

LAWS OF SOLOMON ISLANDS

[1996 EDITION]

CHAPTER 161

PORTS

ARRANGEMENT OF SECTIONS

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**CHAPTER 161
PORTS**

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A CORPORATION TO BE KNOWN AS THE SOLOMON ISLANDS PORTS AUTHORITY, FOR THE TRANSFER TO THE AUTHORITY OF CERTAIN OF THE PORT AND HARBOUR UNDERTAKINGS OF THE GOVERNMENT, FOR THE FUNCTIONS OF THE AUTHORITY AND FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID

[4th June 1956]

6 of 1956
7 of 1957
13 of 1959
8 of 1965
6 of 1967
18 of 1967
4 of 1968
LN 46A of 1978
LN 88 of 1978
LN 69 of 1987
13 of 1988
LN 18 of 1990

**PART I
PRELIMINARY**

Short title

7 of 1957, s. 2

1. This Act may be cited as the Ports Act.

Interpretation

2. In this Act, unless the context otherwise requires—

"animals" means animate things of every kind except human beings;

"approach to a port" means any navigable channel declared to be an approach to a port under section 5;

"Authority" means the Solomon Islands Ports Authority established under the provisions of this Act;

"Authority Pilot" means a pilot appointed by the Authority;

"ballast" includes every kind of gravel, sand and soil and every commodity or thing commonly used for the ballasting of ships;

"beacon" means any light, mark or sign used as an aid to navigation, other than a lighthouse or buoy;

"buoy" includes any floating light, mark or sign used as an aid to navigation, other than a lighthouse;

"cargo" includes all kinds of movable personal property, other than animals;

"dues" includes ships' dues and harbour dues;

"ferry" means any ship plying from one side of a waterway to the other for the purposes of the carriage of passengers or goods;

"goods" includes baggage, animals (whether alive or dead) and all other movable property of any kind whatsoever;

"licensed pilot" means a pilot licensed by the Authority;

"lighthouse" includes a lightship;

"master" means when used in relation to any ship the person having command or charge of the ship for the time being, but does not include a pilot;

"navigable channel" means any channel where navigation is possible;

"pilot" means a person not belonging to a ship who has conduct thereof;

"pilotage district" means a pilotage district established by the Authority under section 36;

"port" means a port declared under section 5 to be a port;

"rates" means rates levied by the Authority by virtue of section 60;

"ship" includes any ship, vessel, tug, lighter, canoe or boat of any kind whatsoever whether propelled by steam or otherwise or towed;

"trains" includes locomotives, engines, tenders, motors, coaches, wagons, trolleys and rolling stock of all kinds used whether separately or in conjunction on a railway;

"vehicle" means any vehicle, other than a train or ship;

"warehouse" includes any building, place, wagon, ship or vehicle when used by the Authority for the purpose of warehousing or depositing goods.

Power conferred on Authority exercisable by servants and agents

3. When powers are conferred or duties imposed by or under this Act on the Authority, such powers may be exercised or such duties discharged by or through any servant or agent of the Authority authorised in that behalf by the Authority.

Power to amend First Schedule

LN 46A of 1978

4. The Minister may, by order, add to or delete from or amend the First Schedule.

PART II DECLARATION OF PORTS

Power to appoint ports, their limits and approaches

LN 46A of 1978

5.—(1) The Minister may, by order—

(a) declare any place in Solomon Islands and any navigable channel leading into such place to be a port within the meaning of this Act;

(b) declare the limits of any port appointed in accordance with paragraph (a) of this subsection;

(c) declare any navigable channel leading into any port to be an approach to such port within the meaning of this Act.

(2) The places specified in the First Schedule shall be deemed to be ports.

First Schedule

PART III THE SOLOMON ISLANDS PORTS AUTHORITY

Establishment of the Solomon Islands ports Authority

LN 46A of 1978

6.—(1) So soon as may be after the coming into force of this Act there shall be established a public authority to be known as the Solomon Islands Ports Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal, and shall have power to sue and be sued in its corporate name and to acquire and hold and dispose of lands.

Constitution of Authority

18 of 1967, s. 2

LN 46A of 1978

7.—(1) The Authority shall consist of a Chairman and not less than two other members appointed by the Minister all of whom shall hold office during such period as may be specified in their respective instruments of appointment.

(2) The Authority shall pay to the members thereof such salaries, gratuities and allowances as may be determined by the Minister:

Provided that no such salaries, gratuities and allowances, other than such allowances as may be expressly authorised by the Minister, shall be paid to any person who holds an office of profit under the Crown.

(3) The provisions contained in the Third Schedule shall have effect with respect to the constitution and proceedings of the Authority.

Third Schedule

Temporary Chairman

LN 46A of 1978

8.—(1) The Minister may appoint a person to act in place of the Chairman of the Authority during his temporary incapacity from illness or during his absence from Solomon Islands.

(2) A person appointed to act as temporary Chairman shall be deemed for all the purposes of this Act to be the Chairman of the Authority.

Duties of the Authority

18 of 1967, s. 3

LN 46A of 1978

9.—(1) It shall be the duty of the Authority—

(a) to provide and operate in the ports specified in the First Schedule such port facilities as appear to the Authority best calculated to serve the public interest;

(b) to maintain, improve and regulate the use of the ports specified in the First Schedule and the port facilities transferred to the Authority under this Act, to such extent as may appear to the Authority expedient in the public interest;

First Schedule

(c) to provide for the ports specified in the First Schedule, the approaches to such ports, and the territorial waters of Solomon Islands such pilotage services and such

lights, marks, and other navigational services and aids as appear to the Authority best calculated to serve the public interest;

(d) subject to the provisions of section 10 to provide and operate such other services as the Minister may require.

(2) The policy of the Authority shall be directed to secure that—

(a) the annual revenues of the Authority are, taking one financial year with another, sufficient to meet all charges properly chargeable to revenue;

(b) no particular person is given any undue preferences or subjected to any undue disadvantages.

(3) In this section—

"charges properly chargeable to revenue" mean charges chargeable to revenue in accordance with the provisions of section 19;

"navigational services" includes the cleaning and improving of any waterway;

"port facilities" means facilities for berthing, towing, mooring, moving or drydocking of ships on entering or leaving a port or its approaches, for the loading and unloading of goods or embarking or disembarking of passengers in or from any such ship, for the lighterage or the sorting, weighing, warehousing or handling of goods and for the carriage of passengers of goods in connection with any such facilities.

Powers of the Authority

10.—(1) Subject to the provisions of this Act, the Authority shall have power to carry on such activities as appear to the Authority to be advantageous, necessary, or convenient for it to carry on for or in connection with the discharge of its duties under section 9 and, without prejudice to the generality of the foregoing power the Authority may—

(a) acquire, construct, manufacture, maintain or repair anything required for the purposes of the Authority;

(b) carry on the business of carrier by land or sea, stevedore, wharfinger, warehouseman or lighterman or any other business recommended as desirable for the purposes of the Authority;

(c) load or unload any ship at any wharf for the time being vested in, or in the possession of the Authority;

(d) clean, deepen, improve or alter any port or its approaches or, if so required by the Minister any other waterway;

(e) provide and use both within Solomon Islands and on the high seas ships and appliances for the towage or protection or salvage of life and property or for the prevention of fire;

(f) determine and impose charges for any services performed by the Authority and for the grant to any person of any licence, permit or certificate;

(g) acquire any undertaking affording or intending to afford facilities for the loading and unloading or warehousing of goods in any port;

(h) appoint, license and manage pilots;

(i) supply water to shipping, and generate and supply electricity;

(j) insure goods in the custody of the Authority;

(k) control the erection and use of wharves in any port or its approaches;

(l) sell, let, or otherwise dispose of, any property which appears to the Authority to be unnecessary for the purposes of the Authority;

(m) enter into agreement with any person—

(i) for the supply, construction, manufacture, maintenance or repair by that person of any property, movable or immovable, necessary or desirable for the purposes of the Authority;

(ii) for the operation or the provision of any of the port facilities which may be operated or provided by the Authority;

(n) appoint, license and regulate weighers and meters of goods in any port;

(o) reclaim, excavate, enclose or raise any part of the lands vested in them;

(p) do anything for the purpose of advancing the skill of the persons employed by the Authority, or of the efficiency of the equipment of the Authority, or of the manner in which that equipment is operated, including the provision by the Authority and the assistance of the provision by others, of facilities for training, education and research;

(q) provide houses, hostels and other like accommodation for persons employed by the Authority;

(r) make loans to persons employed by the Authority for purposes specifically approved by the Authority as likely to increase the effectiveness of such persons in their services to the Authority, or otherwise for the purpose of the functions of the Authority;

(s) make loans to any person employed by the Authority for the purpose of building a house, purchasing a plot of land on which to build a house or purchasing a house, for the employee's use or for the residential use of his family;

(t) promote the welfare of persons employed by the Authority;

(u) engage in any other activity, whether similar to those heretofore specified or not, which may be sanctioned by order of the Minister.

LN 46A of 1978

(2) For the avoidance of doubt it is hereby declared that the preceding provisions of this section relate only to the capacity of the Authority as a statutory corporation, and nothing in the said provisions shall be construed as authorising the disregard by the Authority of any enactment or rule of law.

(3) The provisions of this section shall not be construed as limiting any power of the Authority conferred by or under any subsequent provisions of this Act.

Power of the Minister in relation to the Authority

LN 46A of 1978

11.—(1) The Minister may, after consultation with the Authority, give to the Authority directions of a general character as to the discharge by the Authority of its functions in relation to matters appearing to the Minister to affect the public interest, and the Authority shall give effect to such directions.

(2) The Minister may, after consultation with the Authority give to the Authority specific directions for the purposes of remedying any defect which may be disclosed in the general arrangements of the Authority for the discharge of its functions under this Act, and the Authority shall give effect to any such directions.

(3) The Authority shall afford to the Minister facilities for obtaining information with respect to the property and functions of the Authority, and shall furnish him with returns, accounts and other information with respect thereto and afford to him facilities for the verification of information furnished in such manner and at such time as he may require.

PART IV TRANSFER OF ASSETS

Transfer of assets

12. The assets described in the Second Schedule shall vest in the Authority by virtue of this Act and without further assurance.

Second Schedule

Minister may add assets to Second Schedule

LN 46A of 1978

13. The Minister may by order add any assets to the assets described in the Second Schedule, and any assets so added by an order made under this section shall be deemed to vest in the Authority by virtue of this Act, and without further assurances from the date the order comes into force.

Advance account for working capital

LN 46A of 1978

14.—(1) So soon as may be after the vesting day the Authority shall, in respect of any moneys advanced by the Government to the Authority to provide for working capital, create an advance account in favour of the Government equivalent to the total amount of such advances.

(2) The advance account created under subsection (1) shall be subject to such conditions as to interest and repayment as the Minister may from time to time determine.

Pending proceedings and causes of actions

15. Any proceeding or cause of action pending or existing immediately before the vesting day by or against the Government in respect of the assets transferred under the provisions of this Act, may be continued or enforced by or against the Government as if this Act had not been enacted.

PART V PROVISIONS RELATING TO STAFF

Employment of servants and agents

16. The Authority shall employ such servants and agents as it may think necessary for the due discharge of its functions under this Act, upon such terms as to remuneration or otherwise as it may determine.

Power to make rules relating to staff

17.—(1) The Authority may make rules generally relating to the conditions of service of servants of the Authority, and in particular but without prejudice to the generality of the foregoing, may make rules relating to—

(a) the appointment, dismissal, discipline, pay and leave of, and the security to be given by, such servants;

(b) appeals by such servants against dismissals or other disciplinary measures;

(c) the grant of pensions, gratuities and other retiring allowances to such servants and its dependants; and the grant of gratuities to the estates or dependants of deceased servants of the Authority;

(d) the establishment and maintenance of medical benefit funds, superannuation funds and provident funds, and the contributions payable thereto and the benefits receivable therefrom.

(2) The Authority may further make rules—
13 of 1988, s. 2

(a) with respect to the good conduct of its officers and servants;

(b) restricting the rights of, or prohibiting its officers and servants from engaging during the Authority's official working hours or hours during which the officer or the servant is engaged in the business of the Authority, in political activities, trade union activities (other than strikes) or other activities unrelated to official work;

(c) restricting the rights of, or prohibiting, persons from—

(i) engaging in any trade, employment or other business; or

(ii) accepting gifts, presents or other items,

while the person is an officer or servant of the Authority; and

(d) generally for the proper performance of the functions of the Authority under this or any other Act.

Officers seconded from Government to be employed

LN 88 of 1978

18.—(1) The Authority shall, subject to the provisions of this section, employ such officers, being officers on the established staff of the Government, as may be seconded by the Secretary for the Public Service from the service of the Government at any time.

(2) The Secretary for the Public Service may at any time determine the secondment of an officer who has been seconded to the service of the Authority under the provisions of this section, but no request by the Authority to the Secretary for the Public Service for the determination of the secondment of any such officer shall be made unless the Authority shall first have given to the officer written notice of the intention to make such request.

PART VI FINANCIAL PROVISIONS

Special application of revenues

18 of 1967, s. 4

LN 46A of 1978

19.—(1) The Authority shall make proper provision for the renewal of wasting assets, for payments of interest and sinking fund charges where appropriate, and for contributions to such reserve and other funds as may be required.

(2) Any excess of the revenues of the Authority for any financial year over the total sums (including sums provided under subsection (1)) properly chargeable by the Authority against its revenues for that year shall be applied by the Authority in such manner as the Minister, after consultation with the Authority, may direct.

General Reserve Fund

18 of 1967, s. 5

4 of 1968,

Sched

46A of 1978

20.—(1) The net annual profit of the Authority for each financial year shall, subject to the directions of the Minister under section 19 (2), be carried to a general reserve fund.

(2) The application of the reserve fund so formed shall be as the Authority may, with the approval of the Minister of Finance, determine:

Provided that no part of the moneys comprised in the general reserve shall be applied otherwise than for the purpose of the Authority.

Power to borrow money

21. The Authority may, with the consent of or in accordance with any general authority given by the Minister of Finance, borrow by way of loan, overdraft or otherwise such sums as the Authority may require for meeting its obligations and discharging its functions under this Act, and the moneys aforesaid may be borrowed from the Government or from such other person and upon such terms and conditions as may be approved by the Minister of Finance.

Miscellaneous financial powers of the Authority

18 of 1967, s. 5

LN 46A of 1978

LN 88 of 1978

22. In addition to the powers otherwise expressly or impliedly authorised by or under this Act it shall be lawful for the Authority—

(a) to establish and operate in the name of the Authority such bank accounts as it deems necessary or convenient;

(b) to invest and deal with any moneys of the Authority in and upon such investments and securities allowed by the law for the time being applicable in Solomon Islands for the investment of trust funds or such other investments or securities as may be approved by the Minister of Finance for the purpose of this paragraph;

(c) to draw, make, accept, endorse, discount, execute and issue bills of lading and other negotiable or transferable instruments or securities;

(d) with the approval of the Minister of Finance to pay compensation to any person damaged by the exercise of any powers or the performance of any duties by or under this Act.

Accounts

23.—(1) The Authority shall—

(a) cause proper accounts and other records in relation thereto to be kept; and

(b) shall prepare an annual statement of accounts in such form and containing such particulars, compiled in such manner as the Minister may from time to time direct.

(2) The said annual statement of accounts shall present a true and fair view of the financial position of the Authority and of the results of the Authority's operations for the year to which it relates, and the Minister shall exercise his powers under this section accordingly.

(3) The accounts of the Authority shall be audited by an auditor or auditors to be appointed annually by the Authority with the approval of the Minister.

(4) As soon as the accounts of the Authority have been audited as aforesaid the Authority shall send a copy of the statement of accounts referred to in paragraph (b) of subsection (1) to the Minister together with a copy of the report made by the auditor or auditors thereon.

(5) The Minister shall cause every such statement and report to be published in such manner as he may think fit.

Annual Report and periodical returns

LN 46A of 1978

24.—(1) The Authority shall, as soon as possible after the end of each financial year, make to the Minister a report dealing with the activities of the Authority during that year.

(2) The Minister shall cause every such statement and report to be published in such manner as he may think fit.

(3) The Authority shall furnish to the Minister such financial and statistical returns as he may from time to time require.

PART VII PROVISIONS RELATING TO LAND

Restriction on alienation of land

LN 46A of 1978

25. The Authority shall not, without the approval in writing of the Minister, alienate, mortgage, charge or demise any immovable property which has been vested in the Authority under any of the provisions of this Act or in respect of which a right of occupancy has been granted to the Authority.

Power to enter land to erect beacons and make surveys

26. The Authority may, by its servants or agents, together with all necessary workmen—

(a) enter on any land for the purpose of erecting or maintaining any beacon, or of examining, repairing, altering or removing any beacon, and there remain for such reasonable time as may be necessary for such purpose;

(b) erect and maintain beacons upon or in any land, swamp, embankment, wharf, or the shore or bed of any tidal or other waters, and alter or remove any beacon so erected:

Provided that no beacon shall be so placed on any road as to hinder or interfere with free passage along such road; and

(c) for the purposes of its functions under this Act survey and take levels of any land, and cut and remove all trees and underwood which may interfere with such surveys.

Power to remove obstruction to visibility of lighthouse and beacons

27. An authorised servant of the Authority together with all proper assistance may enter on any land and cut and remove all trees, underwood and vegetation which may interfere with the visibility of any lighthouse or beacon.

When notice of entry on land to be given

LN 88 of 1978

28. The Authority shall, when practicable, give notice to the occupier of any land upon which it is intended to enter in exercise of any of the powers conferred by section 27 or section 28 and shall inform the Provincial Secretary of the province wherein the land is situate.

Compensation for damage

29. In the exercise of any of the powers conferred upon the Authority by section 26 or section 27 the Authority shall do as little damage as may be, and compensation shall be paid by the Authority for any damage done to any crops or economic trees but not otherwise.

Disputes as to amount of compensation

30. Any dispute as to the amount of compensation payable under section 29 shall be determined by a Magistrate exercising jurisdiction in the place where the land is situate.

PART VIII REGULATION OF PORTS

Power to appoint harbour masters

31. The Authority may appoint a harbour master in respect of any port.

Power of Authority to make port rules

32.—(1) The Authority may make rules for the maintenance, control and management of any port and for the maintenance of good order therein, and, in particular and without prejudice to the generality of the foregoing power, may make rules for all or any of the following purposes—

- (a) regulating traffic within the limits of a port or the approaches to a port;
- (b) regulating the berths and stations to be occupied by ships and the removal of ships from the berth, station or anchorage to another berth, station or anchorage, and the time within which such removal shall be effected;
- (c) regulating ships whilst taking in or discharging ballast or cargo;
- (d) keeping free passages of such width as is deemed necessary, within any such port and along or near to the piers, jetties, landing places, wharves, quays, docks, moorings, and other similar works in or adjoining the same; and for marking out the spaces so to be kept free;
- (e) regulating the anchoring, fastening, mooring, and unmooring and warping of all ships and the use of warps, mooring buoys, chains and other moorings;

- (f)* regulating traffic, preventing obstruction and keeping order on piers, jetties and wharves, and for ensuring the safety of piers, jetties and wharves and any cargo thereon;
- (g)* regulating the use of fires and lights, and the signals to be used and measures to be taken in case of fire in a port by day or night;
- (h)* enforcing and regulating the use of navigating lights, or signals and of signal lights by ships;
- (i)* regulating the flags and signals to be used by ships arriving at, lying in and departing from a port;
- (j)* regulating the manner in which ships arriving shall be boarded by the harbour master and the information to be supplied to him by the master of the ship;
- (k)* regulating the use by ships of steam whistles, steam sirens and other like instruments;
- (l)* prohibiting chipping, scaling or noisy repairs on ships except at such anchorage or places and at such times as may be prescribed or as the harbour master may appoint;
- (m)* prohibiting or regulating the erection, maintenance and working of fishing stakes, prescribing the nature of the nets or stakes which may be used, and providing for the licensing of persons authorised to erect and maintain the same, and prescribing the fees which shall be paid for such licence;
- (n)* regulating, whether by way of prohibition or otherwise, the floating of timber, casks or other objects in any port or the approach to any port and the casting or depositing of any dead body, ballast, rubbish or other thing into any port or the approach to any port and providing for the forfeiture of anything found in any port or the approach to any port in contravention of this Act and for the redemption on payment of expenses and a penalty, within a time limit to be fixed, of anything so forfeited;
- (o)* prescribing the duties of masters of ships carrying gunpowder or other explosive or dangerous cargo, and of persons engaged in or supervising the shipping, unshipping, landing and transport of any such cargo;
- (p)* regulating the placing and maintaining of moorings or buoys;
- (q)* regulating and licensing weighing and metering of goods;
- (r)* regulating and licensing porters and carriers and other labourers employed in the working of port facilities.

(2) For the breach of any rule made under this section the Authority may prescribe as a penalty a fine not exceeding one hundred dollars, and in the case of a continuous breach, a further fine not exceeding ten dollars a day for every day after the first during which such breach continues, or a term of imprisonment not exceeding three months, or both such term of imprisonment and fine.

Power of harbour master in relation to ships

33. Subject to the provisions of any rules made under this Part, the harbour master of a port may—

(a) direct where any ship shall be berthed, moored or anchored and the method of anchoring within the port;

(b) direct the removal of any ship from any berth, station or anchorage to another berth, station or anchorage and the time within which such removal is to be effected within the port;

(c) regulate the moving of ships within the port.

PART IX REGULATION OF AUTHORITY'S WHARVES AND PREMISES

Authority to set apart Customs area

18 of 1967, s. 7

34. Where any part of the wharves or premises vested in or in the possession of the Authority is appointed a custom area for the purposes of the Customs and Excise Act the Authority shall set apart and maintain such area, and provide office accommodation therein, in such manner as the Comptroller of Customs and Excise requires.

Power of Authority to make by-laws

35.—(1) The Authority may make by-laws for the control and management of the wharves and premises vested in or in possession of the Authority and the maintenance of good order therein and, in particular, and without prejudice to the generality of the foregoing power, may make by-laws for all or any of the following purposes—

(a) regulating, declaring and defining the wharves, docks, piers and places vested in or in the possession of the Authority on and from which goods shall be landed and shipped;

(b) regulating the manner in which and the conditions under which the loading and discharge of ships shall be carried out;

- (c) regulating the use of any sheds, warehouses and railways vested in or in the possession of the Authority;
- (d) the exclusion and removal from the premises of the Authority of idle or disorderly or other undesirable persons and trespassers;
- (e) regulating the conduct of persons employed on wharves and premises vested in or in the possession of the Authority;
- (f) regulating any ferry service maintained by the Authority;
- (g) the management of lighthouses of the Authority.

(2) For the breach of any by-law made under this section the Authority may prescribe as a penalty a fine not exceeding one hundred dollars, and, where the breach is a continuous breach a further fine not exceeding ten dollars for every day after the first day during which the breach continues.

(3) A copy of the by-laws made under this section and for the time being in force shall be kept at the office of the Authority in each port and the Authority shall allow any person to inspect it free of charge at all reasonable times.

PART X PILOTAGE

Authority may establish pilotage districts

36.—(1) The Authority may, by order, establish a pilotage district in any port, the approaches to any port or in territorial waters.

(2) An order made under subsection (1) may—

(a) provide that in any pilotage district or in any part of a pilotage district pilotage shall be compulsory;

(b) define the limits of any pilotage district, distinguishing, when pilotage is compulsory in part of such district, the part of the district in which pilotage is compulsory.

(3) An order under this section shall not take effect unless it has been submitted to the Minister and approved by him.

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Obligations where pilotage compulsory

37.—(1) Every ship other than any excepted ship, while navigating in a pilotage district in which pilotage is compulsory for the purpose of entering, leaving or making use of the port in the district shall be under the pilotage of—

- (a) an Authority pilot; or
- (b) a licensed pilot of the district.

(2) For the purposes of this section the following ships are excepted ships—

- (a) ships belonging to Her Majesty;
- (b) ships owned or operated by the Authority;
- (c) pleasure yachts;
- (d) ferry boats plying as such exclusively within the limits of a port;
- (e) ships not exceeding two hundred tons gross tonnage;
- (f) tugs, dredges, barges, or similar vessels whose ordinary course of navigation does not extend beyond the limits of a port;
- (g) ships exempted from compulsory pilotage by rules as hereinafter provided in this Part.

(3) A ship while being moved within a port which is or forms part of a pilotage district shall be deemed to be a ship navigating in a pilotage district, except so far as may be provided by rules made as hereinafter provided by this Part.

Power of Authority in relation to pilots

38. Subject to the provisions of this Part the Authority may license pilots for a pilotage district, and may do all such other things in relation to pilots as are necessary or expedient for carrying into effect the Authority's powers and duties conferred or imposed by or under this Part.

Pilotage boards

39. The Authority may by order establish a pilotage board for a pilotage district, and in a pilotage district in which or in any part of which pilotage is compulsory, the Authority shall establish a pilotage board for that district.

Membership of pilotage boards

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40.—(1) A pilotage board shall consist of—

(a) the harbour master of the port; and

(b) not less than one or more than four persons appointed by the Authority with the approval of the Minister.

(2) An appointed member of a pilotage board may be appointed for a period not exceeding three years, and may be reappointed.

(3) An appointed member may at any time resign from membership of a pilotage board by sending his resignation in writing to the Authority.

(4) The harbour master of the port shall be the Chairman of the pilotage board.

Duties of pilotage board

41. It shall be the duty of a pilotage board to—

(a) hold inquiries concerning the conduct of pilots in the discharge of its duties in the pilotage district;

(b) license pilots for the pilotage district on behalf of the Authority;

(c) hold examinations in connection with the licensing of pilots for the pilotage district.

Meetings of pilotage boards

42.—(1) A pilotage board shall meet for the despatch of business at such time and place as the Chairman may from time to time appoint.

(2) Two members of a pilotage board shall form a quorum.

(3) The Chairman, if present, shall preside at every meeting of a pilotage board, and in his absence the pilotage board shall appoint one of its members present to preside.

(4) Every question which comes before a pilotage board at any meeting shall be decided by a majority of votes of the members present and voting.

(5) The member presiding at any meeting shall have a vote and, in the case of an equality of votes, a second or casting vote.

(6) Minutes shall be kept of the proceedings of a pilotage board, and such minutes shall be signed by the person presiding at the meeting to which the minutes relate.

Inquiries into conduct of a pilot

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43. A pilotage board may, and when directed by the Minister shall, hold an inquiry into the conduct of a pilot against whom any allegation of misconduct is made, or a pilot in charge of a ship which—

- (a) touches the ground; or
- (b) runs foul of any other ship; or
- (c) runs foul of any wharf, buoy, mole or beacon.

Power to take evidence on oath and summon witnesses

44. A pilotage board holding an inquiry under section 43 may summon witnesses and examine witnesses on oath and may call for any documents in any matter before the board.

Misconduct of a witness

45. When any person—

- (a) on being summoned as a witness before a pilotage board fails to attend;
- (b) refuses to take an oath or to affirm when required to do so by a pilotage board during an inquiry;
- (c) refuses to produce any document in his power or control legally required by the pilotage board during an inquiry;
- (d) refuses to answer any question to which a pilotage board may legally require an answer;
- (e) during an inquiry is, in the opinion of the pilotage board, guilty of contempt towards the board;

the chairman of the pilotage board may make a written complaint concerning the conduct of the person to any court which has power to punish persons if guilty of like conduct in that court, and the court may thereupon inquire into such alleged conduct, and after examination of any witnesses who may be produced for or against the person complained against, and after hearing any statement that may be offered in defence, the court may if it seems just punish the person complained against as if he had been guilty of such conduct in a proceeding in that court.

Punishment of pilot by pilotage board

46.—(1) Where a pilotage board after due inquiry in accordance with the provisions of this Part finds that a pilot has—

(a) been guilty of misconduct affecting his capability as a pilot; or

(b) failed in or neglected his duty as a pilot; or

(c) become incompetent to act as a pilot;

the pilotage board may, in a case under paragraph (a) or paragraph (b) of this subsection, impose a fine not exceeding twenty dollars or severely reprimand or reprimand the pilot and may, in any case, whether in addition to any such fine or reprimand or not, suspend the pilot from duty.

(2) Where a pilot is suspended from duty by a pilotage board under subsection (1) the board shall make such recommendations to the Authority concerning the future exercise of the pilot's duties in the pilotage district, as the board considers appropriate in the circumstances of the particular case.

(3) Copies of the record of an inquiry held under section 43 or a recommendation made under subsection (2) shall be supplied by the pilotage board to the Authority, the Minister and the pilot concerned.

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Appeal to Minister against decision of pilotage board

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47.—(1) If a pilot is aggrieved by a decision or recommendation of a pilotage board he may within thirty days from the date of the decision or recommendation appeal to the Minister.

(2) The Minister after considering the appeal may—

(a) confirm or reverse the finding of the board; or

(b) subject to the provisions of section 46, alter the nature of the punishment; or

(c) in the case of a recommendation to the Authority under subsection (2) of section 46, support, comment on or oppose the recommendation;

and the decision of the Minister shall be final.

Revocation of pilot's licence by Authority

48.—(1) The Authority shall consider any recommendation made by a pilotage board concerning any pilot who has been suspended by the board under section 46, and having considered the recommendation and the record of the inquiry may—

(a) suspend or revoke the pilot's licence; or

(b) inform the pilot and the pilotage board that the pilot may resume his duties as a pilot in the pilotage district.

(2) No pilot's licence shall be suspended or revoked under subsection (1), or action taken by the Authority in relation to any pilot as a result of a recommendation made by a pilotage board unless—

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(a) no appeal has been made by the Authority pilot or licensed pilot to the Minister within the time prescribed by section 47; or

(b) in the case of an Authority pilot he has informed the Authority in writing that he does not intend to exercise his rights of appeal; or

(c) an appeal has been made to and determined by the Minister in accordance with the provisions of section 47.

Authority's power to make rules for pilotage districts

49. Subject to the provisions of this Part, the Authority may make rules for any pilotage district for all or any of the following purposes—

(a) exempting any class of ship from compulsory pilotage;

(b) prescribing the occasions upon which a ship being moved within a port which forms part of a pilotage district in which pilotage is compulsory shall not be deemed to be navigating in the port;

(c) providing that in respect of any class of ship prescribed in such rules only Authority pilots shall undertake pilotage;

(d) determining the qualifications to be required of licensed pilots, and for the grant of licences to pilots;

(e) providing generally for the good government of Authority pilots and pilots licensed by the Authority;

(f) providing for the punishment of any breach of any rules made by the Authority for the good government of pilots by the infliction of fines not exceeding forty dollars;

(g) prescribing the fees which shall be payable upon the grant or renewal of a licence;

(h) providing for bonds (the penalty of which shall not in any case exceed two hundred dollars) being given by pilots for the purpose of the provisions of section 51 limiting a pilot's liability; and

(i) generally regulating pilotage in a pilotage district.

Liability of the master or owner in the case of a ship under pilotage

50. The master or owner of a ship navigating in circumstances in which pilotage is compulsory shall be answerable for any loss or damage caused by the ship or by any fault of the navigation of the ship in the same manner as he would if pilotage were not compulsory.

Limitation of pilot's liability when bond is given

51.—(1) A pilot who has given a bond under rules made under this Part, shall not be liable for neglect or want of skill beyond the penalty of the bond and the amount payable to him on account of pilotage in respect of the voyage in which he was engaged when he became so liable.

(2) Any bond given by a pilot in accordance with rules made under this Act shall not be liable to stamp duty.

(3) Where any proceedings are taken against a pilot for any neglect or want of skill in respect of which his liability is limited as provided by this section, and other claims are apprehended in respect of the same neglect or want of skill, the court in which the proceedings are taken may determine the amount of the pilot's liability and upon payment by the pilot of that amount into court, may distribute that amount rateably among several claimants, and may stay any proceedings pending in any other court in relation to the same matter, and may proceed in such manner and subject to such directions as to making persons interested parties to the proceedings, and as to the exclusion of claimants who do not come in within a certain time, and as to requiring security from the pilot, and as to payment of any costs as the court thinks fit.

PART XI DUES AND RATES

(a) Harbour Dues

Levy of harbour dues

52. Subject to the provisions of this Part, the Authority may levy upon every ship entering or leaving a port such harbour dues in respect of the passengers, animals or cargo carried in such ship as the Authority may by rules made under section 72 prescribe.

Master to supply information on arrival

53.—(1) The master of any ship arriving in a port shall produce to the Authority—

(a) the ship's register and the ship's papers;

(b) a list of all inward passengers and animals, the name of the consignee of the cargo intended to be unshipped; and

(c) if the whole cargo be intended to be unshipped, a copy of the bill of lading or manifest of the cargo; or

(d) if part only of the cargo be intended to be unshipped, the best account in writing in his power of the kinds, weights and quantities of the cargo intended to be unshipped;

and shall also supply such other information in relation to the ship, passengers, animals and cargo thereof as may be prescribed.

(2) The particulars required by subsection (1) shall be produced or supplied in such form and within such time as may be prescribed.

Master to supply information on proceeding outward

54.—(1) When applying for the clearance of his ship outwards from a port, the master shall produce to the Authority—

(a) a list of all outward passengers and animals;

(b) the best account in writing, in his power, of the kinds, quantities and weights of all cargo shipped on board in such port;

and shall also supply to the Authority such other information in relation to the ship, passengers, animals or cargo thereof as may be prescribed.

(2) The particulars required by subsection (1) shall be delivered to such officer of the Authority, and in such form as may be prescribed.

When harbour dues payable

55.—(1) Harbour dues payable in respect of passengers, animals and cargo inwards shall be paid before the discharge of such passengers, animals and cargo from the port area.

(2) Harbour dues payable in respect of passengers, animals and cargo outwards shall be paid before the said passengers, animals and cargo are placed on board the vessel.

Who is liable for payment of harbour dues

56. The following persons shall be liable for the payment of harbour dues—

(a) the master or owner of the ship;

(b) as to harbour dues payable in respect of passengers, animals or cargo inwards, the consignee of the animals or cargo or in the case of passengers, the passengers themselves;

(c) as to harbour dues payable in respect of passengers, animals and cargo outwards, the consignee of the animals or cargo or in the case of passengers, the passengers themselves.

(b) Ships' Dues

Levy of ships' dues

57. Subject to the provisions of this Part, the Authority may levy on any ship—

(a) in relation to any port such ships' dues by way of light, buoyage, anchorage, mooring buoy, berthing or other ships' dues;

(b) in relation to any pilotage district such ships' dues by way of pilotage dues,

as the Authority may by rule made under section 72 prescribe.

Who is liable to pay ships' dues

58.—(1) The following persons shall be liable to pay ships' dues levied on a ship under paragraph (a) of section 57—

(a) the master or owner;

(b) every consignee or agent who shall have paid or made himself liable to pay any dues on account of such ship in the port of her arrival or discharge.

(2) The following persons shall be liable to pay ships' dues levied on a ship under paragraph (b) of section 57—

(a) the master or owner;

(b) as to pilotage inwards, every consignee or agent who shall have paid or made himself liable to pay any dues on account of such ship in the port of her arrival or discharge;

(c) as to pilotage outwards, every consignee or agent who shall have paid or made himself liable to pay any dues on account of the ship in her port of departure.

Consignee or agent may retain ship's dues out of owner's moneys

59. When any ships' dues are paid by any person, not being the master or owner of the ship, who is made liable by paragraph (b) of subsection (1) or paragraph (b) or paragraph (c) of subsection (2) of section 58 that person may retain, out of any moneys in his hands received on account of such ship or her owner, the amount of dues paid by him together with any reasonable expenses he may have incurred by reason of such payment or liability.

(c) Levy of Rates

Levy of rates

60. Subject to the provisions of this Part, the Authority may levy such rates as the Authority may by rule made under section 72 prescribe for the use of any works or appliances provided, or any service to be performed in respect of any ships or goods by the Authority, in pursuance of the powers conferred by this Act, and, without prejudice to the generality of the foregoing, for any of the following—

- (a)* the landing, shipping, wharfage, crantage, storage, carriage or demurrage of goods;
- (b)* the carriage of passengers;
- (c)* the use by any ship or person of any wharf in the possession of the Authority;
- (d)* the use of any gear, tackle, tools, instruments or staging supplied by the Authority for the purpose of any ship using any wharf in the possession of the Authority;
- (e)* the use of any ship or lighter, or any engine or boat for the extinction of fire, belonging to or maintained by the Authority;
- (f)* the towing of, and rendering assistance to, any ship, whether leaving or entering the wharves in possession of the Authority or not, being within or without any port;
- (g)* water supplied by the Authority.

Authority to have lien for certain rates

61.—(1) For the amount of all rates leviable under this Act in respect of any goods, the Authority shall have a lien on such goods, and shall be entitled to seize and detain the same until such rates are fully paid.

(2) Rates in respect of goods to be landed shall become payable immediately on the landing of such goods.

(3) Rates in respect of goods to be removed from the premises of the Authority, or to be shipped, shall be payable before such goods are removed or shipped.

(4) The lien for such rates shall have priority over all other liens and claims, except claims for money payable to Her Majesty.

Lien for freight preserved after landing if notice given

62.—(1) If the master or owner of any ship, or his agent, or the person by whom the goods are landed, at or before the time of landing from such ship any goods at any wharf or other premises of the Authority, gives notice in writing that such goods are to remain subject to a lien for freight, primage or general average, or charges to an amount to be mentioned in such notice, such goods shall continue liable to the same lien, if any, for such charges as they were subject to before the landing thereof.

(2) The Authority shall retain such goods at the risk and expense of the owner of the goods until the lien is discharged as hereinafter mentioned, or until it is entitled under the provisions hereinafter contained to sell them.

Discharge of lien by payment or release

63. Upon production to the Authority of a document purporting to be a receipt for the amount claimed as due, or a release for the amount of any lien to which goods are liable under section 62 from the person by or on whose behalf such notice has been given, the Authority may permit such goods to be removed without regard to the lien, provided it has used reasonable care in respect to the authenticity of such document.

Power for Authority to sell if rates not paid or lien not discharged

18 of 1967, s. 8

64.—(1) If the rates payable to the Authority in respect of any goods are not paid, or if the lien for freight, primage, general average or charges, when such notice as aforesaid has been given, is not discharged, the Authority may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage, general average or charges, at the expiration of ninety days from the time when the goods were placed in its custody, or if the goods are of a perishable nature at such earlier period, not being less than twenty-four hours after the landing of the goods, as the Authority thinks fit, sell by public auction or similar the said goods or so much as is necessary to satisfy the duty, expenses, rates and other claims hereinafter directed to be paid out of the proceeds of such sale.

(2) Before making such sale ten days' notice of the same shall be given by publication thereof in such manner as the Minister may specify, unless the goods are of so perishable a nature as, in the opinion of the Authority, to render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits.

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(3) If the address of the owner of the goods or of his agent has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the Authority, or is

otherwise known and such address is within Solomon Islands, notice shall also be given to the owner of the goods by letter delivered at such address or sent by post; but the title of a bona fide purchaser shall not be invalidated by reason of the omission to send the said notice, nor shall any such purchaser be bound to inquire whether such notice has been sent.

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Application of proceeds of sale

65.—(1) The proceeds of any sale in accordance with the preceding section shall be applied as follows, and in the following order—

(a) first in payment of any customs and excise duties and Queen's warehouse rent owing in respect thereof; then

(b) in payment of the expenses of the sale; then

(c) in payment of the rates and expenses due to the Authority in respect of the goods; then

(d) in payment of the freight and other claims or lien of which such notice as aforesaid has been given;

and the surplus, if any, shall be paid to the owner of the goods on demand.

(2) In case no such demand is made within one year from the sale of the goods, the surplus shall be paid to the general account of the Authority, whereupon all rights to the same of the owner shall be extinguished.

(d) General Provisions as to Dues and Rates

Power of entry to ascertain dues, etc

66. The Authority may, either alone or with any other person, enter into any ship within the limits of any port, in order to ascertain the dues or rates payable in respect of the ship.

Weighing and measuring of goods in event of dispute

67. If any difference arises between the Authority and the master of any ship or the owner of any goods, concerning the weight or quantities of the goods in respect of which any harbour dues or rates are payable, the Authority shall cause all such goods to be weighed and measured and may, if necessary, detain the ship containing such goods until they have been weighed or measured.

Payment of expenses of weighing and measuring

68.—(1) If the weight or measurement of such goods be more than that shown by the particulars delivered by the master in accordance with section 53 or section 54, the expenses of such weighing or measuring shall be paid to the Authority by the master of the ship, and shall be recoverable in the same manner as dues leviable under this Part.

(2) If the weight or quantity of such goods be the same as or less than that shown by the particulars so delivered, the Authority shall pay all the expenses of such weighing or measuring and of any unreasonable delay of the ship.

Power to distrain for non-payment of dues and rates

69.—(1) If the master of any ship in respect of which any dues or rates are payable refuses or neglects to pay such dues or rates on demand, the Authority may distrain or arrest the ship and the tackle, apparel or furniture, thereof and may detain it until the amount so due is paid.

(2) If for a period of fourteen days following such distraint or arrest—

(a) any such dues or rates; or

(b) any of the expenses of distraint or arrest or the detention of the ship, tackle, apparel or furniture,

remain unpaid, the Authority may cause the ship or other things distrained or arrested to be sold.

(3) Out of the proceeds of such sale the Authority may retain the amount of dues, rates or costs which are owing and the Authority shall deliver the balance to the master of the ship, on demand.

Clearance to be withheld until dues or rates are paid

70.—(1) If the Authority gives to the proper officer of the Customs Department a notice stating that an amount, therein specified, is due in respect of dues or rates leviable under this Act against any ship, or the master or owner of such ship, the proper officer shall not give any discharge clearance outwards until—

(a) the amount of such dues or rates has been paid; or

(b) security has been given to the satisfaction of the Authority for the payment of such dues or rates.

(2) In this section "proper officer" means the officer whose duty it is to grant clearance outwards from a port of the ship in respect of which notice is given.

Authority may recover dues, rates, etc. by suit

71. Notwithstanding anything contained in sections 61 to 70, the Authority may recover by civil suit any dues, rates, expenses, costs or, in the case of sale, the balance thereof, when the proceeds of sale are insufficient.

Power of Authority to make rules for levy of dues and rates

72.—(1) Subject to the provisions of this Part, the Authority may make rules—

- (a) for the levying of dues and rates for the purposes of sections 52, 57 and 60;
- (b) prescribing the conditions upon which any work or services in respect of which a rate is levied will be performed or provided by the Authority;
- (c) prescribing the officer of the Authority to whom any return or information required by this Part shall be delivered and the place of such delivery and the time within which it shall be made;
- (d) prescribing the officer of the Authority to whom such dues or rates shall be paid, the place of payment and the time within which payment shall be made;
- (e) providing for the exemption of any ship, or class of ship, passenger, animal or goods from all or any dues or rates or the remission thereof or any part thereof;
- (f) prescribing anything required to be prescribed by this Part;
- (g) generally for giving effect to the provisions of this Part.

(2) For the avoidance of doubt it is hereby declared that rules made under this section may—

- (a) prescribe different dues or rates for different ports;
- (b) prescribe different dues or rates for different classes of ships, passengers, animals or goods;
- (c) provide that the Authority may enter into special agreement in respect of any matter referred to in section 60 instead of charging the rate in accordance with the rate prescribed by rule.

Approval and publication of rules as to dues and rates

73.—(1) Rules made under section 72 shall not have effect until approved by the Minister of Finance.

(2) The Authority shall keep at the office of the Authority in each port a book specifying the dues and rates for the time being in force and shall allow any person to inspect it free of charge at all reasonable times.

18 of 1967, s. 9
LN 46A of 1978

Exemptions from provisions of Part XI

18 of 1967, s. 10

74. The provisions of this Part shall not apply to any ship belonging to the armed force of Her Majesty or of the Government of any part of the Commonwealth.

Part XI applicable to Government goods

75. The provisions of this Part shall apply to goods the property of the Government.

PART XII

THE LIABILITY OF THE AUTHORITY

(a) As a Carrier of Passengers

Liability of Authority for loss of life or injury to passengers

18 of 1967, s. 11

76.—(1) The Authority shall not be liable for the loss of life, or personal injury to, any passenger, except where the loss of life, or personal injury is caused by want of ordinary care, diligence or skill on the part of the Authority or any of its servants.

(2) The Authority shall not be liable for the loss of life or personal injury to any passenger who is carried by the Authority when the loss of life or injury occurs during carriage by ship and arose from—

(a) act of God;

(b) act of war or the Queen's enemies;

(c) fire, or accident from machinery, boilers or steam;

(d) any peril or accident of the seas, inland waters, or navigation, of whatsoever nature or kind and from whatsoever cause arising,

but, subject thereto and to any condition expressed in the contract of carriage, the Authority shall be liable for any such loss of life or personal injury which occurs during the carriage by ship to the extent to which they would be liable under the Merchant Shipping Act, 1894, and any Acts amending that Act, as if the ship were registered under that Act and the Authority were the owner of that ship and not to any greater extent.

57 & 58 Vict. c. 60

(3) Where the Authority seeks to avoid liability under the provisions of the foregoing subsection the burden of proving that any such loss of life or injury occurred during the carriage by ship shall lie upon the Authority.

(4) For the purposes of this section the expression "passenger" includes every person, other than a servant of the Authority on duty, lawfully travelling on any ship, vehicle or train owned or operated by the Authority.

No liability for delay to passengers

77. The Authority shall not be liable for any loss arising from the delay to any passenger caused—

(a) by the failure of any ship, vehicle or train to start on any journey;

(b) by the late starting or late arrival of any ship, vehicle or train,

from whatsoever cause arising.

(b) As a Carrier of Goods by Ship.

Liability for delay of goods

78. The Authority shall not be liable for any loss arising from delay to, detention of, or deviation in the carriage of goods unless such delay, detention or deviation is caused by want of reasonable foresight and care on the part of the Authority or of any servant:

Provided that the Authority shall not in any circumstances be liable for any loss arising from delay to, detention of, or deviation in the carriage of goods—

(a) where there has been fraud on the part of the consignor; or

(b) unless a document acknowledging the receipt of such goods for carriage by the Authority has been given; or

(c) which at the time when such delay, detention or deviation occurred were being carried by any transport service other than one provided by the Authority or under the control of the Authority; or

(d) where there is a loss in a particular market whether held daily or at intervals; or

(e) where such delay, detention or deviation arises from—

(i) insufficient or improper packing;

(ii) riots, civil commotions, strikes, lock-outs, stoppage or restraint of labour from whatever cause, whether partial or general.

Limitation of liability for loss of animals

79.—(1) The liability of the Authority in respect of any animal shall not in any case exceed—

- (a) in the case of a horse, one hundred dollars;
- (b) in the case of any cattle, ten dollars;
- (c) in the case of any other animal, two dollars;

unless at the time of acceptance of such animal by the Authority for carriage the consignor or his agent declared that the value of the animal exceeded the appropriate amount and paid, or agreed to pay, such additional charge as may be prescribed in respect of such excess value, and the liability of the Authority shall not in any case exceed such declared value.

(2) In any proceedings against the Authority for the recovery of the sum in respect of any animal, the burden of proving the value of the animal, and where the animal has been injured the extent of the injury, shall be upon the claimant.

(3) The Authority may by order vary the provisions of paragraphs (a), (b) and (c) of subsection (1).

(c) As a Lighterman, Wharfinger and Warehouseman

Liability for loss of goods

18 of 1967, s. 11

80. Subject to the provisions of this Act or any contract, the Authority shall not be liable for the loss, misdelivery or detention of or damage to, goods—

- (a) delivered to, or in the custody of, the Authority otherwise than for the purpose of carriage;
- (b) accepted by the Authority for carriage, where such loss, misdelivery, detention or damage occurs otherwise than when the goods are in transit,

except when such loss, misdelivery, detention or damage is caused by want of reasonable foresight and care on the part of the Authority or any servant of the Authority and it is proved that such goods have been delivered to the Authority in good condition:

Provided that the Authority shall in no case be liable for such loss, misdelivery, detention or damage arising from—

- (i) act of God;
- (ii) act of war or the Queen's enemies;
- (iii) arrest or restraint of princes or rulers, or seizure under any legal process;
- (iv) act or order of the Government;
- (v) act or omission of the consignor, consignee, or depositor, or of the servant or agent of any such person;
- (vi) fire, flood, tempest, riots, civil commotions, strikes, lock-outs, stoppage or restraint of labour from whatever cause, whether partial or general;
- (vii) inherent liability to wastage in bulk or weight, latent or inherent defect, vice or natural deterioration;
- (viii) deficiency in the contents of unbroken packages;
- (ix) insufficient or improper packing, or leakage from defective drums, containers or packages.

(d) In Connection with Pilotage

Liability of the Authority in connection with pilotage

81.—(1) Any liability of the Authority in relation to its duties in connection with pilotage under Part X or any rule made thereunder shall not, where without their actual fault or privity any loss or damage is caused to any ship or to any merchandise or other things whatsoever on board any ship or to any other property or rights of any kind, whether on land or on water or whether fixed or movable, be liable to damages beyond the amount of two hundred dollars multiplied by the number of Authority and licensed pilots entitled to pilot ships in the pilotage district where the loss or damage occurred on the date when the loss or damage occurred.

(2) Nothing in this section shall be construed to impose a liability on the Authority for any loss or damage as aforesaid, where no liability would have existed but for this section.

Limitation of liability where several claims on one occasion

82. The limitation of liability under section 81 shall relate to the whole of any loss or damage which may arise upon any one distinct occasion, although such loss and damage may be sustained by more than one person, and shall apply whether the liability arises at common law or under any Act or law, and notwithstanding anything contained in any such Act or law.

Power of court to consolidate claims

6 of 1967, Sched

83. Where any liability is alleged to have been incurred by the Authority in respect of any loss or damage to which section 81 applies, and several claims are made or apprehended in respect of that liability, then the Authority may apply to the High Court, and that Court may determine the amount of the liability of the Authority, and may distribute that amount rateably among the several claimants, and may proceed in such manner and subject to such directions as to making persons interested parties to the proceedings, and as to the exclusion of any claimants who do not come in within a certain time and as to requiring security from the Authority and as to the payment of any costs, as the court thinks fit.

Liability in connection with pilotage when Authority is a shipowner

84. In a case where the Authority is entitled to limit its liability as the owner of a ship, the provisions of sections 81, 82 and 83, shall not apply to any loss or damage the liability for which can be so limited by the Authority.

Licensing of pilots does not involve liability

85.—(1) The grant or renewal of a licence to a pilot by the Authority under the powers conferred upon the Authority by this Act shall not impose any liability on the Authority for any loss occasioned by any act or default of the pilot.

(2) The Authority shall not be liable for any loss occasioned by any act or default of any Authority pilot.

(e) As a Supplier of Stevedoring Labour

Liability for loss of goods, etc

18 of 1967, s. 11

86. Notwithstanding any other provision of this Act, the Authority shall not be liable—

(a) for loss or damage to goods whilst such goods are being stevedored on to or from any vessel by servants of the Authority;

(b) for loss or damage to goods due to faulty or inadequate stowage in any vessel occasioned by servants of the Authority; or

(c) for faulty or inadequate trimming of bulk cargo or the re-arrangement of other cargo stevedored on to any ship by servants of the Authority.

PART XIII LEGAL PROCEEDINGS

Limitation of suits against the Authority

6 of 1967
Sched

87.—(1) When any suit is commenced against the Authority or any servant of the Authority for any act done in pursuance or execution, or intended execution of any Act or law, or of any public duties or authority, or in respect of any alleged neglect or default in the execution of such Act, law, duty or authority, such suit shall not lie or be instituted in the High Court unless it is commenced within twelve months next after the act, neglect, or default complained of, or in the case of a continuance of injury or damage, within twelve months next after the ceasing thereof.

(2) No suit shall be commenced against the Authority until one month at least after written notice of intention to commence the same shall have been served upon the Authority by the intending plaintiff or his agent. Such notice shall state the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims.

Service of documents

88. The notice referred to in section 87 and any summons, notice or other document required or authorised to be served upon the Authority in connection with any suit by or against the Authority may be served by delivering the same to, or sending it by registered post addressed to the Chairman or the Secretary of the Authority.

Restriction on execution against the property of Authority

89. In any action or suit against the Authority no execution or attachment or process in the nature thereof shall be issued against the Authority, but any sums of money which may be the judgment of the court be awarded to the plaintiff shall be paid by the Authority from the funds of the Authority.

Stay of arrest in certain cases

90. A person connected with the direct working of the Authority shall not be removed under arrest when his immediate removal from duty might result in danger to life or goods, whether in execution of a warrant or otherwise, while actually engaged in the performance of his duties until the head of the department in which he is employed or the officer in immediate charge of the work in which such person is engaged has been given an opportunity of providing a substitute.

Representation of Authority at hearing of suit

91.—(1) In any suit pending before a court the Authority may be represented in court at any stage of the proceedings by any servant of the Authority who shall satisfy the court that he is duly authorised in writing by the Authority in that behalf.

(2) For the purposes of this Part—

"suit" includes action, means a civil proceeding commenced by writ of summons or in such other manner as may be prescribed by rules of court and does not include a criminal proceeding.

PART XIV OFFENCES

(a) Offences in connection with Lighthouses, etc.

Injury to lighthouses, buoys and beacons

92. Any person who shall wilfully or negligently—

(a) injure any lighthouse or any light exhibited therein or any buoy or beacon;

(b) remove or alter any lighthouse, buoy or beacon; or

(c) ride by, make fast to, or run foul of any lighthouse, buoy, or beacon,

shall be liable to a fine of two hundred dollars in addition to his liability to make good damage thereby occasioned.

Power to prohibit false lights and penalty for failure to extinguish

93.—(1) Whenever any fire or light is burned or exhibited at any place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse, buoy, or beacon, the Authority may serve a notice upon the owner or occupier of the place where the fire or light is burned or exhibited, or on the person having the charge of the fire or light, directing the owner, occupier, or person, within a reasonable time to be specified in the notice, to take effectual means for extinguishing or effectually screening the fire or light and for preventing the same or any similar fire or light being burned or exhibited thereafter.

(2) The notice may be served either personally or by delivery of the same at the place of abode of the person to be served, or by affixing the same in some conspicuous spot near the fire or light to which the notice relates.

(3) Any owner or person, on whom a notice is served under this section, who fails, without reasonable cause, to comply with the directions contained in the notice, shall be liable for each offence to a fine of two hundred dollars.

(4) If any owner or person on whom a notice under this section is served neglects for a period of twenty-four hours to extinguish or effectually screen the fire or light mentioned in the notice, an authorised servant of the Authority, with workmen or other assistants may enter upon the place where the fire or light is, and forthwith extinguish the same, doing no unnecessary damage, and may recover the expenses incurred by him in so doing from the

owner or person on whom the notice has been served in the same manner as fines may be recovered under this Act.

Penalty for obstructing authorised entry, etc

94. Any person who wilfully obstructs any person in doing any of the acts authorised by sections 26, 27 and 93 shall be liable on conviction to a fine of two hundred dollars or to imprisonment for six months or to both such fine and imprisonment.

(b) Offences in connection with Pilotage

Penalty in respect of ship entering compulsory pilotage district without pilot

95.—(1) If any ship enters, leaves or changes her berth in any pilotage district in which pilotage has been made compulsory under this Act, not being in charge of a pilot authorised to pilot such ship, the pilotage dues which would have been paid if an Authority pilot had been employed shall nevertheless be paid together with a penalty of forty dollars.

(2) The said dues and penalty shall be payable by the persons declared by this Act to be liable to pay the pilotage dues, and shall be recoverable before a court of competent jurisdiction.

Penalty on pilot endangering a ship

96. Any pilot who, when in charge of a ship—

(a) by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction or serious damage of such ship or tending immediately to endanger the life or limb of any person on board such a ship; or

(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from loss, destruction or serious damage, or preserving any person on board such ship from danger to life or limb,

shall be guilty of an offence and liable on conviction to imprisonment for two years.

Penalty for illegal piloting

97. Any person who holds himself out as a pilot authorised to pilot a ship in a pilotage district which he is not authorised to pilot under this Act, or pilots any ship in a pilotage district which he is not so authorised to pilot, shall be guilty of an offence and liable on conviction to a fine of one hundred dollars.

(c) Offences in connection with Dues, Rates, Returns, etc.

Evasion of dues and rates

98. Any master or owner of any ship, or any owner or consignor or consignee of any goods who, by any means whatsoever evades, or attempts to evade any of the dues or rates leviable under this Act shall be guilty of an offence and shall be liable on conviction to imprisonment for six months or to a fine of one hundred dollars or to both such fine and imprisonment, and shall in addition be liable to pay to the Authority as penalty double the amount of the dues or rates he evaded or attempted to evade.

Failure to comply with sections 53 and 54

99. Any master of a ship who contravenes any of the provisions of sections 53 and 54 shall be guilty of an offence and shall be liable on conviction to imprisonment for six months or to a fine of one hundred dollars or to both such fine and imprisonment.

False returns

100. Any person who makes, either knowingly or recklessly, any statement which is false in any material particular in any return, claim or other document which is requested or authorised to be made by or under the provisions of this Act, shall be guilty of an offence and shall be liable on conviction to imprisonment for six months or to a fine of one hundred dollars or to both such imprisonment and fine.

(d) Offences in connection with Ships

Penalty for unlawfully loosing moorings

101. Any person who for the purpose of obtaining salvage, or for any other purpose, wilfully sets adrift, or cuts, breaks or unfastens the mooring of any ship shall be guilty of an offence and liable on conviction to a fine of one hundred dollars or to imprisonment for six months or to both such fine and imprisonment.

Wilfully sinking vessels

102. Any person who wilfully sinks any ship in a port or in the approach thereto without the permission in writing of the harbour master, shall, in addition to paying the expenses incurred by the Authority in removing such vessel, be guilty of an offence and be liable on conviction to a fine of two hundred dollars.

(e) Offences by servants of the Authority

Demanding improper amounts

103. Any servant of the Authority who, with intent to defraud, demands or receives from any person liable to pay any dues or rates imposed under the provisions of this Act in respect of any matter any greater or lesser amount than is authorised to be levied by the rules for the time being in force in respect of that matter, shall be guilty of an offence and shall be liable

on conviction to imprisonment for twelve months or a fine of one hundred dollars or to both such imprisonment and fine.

Behaviour of servants

104.—(1) If a servant of the Authority is in a state of intoxication while on duty he shall be guilty of an offence.

(2) Any person convicted of an offence under sub-section (1) shall be liable—

(a) if the improper performance of his duty would be likely to endanger the safety of any person, to imprisonment for one year or a fine of one hundred dollars;

(b) in any case, to a fine of ten dollars.

PART XV MISCELLANEOUS PROVISIONS

Saving of powers under customs laws

105. Nothing in this Act shall be deemed to derogate from the powers conferred upon any person under the customs laws as defined in the Customs and Excise Act.

Cap. 121

Publication of rules, etc

106. Notwithstanding the provisions of any Act or law, the Minister shall prescribe the manner in which by-laws, rules or orders made by the Authority under the provisions of this Act shall be published, and such by-laws, rules or orders shall come into force on publication in the prescribed manner unless otherwise provided therein.

FIRST SCHEDULE (Sections 4 and 5)

24/51/1958
LN 18 of 1967, s. 13
LN 69 of 1987

1. Honiara.

SECOND SCHEDULE (Section 12)

1. The interests of the Crown in and to all the improvements situate within the area known as Honiara Port Area which area is bounded on the West by Cruz Creek, on the North by the Sea, on the East by the western boundary of registered Crown Lease No. C48 and on the

South by a line parallel to and 100 feet from the northern boundary of Mendana Avenue, as more particularly delineated and coloured pink on the Sketch Plan signed and dated the 28th day of May, 1956, which Sketch Plan is filed in the office of the Commissioner of Lands and Surveys at Honiara in Drawer A as Folio No. 26.

2. The interest of the Crown in all those dumb craft which appear on a list prepared and agreed between the Government and the Authority.

7 of 1957, s 2. (iii)

3. The interest of the Crown in the vessel known as the "Baruku".

4. The interest of the Crown in all buoys, beacons and other navigational aids within the limits of Honiara Port and the approach to such Port.

5. The assets described in this Schedule shall be deemed to have been vested in the Authority on the fifteenth day of June, 1956.

7 of 1957, s 2. (ii)

6. 62m Deep water berth of steel pile and concrete decking construction including caseway and bollard.

LN 18/1990

7. Two 6 tonne Caterpillar V130 Forklifts (Serial Nos. 6PG155 & 6PG 156).

8. Two 3 tonne Caterpillar V60E Forklifts (Serial Nos. 37W08355 & 37W08356).

9. One JCB 423 front end loader.

10. One York 2 axle flat-bed draw-bar 20 ft Container trailer Model DB25/4.

11. One Arbilift Container mover model MK/111.

12. Six 9kg dry powder fire extinguishers, branchpipes, fire hoses, standpipes and six cabinets.

13. One Cumins diesel powered salt water pump model 4BT3.9 & Serial No. 21019140 and fittings.

14. Pharos Navigation lights

—two 10.3V Marine lanterns and 240 V converts units.

—one 10.3 V marine lantern and matching solar power system.

—two 10.3 V range lamps and matching solar power systems.

15. Pharos Navigation towers—two off 3 m towers
 - one off 7m tower
 - two off 10 m towers
16. One Perkins M30 marine diesel 30 HP engine.
17. One 900 m2 transit shed and workshop.
18. One 11.2m port workboat M.V. Tinguivilli Yanmar Engines model 6HA (m)E/6HA(m)-HTE 165-364 HP.

THIRD SCHEDULE

(Section 7)

Constitution and Proceedings of the Authority

1. The Chairman and members, subject to the provisions of this Schedule, shall hold and vacate their offices in accordance with the terms of the instrument appointing them to be Chairman or members.
2. A member of the Authority may at any time resign from membership of the Authority by sending his resignation in writing to the Minister.
3. A member of the Authority who has ceased to be a member shall be eligible for re-appointment.
4. If the Minister is satisfied that a member of the Authority—
 - (a) has been absent from two consecutive meetings of the Authority without the permission of the Authority; or
 - (b) is incapacitated by physical or mental illness; or
 - (c) is otherwise unable or unfit to discharge the functions of a member,

the Minister may declare the office of such member to be vacant and the declaration shall be notified in such manner as the Minister thinks fit; and upon notification being made the office shall become vacant.

5. No act or proceeding of the Authority shall be questioned on account of any vacancy among its members, or on account of the appointment or election of any members having been defective.

6. When it appears to the Minister that a member, other than the Chairman, is temporarily incapacitated by illness or is temporarily absent from Solomon Islands, the Minister may appoint a suitable person to be temporarily a member of the Authority in his stead during the period of such incapacity or absence.

7.—(1) The Authority shall ordinarily meet for the dispatch of business at such times and places as the Chairman may from time to time appoint but not less than three times in any one year.

(2) Three members of the Authority shall form a quorum at any meeting.

(3) At every meeting of the Authority the Chairman, if present, shall preside, but in his absence the Authority shall appoint one of the members present to preside.

(4) Every question which comes before the Authority at any meeting shall be decided by a majority of the votes of the members present and voting.

(5) The member presiding at any meeting shall have a vote and, in the case of an equality of votes, a second or casting vote.

8. If a member of the Authority is directly or indirectly interested in any contract, proposed contract or other matter and is present at a meeting of the Authority at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on, any question with respect to that contract or other matter.

9. Minutes shall be kept of the proceedings of the Authority, and any such minutes shall, if signed by a person purporting to have acted as Chairman of the meeting to which the minutes relate, or of a meeting at which they were read, be evidence of the proceedings of the first-mentioned meeting.

10. Subject as aforesaid, the Authority shall, with the approval of the Minister, make standing orders with respect to the holding of meetings of the Authority, the notices to be given of such meetings, the proceedings thereat, the custody of and the production for inspection of the minutes of such proceedings.

11. Subject to the provisions of this Act and of any standing orders made under paragraph 10, the procedure of the Authority shall be such as the Authority may determine.

12. The affixing of the Seal of the Authority shall be authenticated by the signature of the Chairman, or some other member of the Authority authorised, either generally or specially by the Authority to act in his stead for the purpose, and of some other person authorised, either generally or specially, by the Authority to act for the purpose.

13. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under Seal, may be entered into or executed on behalf of the Authority by any person generally or specially authorised by the Authority for that purpose.

14. Every document purporting to be a document duly executed or issued under the Seal of the Authority or on behalf of the Authority shall be received in evidence and be deemed to be so executed or issued without further proof, until the contrary is shown.

**CHAPTER 161
PORTS**

Subsidiary Legislation

**DECLARATIONS OF PORTS LIMITS
(Section 5)**

1. Honiara.

The limits of the Port of Honiara are declared to be as specified in Schedules One and Two hereto:—

*259/213/1957
LN 95/1965*

SCHEDULE ONE

LN 95/1965

Those limits bounded by a line commencing on the northern coast of Guadalcanal at a point at high water mark on the 159° 55' 00" East Meridian and thence along the meridian in a northerly direction to intersect the parallel of latitude 9° 23' 00" South, thence along this parallel of latitude in an easterly direction to intersect the 160° 01' 30" East Meridian, thence along the meridian in a southerly direction to intersect the line of high water mark on the northern coast of Guadalcanal, thence along the line of high water mark in a general westerly direction to meet the point of commencement, as is more particularly delineated on a copy of Admiralty Chart No. 2893 deposited as Plan No. 234 in the office of the Commissioner of Lands at Honiara and thereon edged green.

SCHEDULE TWO

Those limits bounded by a line commencing at a point where the true right bank of the Cruz Creek meets the high water mark on the northern coast of the Island of Guadalcanal; thence generally in an easterly direction along the high water mark to a point on the prolongation of the north-western boundary of Plot No. 1 Section II Township of Honiara; thence in a straight line to the northernmost corner of the said Plot No. 1; thence in a south-westerly direction

along the north-western boundary of the said Plot No. 1 for approximately 217 feet; thence generally in a westerly direction parallel to and 100 feet distant from the northern boundary of Mendana Avenue road reserve to a point on the true right bank of the Cruz Creek; and thence downstream along the true right bank of the Cruz Creek to the point of commencement.

(The limits described above are more particularly delineated on Miscellaneous Plan No. 201B deposited in the office of the Commissioner of Lands and thereon edged green.)

2. Gizo.

24/51/1958

The limits of the port of Gizo are declared to be as specified in the Schedule hereto:—

SCHEDULE

LIMITS OF THE PORT OF GIZO

All that area bounded by a line commencing at a point on the coast at high water mark on the south-eastern corner of the Island of Gizo being 8° 06' 42" latitude South and 156° 50' 56" longitude East; thence generally in a northerly direction along the high water mark of the Island of Gizo passing the Town of Gizo and Nusa Baruku Point to a point at high water mark being 8° 05' 36" latitude South and 156° 50' 54" longitude East; thence in a straight line due north to a point 8° 05' 00" latitude South and 156° 50' 54" longitude East; thence in a straight line due east to a point 8° 05' 00" latitude South and 156° 52' 42" longitude East; thence in a straight line due south to a point 8° 07' 42" latitude South and 156° 52' 42" longitude East; thence in a straight line due west to a point 8° 07' 42" latitude South and 156° 50' 56" longitude East; and thence in a straight line due north to the point of commencement; but excluding therefrom all areas above high water mark on Loga Island, Nusatupi Island, Apanga Island and on any other islands within the area defined.

(The bounding line described above is more particularly delineated on a copy of Hydrographic Service, Royal Australian Navy, Chart Misc. Aus. 17 deposited as Misc. Plan. No. 206 in the office of the Commissioner of Lands, Honiara, and thereon coloured red.)

3. Noro.

LN 18/1975

The limits of the Port of Noro are declared to be as specified in Schedules One and Two hereto:—

SCHEDULE ONE

The area commonly known as Hathorn Sound and bounded by the following limits, that is to say, commencing at a point on the coast of that part of New Georgia commonly known as Lambete Kopi where it intersects with the parallel of latitude 08° 11' 30" south, thence along this parallel of latitude in a westerly direction to intersect the line of high water mark on the eastern coast of Kohinggo or Arundel Island, thence along the high water mark in a general southerly direction to a point on the parallel of latitude 08° 17' 06" south, thence along this parallel of latitude in an easterly direction to intersect the line of high water mark on the western coast of Mbangga Island, thence along the high water mark in a general northerly direction to a point where the high water mark is intersected by the parallel of latitude 08° 16' 06" south and thence along this parallel in a westerly direction to intersect the line of high water mark on the coast of Ondongo Island, thence in a generally westerly direction along the high water mark of Ondongo Island, thence in a northerly direction to a point where the high water mark in Lembu Bay is intersected by the meridian of longitude 157° 13' 18" east, and thence along this meridian in a northerly direction to a point where the meridian intersects the high water mark on the coast of Lambete Kopi, thence along the high water mark in a general northerly direction to meet the point of commencement, as is more particularly delineated and edged in green on a copy of Admiralty Chart No. 3266 deposited as plan No. 2048 in the office of the Commissioner of Lands, Honiara.

SCHEDULE TWO

The area in westerly New Georgia in extent 12 hectares or thereabouts comprising part of Lot 3 of LR395/2 commonly known as Woodford Island as delineated and edged in red on a copy of the Vona Vona map sheet TL9688 deposited as Plan No. 2049 in the office of the Commissioner of Lands, Honiara.

LN 92/1973
LN 57/1975
LN 21/1981
LN 2/1995

THE PORTS RULES

(Section 32)

[1st December 1973]

PART I PRELIMINARY

Citation and application

1.—(1) These Rules may be cited as the Ports Rules.

(2) These Rules shall apply to all ports under the control of the Authority.

Interpretation

2. In these Rules unless the context otherwise requires—

"authorised person" means the Chairman, members, manager, harbour master, general superintendent or chief stevedore of the Authority or such employee of the Authority so designated by the Chairman or the manager (or the person acting in the stead of the manager when the manager is absent) either at the time of the event or subsequently and either in writing or orally;

"Authority" includes its duly authorised agent;

"berth" means any wharf or jetty or barge ramp or lay-up dolphins under the control of the Authority within the limits of any port;

LN 57/1975

"channel" means any navigable water in a port;

"Collision Regulations" means the Collision Regulations (Ships and Seaplanes on the Water) and Signals of Distress (Ships) Order, 1965;

SI 1965 No 1525

"costs" means direct and indirect expenses;

"day-time" means the period between sunrise and sunset;

"dangerous goods" shall be as defined by the Authority by public notice issued from time to time and shall include but not be limited to aviation gas, bulk petroleum, corrosive acids, explosives, poisons, unwashed empty petroleum drums and any gas, liquid or substance with a flashpoint below 14° Fahrenheit which reacts dangerously when exposed or mixed with air and water and shall also include but not be limited to goods or substances defined as dangerous goods under the Shipping Act;

"explosives" has the meaning ascribed to that expression by the Explosives Act;

"export cargo" means goods, wares, merchandise, produce and articles of every description under the control or in the custody of the Authority prior to and awaiting export but does not include livestock or petroleum;

"gas" means any gas whether inflammable, toxic or otherwise;

"harbour master" means the person appointed as harbour master by the Authority, and includes any other person authorised from time to time by the Authority to carry out all or any of the duties of harbour master;

"import cargo" means goods, wares, merchandise, produce and articles of every description imported from beyond Solomon Islands whilst under the control or in the custody of the Authority prior to delivery to the owner or any other person but does not include livestock or petroleum;

"livestock" means any living animal and includes birds and fowls;

"local cargo" means all goods, wares, merchandise, produce and articles of every description other than import cargo or export cargo and does not include livestock or petroleum;

"local ship" means a ship principally engaged in voyages within Solomon Islands;

"night-time" means the period between sunset and sunrise;

"overseas ship" means any ship other than a local ship;

"owner", when used in relation to a ship, includes the master; and, when used in relation to goods, includes any person being or holding himself out to be the owner, importer, exporter, consignee, agent or person possessed of, or beneficially interested in, or having control of or power of disposition over, such goods, and includes the duly authorised agent of the owner of any ship or goods, as the case may be;

"petroleum" has the meaning ascribed to it by the Petroleum Act;

Cap. 81

"private berth" means any berth, wharf or jetty not owned by the Authority;

"shed" means any building, shelter or storage area and includes any wharf, land or sea under the control of the Authority within the limits of any port used for the storage or conveyance of goods;

"station" means any anchorage, mooring, buoy or station, other than a berth or private berth, within the limits of a port;

"tons" means gross tons;

"wreck" includes jetsam, flotsam, lagan and derelict.

PART II SHIPPING MOVEMENTS

Duty of master

3.—(1) It shall be the duty of every master, in relation to the ship under his command, to provide every possible assistance to any pilot, harbour master or any authorised person acting in the course of his duty, whilst such pilot, harbour master, or authorised person is embarking, on board, or leaving such ship.

(2) It shall be the duty of every master to control his ship with care at all times in the port area and to pay attention to the position, nature, and state of readiness of any other ship particularly when coming to berth or anchor.

(3) It shall be the duty of every master when he intends to bring his ship into port to notify the harbour master as far as possible before arrival of the state of the ship where it is—

(a) on fire or part of the cargo is on fire; or

(b) it has had a fire within the previous twenty-four hours and is carrying dangerous goods; or

(c) it is leaking or is disabled either wholly or partially.

Sounding of whistles, etc

LN 57/1975

4. Except for purposes of navigation, no whistle, siren or foghorn, shall be sounded on any ship or powered craft within the limits of any port nor shall any excessive noise or smell be emitted without the permission of the Authority.

Compliance with Collisions Regulations

5.—(1) Every ship navigating within the limits of a port shall comply with the Collision Regulations in regard to the lights and shapes to be shown, the signals to be given and the steering and sailing rules to be observed, except when ships are in the process of approaching moorings or berths or are departing therefrom, when it is obvious that they cannot comply with any of those Regulations and, at such times, they shall not be interfered with but should be given wide berth.

(2) Nothing in this rule shall give any motor launch, sailing boat, canoe, dinghy or other craft or ship which is not engaged in trade, on charter, or in paid passenger traffic the right to impede or hamper the navigation within any port of any ship engaged in trade or passenger traffic, or any Government-owned ship or any ship owned by the Authority, unless the said craft or ship is owned by the Authority.

(3) Nothing in this rule shall empower any ship to navigate between the bows of an incoming ship and the wharf when the incoming ship is nearing the wharf to take up a berth.

Floating objects astern without permission forbidden

6. The master of any ship shall not permit any lighter or deeply-laden boat, log or logs of timber or other floating object likely to obstruct or injure any other ship to ride astern or be fastened to his ship within the limits of any port without the prior written permission of the harbour master.

Cargo falling overboard

7. If any cargo or any article falls overboard from any ship whilst such ship is within the limits of a port, the master shall forthwith report the occurrence to the harbour master, who may thereupon take such action as he considers necessary to recover and land such cargo or article, and the costs incurred in executing such recovery and landing shall be paid to the Authority by the master of such ship and, in the event of non-payment, may be recovered from the owner or master of such ship as a civil debt.

Procedure if ship sunk, stranded or obstructing or if any obstruction exists in port

8. If any ship or thing be sunk, or stranded or in any way causing obstruction within the limits of a port, the owner or master or such other person as may be authorised by the owner or master shall forthwith report the matter to the harbour master and upon receipt of an order to that effect from the harbour master shall within the time fixed in such order either clear the port of or move within the port such ship or thing and all or any parts and contents of the same, to the satisfaction of the harbour master and should the owner, master or agent fail to comply with such order the harbour master may direct the removal of such ship or thing or any part or content and may claim and recover from the owner, master or agent the costs of so doing.

Power-boat racing prohibited

9. No form of power-boat racing or water skiing within the limits of a port shall be permitted without the prior permission in writing of the harbour master.

PART III OCCUPANCY OF BERTHS AND STATIONS

Unreserved berthing

LN 57/1975

10.—(1) The masters or owners of overseas ships which have not reserved a berth or station shall give not less than twenty-four hours notice to the harbour master of their berthing requirements.

(2) Failure to comply with paragraph (1) may result in delay for the ship.

Reserved berthing

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11. A berth may be reserved upon the master or owner of an overseas ship giving at least seven days written notice to the harbour master of the date and hour of the ship's arrival and upon payment of the reservation fee. The reservation must be taken up by the ship not more than six hours after the time stated in the reservation application. If there is an overseas ship already alongside at the time reserved by another ship the Authority shall be allowed six hours in which to clear the berth and bring the reserving ship alongside. If the Authority fails to do so the reservation fee shall be refunded. If a reserving ship fails to take up its berth within the six hours after the time reserved the reservation shall lapse and half the reservation fee shall be refunded subject to compliance with the provisions of rule 10. The Authority may refuse to accept any reservation application.

Costs upon failure or delay in berthing

12. If a ship does not take up a reserved berth or, in the case of a ship not having reserved a berth, fails to provide the harbour master with prior notice of its requirements (or takes up a berth later than the time stated more than twenty-four hours earlier) the Authority may make a charge for any cost incurred by it in being ready at the reserved or notified time to receive the ship into the berth or anchorage.

Harbourmaster may specify berth

13. The harbour master may specify the berth or station to be occupied by any ship and may at any time require its removal therefrom to any other specified berth or station or require its removal from within the limits of the port.

Report of times of arrival and departure

14. Between the hours of 7 a.m. and 4 p.m. on week-days from Mondays to Fridays inclusive, and between the hours of 7 a.m. and 12 noon on Saturdays, public holidays excluded, the owner or master of any local ship shall inform the harbour master of the time of his arrival at or departure from any berth in a port.

Taking up berths

15.—(1) The harbour master shall in all cases decide the question of priority when the respective masters of two or more ships desire to occupy a particular berth at the same time.

(2) At any time the harbour master may refuse a berth to any ship and may vary the order of berthing.

(3) If any ship, on being appointed to a berth, does not immediately proceed to occupy it, and proceed to discharge or load, as the case may be, the berth may be given to another ship.

Propeller of any ship not to be worked while ship berthed

16. The propeller of any ship shall not be worked whilst such ship is moored to a berth unless the consent of the harbour master has first been obtained.

Rat guards

17. Every hawser or rope by which an overseas ship is made fast to a berth, private berth or the shore shall be fitted with at least one rat guard consisting of a metal disc of a size and pattern approved by and placed to the satisfaction of the harbour master.

Mooring

18.—(1) No person shall make fast any rope or mooring to any berth other than to the mooring piles, rings, hooks or bollards provided for mooring purposes, nor to any steps or hand-rail, nor to any shed, pillar, lamp-post, crane or other erection on or near such berth.

(2) A ship shall not be moored nor made fast to any buoy or beacon without the permission of the harbour master.

(3) The master of any ship shall when mooring make proper allowance for the position and requirements of nearby ships.

(4) The master of every ship while his ship is at, approaching or leaving a wharf shall provide proper fenders for the prevention of damage to the wharf or any ship moored alongside in tier.

Prohibited and reserved areas

19. The Authority may from time to time by notice specify any part of a port as an area in which the mooring of ships is prohibited and may so specify any part of a port as reserved for specific purposes.

Obstruction

20.—(1) The master of a ship shall neither cause nor permit such ship to occupy any berth or station (other than a berth or station specified under rule 13) in such a manner as to cause obstruction to the free movement of any other ship.

(2) A ship shall not be permitted, unless unavoidable circumstances compel, to be anchored or moored or to lie in any channel, nor shall any cable, chain, hawser, rope or other obstruction be placed across either through or above water in any such channel without the written permission of the harbour master.

(3) Whenever through unavoidable circumstances it has become necessary to anchor a ship in any channel so as to cause an obstruction to any other ship, the master of the ship so anchored shall, as soon as possible, weigh anchor and place the ship in such a situation as not to interrupt or interfere with the free passage of other ships.

Screening of openings

21. The master of a ship lying alongside any berth shall have closed from use, or shall have properly screened and protected, in a manner to be approved by the harbour master, all openings out of which water, effluent steam or other fluid is liable to be discharged, so as to ensure that such water, effluent steam or other fluid shall not fall on or wet the berth or goods thereon.

Tying up in tier

22.—(1) Notwithstanding the provisions of rule 20, if no berth is available, any local ship having first obtained the harbour master's permission may tie to any other local ship or ships occupying any berth but, in any event, only if—

(a) during night-time the outer ship is sufficiently illuminated;

(b) at least one mooring line is tied from the ship in tier to the berth.

(2) The master, crew and passengers of a local ship tied up in tier to any other local ship or ships occupying any berth shall have the right of access across the decks of such other local ship or ships for the purposes of loading or discharging personal goods or embarking or disembarking passengers or crew:

Provided that such right of access shall be exercised at such times and in such manner as not to occasion excessive inconvenience or nuisance to the master, crew, passengers or to the persons lawfully aboard the ship to which such ship is tied up in tier.

(3) Not more than one local ship may at any time tie up in tier to any other local ship occupying any berth unless in special circumstances the harbour master permits a third ship to join the tiered mooring. Any such additional permitted mooring shall only be for such period as may be specified by the harbour master.

(4) Local ships tied up in tier to any other local ship or ships occupying any berth shall be subject to berthage charges.

(5) Mooring in tier and tying up shall be performed competently and with due consideration for the position and needs of surrounding ships and in such manner as to prevent damage to the inner ships and the wharf.

Lighting

23. Every ship embarking or disembarking passengers or loading or unloading goods at night-time at any berth or station shall provide lighting to the satisfaction of the harbour master.

Deck opening

24. During night-time every deck opening or opening in the side or bow of a ship occupying any berth shall be closed or efficiently lighted and protected.

Liability for water and other damage

25.—(1) The master of a ship occupying any berth or private berth shall be responsible for all damage caused to goods lying on the wharf by water used for washing-down decks, or for any other purpose, upon such ship.

(2) The master of any ship which causes damage to any wharf, pier, mooring, buoy, beacon or other installation which is the property of the Authority shall be liable for the cost of repairing such damage which cost may if necessary be recovered from the master of such ship by civil process.

Duty to clear wharf

26. It shall be the duty of the master of a ship moored to a wharf to ensure that such ship is not unmoored until the portion of the wharf which has been occupied for, or devoted to, the service of such ship has been thoroughly cleared of all rubbish and swept clean, and until all portable appliances and material used in loading or unloading such ship and all rubbish and litter have been removed to some place appointed or approved by the harbour master or arrangements have been made to the satisfaction of the harbour master to have these works undertaken by other persons the cost of which shall be payable by the master of the ship.

Dismantling engines

27. The owner or master of a ship shall obtain permission in writing from the harbour master before immobilising the main engines of such ship whilst it is within the limits of a port.

Noisy repairs

28. The harbour master may from time to time give directions as to the extent to which noisy repairs may be carried out in any port.

Extra warps, etc

29. The harbour master may from time to time give directions as to the manner in which extra warps, moorings, chains or anchors of any ship occupying any berth or station should be secured or placed.

Lawful orders of harbour-master to be obeyed

30. Every person employed or engaged in any occupation on any berth and every boatman or wharfman lying with his boat at any landing or passenger stairs under the control of the Authority shall promptly obey every lawful order of the harbour master.

Removal from berth by harbour master

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31. If any ship shall occupy any berth or station in which mooring is prohibited under the provisions of rule 19, and the master of such ship fails to remove the ship from such berth or station when called upon so to do by the harbour master or fails to comply with the requirements of the harbour master given under the provisions of rule 13, the harbour master may cause the removal of such ship and may claim and recover from the owner or master of such ship the costs and expenses incurred by the Authority in connection with such removal together with any costs of ascertaining and recovering the same:

Provided that the harbour master shall not cast off, unloose, slacken, cut, unshackle, or break any rope or chain by which any ship is moored unless there is, or he has caused to be put on board such ship, such number of persons as he may consider capable of ensuring that no damage is caused to such ship thereby.

Lodgement of bond when rules breached

32.—(1) Where any provision of this Part or of Part II has been breached to the detriment of good order and the safety of any ship or person using the port, the Authority may require the owner or master of the ship to lodge a bond in such amount or form and subject to such conditions as it may determine.

(2) Failure to lodge with the Authority the bond required in the time prescribed by the Authority shall be an offence.

PART IV LOADING AND DISCHARGING OF GOODS AND BALLAST

Directions by harbourmaster as to loading, etc

33. The harbour master may give directions as to the position in which, and the times during which, any ship shall load or discharge goods or shall embark or disembark passengers or shall take in or discharge ballast within the limits of a port.

Master responsible for proper slinging of goods

34. The master of a ship loading or unloading goods shall be responsible for the proper slinging of all such goods, and for any damage that may occur either from the breakage of slings or from goods being improperly slung.

Tarpaulins to be secured during loading or unloading

35. The master of a ship loading or unloading goods which, in the opinion of the harbour master, require protection, shall cause good and sufficient tarpaulins or nets or other

protection approved by the harbour master to be so secured from the side of the ship during the whole time of loading or unloading as to prevent any part of the goods from falling into the sea or on to any berth.

Discharge of timber and logs

36.—(1) Discharge from a ship of timber and logs into the waters of a port shall require the approval of the harbour master and shall cease at any time if the harbour master so instructs.

(2) The master of every vessel discharging timber into port waters shall keep the timber in the immediate vicinity of the ship and at time of discharge shall form it into rafts of such dimensions as the harbour master may direct.

(3) All rafts shall be properly fastened at both ends to prevent the escape of any piece of timber from the raft.

(4) No heavy timber which is liable to sink shall be discharged from a ship until an adequate float, pontoon or other means for preventing the timber from sinking is alongside the ship and ready to be loaded with the heavy timber.

Goods not to be left on berths or in sheds without permission

37. No goods shall be left, placed or allowed to remain upon any berth or in any shed without the permission of the Authority.

Goods not to be landed without permission

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38. Goods manifested for other ports and not intended for transshipment, or ship's beams, hatchboards, boats or other belongings, shall not be landed from an overseas ship on any berth or at any other place within the limits of a port without, in the case of a local ship or an overseas passenger ship, the permission of the harbour master, and, in the case of an overseas cargo ship, the permission of the general superintendent or chief stevedore.

Ballast

39. The master of every ship using a port shall ensure that the ship is sufficiently ballasted for all purposes of safety at any time.

Overseas ship's manifest

40. The master, owner or agent of any overseas ship shall, before any import cargo or export cargo is discharged from or loaded on such ship, deliver to the Authority two true copies of the ship's manifests or similar documents showing details of the cargo to be discharged or loaded and shall furnish the Authority with details of ship's dimensions, gross and net registered tonnage, draught and any other information that may reasonably be required.

Stevedoring labour

41. Stevedoring labour for overseas ships will be arranged through the manager at the port of call and will be upon such conditions as may be published by the Authority from time to time:

Provided that stevedores employed in discharging and loading any ship shall be under the superintendence of that ship's officers.

Dangerous explosive goods

42.—(1) The master or owner of any ship whether local or overseas shall declare to the Authority before berthing the quantity, nature, packing, state of packing and location on the ship of any dangerous or explosive goods and the Authority may decide not to allow the cargo to be unloaded if it appears to the Authority that the state of packing is poor, damaged, leaky or otherwise hazardous. It will be the responsibility of the consignee or his agent to arrange with the general superintendent or chief stevedore in respect of overseas ships and the harbour master in respect of local ships for the consignee or his agent to be present with transport in the port at such time and place as may be specified by the general superintendent, chief stevedore or harbour master, as the case may be, so that such goods can be transported out of the port immediately when they are unloaded.

(2) If any master or consignee should fail to comply with any of the provisions of this rule the Authority may—

(a) in respect of overseas ships, either refuse to unload the cargo or supply its own or such other transport and labour as may be available the costs of which shall be fully recoverable by the Authority from the master or owner of the ship or consignee, as the case may be.

(b) in respect of local ships, order the ship from wharf or, when there is insufficient crew on board to carry out such order, man the ship and move it or alternatively may dispose of the cargo in any manner it deems fit the costs of which shall be fully recoverable from the master or owner of the ship or the consignee, as the case may be.

(3) In the case of outgoing cargo it will be the responsibility of the consignor or his agents to ensure that the master or owner of the ship and the Authority are aware of the nature, quantity and packing of the cargo and to provide adequate identification marking on the cargo. It will also be the responsibility of the consignor on overseas ships to liaise with the general superintendent or chief stevedore and on local ships with the harbour master as to where, when and in what quantities cargo will be delivered in the port and the Authority may refuse to allow such cargo in the port if either the provisions of this rule have not been complied with or the cargo in the opinion of the Authority is inadequately packed.

(4) In any event the Authority shall not be liable for any costs, damages, inconvenience or other thing suffered by the master or owner of the ship or the consignee or consignor or any other third party arising from non-compliance with this rule, unless non-compliance has been caused by the negligence or fault of the Authority.

PART V SMOKING AND USE OF FIRES AND LIGHTS

Smoking prohibited in certain areas

43.—(1) The Authority may, from time to time, issue instructions or display signs prohibiting smoking, fires and the use of naked lights within any part of a port area or the limits of any port.

(2) No person shall smoke or use or cause, suffer or permit to be used any naked flame within one hundred feet of any local ship or overseas ship which is taking aboard or discharging any petroleum or other inflammable cargo within the limits of a port.

Use of furnaces and domestic fires

44. The master of every ship occupying a berth or private berth shall cause all furnaces or domestic fires therein to be so regulated as to prevent accidents by fire and nuisance from smoke.

Lights

45. Except with the written permission of the Authority the use of flareup lamps or naked lights of any sort or design for any purpose in the holds of ships occupying any berth or private berth is prohibited.

Use of guns in port

46. The master of a ship shall cause any guns carried thereon to be unshotted before entering a port and no person on board such ship shall discharge or use any gun, firearm, blue lights, fireworks, rockets or other explosive whilst in such port:

Provided that the provisions of this rule shall not apply to any ship belonging to the Armed Forces of Her Majesty or to the Armed Forces of the Government of any part of the Commonwealth.

Procedure in case of fire on board ship

47.—(1) In the event of any fire occurring on board a ship in a port, or on any berth or private berth, all persons in charge of or otherwise belonging to any vessel then in the port shall afford such assistance towards extinguishing the fire, and the protection of the neighbouring ships, as any authorised person or officer of the Fire Brigade may demand.

(2) If any person having been requested in accordance with paragraph (1) fails or refuses without lawful excuse to give the assistance demanded he shall be guilty of an offence.

Power to board ships, etc

48. Any authorised person may at any time board any ship or enter any shed or premises within a port area to ascertain by inspection whether the provisions of this Part are being complied with and may take such steps as are necessary to ensure such compliance.

PART VI MISCELLANEOUS PROVISIONS

Discharge of waste, etc. into and other pollution of port

49.—(1) No person shall cause, suffer or permit any refuse, gas, petroleum oil, bilge water, ballast water or other offensive substance whatsoever its nature to be discharged, pumped or cast into or onto any waters or land within the limits of a port without the prior written permission of the Authority. It shall be lawful for the Authority to recover its costs in cleaning up, dispersing or otherwise dealing with any such offensive substance.

(2) The Authority shall not be liable for any damage, nuisance or offence to third parties arising from any contravention of paragraph (1).

(3) It shall be lawful after any contravention of paragraph (1) for the Authority to demand an indemnity from the contravener or from the owner of any ship concerned in the contravention, or from his agent, in a sum not exceeding one thousand dollars in such form as the Authority may require and which may be forfeited and disposed of in such manner as the Authority may determine and if such indemnity is not given when demanded the Authority may ban the offender or any of his agents and any ship or vehicle belonging to or under the control of any offender or any of his agents from such ports as the Authority may nominate and for such period of time as the Authority may decide, and if such ban be ignored the Authority may take such steps as it deems necessary to achieve the removal of the offender, his agent, or any ship concerned in the commission of the offence, ships and any vehicle belonging to or under the control of the offender or his agent or any of them:

Provided that the Authority shall in no way be liable for any costs or expenses incurred by any person or body arising from any such action taken by the Authority unless it is shown to the satisfaction of a court that such costs or expenses have been incurred through the negligence of the Authority or any of its servants or agents.

Production of certificate of registry on demand

50. On demand, the master or agent of any ship within the limits of a port shall produce its certificate of registry to any authorised person. In the event of any alteration being made in any ship which requires the certificate to be amended the master or agent shall forthwith advise the Authority thereof, and produce the amended certificate.

No erection of any works or buoys without permission

51. No person shall erect any wall, wharf, jetty, landing, building, hut or compound whether permanent or temporary or place any mooring or buoy within the limits of a port without the written permission of the Authority. Failure to comply with this provision shall enable the Authority at its discretion to require the offending item to be removed. If the offending item is not removed within seven days of the Authority's request for its removal then it shall be lawful for the Authority to remove the offending item and recover its costs for so doing.

Logs and other floating objects

52.—(1) No logs or other floating objects may be introduced within port limits unless at all times under proper supervision and control.

(2) Any costs incurred by the Authority in rectifying the consequences of any failure to comply with this rule and any damage caused thereby shall be recoverable by the Authority from the owner as a civil debt.

Clearance of Authority land and port approaches

53. Should any dwelling, cargo, vehicle, boat, yacht, scrap metal or other item or thing be left on Authority land or in approaches to a port without the prior permission of the Authority or in such manner as to cause a hindrance to shipping movements or to the lawful activities of the Authority or any of its servants or agents acting in the lawful exercise of their duty that item may be seized by the Authority. The Authority shall return the item to the owner upon application for its return being made by him within one month of seizure:

Provided that—

(a) any costs incurred by the Authority in making the seizure and in respect of storage and releasing shall be recoverable from the owner;

(b) the Authority shall not be liable for any damage, injury, natural or other diminution in value of the seized item while in the possession of the Authority unless negligence by the Authority or any of its servants or agents is shown to the satisfaction of a court; and

(c) if the item is not claimed within one month, the Authority may apply to a court for an order to dispose of the item in such way as the court deems fit.

Penalties

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54. Any person who contravenes or fails to comply with the provisions of rules 3, 4, 5, 6, 8, 9, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46, 47, 49, 51 or 52 shall be guilty of an offence and liable to a fine of one thousand dollars and to a further fine of ten dollars for every day after the first day during which the offence continues, or to imprisonment for three months, or to both such fine and such imprisonment.

Power of waiver

55. The Authority may waive or vary any provision of these Rules where in the opinion of the Authority the circumstances require such waiver or variation.

THE PORTS BY-LAWS

LN 19/1974

(Section 35)

[1st December 1973]

PART I PRELIMINARY

Citation and application

1.—(1) These By-laws may be cited as the Ports By-laws.

(2) These By-laws shall apply to all ports under the control of the Authority.

Interpretation

2. In these By-laws, unless the context otherwise requires—

"authorised person" means the Chairman, member, manager, deputy manager, harbour master, general superintendent or chief stevedore of the Authority or such employee of the Authority so designated by the Chairman or the manager (or the person acting in the stead of the manager when the manager is absent) either at the time of the event or subsequently and either in writing or orally;

"Authority" includes its duly authorised agent;

"cost" means direct and indirect expenses;

"export cargo" means goods, wares, merchandise, produce and articles of every description under the control or in the custody of the Authority prior to and awaiting export but does not include livestock or petroleum;

"import cargo" means goods, wares, merchandise, produce and articles of every description imported from beyond Solomon Islands whilst under the control or in the custody of the Authority prior to delivery to the owner or any other person but does not include livestock or petroleum;

"livestock" means any living animal and includes birds and fowls;

"local cargo" means all goods, wares, merchandise, produce and articles of every description other than import cargo or export cargo and does not include livestock or petroleum;

"owner", when used in relation to a ship, includes the master; and, when used in relation to goods, includes any person being or holding himself out to be the owner, importer, exporter, consignee, agent or person possessed of, or beneficially interested in, or having control of or power of disposition over, such goods, and includes the duly authorised agent of the owner of any ship or goods as the case may be;

"shed" means any building, shelter or storage area and includes any wharf, land or sea under the control of the Authority within the limits of any port used for the storage or conveyance of goods.

PART II STORAGE AND WAREHOUSES

Cargo clearance

3.—(1) Cargo may only be cleared from the Customs Area upon production of properly completed customs documents releasing the cargo from the charge, ship's agent's clearance and the Authority's cargo clearance.

(2) No person shall take goods from the Customs Area without first surrendering a valid cargo release note and any discrepancy between the goods physically being taken and the cargo release note shall be the responsibility of the person taking the goods.

Export cargo documentation required

4. All exporters or consignors are responsible for ensuring that goods being delivered to the Customs Area for shipment are accompanied by properly completed customs entry and the Authority's Outward Shipment Clearance. Failure to comply with this by-law shall entitle the Authority, at its discretion, to refuse to allow the goods to be brought into the Customs Area.

Instructions of authorised persons to be observed

5. Any person delivering or clearing cargo will at all times comply with the instructions of authorised persons of the Authority both at the gate to and within the Customs Area.

Vehicles and persons in warehouses

6. No person other than an employee of the Authority shall cause any vehicle to enter any cargo shed or warehouse without the prior permission of the Authority and no person other than the employees of the Authority shall enter any cargo shed or warehouse within the port without the permission of the Warehouse Superintendent or his duly authorised representative except for presentation of cargo clearance or delivery papers.

Loading vehicles in warehouses

7. No person shall cause or permit any vehicle to be loaded within the limits of the port or in any cargo shed or warehouse therein except under the direction of the Authority.

Interference with cargo

8. No person other than an authorised person shall tamper, interfere, mishandle, or otherwise deal with cargo in any warehouse outside the Customs Area without the permission of the Authority.

Storage of goods and responsibility for loss or damage

9.—(1) The Authority may store cargo in the open or in sheds and shall not be responsible for the loss of or damage to or deterioration of any goods so stored, except when such loss, damage or deterioration is caused by want of reasonable foresight and care on the part of the Authority or any servant of the Authority.

(2) The Authority may provide cooler/freezer storage facilities for such time at such rates as it deems fit but shall not incur any liability by—

- (a) not providing such storage;
- (b) fluctuations in electric current;
- (c) mechanical or electrical failure of such facilities;
- (d) natural deterioration of the cargo stored;
- (e) fluctuations in temperature not due to any neglect or want of care by the Authority or its servants;
- (f) closure of facilities for repairs and maintenance;
- (g) failure of the consignee or consignor to remove the cargo within the time specified by the Authority and any action of the Authority to deal with or dispose of such cargo consequent upon such failure to remove.

Vehicles for clearance

10. Any person who enters the Customs Area or any warehouse in the port for the purpose of clearing cargo and with the permission of the Authority uses any vehicle, forklift or other mechanical aid which is not owned by the Authority shall exercise care and control over the aids and be subject to any instructions issued by any authorised person and shall also be liable for any damage caused to any property by such mechanical aid whether the property belongs to him or any third party including the Authority and whether the damage arises directly or indirectly from the use of the mechanical aid and no liability or responsibility shall be borne by the Authority.

Hiring Authority's mechanical aids

11. Mechanical aids for use in the clearance of cargo may be hired from the Authority if the Authority agrees. Such hire shall be under the supervision of the hirer who shall be responsible and liable for any damage to any property both his and that of any third party including the Authority and its mechanical aid which arises from the use of the hired mechanical aid.

Right of search and inspection

12. Any authorised person may at any time stop, inspect and search any vehicle within the port area whether it be entering, leaving, parked or moving and any reasonable instructions he may give shall be obeyed, and any person who without lawful excuse fails to obey such instructions shall be guilty of an offence.

PART III VEHICULAR TRAFFIC WITHIN PORT AREA

Parking within port limits

13.—(1) No vehicle shall be parked or left within the limits of any port in any position so as to obstruct or impede or be likely to obstruct or impede in any manner the operations or movements of the officers and servants of the Authority or other lawful users of such port. Failure to comply with this provision shall be at the risk and expense of the owner.

(2) Any authorised person may order the driver or other person in charge of any vehicle situated anywhere in the port to move it forthwith either from the port or to a suitable place within the port.

(3) In the event of any non-compliance with any order lawfully made under paragraph (2) of this by-law or in the event of any vehicle being left or parked unattended, any authorised person may move or cause to be moved such vehicle at the risk and expense of the owner.

Speed limit

14. No vehicle shall be driven or propelled at any speed exceeding fifteen miles per hour in any area within the limits of a port and all notices concerning speed limits shall be complied with.

General

15.—(1) All vehicles using the port area other than those belonging to the Authority shall be currently registered if the licensing regulations are in force in the area where the port is situated.

(2) All drivers of vehicles shall hold a current licence for the class of vehicle driven if the licensing regulations are in force in the area where the port is situated.

(3) All vehicles shall be mechanically safe and roadworthy.

(4) All vehicles shall have silencers and exhaust systems in good working repair.

(5) The Authority may at any time stop any vehicle within the port and request that it be immediately removed from the port if—

(a) by-law 14 is not complied with;

(b) any parts of this by-law are not complied with;

(c) such vehicle is driven in a manner considered by the Authority to be hazardous, dangerous, negligent, careless, incompetent, drunken or otherwise prejudicial to safety and good order,

and may request the owner to correct any mechanical deficiencies or to caution any offending driver or not send such offending driver to the port in charge of a vehicle:

Provided that nothing in this by-law shall prevent the Authority from making a complaint to the police if it thinks fit.

Passenger ships alongside wharf

16.—(1) Any vehicle not belonging to the Authority shall not be parked or driven on the wharf, its entrance or immediate approaches when an overseas passenger ship is alongside any wharf or jetty except with the written permission of the Authority and such permission shall be produced on the demand of an authorised person and failure to produce the permission upon demand shall be an offence.

(2) Any accident to persons or property arising from a vehicle being on the wharf, its entrance or immediate approaches when a passenger ship is alongside whether or not written permission has been given shall be the responsibility of the driver of the vehicle.

Accidents

17. Any accident occurring in the port shall be reported immediately to the Authority together with the account of any witnesses and the Authority may recover any costs it incurs howsoever arising from the accident.

PART IV BEHAVIOUR OF PEOPLE IN THE PORT

Fishing

18. Fishing with lines may be permitted from the Authority's wharves, jetties, and dolphins:

Provided that—

(a) the Authority shall in no way be liable for any injury or damage either to the party fishing or any third party which arises directly or indirectly from such fishing;

(b) the Authority may recover the cost of rectifying any damage to its property which arises directly or indirectly from such fishing;

(c) the lawful instructions of an authorised person shall be observed;

(d) the Authority may ban fishing for any period of time either by displaying a board or notice or by making an announcement over the Solomon Islands Broadcasting Service or by such other method as the Authority thinks suitable and such ban shall have immediate effect.

Movement in the port area

19. Any person other than an employee of the Authority who enters the port area at any time does so at his or her own risk and the Authority shall not be liable except in the case of its own negligence for any injury or damage sustained by that person or their property or by any third party or property as a result of the presence or actions of any person other than an employee of the Authority.

Instructions by authorised persons

20. All lawful notices erected by the Authority and all lawful instructions given verbally by the harbour master, security guard, or other authorised person with regard to entry to or behaviour in the port area shall be observed. Failure to observe such notices or instructions shall not only constitute an offence but shall be entirely at the offender's risk.

No person to expectorate, etc

21. Any person who expectorates, urinates or defecates within the limits of a port except in places provided for such purposes shall be guilty of an offence.

No person to remove land

22. No person shall remove or excavate any land above or below high water mark which is within the limits of a port without first obtaining the permission of the Authority in writing. For the purposes of this by-law, land shall include but not be limited to stones, gravel, coral, earth, clay, sand, boulders, trees and rocks. Contravention of this by-law shall be an offence and the contravention shall be made good to the satisfaction of the Authority and any costs incurred by the Authority in relation to both contravention and the making good shall be recoverable as a civil debt.

No temporary trade without permission

23. No temporary trade shall be carried on within the limits of a port without the written permission of the Authority. The Authority may charge such rate and prescribe such conditions as it considers appropriate in giving permission and failure either to obtain the permission or to pay the rate or to observe the prescribed conditions shall be an offence:

Provided that the imposition of a fine shall in no way restrict the right of the Authority to recover any costs it incurs in rectifying the consequences of the offence.

PART V MISCELLANEOUS

Penalties

24. Any person who contravenes or fails to comply with the provisions of by-laws 3, 5, 6, 7, 8, 12, 14, 16, 18, 20, 22, and 23 shall be guilty of an offence and liable to a fine of one hundred dollars and to a further fine of ten dollars for every day after the first day during which the offence continues.

Power of waiver

25. The Authority may waive or vary any provision of these By-laws where in the opinion of the Authority the circumstances require such waiver or variation.

PORTS AUTHORITY PORTS AUTHORITY

SUBSIDIARY LEGISLATION

LN 58/1974

(Section 106)

Any by-law, rule or order made by the Solomon Islands Ports Authority under the provisions of the Ports Act shall be published in the Gazette.
