with this section the owner (if in fault) and the master (if in fault) commits an offence against this Ordinance.

47. Boats - (1) No boats, whether an open boat or a decked boat shall proceed from one island of the Cook Islands to any other island within the Cook Islands or to any other place outside

of the Cook Islands without the prior approval in writing of the Board which may attach to its approval such conditions as it deems necessary to ensure the safety of the boat or of its crew or of its passengers and such condition shall have the same force and effect as if they were rules or regulations passed under this ordinance and failure to comply with such conditions shall be an offence against this Ordinance.

(2) The master or any member of the crew or any passenger of any such boat who so proceeds or who puts to sea with the intention of so proceeding, contrary to the provisions of sub-section (1) of this section, commits an offence against this Ordinance.

(3) No boat, whether an open boat or a decked boat or any vessel used in navigation however propelled shall proceed to sea with passengers from any island of the Cook Islands for a distance of more than one nautical mile from its place of departure without the prior approval in writing of the Board which may attach to its approval such conditions as it deems necessary to ensure the safety of the boat or of its crew or of its passengers and such conditions shall have the same force and effect as if they were rules or regulations passed under this Ordinance and failure to comply with such conditions shall be an offence against this Ordinance.

(4) The owner or master or captain of any such boat which so proceeds or puts to sea with the intention of proceeding, contrary to the provisions of sub-section (3) of this section, commits an offence against this Ordinance.

(5) The Board may order in writing the owner or master of any boat, whether such may be a visiting yacht or otherwise, not to put to sea if it considers that there may be risk to life; and the Board may require before revoking such order such things to be done to the boat as may be necessary to ensure the safety of the craft or its crew or its passengers; and the master or owner thereof commits an offence against this Ordinance if he puts to sea without the permission in writing of the Board.

PART IV - REGULATION OF PASSENGERS

48. Passengers - (1) The Board shall determine by rules made under Part IV of this Ordinance what number of passengers any ship for which a General Safety Certificate is required shall be entitled to carry having regard to -

- (a) The passenger accommodation available on the ship;
- (b) The length of the voyage, the quantity of passengers' effects and the quantity of deck cargo likely to be carried;
- (c) The life-saving appliances available on board the ship;
- (d) Any other relevant matters.

(2) The owner of every ship shall cause to be kept an accurate passenger list showing details of the voyage, the date thereof, the name of every passenger taken on board at or prior to the time of departure from any port, or island in the Cook Islands and the destination of such passenger and he shall deposit a copy of such passenger list with the Comptroller or any

person authorised by the Comptroller to act on his behalf.

(3) Every person who commits any of the following offences in respect of any ship entitled to carry passengers is liable for each offence to a fine not exceeding five pounds; but that liability shall not prejudice the recovery of any fare payable by him; that is to say, who -

(a) Being drunk or disorderly, has been on that account refused admission to the ship by the owner or any person in his employment, and, after having the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the ship; or

(b) Being drunk or disorderly on board, is requested by the owner or any person in his employ to leave the ship at any place in the Cook Islands where he can conveniently do so, and, after having the amount of his fare (if he has paid it) returned or tendered to him, does not comply with the request; or

(c) Molests or continues to molest any passenger, after warning by the master or other officer thereof; or

(d) After being refused admission to the ship by the owner or any person in his employ on account of the ship being full, and having had the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the ship; or

(e) Having gone on board at any place, and being requested, on account of the ship being full, by the owner or any person in his employ to leave the ship before it has quitted that place, and having had the amount of his fare (if he has paid it) returned or tendered to him, does not comply with that request; or

(f) Travels or attempts to travel in the ship without first paying his fare and with intent to avoid payment thereof; or

(g) Having paid his fare to a certain destination, knowingly and wilfully ;proceeds in the ship beyond that destination without first paying the additional fare for the additional distance and with intent to avoid payment thereof; or

(h) Knowingly and wilfully fails to quit the ship on arriving in the ship at the place to which he has paid his fare; or

(i) Fails, when requested by the master or other officer thereof, either to pay his fare or exhibit such ticket or other receipt (if any) showing the payment of his fare as is usually given to persons travelling by and paying their fare for the ship; or

(j) Not being a passenger, is on board a ship and refuses to leave such ship when so requested by the master or any officer of the ship.

(4) No proceeding in respect of any offence under the last preceding sub-section shall prejudice any person proceeding for the recovery of any fare payable by the person charged.

(5) Every person on board any such ship is liable for each offence to a fine not exceeding twenty pounds who wilfully does or causes to be done anything in such a manner as to obstruct, or injure any part of the machinery or tackle of the ship, or to injure or remove any of the equipments or stores of the ship or any part thereof, or to obstruct, impede or molest the crew, or any of them, in the navigation or management of the ship, or otherwise in the execution of their duty on or about the ship.

(6) The master or any officer of such ship, and all persons called by him to his assistance, may, without any warrant, detain any person who commits any offence under sub-sections three and five of this section and whose name and address are unknown to the master or officer, until such time as the person detained shall be handed over to an officer of Police.

(7) If any person commits an offence under sub-sections three and five of this section, and on the application of the master or any other Person in the employ of the owner of the ship refuses to give his name and address, or gives a false name or address, that person shall be liable to a fine not exceeding ten pounds and that fine or as much thereof as the High Court directs shall be paid to the owner of the ship.

(8) No ship or boat not being a missionary ship, or a ship plying between New Zealand and the Cook Islands or between New Zealand and any other country and which may from time to time call at Rarotonga or any other island of the Cook Islands shall carry passengers within the limits of the Cook Islands or from the Cook islands to any place outside the limits without the authority in writing, of the Board.

[Rules relating to inter-island vessels have been reprinted verbatim following this Ordinance.]

PART V - SURVEY

49. Ships to be surveyed annually - (1) The owner of every ship or which a General Safety Certificate is required shall cause the ship to be surveyed within twelve months commencing from the date of its previous survey:

Provided that if any such ship or its machinery is under construction or repair, or is damaged, or is about to be reconstructed or repaired, or if any such ship is laid up, the Board may exempt that ship from the requirements of this sub-section for such period as it thinks fit, and may from time to time extend any such period of exemption, and the owner of any ship so exempted shall cause the ship to be surveyed within two weeks from the date on which the exemption ceases.

(2) The Board may, at its discretion, grant an extension for a period not exceeding two months beyond the date on which a ship is required to be surveyed in terms of the preceding sub-section.

(3) If a ship to which this section applies plies or proceeds to sea on any voyage in contravention of this section, the master and owner shall each be deemed to have committed an offence against this Ordinance.

50. Mode of survey, etc. - (1) Where under this part of this Ordinance any ship is required to be surveyed annually the owner of the ship shall cause the ship to be surveyed by a surveyor of ships and a radio surveyor approved by the Board. The survey made by the surveyor of ships shall have regard to any rules made by the Board under this Ordinance and shall include:-

- (a) The hull, machinery, or equipments, or any part thereof;
- (b) Loadline;

- (c) All derricks and permanent attachments, including bridle chains to the derricks, mast, and deck used in hoisting or lowering, cargo winches and safety devices;
- (d) Firefighting equipment and appliances;
- (e) Lifesaving equipment and appliances;
- (f) Compasses;
- (g) Every fourth year, a test load of all cargo gear and all rigging opened out.

(2) The owner of a ship or his agent shall within seven days after the receipt by him of a declaration of survey transmit it to the Board.

(3) In the event of a surveyor of ships refusing to give a declaration of survey the owner of the ship or his agent shall within seven days after the receipt by him of the reasons therefore transmit them to the Board.

(4) If an owner or an agent fails without reasonable cause to transmit a declaration of survey he commits an offence against this Ordinance.

PART VI - WRECK AND SALVAGE OF SHIPS AND AIRCRAFT

51. Application - This Part of this Ordinance shall apply to all ships or boats or to aircraft.

52. Wreck and salvage defined - In this Part of this Ordinance, if not inconsistent with the context, -

"Wreck" includes jetsam, flotsam, ligan, and derelict found in or on the shores of the sea or any tidal water;

"Salvage" includes all expenses properly incurred by the salvor in the performances of the salvage services.

53. Appointment of Receivers - (1) The [High Commissioner] shall have the general superintendence of all matters relating to wreck and salvage, and he may from time to time appoint any officer of customs, or, where it appears to him to be more convenient, any other person to be a Receiver of Wreck (hereinafter referred to as "the Receiver") and may make regulations for the conduct of the Receiver.

(2) The Receiver appointed under the preceding sub-section may, by writing under his hand, authorise any other person to exercise all or any of the powers exercisable by the Receiver under this Ordinance and that person may exercise those powers in the same manner and with the same effect as if they had been conferred upon him directly by this section; and any person purporting to act with the authority of the Receiver under this section shall be presumed to be acting in accordance therewith in the absence of proof to the contrary.

54. Duties and powers of Receiver where ship or aircraft in distress - Where a ship or aircraft is wrecked, stranded, or in distress at any place on or near the coasts of any island of the Cook

Islands, the Receiver shall, upon being informed of the circumstance, forthwith proceed there and, upon his arrival shall take the command of all persons present, and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the ship or aircraft and the lives of the persons belonging thereto (in this Part of this Ordinance referred to as "shipwrecked persons") and of the cargo and equipments of the ship or aircraft:

Provided that the Receiver shall not interfere between the master and the crew of the ship, or, as the case may be, between the person in command and the crew of the aircraft; nor shall the Receiver (otherwise than in compliance with a direction of the [High Commissioner] given in pursuance of section 63 of this Ordinance) take into his possession any ship or aircraft or any cargo or equipments belonging thereto, while that ship or aircraft remains in the possession of the master or person in command thereof, except with the consent of that master or person in command.

(2) The Receiver may, with a view to the preservation of the lives of the shipwrecked persons or of the ship or aircraft or of its cargo or equipments:-

- (a) Require such persons as he thinks necessary to assist him;
- (b) Require the master or other person having the charge of any ship or other vessel or boat near at hand to give such aid with his men or ship or other vessel or boat as may be in his power;
- (c) Demand the use of any vehicle or horses that may be at hand.

(3) Every person commits an offence against this Ordinance who -

- (a) Wilfully disobeys the lawful direction of the Receiver; or
- (b) Refuses without reasonable cause to comply with any lawful requisition or demand made by the Receiver under this section.

55. Right of passage over adjoining lands - (1) Where a ship or aircraft is wrecked, stranded, or in distress as aforesaid, all persons may, for the purpose of rendering assistance to the ship or aircraft, or of saving the lives of the shipwrecked persons, or of saving the cargo or equipments of the ship or aircraft, unless there is some public road equally convenient, pass and repass, either with or without vehicles or horses, over any adjoining lands without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and may also, on the like condition, deposit on those lands any cargo or other article recovered from the ship or aircraft.

(2) Any damage sustained by an owner or occupier in consequence of the exercise of the rights given by this section shall be a charge on the ship or aircraft or cargo or articles in respect of or by which the damage is occasioned; and the amount payable in respect of the damage shall in case of dispute be determined, and shall in default of payment be recoverably, in the same manner as the amount of salvage is under this Part of this Ordinance determined or recoverable.

(3) Every owner or occupier of land commits an offence against this Ordinance who -

(a) Impedes or hinders any person in the exercise of the rights given by this section, by locking his gates, or refusing upon request to open the same, or otherwise; or

(b) Impedes or hinders the deposit on the land of any cargo or other article recovered from the ship or aircraft as aforesaid; or

(c) Prevents or endeavours to prevent any such cargo or other article from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit.

56. Receiver to suppress plunder and disorder - Where a ship or aircraft is wrecked, stranded, or in distress as aforesaid, and any person plunders, creates disorder, or obstructs the preservation of the ship or aircraft or of the shipwrecked persons or of the cargo or equipments of the ship or aircraft, the Receiver may cause that person to be apprehended.

57. Receiver to make inquiry - (1) Where any ship or aircraft is or has been in distress on or over or near the coasts of any island of the Cook Islands, the Receiver shall, as soon as conveniently may be, examine on oath or affirmation any person belonging to the ship or aircraft, or any other person who may be able to give an account thereof or of the cargo or stores thereof, as to the following matters, that is to say:-

(a) The name and description of the ship or aircraft;

(b) The names of the owners and the master of the ship, or, as the case may be, the names of the owners and the person in command of the aircraft;

(c) The names of the owners of the cargo;

(d) The ports from and to which the ship or aircraft was bound;

(e) In the case of a ship, the occasion of its distress;

(f) The services rendered; and

(g) Such other matters or circumstances relating to the ship or aircraft, or to the cargo or store thereof, as the Receiver holding the examination thinks necessary.

(2) The Receiver holding the examination shall take the same down in writing, and shall send it to the [High Commissioner] who shall take such action to advise the owners of the ship or aircraft or of the cargo and such other persons as he thinks fit.

58. Dealing with wreck - (1) Where any person finds or takes possession of any wreck within the limits of the Cook Island, or takes possession of and brings within the limits of the Cook Islands any wreck found outside those limits, he shall:-

(a) if he is the owner thereof, give notice to the Receiver, stating that he has found or taken possession of the wreck, and describing the marks by which the same may be recognised;

(b) If he is not the owner thereof, as soon as possible deliver the same to the Receiver.

(2) In this section -

"Wreck" includes any ship or aircraft which is, abandoned, stranded, or in distress at sea, or any equipments or cargo or other articles belonging to or separated from any ship or aircraft which is lost at sea.

(3) Any person who fails without reasonable cause to comply with this section commits an offence against this Ordinance, and shall in addition, if he is not the owner, forfeit any claim to salvage, and shall be liable to pay to the owner of the wreck if it is claim, or, if it is unclaimed, to the person entitled to the same, double the value thereof, to be recovered in the same way as a fine of a like amount under this Ordinance.

59. Articles washed ashore to be delivered to Receiver - (1) Where a ship or aircraft is wrecked, stranded, or in distress at any place on or over or near the coasts of any island or any tidal water within the limits of the Cook Islands, any cargo or equipments or other articles belonging to or separated from the ship or aircraft which may be washed on shore, or otherwise lost or taken from the ship or aircraft, shall be delivered to the Receiver.

(2) Every person, whether the owner or not, who secretes or keeps possession of any such cargo or equipments or article, or refuses to deliver the same to the Receiver or any person authorised by him to demand the same, commits an offence against this Ordinance.

(3) The Receiver or any person authorised as aforesaid may take any such cargo or equipments or article by force from the person so refusing to deliver the same.

60. Claims to wreck - (1) Where a Receiver takes possession of any wreck, he shall within forty-eight hours make the same known by public notice given in his name and such notice shall include a description of the wreck and of any marks by which it is distinguished.

(2) The owner of any wreck in the possession of the Receiver, upon establishing his claim to the same to the satisfaction of the Receiver within one year from the time at which the wreck came into the possession of the Receiver shall, upon paying the salvage fees, and expenses due, be entitled to have the wreck or the proceeds delivered to him.

(3) Where any ship or any aircraft is wrecked, stranded or abandoned on or near the coast of any island of the Cook Islands or any tidal water within the limits of the Cook Islands and there is no owner or agent of the owner or other person present in the Cook Islands authorised to protect the interests of the owners, the Receiver shall make known to the owners in New Zealand, if the ship or aircraft is registered there, or to a trade or other representative in New Zealand of the Commonwealth Country, or, as the case may be, a consular representative in New Zealand of a foreign country, in which that ship or aircraft may have been registered or to which that ship or aircraft may have belonged, the facts of the wreck, stranding or abandonment, and, as far as related to the custody and disposal of that ship or aircraft, shall act in accordance with instructions received from the owners or trade or other representative or consular representative as the case may be, or from any agent, duly appointed, thereof.

(4) Where any wreck, whether or not belonging to or separated from any ship or aircraft to

which the last preceding sub-section applies, is found within the limits of the Cook Islands or is brought within those limits, and it does not appear that that wreck belongs to persons resident in the Cook Islands or in New Zealand, a trade or other representative in New Zealand of the Commonwealth country, or as the case may be, a consular representative of the foreign country, to which the owners of the wreck may belong shall, in the absence of the owners and of any other agent of the owners, be deemed to be the agent of the owners, as far as relates to the custody and disposal of the wreck.

61. Wreck may be sold immediately in certain cases - The Receiver may at any time sell any wreck in his custody, if in his opinion –

- (a) It is under the value of five pounds; or
- (b) It is so much damaged or of so perishable a nature that it cannot with advantage be kept; or
- (c) It is not of sufficient value to pay for warehousing.

(2) The proceeds of the sale, shall after defraying the expenses thereof, be held by the Receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

62. Wreck claimed by two or more persons or unclaimed - (1) Where a dispute arises between two or more persons as to the title to the wreck, the dispute may be determined in the same manner as if it were a dispute as to salvage to be determined under this Part of this Ordinance.

(2) Upon delivery of wreck or the payment of the proceeds of sale of wreck by the Receiver, he shall be discharged from all liability in respect thereof; but the delivery thereof shall not prejudice or affect any question which may be raised by third parties concerning the right or title to the wreck.

(3) Where no owner establishes a claim to any wreck found within the limits of the Cook Islands, and in the possession of the Receiver, within one year after it came into his possession, it shall be the property of Her Majesty, and the Receiver shall sell the same and shall pay the proceeds of sale (after deducting therefrom the expenses of sale and any other expenses incurred by him, and his fees, and paying there out to the salvors such amount of salvage as the [High Commissioner] may in each case, or by general rule, determine) into the Cook Islands Assembly Account.

63. Removal of wrecked ships and aircraft - (1) If any ship or aircraft is sunk, stranded or abandoned on or near the coasts of any island of the Cook Islands or any tidal water within the limits of the Cook Islands, and there is no authority in any other Ordinance or rule or regulation to remove or destroy that ship or aircraft, the [High Commissioner] may, and shall, if in his opinion the ship or aircraft is or is likely to become an obstruction to navigation, direct the Receiver to cause that ship or aircraft to be removed.

(2) On receiving such a direction, the Receiver, by notice in writing given to the owner or master of the ship or any agent of the owner or, as the case may be, to the owner or person in command of the aircraft or to any agent of the owner, shall require the owner to remove that ship or aircraft, or any part thereof, in a manner satisfactory to, and within a time to be

specified by, the Receiver.

(3) If the owner fails to comply with the notice, or if neither the owner nor the master of the ship, or, as the case may be, neither the owner nor the person in command of the aircraft nor in either case any agent of the owner can be found, the Receiver may -

(a) Take possession of and remove or destroy the whole or any part of the ship or aircraft; and

(b) Sell, in such manner as he thinks fit, the ship or aircraft, or any part thereof, so removed, and also any property recovered therefrom in the exercise of his powers under this section; and, out of the proceeds of any such sale, without any reference to the articles from the sale of which those proceeds arise, reimburse the Crown for the whole of the expenses of removal; and

(c) If the proceeds of the sale are insufficient to pay the whole of the expenses of removal, recover the balance from the owner of the ship or aircraft or from the owner of any other ship or aircraft or from any other person if the sinking, stranding or abandonment occurred through the fault or negligence of that other ship, aircraft or person.

(4) Subject to the next succeeding sub-section, the Receiver shall hold and dispose of the surplus (if any) of the proceeds of any sale under this section in accordance with the provisions of this Part of this Ordinance relating to wreck.

(5) This sub-section shall apply to every article belonging to or forming part of a ship or aircraft, as it applies to a ship or aircraft; and the proceeds of the sale under this section of any ship or aircraft or part thereof or other property recovered therefrom shall be regarded as a common fund.

(6) In this section the term "Owner", in relation to any ship or aircraft which has been sunk, stranded, or abandoned, includes not only the owners of the ship or aircraft at the time of the sinking, stranding or abandonment thereof, but also any subsequent purchaser of the ship or aircraft or of any article belonging thereto or forming part thereof as long as the ship or aircraft remains sunk, stranded or abandoned.

64. Offences in respect of wreck - (1) Any person who takes into any port out of the Cook Islands any ship or aircraft, stranded, derelict, or otherwise in distress, found on or near the coasts of any island of the Cook Islands or any tidal water within the limits of the Cook Islands, or any part of the cargo or equipments thereof, or anything belonging thereto, or any wreck, found within those limits, and there sells the same, commits an offence against this Ordinance, and shall be liable on conviction on indictment to imprisonment for a term not exceeding five years or to a fine not exceeding one thousand pounds.

(2) Every person, not being a Receiver or a person lawfully acting as such or a person acting by the command of any such person as aforesaid, commits an offence against this Ordinance who boards or endeavours to board any ship or aircraft which is wrecked, stranded, or otherwise in distress on or near the coasts of any island of the Cook Islands, unless he acts with the leave of the master of the ship, or, as the case may be, the person in command of the aircraft, and every such master or person in command may repel him by force.

(3) Every person commits an offence against this Ordinance who -

- (a) Impedes or hinders, or endeavours in any way to impede or hinder, the saving of any ship or aircraft stranded or in danger of being stranded or otherwise in distress on or over or near the coasts of any island of the Cook Islands or any tidal water within the limits of the Cook Islands, or of any part of the cargo or equipments of any ship or aircraft, or of any wreck; or
- (b) Secretes any wreck, or defaces or obliterates any marks thereon; or
- (c) Wrongfully carries away or removes any part of a ship or aircraft stranded or in danger of being stranded or otherwise in distress on or near the coasts of any island of the Cook Islands or any tidal water within the limits of the Cook Islands, or any part of the cargo or equipments of any such ship or aircraft, or any wreck -

and every such person shall be liable for each offence to a fine not exceeding fifty pounds; and that penalty may be inflicted in addition to any other penalty to which that person may be liable by law under this Ordinance or otherwise.

65. Receiver may seize concealed wreck - (1) Where the Receiver suspects or receives information that any wreck is secreted or in the possession of some person who is not the owner thereof, or that any wreck is otherwise improperly dealt with, he may apply to any Judge of the High Court or to any Magistrate for a search warrant and such Judge or Magistrate shall have power to grant such a warrant, and the Receiver, by virtue thereof, may enter any house or other place, wherever situate, and also any ship, and search for, seize, and detain any such wreck found there.

(2) If any such seizure of wreck is made in consequence of information given by any person to the Receiver, on a warrant being issued under this section the informant shall be entitled by way of salvage to such sum, not exceeding in any case five pounds, as the [High Commissioner] allows.

66. Salvage - (1) Where services are rendered -

- (a) Wholly or in part within Cook Islands waters in saving life from any ship or aircraft; or
- (b) Elsewhere in saving life from any Commonwealth ship or any unregistered ship which is owned wholly by persons qualified to own a registered New Zealand ship, or any aircraft which is registered in or belongs to any Commonwealth country -

there shall be payable to the salvor by the owner of the ship or aircraft or cargo or equipments saved a reasonable amount of salvage, to be determined in case of dispute in manner hereinafter mentioned.

(2) Salvage in respect of the preservation of life, when payable by the owners of the ship or aircraft, shall be payable in priority to all other claims for salvage.

(3) Where the ship or aircraft and its cargo and equipments are destroyed, or the value thereof is insufficient, after payment of the actual expenses incurred, to pay the amount of salvage payable in respect of the preservation of life, the [High Commissioner] may in his discretion award to the salvor, out of any moneys appropriated by the Legislative Assembly of the Cook Islands for the purpose, such sum as he thinks fit in whole or part satisfaction of any amount

of salvage so left unpaid.

(4) Where -

(a) Any ship or aircraft is wrecked, stranded, or in distress on or over or near the coasts of any island of the Cook Islands or any tidal water within the limits of the Cook Islands, and services are rendered by any person in assisting that ship or aircraft, or in saving the cargo or equipments thereof or any part thereof; or

(b) Services are rendered by any person other than the Receiver in saving any wreck -

there shall be payable to the salvor by the owners of the ship or aircraft or cargo or wreck a reasonable amount of salvage, to be determined in case of dispute in manner hereinafter mentioned

67. Settlement of disputes as to salvage - (1) Disputes as to the amount of salvage, whether of life or property, arising between equipments or wreck shall, if not settled by agreement, arbitration or otherwise, be determined by the High Court.

(2) Disputes relating to salvage may be determined on the application either of the salvor or of the owner of the property saved, or of their respective agents.

(3) The Court may, for the purpose of determining any dispute relating to salvage, call to its assistance as assessor any person conversant with maritime or aeronautical affairs; and there shall be paid, as part of the cost of the proceedings, to every such assessor in respect of his services such sum as the [High Commissioner] directs.

(4) Any party aggrieved by the decision of the Court may, if the sum in dispute exceeds two hundred pounds, appeal therefrom to the Supreme Court in New Zealand in the manner provided in Part IV of the Act.

68. Enforcing payment of salvage - (1) Where salvage is due to any person under this Ordinance the Receiver shall, -

(a) If the salvage is due in respect of services rendered in assisting any ship or aircraft, or in saving life therefrom, or in saving the cargo and equipments thereof, detain the ship or aircraft and cargo or equipments; and

(b) If the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under this Ordinance, detain the wreck.

(2) Subject as hereinafter mentioned, the Receiver shall detain the ship or aircraft and the cargo and equipments, or the wreck (hereinafter referred to as detained property), until payment is made for salvage, or process is issued for the arrest or detention thereof by a competent Court.

(3) The Receiver may release any detailed property if security is given to his satisfaction, or, if the claim for salvage exceeds two hundred pounds and any question is raised as to the

sufficiency of the security, to the satisfaction of the High Court.

(4) Any security given for salvage in pursuance of this section to an amount exceeding two hundred pounds may be enforced by the High Court in the same manner as if bail had been given in that Court.

69. Receiver may sell wreck in cases of non-payment - The Receiver may sell any detained property if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following cases, namely:-

- (a) Where the amount is not disputed, and payment of the amount due is not made within twenty days after the amount is due; or
- (b) Where the amount is disputed, but no appeal lies from the first Court to which the dispute is referred, and payment is not made within twenty days after the decision of the first Court; or
- (c) There the amount is disputed, and an appeal lies from the decision of the first Court to some other Court, and within twenty days of the decision of the first Court neither payment of the sum due is made nor evidence produced that proceedings are to be commenced for the purpose of appeal.

(2) The proceeds of sale of detained property shall, after payment of the expenses of sale, be applied by the Receiver in payment of the expenses, fees, and salvage, and the surplus (if any) shall be paid to the owners of the property or any other persons entitled to receive the same.

PART VII - SHIPPING INQUIRIES

70. Cases where shipping casualty deemed to occur - For the purposes of inquiries an investigations under this Part of this Ordinance a shipping casualty shall be deemed to occur -

- (a) When on or near any island of the Cook Islands any ship is lost, abandoned, stranded, or materially damaged or has been in collision with any other ship;
- (b) When any loss of life, ensues by reason of any casualty occurring to any ship on or near any island of the Cook Islands;
- (c) When in any place any such loss, abandonment, stranding, material damage, or casualty as above mentioned occurs, and any witness is found in the Cook Islands;
- (d) :then in any place any such loss, abandonment, stranding, material damage, or casualty as abovementioned occurs or is supposed to have occurred to any ship for which a General Safety Certificate is required in terms of this Ordinance;
- (e) When any Commonwealth ship is lost or is supposed to have been lost, and any evidence is obtainable in the Cook Islands as to the circumstances under which she proceeded to sea or was last heard of.

71. Preliminary inquiry to be held - (1) Where a shipping casualty has occurred a preliminary inquiry may be held respecting the casualty by the Board or if the inquiry takes place outside

of Rarotonga by any person appointed for the purpose by the [High Commissioner].

(2) For the purpose of holding any such inquiry any person appointed by the [High Commissioner] shall have the powers of the Board under this Ordinance.

(3) Where any such inquiry is held, the findings of the Board or of the person holding the same shall be reported to the [High Commissioner].

(4) The Board or any person authorised as aforesaid to make a preliminary inquiry shall, in any case where it is deemed to be requisite or expedient that a formal investigation under section seventy two of this Ordinance should be held, report to the [High Commissioner] as necessary.

72. Formal Investigation - (1) Where -

(a) A shipping casualty has occurred; or

(b) The [High Commissioner] has reason to believe that any master or engineer of any ship is from incompetency or misconduct unfit to discharge his duties, or that, in case of collision or of any ship or other vessel or any aircraft or any person in distress, he has failed to render such assistance or to give such information as is required under this Ordinance, or that he has endangered the safety of any ship, - the [High Commissioner] may cause a formal investigation to be held.

(2) The formal investigation shall be held before a judge of the High Court.

(3) The formal investigation shall be subject to and conducted in accordance with such conditions and regulations as may be prescribed by rules made in relation thereto pursuant to section seventy four of this Ordinance.

(4) The formal investigation shall be conducted in such a manner that if a charge is made against any person, that person shall have the opportunity of making a defence.

(5) The formal investigation shall be held in some Court-House or other suitable place to be determined in accordance with rules made pursuant to section seventy four of this Ordinance.

(6) For the purposes of a formal investigation the Court shall have the powers of the High Court in any case where jurisdiction is conferred on a Judge of the High Court in relation to any matter in respect of which proceedings may be commenced by an information' under the Cook Islands Act 1915.

(7) The Court holding the formal investigation shall hold the same with the assistance of one or more Assessors, of nautical, engineering, or other special skill or knowledge, to be appointed by the [High Commissioner].

(8) Where an examination involves or appears likely to involve, any question as to the cancellation or suspension of the certificate of a master, mate or engineer, the Court shall hold the investigation with the assistance of not less than two Assessors, and, subject to the

provisions of sub-sections nine, ten and eleven hereof, at least one of those Assessors shall if possible be a person having experience in the trade in which the casualty happens or with which the formal investigation is concerned.

(9) Where the formal investigation involves or appears likely to involve any question as to the cancellation or suspension of the certificate of a master at least one of the Assessors shall be the holder of a certificate of competency issued under this Ordinance or the holder of a certificate of the grade of master of foreign going ships.

(10) Where the formal investigation involves or appears likely to involve any question as to the cancellation or suspension of the certificate of an engineer, at least one of the Assessors shall be the holder of a certificate of competency issued under this Ordinance or the holder of an engineer's certificate of the first class for foreign going ships.

(11) Where the formal investigation relates solely to matters connected with the engineers or the engines of a ship, and involves or appears likely to involve any question as to the cancellation or suspension of the certificate of an engineer, there shall be two Assessors, each of whom should be the holder of a certificate of competency issued under this Ordinance or the holder of an engineers certificate of the first class for foreign going ships.

(12) The management of the case shall be superintended by such person as the [High commissioner] may appoint, and he shall render to the Court such assistance as is in his power:

Provided that, if the formal investigation is held in respect of a charge against a master or engineer, the [High Commissioner] may direct that the person who has brought that charge to his notice shall conduct the case, and if the [High Commissioner] so directs that person shall be deemed to be the party having the conduct of the case.

(13) Where the formal investigation involves a question as to the cancellation or suspension of a certificate, the Court shall, at the conclusion of the case or as soon afterwards as possible, state in open Court the decision to which it has come with respect to the cancellation or suspension thereof.

(14) The Court, after hearing the case shall make a full report to the [High Commissioner] containing a full statement of the Court thereon, accompanied by such report of or extracts from the evidence and such observations as the Court thinks fit, and if the Court determines to cancel or suspend any certificate it shall send the certificate cancelled or suspended to the [High Commissioner] with the report.

(15) A certificate shall not be cancelled or suspended by a Court under the powers given in that behalf by section seventy six of this Ordinance unless a copy of the report, or a statement of the case on which the formal investigation has been ordered, has been furnished to the holder of the certificate before the commencement of the formal investigation.

(16) Each Assessor shall either sign the report or state in writing to the [High Commissioner] his dissent therefrom and the reasons for his dissent.

(17) The Court may make such order as it thinks fit respecting the costs of the formal

investigation, or any part of those costs.

(18) For the purpose of enforcing any order of the Court for the payment of costs, a duplicate of the order may be filed by the person to whom the costs are payable in the office of the High Court named in the order, and shall thereupon be enforceable in all respects as a final judgment of the High Court in its civil jurisdiction.

(19) Every witness may be allowed such expenses as would be allowed to a witness attending as a Crown witness on subpoena to give evidence in criminal proceedings before the High Court.

(20) The [High Commissioner] may, if in any case he thinks fit, pay the costs of any such formal investigation from the Assembly Account.

(21) Where any formal investigation under this section concerns or involves any ship which is not a ship for which a General Safety Certificate is required by this Ordinance or concerns or involves the conduct of a master, mate, or engineer of any such ship, the [High Commissioner] shall transmit a copy of the report to the Government of the country in which the ship is registered or to which the ship belongs.

73. Investigation may be reheard - (1) The [High Commissioner] may, in any case where a formal investigation has been held under section seventy two of this Ordinance, order the case to be reheard, either generally or as to any part thereof, and shall so -

(a) If new and important evidence is discovered which could not be produced at the formal investigation; or

(b) If for any other reason there is in his opinion ground for suspecting that a miscarriage of justice has occurred.

74. Rules on procedure on investigations - Rules may be made by the High Commissioner relating to formal investigations and in particular with respect to the appointment and summoning of Assessors, the procedure, the parties, the persons allowed to appear, the notice to those parties or persons or to persons affected, the amount and application of fees, and the places in which formal investigations shall be held.

[No rules under this section were made by 4 August 1965.]

75. Loss of life not caused by shipping casualty - Where any loss of life occurs on or from any ship whether caused by a shipping casualty or not, the [High Commissioner] may, in any case where but for this section there would be no jurisdiction to hold a Coroner's inquest, direct that an inquest be held in respect of the death, and an inquest shall be held accordingly.

76. Cancellation or suspension of certificates by the High Court - (1) The certificate of a master or engineer of a Commonwealth ship or a certificate of competency issued under this Ordinance may be cancelled or suspended by a Court holding a formal investigation under section seventy two of this Ordinance, if the Court finds that the loss or abandonment or serious damage to a ship or loss of life has been caused by his wrongful act or default; or if the Court finds that he is incompetent, or has been guilty of a gross act of misconduct,

drunkenness, or tyranny, or that, in case of collision or of any other ship or other vessel or any aircraft or any person in distress, he has failed to render such assistance or to give such information as is required under Part III of this Ordinance:

Provided that the Court shall not cancel or suspend a certificate unless one at least of the Assessors concurs in the finding of the Court.

(2) Where, under the provisions of this section, a certificate other than a certificate granted under this Ordinance, is cancelled or suspended, the [High Commissioner] shall send a copy of the evidence and the decision or report to the Government of the Commonwealth country by whom or by whose authority the certificate was granted.

77. Certificate to be given up on cancellation - Any master or engineer whose certificate is cancelled or suspended under this Part of this Ordinance shall deliver his certificate if cancelled or suspended by the High Court, to that Court on demand.

(2) If a master or engineer fails to comply with this section he commits an offence against this Ordinance.

PART VIII - MISCELLANEOUS

78. Punishment of crimes - Where in this Ordinance it is declared that any person is guilty of a crime for which no special penalty is provided elsewhere than in this section, that person shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds or both.

79. Offences - (1) Every person who commits an offence against this Ordinance for which no penalty is provided elsewhere than in this section shall be liable in respect of each offence to a fine not exceeding one hundred pounds.

(2) Where an offence against this Ordinance is a continuing one, and no penalty is provided for the continuance thereof elsewhere than in this section, every person who commits that offence shall, in addition to any other liability, be liable to a fine not exceeding five pounds for every day or part of a day during which the offence continues.

80. Recovery of fines, etc., by distress - (1) Where any Court -

(a) Adjudges any person convicted of an offence against this Ordinance to pay any fine or other moneys; or

(b) Adjudges any person to pay wages owing to any seaman; or

(c) Makes any order for payment of costs or expenses of or incidental to any such proceeding

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and the person adjudged or ordered to pay the same is the owner or master of a ship, and the same are not paid within the time and in the manner limited by the conviction or specified in the order of the Court, or, if in the case of a proceeding for the recovery of wages no time for

payment is specified, within seven days after judgment is given or the order made, the Court may exercise the powers specified in the next succeeding sub-section.

(2) In any such case the Court may -

(a) 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 ship and her equipments; and

(b) If at any time thereafter while that fine or those wages or other moneys remain unpaid that ship is found within the limits of the Cook Islands, issue, an order for the detention of the ship.

(3) An order for the detention of a ship under this section shall be directed to the Comptroller or other officer named in the order, requiring him to detain the ship until the judgment or order of the Court has been satisfied.

81. Enforcing detention of ships - (1) Where under this Ordinance a ship is to be or may be detained, the Comptroller or any person to whom an order for detention made by any Court or Judge under powers conferred by this Ordinance is directed, may detain the ship; and if, after detention or after service on the master of any notice of or order for detention, the ship proceeds to sea before it is released by competent authority, the master and the owner, and also any person who sends the ship to sea if he is a party or privy to the offence, each commits an offence against this Ordinance.

(2) where a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any person who is under this section authorised to detain the ship, or any officer of Customs or any member of the Board, the owner and the master of the ship each commits an offence against this Ordinance, and shall, in addition to the liability he incurs under the last preceding sub-section, be liable in respect of each offence to a fine not exceeding ten pounds for each day or part of a day until the person so taken to sea returns, or until such time as would enable him after leaving, the ship to return, to the port from which he is taken, or to a fine not exceeding one hundred pounds, whichever is the larger amount; and the owner and the master shall also each be liable to pay all the expenses of and incidental to that person being so taken to sea; and those expenses shall be recoverable in the same manner as the fine is recoverable.

(3) Where under this Ordinance a ship is to be detained, the Comptroller shall, and where under this Ordinance a ship may be detained, he may, refuse to grant a clearance to that ship.

82. Power to arrest ships on claims for damages, etc. - If it is alleged that the owners of any ship have incurred any liability to pay any sum in respect of -

(a) Work done at any port, harbour, roadstead or anchorage in the Cook Islands in connection with the loading or discharging of cargo or fuel or the embarkation or disembarkation of passengers on or from that ship; or

(b) The victualling, fuelling, repair and maintenance of that ship or of any part thereof or of the equipments thereof or any other services rendered in connection therewith; or

(c) Loss of life or personal injury caused by that ship, or sustained on board or about that ship in consequence of the wrongful act, neglect, or default of the owners of the ship, or of the master and crew of the ship, or any of those persons, or of any other person in the employment of the owners of the ship, or of any defect in the ship or her equipments,

and at any time that ship is found within the limits of the Cook Islands, a Judge of the High Court, upon its being shown that the owners are probably liable in any such respect as aforesaid and that none of the owners resides in the Cook Islands or that the owner or owners intend to depart therefrom, may, in his discretion, issue an order for the detention of the ship.

83. Repeals and savings - (1) The Inter-Island Boat Travelling Ordinance, 1955 is hereby revoked.

(2) All matters and proceedings commenced under the enactment so revoked and pending or in progress at the time of revocation, may be continued, completed, and enforced under this Ordinance and all offices, appointments, orders, rules, licences, registers and generally all acts of authority which originated under the said enactment and are subsisting or in force at the time of revocation of that enactment, shall ensure for the purposes of this Ordinance as fully and effectually as if they had originated under the provisions of this Ordinance, and accordingly shall, where necessary be deemed to have so originated.

[In this Ordinance the words "High Commissioner" were substituted for the words "Resident Commissioner" by S. 3(4) of the Cook Islands Amendment Act 1965]

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SCHEDULES

FIRST SCHEDULE

Form required to be completed in terms of sub-section 22 (1) of the Cook Islands Shipping Ordinance 1963

Name of ship:..... Port of Registry:
.....

Name of owner:..... Address:
.....

Registered or
authorised tonnage..... Number of crew

1. Particulars of certificates held:

a. Classification certificate issued by on....., expiry date.....

b. Loadline certificate issued by..... on....., expiry date.....

c. Particulars of stability information:

2. The following life-saving equipment maintained in good order and condition is carried aboard ship:

Number of life-boats:.....	Capacity:.....
Number of inflatable life rafts:.....	Capacity:.....
	<u>Total</u>

Information concerning inflatable life rafts is:

No. 1	Date of Purchase :.....	Age :.....	Tested by	on
" 2	" " "	"	" "	"
" 3	" " "	"	" "	"
" 4	" " "	"	" "	"
Number of life jackets:			
" " life buoys:			

3. Particulars of Fire Appliances:

Number carried: Type:
 Capacity: Location:

.....

4. Particulars of Cargo Carrying Capacity:

Capacity of cargo holds:

Type and quantity of deck cargo which)
 could be carried within the Cook).....
 Islands having regard to the safety)
 of the ship, crew and passengers)

5. Particulars of Passenger Carrying Capacity.

Number of passengers which could be carried under normal conditions within the Cook Islands;

- (a) With a capacity deck cargo:.....
- (b) With no deck cargo:.....

I..... do hereby certify

(full name)

that the foregoing answers are correct in every particular and do request that a General Safety Certificate be issued for this ship.

Signature.....
...../...../196.....

Address:

S.22 (2)

SECOND SCHEDULE.

General Safety Certificate

Issued under the authority of the Cook Islands Marine Board.

Official No.....

Ship's name.....

Port of Registry.....

Registered Tonnage

This is to certify that this ship complies with the requirements of Part II of the Cook Islands Shipping Ordinance 1963.

This certificate remains in force until

Issued at Rarotonga on the day of 196.....

.....
Signature and description

SHIPPING RULES 1964-65

OWNER: Silk and Boyd Ltd.

SHIP: "TAGUA"

MASTER: Donald Herbert Silk

SCHEDULE

Pursuant to sections 27 and 48 of the Cook Islands Shipping Ordinance 1963, the Cook Islands Marine Board hereby prescribes the following rules:-

1. Subject to the rules hereinafter prescribed, provided the following life rafts are carried on the ship M.V. "Tagua" may proceed on any voyage within the Cook Islands with a maximum of fourteen (14) passengers and seven (7) crew together with the master:-

Twenty five man life raft one (1)

Twenty man life raft one (1)

2. It shall be obligatory to carry the life rafts listed in the preceding clause on every voyage.

3. Any child not exceeding one year of age shall not be regarded as a passenger in terms of these rules.

4. Gelignite, detonators or explosives shall not be carried on any voyage except with the permission in writing of the Comptroller of Customs who may in the interest of safety impose such conditions as he considers necessary.

5. No dangerous goods as defined in section two (2) of the Cook Islands Shipping Ordinance 1963 shall be carried as deck cargo.

6. In the absence of any particulars of stability information the quantity of deck cargo that may be carried at any time on any voyage shall not exceed four tons weight.

7. In the interests of safety it shall be obligatory on the part of the owner to ensure that at least one member of the crew is taught the rudiments of navigation so that in the event of the incapacity of the master during any voyage, the ship can be navigated in safety to the nearest island or port.

3. Any child not exceeding one year of age shall not be regarded as a passenger for the purposes of these rules.
4. If on any voyage deck cargo is carried upon the ships hatch covers then the number of passengers carried on that particular voyage or until the deck cargo has been unloaded shall be reduced by one passenger for every twelve square feet of space occupied by deck cargo.
5. No deck passengers shall be carried on any voyage on which aviation gasoline is carried.
6. The number of deck passengers shall be reduced to ten (10) on any voyage on which more than thirty (30) drums of benzine or related product not being aviation gasoline are carried.
7. Gelignite, detonators or explosives shall not be carried on any voyage except with the permission in writing of the Comptroller of Customs who may, in the interest of safety, impose such conditions as he considers necessary.
8. No dangerous goods as defined in section two (2) of the Cook Islands Shipping Ordinance 1963 shall be carried as deck cargo.
9. In the absence of any particulars of stability information the quantity of deck cargo that may be carried on any voyage shall not exceed five tons weight.
10. In the interests of safety it shall be obligatory on the part of the owner to ensure that at least one member of the crew is taught the rudiments of navigation so that, in the event of the incapacity of the master during any voyage, the ship can be navigated in safety to the nearest island or port.
11. M.V. "Akaterere" in respect of which these rules are prescribed shall not proceed to sea from Rarotonga or from any island of the Cook Islands if the loadline on either side of the ship is submerged.
12. The number of persons that "Akaterere" is authorised to carry shall be reviewed following the return of "Akaterere" from its next annual survey when it is trusted that the ship's life boat will have been suitably installed on davits for swinging over the ship's side and two hand pumps are fitted.
13. The number of passengers that may be carried on any voyage shall be determined by the rules contained in this Schedule but in the event of the ship failing to comply with any of the provisions of Part III of the Cook Islands Shipping Ordinance 1963 or of the Radio on Ships Ordinance 1961 it shall be obligatory on the part of the owner to keep the ship in port until such time as the ship does meet the requirements of these Ordinances or obtains the written permission of the Cook Islands Marine Board.
14. These rules shall be subject to review by the Cook Islands Marine Board from time to time and such amendments will be prescribed as the Board considers necessary.

Dated at Avarua this 14th day of August 1964.

OWNER: D. C. Brown

SHIP: "BODICER"

Official Number: 185444

SCHEDULE

Pursuant to sections 27 and 48 of the Cook Islands Shipping Ordinance 1963, the Cook Islands Marine Board hereby prescribes the following rules:-

1. Subject to the rules hereinafter prescribed, provided the following ship's boats and life rafts are carried the ship M.V."Bodmer" may proceed on any voyage within the Cook Islands with a maximum of twelve (12) cabin passengers and fifty six (56) deck passengers and twelve (12) crew inclusive of the master in terms of paragraph (a) of sub-section 27 (3) of the Cook Islands Shipping Ordinance 1963:-

Sixteen man life boats two (2)

Twenty man life rafts four (4)

2. It shall be obligatory to carry the life boats on every voyage but if one or more of the rafts listed in the preceding clause is not carried on any voyage the number or deck passengers in clause one (1) of these rules shall be reduced by a number equivalent to the capacity of such raft or rafts.

3. Any child not exceeding one year of age shall not be regarded as a passenger for the purposes of these rules.

4. If on any voyage deck cargo is carried upon the ship's hatch covers then the number of deck passengers carried on that particular voyage or until the deck cargo has been unloaded shall be reduced by one passenger for every twelve square feet occupied by deck cargo.

5. No deck passengers shall be carried on any voyage on which aviation gasoline is carried and, if at any time aviation gasoline is carried in the ship's hold, the ventilation of the hold should be to the satisfaction of the Cook Islands Marine Board.

6. The number of deck passengers shall be reduced to ten (10) on any voyage on which more than thirty (30) drums of benzine or related product not being aviation gasoline are carried but if any benzine or related product is carried on deck no deck passengers shall be carried.

7. Gelignite, detonators or explosives shall not be carried on any voyage except with the permission in writing of the Comptroller of Customs who may in the interests of safety impose such conditions as he considers necessary.

8. No deck passengers shall be carried on any voyage on which dangerous goods as defined in

section two (2) of the Cook Islands Shipping Ordinance 1963 are carried as deck cargo.

9. In the absence of any particulars of stability information the quantity of deck cargo that may be carried on any voyage shall not exceed ten tons in weight.

10. All deck cargo shall be stowed in such a manner as to maintain safe and ready access to the toilet and ablutions in the fore part of the ship used by deck passengers. For this purpose a passageway shall be kept clear for the entire length of the cargo hatches at deck level.

11. In the interests of safety it shall be obligatory on the part of the owner to ensure that at least one member of the crew is taught the rudiments of navigation so that, in the event of the incapacity of the master during any voyage, the ship can be navigated in safety to the nearest island or port.

12. This ship shall not proceed to sea from Rarotonga or from any other island of the Cook Islands if the loadline on either side of the ship is submerged.

13. The number of passengers that may be carried on any voyage shall be determined by the rules contained in this Schedule but in the event of the ship failing to comply with any of the provisions of Part III of the Cook Islands Shipping Ordinance. 1963 or of the Radio on Tips Ordinance 1961 it shall be obligatory on the part of the owner and of the master to keep the ship in port until such time as the ship does meet the requirements of these Ordinances or obtains the written permission of the Cook Islands Marine Board.

14. These rules shall be subject to review by the Cook Islands Marine Board from time to time and such amendments will be prescribed as the Board considers necessary.

Issued this sixth day of April 1965 at Rarotonga