PORTS AND NAVIGATION

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Ports And Navigation Act 2019

TABLE OF AMENDMENTS

The Ports And Navigation Act 2019 No 30 was certified on 20 December 2019 and commenced on 1 February 2020 (GN No 953/2019; Gaz 263/2019).

Amending Legislation	Certified	Date of Commencement
Ports And Navigation (Amendment) Act 2020 No 7	4 June 2020	4 June 2020
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Vessel Registration Act 2024 No 3	28 January 2025	s 86(4) and (5): 28 January 2025

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An Act to regulate ports and navigation and for related purposes.

Enacted by the Parliament of Nauru as follows:

PART 1 — PRELIMINARY

1 Short title

This Act may be cited as the *Ports and Navigation Act 2019*.

2 Commencement

This Act commences on 1 February 2020.

3 Objectives

The objectives of this Act are to regulate ports and navigation by:

(a) ensuring and improving safety, security and efficiency;
(b) protecting persons, property and the environment; and
(c) implementing Nauru's obligations under international conventions.

4 Definitions

In this Act:

'1992 CLC Protocol' means the Protocol of 1992 to amend the CLC Convention as amended from time to time;

'1992 Fund' means the *International Oil Pollution Compensation Fund 1992* established by the *92 FUND Convention*;

'1992 FUND Protocol' means the Protocol of 1992 to amend the *FUND Convention* as amended from time to time;

'2010 HNS Protocol' means the Protocol of 2010 to amend the *HNS Convention*, as amended from time to time;

'Accountable Minister' means the Minister so appointed in respect of the Authority under the *Public Enterprises Act 2019*;

'Administrator'

[def rep Act 3 of 2025 s 86(4), opn 28 Jan 2025]

'AFS Convention' means the International Convention on the control of harmful anti-fouling systems on ships, done at London on 5 October 2001, and includes every;

(a) annex and appendix;
(b) amendment; and
(c) protocol,

to that convention;

'aid to navigation' means a device, system, service or facility, external to vessels, specifically intended to assist vessels to determine their position or safe course, or to warn of dangers or obstructions to navigation;

'Authority' means the Nauru Maritime and Port Authority established under Section 6;

'Board' means the board of the Authority established under Section 7;

'BUNKER Convention' means the International Convention on Civil Liability for Bunker Oil Pollution Damage, done at London on 23 March 2001, and includes every;
(a) annex and appendix;
(b) amendment; and
(c) protocol,
to that convention;

'BWM Convention' means the International Convention for the Control and Management of Ships' Ballast Water and Sediments, done at London on 13 February 2004, and includes every;
(a) annex and appendix;
(b) amendment; and
(c) protocol,
to that convention;

'cargo' means any property carried on a vessel other than ballast, mail, stores and baggage;

'Chief Executive Officer' means the person holding the office of Chief Executive Officer of the Authority appointed under Section 64 of the *Public Enterprises Act 2019* and includes a person so acting;

'CLC Convention' means the *International Convention on Civil Liability for Oil Pollution Damage*, done at Brussels on 29 November 1969;

'conflict of interest' has the same meaning under Section 6 of the *Leadership Code Act 2016*;

'contaminant' means any solid, liquid, gas or form of energy, whether natural or man-made, which, may negatively affect:
(a) the health of humans, animals or plants;
(b) the integrity of aquatic or terrestrial ecosystems;
(c) amenity or other uses of the environment; or
(d) air quality;

'Court' means the Supreme Court of Nauru;

'crew member' means a person who is employed or engaged or works in any capacity on board a vessel;

'damage' includes alter, destroy or remove;

'Director' means the Director of Maritime Services appointed under Section 9(1);

'Exclusive Economic Zone' or***'EEZ'*** means the exclusive economic zone of Nauru as defined under Section 6 of the *Sea Boundaries Act 1997*;

'environment' includes water, air, soil, flora and fauna;

'exercise' a power includes perform a duty;

'flag administration' means the authority responsible for registration of ships in a flag state;

'flag state' means the state whose flag a vessel:
(a) flies; or
(b) is entitled to fly;

'foreign vessel' means a vessel that is not a Nauruan vessel;

'FPSO' means a floating production storage and off-loading unit;

'FSU' means a floating storage unit;

'FUND Convention' means the *International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage*, done at Brussels on 29 November 1969;

'goods' includes livestock;

'harbour' means a natural or artificial harbour and includes:
(a) navigable estuary, river, creek or channel;
(b) haven, roadstead, dock, pier, jetty or offshore terminal; or
(c) any other place in or at which vessels can:
(i) obtain shelter;
(ii) load or unload goods; or
(iii) embark or disembark passengers;

'Harbourmaster' means a person appointed under Section 8 and includes a deputy or acting Harbourmaster;

'HNS Convention' means the *International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea*, done at London on 3 May 1996;

'IMO' means the organisation established by the *International Maritime Organization Convention 1958*;

'in bulk' means substances, materials, or articles that are loaded directly into the cargo or other spaces of a vessel without any intermediate form of containment;

'in solid form' means substances, materials or articles, other than liquid or gas, consisting of a combination of particles, granules or any larger pieces of substance, material or article, that is generally uniform in composition;

'Inspector' means a person appointed as an Inspector under Section 81;

'Intervention 1969' means the *International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties*, done at Brussels on 29 November 1969, as amended and in force for Nauru from time to time;

'ISM Code' means the *IMO International Management Code for the Safe Operation of Ships and for Pollution Prevention (International Safety Management Code)*, as amended or substituted from time to time;

'liability' includes a debt or obligation, whether present, future, vested or contingent;

'LLMC Convention' means the *Convention on Limitation of Liability for Maritime Claims*, done at London on 19 November 1976, and includes every:
(a) annex and appendix;
(b) amendment; and

(c) protocol,
to that convention;

'Load Lines Convention' means *the International Convention on Load Lines*, done at London on 5 April 1966, as amended and in force for Nauru from time to time;

'maritime security officer' has the same meaning as in the *Maritime Security Act 2019*;

'maritime structure' means:
(a) a jetty;
(b) a breakwater, groyne or seawall;
(c) a dredged channel;
(d) a boat pen or vessel mooring;
(e) a aid to navigation; or
(f) a pipeline in, over, under or discharging into navigable waters;

'MARPOL' means the *International Convention for the Prevention of Pollution from Ships*, done at London on 17 February 1973, and includes every;
(a) annex and appendix;
(b) amendment; and
(c) protocol,
to that convention;

'master' includes every person who has command or charge of a vessel, but does not include a pilot;

'mooring' includes anchoring and berthing;

'Nairobi Convention' means the *Nairobi International Convention on the Removal of Wrecks, 2007*, done at Nairobi on 18 May 2007, and includes every;
(a) annex and appendix;
(b) amendment; and
(c) protocol,
to that convention;

'Nauru port' means any area of land, water or seabed designated as such by order made by the Responsible Minister and published in the Gazette;

'Nauruan vessel' means a vessel:
(a) registered or required to be registered, under the *Vessel Registration Act 2024*;
(b) registered or required to be registered, under the *Vessel Registration Act 2024*; or
(c) not registered in any other State and wholly owned by persons each of whom is:
  (i) a citizen of or ordinarily resident in Nauru; or
  (ii) an incorporated or unincorporated entity registered or having its principal place of business in Nauru;

[def am Act 3 of 2025 s 86(5), opn 28 Jan 2025]

'Nauru waters' means:
(a) the territorial sea of Nauru, as defined under Section 4 of the *Sea Boundaries Act 1997*; and
(b) all waters on the landward side of the territorial sea, including the waters of a Nauru port;

'owner' in relation to any vessel or wreck, means:
(a) a person who has a legal or beneficial interest in the vessel, other than as a mortgagee;
(b) a mortgagee in possession;
(c) a person with overall general control and management of the vessel;
(d) a person acting as agent for the owner and who is responsible for receiving cargo or paying any port charges; and
(e) a person who has assumed responsibility for the vessel from a person to whom paragraphs (a), (b) or (c) refer;

'PAL Convention' means the *Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea*, done at Athens on 13 December 1974, includes every;
(a) annex and appendix;
(b) amendment; and
(c) protocol,
to that convention;

'passenger' means a person carried on a vessel other than a crew member;

'pilot' means a person who has the conduct of a vessel into or out of a port or within a specific area of water, but is not otherwise a crew member;

'pleasure craft' means a vessel that is used exclusively for the owner's pleasure or as the owner's residence and not offered or used for hire or reward, but does not include a vessel:
(a) provided for the transport, sport or recreation by or on behalf of any incorporated or unincorporated business undertaking, trust, club or incorporated society; or
(b) usually used as a fishing vessel or for the purpose of carriage of passengers or cargo for hire or reward;

'port' includes a harbour:

'port charges' means a charge imposed under Section 18;

'port facilities' means facilities and administration provided for or in relation to a Nauru port and includes:
(a) maritime structures and other buildings, structures and enclosures;
(b) roads; and
(c) machinery, equipment, vessels and vehicles;

'port operator' means, in relation to any Nauru port:
(a) the Authority; or
(b) such other person who is, for the time being, responsible for the management of the port;

'port service provider' means, in relation to any Nauru port, a person with whom the Authority has contracted to provide services to vessels;

'Prevention of Collisions Convention' means the *Convention on the International Regulations for Preventing Collisions at Sea*, done at London on 20 October 1972, and includes every;
(a) annex and appendix;
(b) amendment; and
(c) protocol,
to that convention;

'Registrar' has the meaning given under the *Vessels Registration Act 2024*;
[def subst Act 3 of 2025 s 86(4), opn 28 Jan 2025]

'Responsible Minister' means the Minister so appointed in respect of the Authority under the *Public Enterprises Act 2019*;

'SOLAS' means the *International Convention for the Safety of Life at Sea*, done at London on 1 November 1974, as amended and in force for Nauru from time to time;

'Salvage Convention' means the *International Convention on Salvage*, done at London on 28 April 1989, and includes every;
(a) annex and appendix;
(b) amendment; and
(c) protocol,
to that convention;

'TONNAGE Convention' means the *International Convention on Tonnage Measurement of Ships*, done at London on 23 June 1969, as amended and in force for Nauru from time to time;

'UNCLOS' means the *United Nations Convention on the Law of the Sea*, done at Montego Bay on 10 December 1982, as amended and in force for Nauru from time to time;

'vessel' means a thing used or capable of being used, in navigation by water, no matter how propelled and even if it is normally stationary and includes:
(a) an air-cushion vehicle, seaplane or similar craft; and
(b) a barge, lighter or other floating structure used for commercial purposes;

'voyage' means a journey by water from one port:
(a) to another port; or
(b) back to the same port without calling at any other port; and

'wharf' includes a quay, pier, jetty, ramp or other similar landing place from which passengers or goods may be loaded or discharged from a vessel.

5 Measurement

In this Act:
(a) reference to the length of any vessel is a reference to length as defined under Article 2(8) of the *Load Lines Convention*; and
(b) reference to the gross tonnage of any vessel is a reference to gross tonnage as defined under Article 2(4) of the *TONNAGE Convention*.

[The next page is 90,801]

PART 2 — NAURU MARITIME AND PORT AUTHORITY

DIVISION 1 — ESTABLISHMENT AND ADMINISTRATION

6 Establishment

(1) The Nauru Maritime and Port Authority is hereby established.

(2) The Authority:
  (a) is a body corporate with perpetual succession;
  (b) has a common seal;
  (c) is capable of suing and being sued in its corporate name; and
  (d) may, subject to this Act and any other written law, do anything that may be done by a corporation incorporated under the *Corporations Act 1972*.

(3) All courts and judicial officers shall:
  (a) take judicial notice of the common seal of the Authority; and
  (b) presume the seal was duly affixed.

(4) The Authority may use and operate under:
  (a) an abbreviation or adaptation of the Authority's corporate name; or
  (b) such other trading names approved by the Responsible Minister.

7 Board

A Board is established as the governing body of the Authority.

8 Harbourmasters

(1) The Board shall appoint a Harbourmaster in relation to every Nauru port.

(2) The Board may appoint a deputy Harbourmaster in relation to a Nauru port.

(3) A Harbourmaster shall have written terms of appointment that provide for, at least:
  (a) specified performance criteria; and
  (b) annual review of the Harbourmaster's performance.

(4) Subject to the general direction and supervision of the Chief Executive Officer and the terms of appointment, the Harbourmaster is responsible for:
  (a) controlling the movement of vessels in the port;
  (b) ensuring that the port and the approaches to the port are kept free of obstructions or possible obstructions to vessels using the port;
  (c) ensuring that the safety of people, property and the environment are not endangered by vessels or otherwise;
  (d) ensuring the safe and efficient conduct of port operations;
  (e) co-ordinating search and rescue efforts in Nauru waters and the EEZ with other responsible agencies; and
  (f) such other matters as are specified in the Harbourmaster's terms of appointment.

(5) Subject to the terms of appointment, a Harbourmaster may delegate to another person any function or power, other than the power of delegation.

9 Other officers

(1) A Director of Maritime Services shall be appointed by the Authority.

(2) The Director shall be appointed on written terms of appointment that provide for, at least:
(a) specified performance criteria; and
(b) annual review of the Director's performance.

(3) The Director is responsible for all regulatory functions of the Authority and shall report to the Chief Executive Officer.

(4) The Director may delegate any function or power under his or her terms of appointment.

(5) The Authority shall appoint such other officers as may be required to discharge its functions under this Act and under the *Maritime Security Act 2019*.

DIVISION 2 — OBJECTIVES, FUNCTIONS AND POWERS

10 Objectives

The objectives of the Authority are to promote, encourage and assist in the development of safe, secure, efficient and commercially viable Nauru ports.

11 Functions

The functions of the Authority are to establish, improve, maintain, operate and manage port services and facilities, including, but not limited to:

(a) facilitating and encouraging trade within and through ports;
(b) planning for future growth and development of ports;
(c) regulating, controlling and co-ordinating business and other activities in ports or in connection with the operation of ports;
(d) establishing contractual and other conditions for private sector participation in or outsourcing of, port and ancillary services;
(e) regulating and controlling navigation within ports and the approaches to ports;
(f) ensuring port safety and security;
(g) protecting the environment from hazards arising from port operations and maritime activity;
(h) performing such functions and exercising such powers as are conferred on the Authority by any other written law;
(i) ensuring that the operation of ports and the regulation of the maritime sector is consistent with Nauru's international obligations;
(j) advising the Responsible Minister on matters relating to the maritime sector; and
(k) assist in facilitation, monitoring, implementation and enforcement of targeted financial sanctions without delay to comply with United Nations Security Council Resolutions for the prevention, suppression and disruption of terrorist financing, proliferation financing, transportation of weapons and other terrorist related activities including transportation of drugs by vessels as the Supervising Authority of vessels in the Republic's Exclusive Economic Zone and report any such activities to the Financial Intelligence Unit.

[s 11 am Act 3 of 2025 s 86(4), opn 28 Jan 2025]

12 Powers

(1) Subject to the provisions of this Act and any other written law, the Authority has exclusive control of Nauru ports.

(2) Subject to the provisions of this Act and any other written law, the Authority has all the powers, rights and authorities necessary or expedient to enable it to perform its functions under this Act or any other written law.

(3) Without limiting subsection (2), the Authority may:
- (a) acquire, hold or dispose of any interest in land;
- (b) acquire, hold or dispose of shares or units or other interests in, or relating to, a business undertaking;
- (c) manage, improve and develop any real or personal property;
- (d) operate and manage ports as commercial undertakings and for that purpose provide or arrange for the provision of, goods or services for a fee;
- (e) acquire, establish and operate any undertaking, business or activity whatsoever, which appears to the Authority to be necessary or advantageous to the performance of its functions;
- (f) sort, weigh, measure, store or otherwise handle any goods;
- (g) provide stevedores and other labour and equipment;
- (h) enter into any contract or arrangement, including for the operation or management of a Nauru port, or the performance of a function on behalf of the Authority;
- (i) with the approval of Cabinet, administer any contract or arrangement on behalf of the Republic;
- (j) issue licences and administer licensing schemes for activities and things;
- (k) apply for the grant of licenses or other authority;
- (l) appoint agents or engage persons to provide technical or professional assistance to the Authority;
- (m) carry out any investigation, survey, exploration or feasibility study;
- (n) market and promote Nauru ports or goods and services provided by the Authority; and
- (o) provide, maintain and operate aids to navigation for Nauru ports and in approaches to Nauru ports.

(4) The Authority shall not act as an agent for any vessel or owner of any vessel.

(5) The powers, rights and authority conferred under this Section are in addition to, and not in derogation from, any other powers, rights and authority conferred upon the Authority by this Act or any other written law.

(6) In exercising the powers, rights and authority under this Section, the Authority may, with the approval of the Responsible Minister:
- (a) operate in partnership with a person; or
- (b) appoint a member of the Board to be a director of any corporation.

(7) Notwithstanding subsection (4), the Authority may with the approval of the Responsible Minister, establish or incorporate an entity to provide commercial services, including as an agent for a vessel or owner of a vessel, independent of the functions of the Authority, provided such entity complies with the requirements of this Act, any other written law or such other matters as the Responsible Minister or the Board may direct.

[subs (7) insrt Act 7 of 2020 s 4, opn 4 June 2020]

13 Authority may act in its discretion

(1) The Authority is not required to do any particular act only by reason that a function or power to do so is conferred under this Division.

(2) Subject to this Act, the Authority has the discretion as to how and when it performs its functions and exercises its powers.

DIVISION 3 — MONEY AND PROPERTY

14 Money

(1) The money of the Authority consists of:
- (a) amounts appropriated for the Authority from the Treasury Fund;
- (b) amounts received directly by the Authority for:
  - (i) the use of any land or port facilities under its control, management or administration;
  - (ii) the provision of goods or services by the Authority; or
  - (iii) fees and charges for which this Act or the regulations provide;
- (c) income from investments by the Authority;
- (d) proceeds from the disposal of the Authority's property; and
- (e) any other amounts that become payable to the Authority under a written law.

(2) The money of the Authority shall be paid into accounts under the sole control of the Authority with a financial institution that has been approved for that purpose by the Accountable Minister.

(3) Subject to subsection (2), the Authority may:
- (a) keep separate accounts in respect of different businesses undertaken by the Authority; and
- (b) keep separate accounts in respect of monies held for specific purposes or under specific obligations.

15 Property

(1) For the purposes of this Act, the following properties are vested in the Authority:
- (a) all the Republic's interest in the land within any Nauru port;
- (b) all aids to navigation that, immediately before the coming into operation of this Act:
  - (i) were in a Nauru port;
  - (ii) were used in connection with navigation into or out of a Nauru port; or
  - (iii) belonged to the Republic;
- (c) all fixtures on land in a Nauru port; and
- (d) all fixtures on or attached to, the seabed in a Nauru port.

(2) Where any question arises as to whether any asset has become or is the property or responsibility of the Authority, that question shall be decided by the Cabinet.

(3) For the purposes of this Act, any property vested in or belonging to the Republic may, from time to time, be vested in the Authority by the Cabinet.

(4) For the purposes of this Act, the Cabinet may by order withdraw any property vested in the Authority under subsection (3) and vest or re-vest such property in the Republic or another person.

(5) All debts, liabilities and obligations associated with properties vested in the Authority under this Section are also transferred to and vest in the Authority and are deemed to have been incurred by the Authority.

16 Property not subject to distress

Any personal property of the Authority shall not, when located outside any premises from which the Authority operates, be subject to distress or taken in execution of any legal proceedings against any other person.

DIVISION 4 — CHARGES

17 Interpretation

In this Division:

'charge' refers to a charge levied under Section 18(1) and means:
(a) port dues;
(b) fees for any licence, approval, certification or authorisation required or permitted to be given;
(c) wharfage, berthage, tonnage and access charges; and
(d) rates for the use of any land, works, equipment, aids to navigation, services, goods and other facilities of any kind provided by the Authority or under the control of the Authority;

'due date' means the date or occasion by which a charge is required to be paid; and

'terms' means the terms applicable to the payment of a charge and includes:
(a) the due date;
(b) the currency in which payment may be made;
(c) the manner in which payment may be made; and
(d) the extent of any discount permitted to be given for early payment or otherwise.

18 Power to levy charges

(1) The Authority may levy and collect charges in relation to any of its functions and powers under this Act or any other written law.

(2) The power to levy and collect charges is not affected by the contracting-out or delegation of any function or power in relation to which a charge is levied.

(3) The Authority shall determine the amount of charges and their terms in accordance with prudent commercial principles and may allow for:
(a) the making of profit by the Authority;
(b) a reasonable rate of return for a port operator or port service provider;
(c) the maintenance and depreciation of port facilities; and
(d) the progressive development of port facilities.

(4) All charges shall be approved by the Responsible Minister and come into effect 30 days after publication in the Gazette.

(5) With the approval of the Responsible Minister, the Authority may enter into an agreement with a port operator or port service provider to:
(a) alter the terms; or
(b) fix or index the amount of any charge for specific period of time,

in which case such agreement displaces any determinations made under subsection (3) in relation to that charge.

(6) Charges shall not be payable by military vessels of a State, other than in relation to goods or repairs provided to such vessels.

19 Liability to pay charges

(1) The following are jointly and severally liable to pay charges payable in respect of a vessel:
   (a) the owner of the vessel;
   (b) the master of the vessel; and
   (c) each person who is:
      (i) a consignee, consignor or shipper of goods carried on board the vessel; or
      (ii) an agent of the vessel,
   and has undertaken to pay any charge on account of the vessel.

(2) The following are jointly and severally liable to pay charges in respect of goods carried on a vessel:
   (a) the owner of the goods;
   (b) the owner of the vessel;
   (c) each consignee, consignor or shipper of the goods;
   (d) each agent for the sale or custody of the goods; and
   (e) each person entitled, either as owner of the goods or on behalf of that owner, to the possession of the goods.

20 Power of entry

Any duly authorised officer or employee of a port operator may board and inspect a vessel in a Nauru port in order to ascertain the proper amount of fees payable, after Customs and Immigration clearance has been given to the vessel.

21 Payment

(1) The Authority or a port operator may, in writing authorise a person to collect or recover charges and interest on its behalf.

(2) The person authorised under subsection (1), shall provide receipts for payment of all charges and interest.

22 Interest

(1) Where charges are not paid within 30 days from the due date, interest at the rate of 10% per annum will accrue on all overdue charges.

(2) The interest accruing under this Section will capitalise every 90 days after the due date.

(3) This Section does not apply in respect of money due under a written contract where the rate of interest is specified.

(4) The Authority or any other person authorised under Section 21(1) to collect or recover a charge may waive interest payable under this Section.

23 Recovery of charges

(1) The Authority may recover any charges or interest thereon as a debt owing to the Authority.

(2) A person authorised to collect or recover charges under Section 21(1) may recover such charges or interest payable under this Act as a debt.
(3) Any vessel in respect of which charges are payable and has failed to pay beyond their due date may be detained by the Authority until a receipt is produced or other satisfactory proof of payment is given.
(4) A port operator or port service provider may withhold or withdraw the provision of any service or facility to a person who fails to pay the charges by the due date, until they are paid in full or secured to the satisfaction of the port operator.
(5) A port operator and or a port service provider has:
(a) a maritime lien against the vessel; and
(b) a lien against all cargo of the vessel,
for all unpaid charges and until they are paid in full or secured to the satisfaction of the port operator and port service provider.
(6) Pursuant to the liens under subsection (5), a port operator or port service provider may sell or otherwise dispose of such vessel or cargo and apply the sale proceeds in accordance with any regulations.
(7) Despite the provisions of this Act or any other written law, where a port operator gives to any public officer, whose duty it is to grant clearance to any vessel, a written notice stating that an amount specified is due in respect of fees or rates levied under this Act in respect of that vessel, that public officer shall not grant clearance until the amount due has been paid or has been secured to the satisfaction of the port operator.

24 Regulations

The Cabinet may make regulations to provide for charges, including the:
(a) manner of payment of charges;
(b) provision of information relevant to liability to pay charges;
(c) determination of the gross tonnage of vessels, the quantity of cargo and any other matter necessary or incidental to the calculation of charges;
(d) detention and inspection of vessels;
(e) exemption of any vessel from charges; or
(f) waiver or refund of charges.

DIVISION 5 — TRANSITIONAL

25 Interpretation

In this Division:

'commencement date' means the date on which this Act commences; and

'former Authority' means the Port Authority of Nauru established under the *Port Authority Act 2015*.

26 References to Authority

A reference to the Port Authority of Nauru in a written law or instrument in force immediately before the commencement date is deemed to be a reference to the Authority.

27 Board

The persons who are members of the Board of Directors of the former Authority

immediately before the commencement date are deemed to have been appointed as members of the Board of the Authority on the commencement date under the same terms and conditions.

28 Chief Executive Officer

The Chief Executive Officer of the former Authority immediately before the commencement date is deemed to have been appointed as the Chief Executive Officer of the Authority on the commencement date under the same terms and conditions.

29 Harbourmaster

A Harbourmaster or Deputy Harbourmaster immediately before the commencement date is deemed to have been appointed as a Harbourmaster or Deputy Harbourmaster under Section 8 of this Act on the commencement date under the same terms and conditions.

30 Employees

An employee of the former Authority immediately before the commencement date is deemed to be an employee of the Authority on the commencement date under the same terms and conditions.

31 Continuity of service

For the purpose of any contractual or statutory right or entitlement, the employment or appointment of a person who, by this Division, is taken to have been employed or appointed on the commencement date, is taken to have been continuously employed or appointed from the date on which the employment or appointment commenced with the former Authority.

32 Property, right and interest of Authority

(1) All money held by and in the name of the former Authority shall become property of the Authority on the commencement date.

(2) All properties, rights and interests of whatever nature belonging to the former Authority shall become properties, rights and interests of the Authority on the commencement date.

33 Contracts of Authority

(1) Any contract or agreement to which the former Authority is a party and being wholly or partly executory immediately before the commencement date, continues in full force and effect as if the Authority were the former Authority.

(2) Any rights accrued to the former Authority or obligations incurred by the former Authority, under any contract or agreement to which the former Authority is or was a party immediately before the commencement date, will after the commencement date, be deemed to continue to accrue to and be owed by, the Authority.

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PART 3 — SAFETY

DIVISION 1 — GENERAL

34 Interpretation

(1) In this Part:

'approved' in relation to a pilot, means approved under Section 44;

'marine safety plan' means:

(a) in relation to a Nauru port operated by the Authority, a plan prepared by the Authority and approved by the Responsible Minister setting out the arrangements for marine safety at the port; or

(b) in relation to a Nauru port not operated by the Authority, a plan prepared by the port operator and approved by the Authority setting out the arrangements for marine safety at the port;

'pilotage provider' means a person responsible for any of the following:

(a) training pilots;

(b) safe transfer and operation of pilots; or

(c) undertaking any other activities in relation to pilotage as may be prescribed by the regulations; and

'under compulsory pilotage' in relation to a vessel, means under the control of a pilot as required under Section 43.

(2) A reference in this Part to a port includes a reference to any area that is outside the port and is declared by regulations to be an area in which pilotage services are to be used.

(3) A reference in this Part to pilotage services provided by the Authority includes the provision of such services under a contract or arrangement under Section 45(2).

DIVISION 2 — NAVIGATION

35 Prevention of Collisions Convention

Subject to this Part, the *Prevention of Collisions Convention* ('**COLREGS**') has the force of law in the Republic.

36 Application

Subject to any regulations, this Division applies to the following vessels:

(a) Nauruan vessels everywhere; and

(b) foreign vessels in Nauru waters.

37 Navigation requirements

(1) All Nauruan vessels shall be navigated in accordance with the requirements of:

(a) COLREGS; and

(b) any other laws applicable to the area in which the vessels are located from time to time.

(2) All vessels in Nauru waters shall be navigated in accordance with the requirements of:
(a) COLREGS; and
(b) the regulations made under this Act.

(3) The owner and master of all vessels are responsible for complying with this Section.

38 No presumption of fault

Where a collision occurs involving one or more vessels:
(a) a vessel is not to be taken to be at fault merely because of a contravention of COLREGS or the regulations; and
(b) the collision is not taken to have been caused by the wrongful act, neglect or default of a seafarer of a vessel merely because of a contravention of COLREGS or the regulations.

39 Navigational precautions

The master of a vessel shall ensure that the intended voyage has been planned including updating of such plans:
(a) using the appropriate nautical charts and publications for the area concerned;
(b) taking into account any applicable guidelines and recommendations of the IMO;
(c) taking into account any relevant routeing systems;
(d) ensuring sufficient sea room for the safe passage of the vessel throughout the voyage;
(e) anticipating all known navigational hazards and adverse weather conditions; and
(f) taking into account any applicable environmental protection measures and avoiding as far as possible, actions which could cause damage to the environment.

40 Navigational warnings

The master of a vessel shall ensure that intelligence of any dangers to navigation received from any reliable source shall promptly be brought to the attention of:
(a) in Nauru waters, the Authority; and
(b) otherwise, the competent authority of nearby States.

41 Regulations

The Cabinet may make regulations to provide for the following in relation to Nauru waters:
(a) navigational requirements in specific areas;
(b) requirements for the prevention of collisions; and
(c) the use of lights and signals.

DIVISION 3 — PILOTAGE

42 Application

Except as may be otherwise prescribed under regulations, this Division applies to every vessel:

(a) over 35 metres in length or over 200 gross tonnage;
(b) carrying hydrocarbons or other hazardous liquid or gaseous substances in bulk as cargo; or
(c) having any defect in its hull, machinery or equipment that might materially affect its navigation.

43 Compulsory pilotage

Except as may be otherwise prescribed under regulations, every vessel to which this Division applies shall use pilotage services when:
(a) entering or leaving a Nauru port; or
(b) moving between places in a Nauru port.

44 Authority to approve pilots and pilotage providers

The Authority may approve, on such terms and for such duration as it deems fit for a Nauru port, competent and suitably qualified persons:
(a) as pilots; and
(b) as pilotage providers.

45 Authority to provide pilots

(1) The Authority shall provide at least one approved pilot in respect of every Nauru port receiving vessels to which this Division applies.
(2) The Authority may enter into a contract or arrangement for a Nauru port for the provision of:
  (a) pilotage services; or
  (b) services provided by a pilotage provider.

46 Pilot under authority of master

(1) An approved pilot who has control of a vessel is subject to the authority of the master of the vessel.
(2) Despite subsection (1), the master is not relieved of any responsibilities relating to the conduct and navigation of the vessel.

47 Liability of owner or master of piloted vessel

The owner or master of a vessel under compulsory pilotage in a port is liable for any loss or damage caused by the vessel or by a fault in the conduct or navigation of the vessel, in the same manner as the owner or master would be liable if pilotage were not compulsory.

48 Immunity

(1) The Republic and the Authority are not liable for any loss or damage resulting from any act or omission:
  (a) in connection with the provision of pilotage services; or
  (b) by an approved pilot in the conduct or navigation of a vessel of which the person is the pilot.
(2) An approved pilot is not personally liable for any loss or damage resulting from any act or omission by him or her in the conduct or navigation of a vessel of which he or she is the pilot.
(3) The employer of an approved pilot is not liable for any loss or damage

resulting from any act or omission by the person in the conduct or navigation of a vessel of which the person is the pilot.

49 Regulations

The Cabinet may make regulations in relation to pilotage in Nauru waters to provide for:

(a) training and certification of pilots and pilotage providers;
(b) pilot transfer arrangements;
(c) prescribing pilot boarding grounds;
(d) operational procedures for pilots; and
(e) charges for pilotage services.

DIVISION 4 — ASSISTANCE AT SEA

50 Application

Subject to any regulations, this Division applies to the following vessels:

(a) Nauruan vessels everywhere; and
(b) foreign vessels in Nauru waters.

51 Persons in danger at sea

The master of a vessel shall render assistance to a person found at sea in danger of being lost.

52 After collision

The master of a vessel involved in a collision with another vessel shall:

(a) render such assistance as may be necessary to save the other vessel from any danger caused by such collision;
(b) stay by the other vessel until the master has determined that no further assistance is required; and
(c) give to the master of the other vessel, the name of the vessel and the names of the ports from which it comes and to which it is bound.

53 Vessels in distress

The master of a vessel, upon receiving at sea a distress signal from or concerning, a nearby vessel or aircraft in distress, shall:

(a) proceed with all speed to its assistance; and
(b) inform the vessel or aircraft, if possible:
  (i) of the vessel's location; and
  (ii) that the vessel is proceeding towards it.

54 Treatment obligations

The masters of vessels who have embarked persons in distress at sea shall treat them with humanity, within the capabilities and limitations of the vessel.

55 Effect on salvage rights

The compliance by a master with the provisions of this Division does not affect any rights to salvage.

DIVISION 5 — AIDS TO NAVIGATION

56 Powers in respect to aids to navigation

(1) The Authority may:
  (a) provide aids to navigation for any Nauru port or in Nauru waters;
  (b) maintain, repair, remove, replace, discontinue any aid to navigation provided by or under the control of the Authority; or
  (c) vary the character of or the mode of display or operation of, any aid to navigation provided by or under the control of the Authority.

(2) Without limiting subsection (1), the Harbourmaster may at any reasonable time of day or night:
  (a) inspect or conduct works on or establish, any aid to navigation which, in the opinion of the Authority, may be necessary or desirable for the safety or convenience of navigation;
  (b) enter any property, whether public or private, for the purposes of such inspection or works; and
  (c) transport or cause to be transported, any goods over any property, whether public or private, for the purposes of effecting such inspection or works.

57 Powers to mitigate interference from lights

(1) If in the opinion of the Harbourmaster it is desirable for the safety of navigation to do so, the Authority may, by written notice, require the owner of any light or lamp or the occupier of any land on which there is any light or lamp, to:
  (a) remove or relocate it,
  (b) vary its character, mode of display or operation; or
  (c) refrain from lighting or displaying it until the requirement in paragraph (a) or (b) is complied with.

(2) A notice under subsection (1) shall specify a date:
  (a) not earlier than 14 days from the date of service of the notice, by which a requirement under subsection (1)(a) or (b) is to be complied with; and
  (b) not earlier than the date of service of the notice, from which a requirement under subsection (1)(c) commences.

(3) If a person does not comply with a notice under subsection (1) or if the owner of the light or lamp or occupier of the land on which it is located, cannot be ascertained or located after reasonable inquiry, the Authority may:
  (a) do anything in respect of the light or lamp as the notice requires the owner to do; and
  (b) recover any expense so incurred by the Authority from the owner or occupier of land as a debt.

(4) The Harbourmaster may extinguish any lamp or light and shall enter upon any land if it is, in his or her opinion, necessary to do so for the immediate safety navigation of a vessel.

DIVISION 6 — PORT SAFETY

58 Requirement for marine safety plan

(1) Each Nauru port shall have, maintain and implement a marine safety plan.

(2) The Authority may require a port operator to review a marine safety plan from time to time and submit modifications for approval.

59 Powers of Harbourmasters

(1) A Harbourmaster may give a direction under this Section:
  (a) in fulfilment of any of the Harbourmaster's responsibilities under Section 8(4); or
  (b) to secure compliance with any regulations relating to the matters under Section 60.

(2) A direction under this Section may be given:
  (a) verbally or in writing; and
  (b) for a specific occasion or generally.

(3) A direction given under this Section prevails over any inconsistent direction given by any other person or officer authorised to give directions, to the extent of the inconsistency.

(4) A person to whom a direction under this Section is given shall immediately comply with the direction.

(5) A Harbourmaster may direct the owner or master of a vessel to do any or all of the following in relation to a Nauru port:
  (a) not enter the port;
  (b) navigate the vessel in a specified manner in or approaching the port;
  (c) moor the vessel in the port at a specified place and in a specified manner;
  (d) move the vessel out of the port or to another place in the port;
  (e) move any dangerous thing out of the port or to another place within the port; or
  (f) destroy any dangerous thing.

(6) Where the owner or master of the vessel fails to comply with a direction under subsection (1):
  (a) the Harbourmaster may do anything the owner or master was required to do, by any means the Harbourmaster deems necessary; and
  (b) the Authority may recover from the owner as a debt any expense so incurred.

(7) If a fire or any other emergency occurs on a vessel in a Nauru port, the:
  (a) Harbourmaster may board the vessel with such other persons who may render assistance;
  (b) Harbourmaster may take any action to prevent danger to life, property, port facilities and the environment;
  (c) Harbourmaster may require the master to take any measures to prevent danger to life, property, port facilities and the environment;
  (d) Harbourmaster may give orders to a person on board the vessel or in the port capable of rendering assistance; and
  (e) Authority may recover from the owner as a debt any expense so incurred.

(8) The Harbourmaster may board any vessel within the port where:
  (a) the Harbourmaster suspects, on reasonable grounds, that an offence under this Act has been committed; and
  (b) the Harbourmaster deems it necessary to board the vessel to discharge any duty under Section 8(4).

(9) A Harbourmaster may direct a person in a Nauru port to:
(a) cease any activity;
(b) move any vehicle, vessel or other thing;
(c) remove any goods or other things;
(d) produce proof of identification or any identity card issued under regulations;
(e) produce for inspection any permit issued under regulations; and
(f) leave the port or an area within the port.

60 Regulations

The Cabinet may make regulations in relation to a Nauru port to provide for any of the following:
(a) the driving, stopping and parking of vehicles;
(b) the movement, handling or storage of any goods;
(c) specifying areas within the port in which specified activities are permitted, prohibited or restricted;
(d) the issue of permits for specified activities; or
(e) any other matter that may pose a risk to safety or security.

DIVISION 7 — CARGO

61 Interpretation

(1) In this Division:

'BLU Code' means the Code of Practice for the Safe Loading and Unloading of Bulk Grain Carriers adopted by the IMO, as amended from time to time;

'carrier' means a person who undertakes to carry goods, whether as freight or otherwise;

'CSS Code' means the *Code of Safe Practice for Cargo Stowage and Securing* adopted by the IMO, as amended from time to time;

'general goods cargo function' means the performance of any of the following activities:
(a) carrying or causing to be carried or accepting or offering for carriage, cargo on a vessel;
(b) handling cargo on a vessel; or
(c) classifying, documenting, certifying, describing, packing, placarding, marking, labelling or consolidating cargo for carriage on a vessel;

'handling' includes loading, unloading, stacking, stowing or restowing cargo and any incidental or consequential operation;

'IMSBC Code' means the *International Maritime Solid Bulk Cargoes Code* adopted by the IMO, as amended from time to time;

'International Grain Code' means the *International Code for the Safe Carriage of Grain in Bulk* adopted by the IMO, as amended from time to time;

'packer' means a person responsible for preparing a package of or consolidating, cargo;

'performs', in relation to a person who performs a goods cargo function, includes a person who is responsible for that function regardless of whether the person does any act;

'shipper' means a person that presents or in whose name or on whose behalf is presented, goods for transport by a carrier; and

'TDC Code' means the *Code of Safe Practice for Ships Carrying Timber Deck Cargoes* adopted by the IMO, as amended from time to time.

(2) In this Division, references to:
  (a) numbered regulations, are references to corresponding regulations of SOLAS, Chapter VI; and
  (b) Parts, are references to corresponding Parts of SOLAS, Chapter VI.

(3) In this Division, unless the contrary appears:
  (a) words and phrases defined in SOLAS have the same meaning when used in this Division; and
  (b) words or phrases defined in a code mentioned in this Division have the same meaning when used in this Division.

62 Application

(1) This Division applies to the handling of cargo to which Part A applies on:
  (a) Nauruan vessels everywhere; and
  (b) foreign vessels in Nauru waters, other than in the course of innocent passage.

(2) This Division applies, in relation to the carriage of cargo on a vessel to which subsection (1) refers, to:
  (a) the owner;
  (b) the master;
  (c) each shipper; and
  (d) each person performing a general goods cargo function or handling cargo.

(3) This Division does not apply to:
  (a) goods forming part of the equipment or stores required for the navigation, safety or maintenance of the vessel or required for the intended operations of the vessel; and
  (b) vessels being:
    (i) pleasure crafts;
    (ii) fishing vessels; or
    (iii) military vessels or other vessels used only on government non-commercial service.

63 SOLAS

Subject to this Division, SOLAS Chapter VI has the force of law in the Republic.

64 General requirement of compliance with IMO Codes

A person shall not perform a general goods cargo function or handle any cargo except in accordance, as applicable, with:
(a) the CSS Code;
(b) the IMSBC Code;

(c) the International Grain Code;
(d) the BLU Code; and
(e) the TDC Code.

65 General responsibilities

(1) The master of a vessel shall ensure that cargo is received, documented and handled in accordance with SOLAS Chapter VI.

(2) A person handling cargo shall act upon any directions given by a master or Harbourmaster.

(3) A person handling cargo shall:
(a) ensure, so far as reasonably practicable, that cargo is handled in such a way as not to:
(i) damage or risk the safety of the vessel;
(ii) risk the safety of a person; or
(iii) risk damage to property or the environment; or
(b) carry out or arrange the carrying out of, such procedures as may be necessary for compliance with paragraph (a).

66 Regulations

The Cabinet may make regulations in relation to the:
(a) handling of cargo or different types of categories of cargo; or
(b) documentation required in relation to different categories of cargo.

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DIVISION 8 — DANGEROUS GOODS

67 Interpretation

(1) In this Division:

'carrier' means a person who undertakes to carry goods, whether as freight or otherwise;

'consolidate' means to pack cargo for one or more shippers into a freight container or CTU;

'container/vehicle packing certificate' means a certificate complying with section 5.4.2 of the IMDG Code;

'CTU' means cargo transport unit and includes a:
(a) road transport tank or freight vehicle;
(b) railway transport tank or freight wagon;
(c) freight container or portable tank; or
(d) multi-element gas container;

'dangerous goods' means:
(a) substances, materials, or articles, in packaged form or in bulk:
  (i) that are listed in Part 3 of the IMDG Code; or
  (ii) are assigned in Part 2 of the IMDG Code to one of the classes 1-9 according to the hazard they present; or
(b) empty receptacles that have been used to contain the dangerous goods described in paragraph (a), unless they contain no residue and are clean, dry and gas free;

'dangerous goods cargo function' means the performance of any of the following activities:
(a) carrying or causing to be carried, or accepting or offering for carriage, dangerous goods on a vessel;
(b) handling dangerous goods on a vessel;
(c) classifying, documenting, certifying, describing, packing, placarding, marking, labelling, or consolidating dangerous goods for carriage on a vessel; or
(d) manufacturing or supplying packaging for the purpose of containing dangerous goods for carriage on a vessel;

'dangerous goods transport document' means the document so described in Chapter 5.4 of the IMDG Code;

'freight' refers to cargo being transported for hire or reward;

'handling' includes loading, unloading, stacking, stowing or restowing cargo and any incidental or consequential operation;

'IMO Code' means one of the following codes adopted by the IMO, as amended from time to time:
(a) Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (**'BCH Code'**);
(b) Code for Existing Ships Carrying Liquefied Gases in Bulk (**'EGC Code'**);
(c) Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (**'GC Code'**);

(d) International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (**'IBC Code'**);
(e) International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (**'IGC Code'**);
(f) International Maritime Dangerous Goods Code (**'IMDG Code'**);
(g) International Maritime Solid Bulk Cargoes Code (**'IMSBC Code'**); and
(h) International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium, and High-Level Radioactive Wastes on Board Ships (**'INF Code'**);

'packer' means a person responsible for preparing a package of, or consolidating, cargo that contains dangerous goods;

'performs', in relation to a person who performs a dangerous goods cargo function, includes a person who is responsible for that function regardless of whether the person does any act; and

'shipper' means a person that presents, or in whose name or on whose behalf is presented, goods for transport by a carrier.

(2) In this Division:
(a) words and phrases defined in SOLAS have the same meaning when used in this Division; and
(b) words and phrases used in the IMO Codes have the same meaning when used in this Division.

68 Application

(1) This Division applies to the carriage of dangerous goods on:
(a) Nauruan vessels everywhere; and
(b) foreign vessels in Nauru waters.

(2) This Division applies, in relation to the carriage of dangerous goods on a vessel to which subsection (1) refers, to:
(a) the owner;
(b) the master;
(c) each shipper of such dangerous goods;
(d) each person performing a dangerous goods cargo function or handling dangerous goods;
(e) each manufacturer and each supplier of packaging provided for the purpose of containing dangerous goods; and
(f) each person who carries or intends to carry dangerous goods or causes dangerous goods to be brought, onto the vessel.

(3) This Division does not apply to:
(a) dangerous goods forming part of the equipment or stores required for the navigation, safety or maintenance of the vessel or required for the intended operations of the vessel; and
(b) vessels that are:
(i) pleasure crafts;
(ii) fishing vessels; or
(iii) military vessels.

69 SOLAS

Subject to this Division, SOLAS Chapter VII has the force of law in the Republic.

70 General requirement of compliance with IMO Codes

A person shall not perform a dangerous goods cargo function or handle dangerous goods except in accordance, as applicable, with:

(a) the IMDG Code
(b) the IMSBC Code;
(c) the IBC Code or the BCH Code;
(d) the IGC Code or the GC Code or the EGC Code; and
(e) the INF Code.

71 General responsibilities

(1) The master of a vessel in relation to which dangerous goods are to be loaded to or unloaded from, shall ensure a safe system of work for crew members and other persons on board the vessel.

(2) Without limiting subsection (1), the master shall ensure that:
  (a) adequate warning of the risks posed by the dangerous goods are given to crew members and other persons on board and that they are aware of necessary precautionary measures to be taken;
  (b) no bunkering is carried out at any time during the handling of dangerous goods of class 1 other than class 1.4S of the IMDG Code; and
  (c) radio transmitters are operated in a safe manner during loading or unloading of explosive articles.

(3) A person performing a dangerous goods cargo function shall:
  (a) act upon any warnings given by a master or Harbourmaster;
  (b) refrain from smoking, except in such part of the vessel that has been designated by the master for such purpose;
  (c) not use or permit another person to use a spark or flame, except in such part of the vessel that has been designated by the master for such purpose; and
  (d) not engage in or permit another person to engage in, metal welding or cutting, on a vessel while dangerous goods are on board, except in such part of the vessel that has been designated by the master for such purpose.

72 Dangerous goods in packaged form

(1) A person who offers dangerous goods for carriage in or causes or permits any dangerous goods to be loaded onto a vessel shall ensure that such goods are:
  (a) accurately identified and classified in accordance with Part 2 of the IMDG Code;
  (b) packaged in accordance with, as applicable, Parts 4, 6 and 7 of the IMDG Code; and
  (c) placarded, marked and labelled in accordance with Part 5 of the IMDG Code.

(2) A manufacturer or supplier of packaging provided for the purpose of containing dangerous goods for carriage on a vessel shall ensure that each item of packaging is constructed and approved in accordance with Part 6 of the IMDG Code.

(3) An owner and master of a vessel carrying dangerous goods shall ensure that such goods are stowed, segregated and secured on board the vessel:
(a) in accordance with Part 7 of the IMDG Code; and
(b) in accordance with all requirements of the vessel's flag administration.

73 Documentation

(1) This Section does not apply to dangerous goods carried by passengers.

(2) The shipper of dangerous goods for carriage on a vessel shall:
(a) accurately and fully complete a dangerous goods transport document in accordance with Chapter 5.4 of the IMDG Code;
(b) sign the dangerous goods transport document;
(c) provide a copy of the dangerous goods transport document to the carrier before the dangerous goods are loaded;
(d) provide any additional information and documentation required to transport the dangerous goods, as applicable; and
(e) if the dangerous goods are packed or loaded into any CTU before delivery to the carrier, provide to the carrier, attached to the dangerous goods transport document, a copy of the container or vehicle packing certificate required under subsection (3).

(3) The shipper of dangerous goods that are packed, loaded or consolidated into a CTU for carriage on a vessel shall:
(a) accurately and fully complete a dangerous goods transport document in accordance with Chapter 5.4 of the IMDG Code;
(b) not pack the consignment into a CTU unless the packer has received:
(i) from the shipper, the dangerous goods transport document for such goods;
(ii) from the previous packer, any relevant container or vehicle packing certificate; and
(iii) any additional information and documentation required to transport the dangerous goods, as applicable; and
(c) provide the certificates and documentation to which this subsection refers, to the subsequent shipper or carrier, as applicable.

(4) The shipper or carrier of dangerous goods for carriage on a vessel shall, before the goods are loaded, provide to the owner:
(a) from the shipper, the dangerous goods transport document;
(b) from the packer, any applicable container or vehicle packing certificate; and
(c) any additional information and documentation required to transport the dangerous goods, as applicable.

(5) The owner and master of a vessel shall not accept any dangerous goods for carriage on board the vessel unless they receive:
(a) a dangerous goods transport document;
(b) any applicable container or vehicle packing certificate; and
(c) any additional information and documentation required to transport the dangerous goods, as applicable.

(6) The owner and master of a vessel accepting dangerous goods for carriage on board the vessel shall:
(a) before commencing the voyage, complete a special list, manifest or stowage plan in accordance with section 5.4.3 of the IMDG Code;

(b) ensure that such documents are held by the owner's representative onshore and available for inspection or copying by an Inspector or Harbourmaster;
(c) ensure that such documents are held on board and available for inspection or copying by an Inspector; and
(d) ensure that emergency response information relevant to such goods in accordance with section 5.4.3.2 of the IMDG Code is immediately available to the master.

(7) Every document required to be made by this Section shall be retained for no less than 3 months by:
(a) the signatory;
(b) every subsequent shipper or carrier; and
(c) the owner and master.

(8) The shipper responsible for dangerous goods to be transported on a vessel shall, before loading such goods, provide to the owner, as applicable:
(a) notification of the shipper's intention to transport the goods in accordance with Chapter 5.4 of the IMDG Code;
(b) an accurate description of the dangerous goods;
(c) dangerous goods transport documents;
(d) container or vehicle packing certificates; and
(e) any other information requested by the owner.

(9) The master of a vessel carrying dangerous goods shall give notice of the vessel's arrival at least 48 hours before arrival in a Nauru port to:
(a) the Authority; and
(b) the port operator.

74 Training and competency

(1) This Section applies to a person involved in the handling and carriage of dangerous goods.

(2) A person shall not perform a dangerous goods cargo function unless the person is competent to perform that function.

(3) A person that engages another person to perform a dangerous goods function relating to the documentation or handling of dangerous goods shall ensure that the second person has received training including refresher training in compliance with Chapter 1.3 of the IMDG Code commensurate with that person's responsibilities.

(4) Records of all trainings given under this Section shall be:
(a) retained for not less than 1 year; and
(b) made available for inspection or copying by the Authority or an Inspector.

75 Powers of owner or master as to dangerous goods

The owner or master of a vessel at a Nauru port may:
(a) refuse to carry any dangerous goods;
(b) open and inspect any package suspected of containing dangerous goods; or
(c) discharge, destroy, render innocuous or otherwise deal with any goods on board that:
(i) are considered to be dangerous goods; and
(ii) have been taken aboard without the master's knowledge or consent,

and is not subject to any liability of any kind for so doing.

76 Forfeiture of certain dangerous goods

(1) Where any dangerous goods have been carried to the Republic:
  (a) without being marked, labelled, placarded or documented as required by this Division; or
  (b) under a false description,
  the Court may declare the goods and any package or receptacle in which they are contained, to be forfeited.

(2) On a declaration of forfeiture under subsection (1), the goods are forfeited to the Republic.

(3) The powers conferred on the Court under subsection (1), may be exercised despite that:
  (a) the owner of such goods:
    (i) not committing any offence under this Act;
    (ii) is not appearing before the Court; or
    (iii) has no notice of the proceedings; and
  (b) there is no evidence to prove ownership of the goods.

(4) The Court may, in its discretion, require notice to be given to a person before a declaration is made under subsection (1).

77 Regulations

The Cabinet may make regulations prescribing:
(a) the classes of Nauruan vessels in which dangerous goods may be carried;
(b) the quantities of dangerous goods that may be loaded to or unloaded from, a vessel at a Nauru port; and
(c) the precautions to be observed in handling dangerous goods at a Nauru port.

DIVISION 9 — PORT STATE CONTROL

78 Interpretation

In this Division:

'consent' means express consent after being informed that consent is voluntary;

'control measure' means any of the following:
(a) prohibition direction which means that an operation of or on a vessel be discontinued;
(b) mitigation direction which means that a master take specified action to mitigate the risk associated with a deficiency;
(c) rectification direction which is a direction that a master rectify a deficiency:
  (i) within a specified time;
  (ii) before leaving the port; or
  (iii) at the next port, with or without conditions; or
(d) detention;

'convention' includes:
(a) a 'treaty' as defined in Article 2(1)(a) of the *Vienna Convention on the Law of Treaties 1969*, done at Vienna on 23 May 1969; and

(b) any regional agreement on port state control, however described or taking effect;

'deficiency' means any circumstance found not to be in compliance with:
(a) this Act; or
(b) the requirements of any convention to which the Republic is a party, whether or not the flag state of the vessel is a party to that convention;

'detention' means the detention of a vessel due under Section 85 or customary international law, but does not include:
(a) the arrest of the vessel by order of the Court; or
(b) the seizure of a vessel in satisfaction of a judgment or other enforceable instrument;

'electronic equipment' includes any devices on which data is or may be stored;

'IMO procedures' means the Procedures for Port State Control 2017 adopted by the IMO, as amended or replaced from time to time;

'inspection' means an inspection under Section 82 and includes boarding a vessel for that purpose;

'overloaded' means:
(a) in relation to a vessel to which Load Lines applies, loaded so as to submerge in salt water, when the ship has no list, the load line on each side of the ship for the tropical zone;
(b) in relation to any pleasure craft, if the number of passengers exceeds the number specified by the manufacturer of the vessel or on a capacity plate attached to the vessel; or
(c) in relation to any other vessel, loaded so as exceed the load capacity specified in any of the following standards that applies to the vessel:
  (i) ISO14946;
  (ii) ISO6185-1, 2, 3, 4;
  (iii) AS1799.1; or
  (iv) ABYC H-26;

'PSC review panel' means a panel comprising any 3 of:
(a) the Inspector or Harbourmaster who imposed the control measure;
(b) one other Inspector or Harbourmaster;
(c) the Chief Executive Officer; or
(d) the Director;

'seaworthy' means a vessel:
(a) in a fit state as to the condition of the hull, equipment, boilers if any and machinery, the stowage of ballast or cargo, the number and qualifications of crew members and in every other respect to:
  (i) encounter the ordinary perils of the voyage undertaken; and
  (ii) not pose a threat to the environment; and
(b) that is not overloaded; and
(c) on which the living and working conditions on board do not pose a threat to the health, safety or welfare of the crew members;

'stoppage' means a direction to cease any operation of or on board a vessel; and

'substandard' means a vessel or its equipment:
(a) in relation to which or in respect of a particular voyage or operation of which SOLAS, MARPOL or Load Lines applies or would apply if the flag state were a party;

(b) in relation to which a certificate is required by one or more of such conventions for the proposed voyage or operation; and
(c) such certificate:
(i) is not in force; or
(ii) is in force but the condition of the vessel or its equipment does not correspond substantially with the particulars of the certificate.

79 Application

This Division applies to all vessels other than naval vessels.

80 Powers of Director

(1) The Director may, by written notice, direct the owner or master of a vessel:
(a) not to enter a Nauru port;
(b) not to enter Nauru waters;
(c) not to enter the Exclusive Economic Zone; or
(d) to comply with specific requirements:
(i) within a Nauru port; or
(ii) while entering or leaving a Nauru port, Nauru waters or the Exclusive Economic Zone.

(2) The powers under subsections (1)(b), (c) and (d)(ii) may be exercised in respect of a foreign vessel only:
(a) if the vessel is not exercising the right of innocent passage;
(b) for the protection and preservation of the marine environment; and
(c) registered as a foreign vessel under the *Vessel Registration Act 2024*.

[subs (2) am Act 3 of 2025 s 86(4), opn 28 Jan 2025]

(3) The Authority shall report the exercise of the powers under this Section in accordance with IMO procedures, Chapter 4.

(4) The Director shall perform such functions or exercise such powers under the *Vessel Registration Act 2024*.

[subs (4) insrt Act 3 of 2025 s 86(4), opn 28 Jan 2025]

81 Inspectors

(1) The Responsible Minister may by notice in the Gazette, appoint persons to be Inspectors.

(2) The Responsible Minister shall not appoint an Inspector unless the Authority is satisfied that the person has suitable qualifications and experience to exercise the powers under this Division.

(3) The Responsible Minister shall not appoint a person as an Inspector if that person has any commercial interest in the port of inspection or the vessels to be inspected.

(4) All Inspectors appointed under subsection (1) shall be issued with a photographic identity card and shall display such card, whenever exercising any of the powers under this Division.

(5) An Inspector may be assisted by any other person with expertise considered necessary or desirable by the Inspector.

82 Inspections

(1) An inspection of a vessel may be conducted by an Inspector or Harbourmaster for the purpose of verifying:

(a) compliance with this Act;
(b) compliance with any convention to which the Republic is a party; or
(c) the accuracy of information provided in respect of the vessel or its cargo.

(2) An inspection may be conducted:
(a) on the initiative of an Inspector or Harbourmaster; or
(b) upon the request or complaint of any other person.

(3) An inspection may be conducted on a vessel:
(a) in a Nauru port;
(b) entering or leaving a Nauru port; or
(c) in Nauru waters, other than in the course of innocent passage.

(4) Subject to subsection (5), an inspection may be conducted without:
(a) prior notice;
(b) consent; or
(c) a warrant.

(5) An inspection may not be conducted in the living quarters of a crew member or passenger without:
(a) consent; or
(b) a warrant.

(6) A master shall facilitate inspection of a vessel and may be directed by the Inspector or Harbourmaster to take reasonable steps to facilitate inspection.

(7) All possible efforts should be made to avoid a vessel being unduly delayed by inspection.

(8) If a vessel is unduly delayed by inspection, the owner is entitled to reasonable compensation.

(9) So far as possible, inspections should be carried out in accordance with the IMO policy, Chapter 2.

83 Powers incidental to inspections

An Inspector or Harbourmaster may, in the course of an inspection:
(a) require the master to stop or manoeuvre the vessel;
(b) require the master to adopt or maintain a specified course or speed;
(c) require a person to demonstrate the operation of any machinery or equipment on a vessel;
(d) examine or observe any activity conducted on a vessel;
(e) inspect, measure or conduct tests on any thing on a vessel;
(f) inspect or copy any document on a vessel;
(g) make a still or moving image or other recording or measurement of any thing on a vessel;
(h) operate electronic equipment and extract, copy or transfer data therefrom;
(i) require a person to operate electronic equipment and extract, copy or transfer data therefrom; and
(j) take onto the vessel such equipment and materials, or be accompanied by such other persons, as the inspector requires.

84 Warrants

(1) An Inspector, Harbourmaster or a police officer may apply to a Judge or Resident Magistrate for a warrant to:

(a) conduct an inspection in the living quarters of a crew member or passenger;
(b) enter and search any premises in the Republic; or
(c) seize, retain and subject to tests any thing that may afford evidence of the commission of an offence under this Act.

(2) A Judge or Resident Magistrate may issue a warrant if satisfied, by information on oath or affirmation, that the warrant is reasonably necessary to verify:
(a) compliance with this Act;
(b) compliance with any convention to which the Republic is a party; or
(c) the accuracy of information provided in respect of the vessel or its cargo.

(3) A warrant shall:
(a) state the duration period;
(b) describe the area or thing to which the warrant relates;
(c) state that the warrant is issued under this Section;
(d) state the purpose for which the warrant is issued;
(e) authorise one or more Inspectors or police officers whether or not named in the warrant from time to time, while the warrant is in force to do any of the things under subsection (1); and
(f) state any conditions or limitations on the exercise of the warrant.

(4) The master of a vessel or the occupier of land is entitled to observe the execution of a warrant.

(5) The master of a vessel or the occupier of land is required to facilitate the execution of a warrant.

(6) A person executing a warrant may be accompanied by a police officer and may use such force against things as is necessary and reasonable in the circumstances.

85 Controls

(1) A control measure may be imposed on a vessel:
(a) in a Nauru port;
(b) entering or leaving a Nauru port; or
(c) in Nauru waters, other than in the course of innocent passage.

(2) A control measure may be imposed on a vessel by an Inspector or Harbourmaster if it is believed, on reasonable grounds, that the vessel:
(a) is unseaworthy;
(b) is substandard;
(c) has entered Nauru waters or attempted to leave a Nauru port while unseaworthy or substandard; or
(d) has been involved in a contravention of this Act.

(3) A control measure may be imposed verbally or in writing.

(4) If a control measure is imposed verbally, it shall be confirmed in writing within 24 hours stating:
(a) the identity of the vessel;
(b) the reasons for the imposition of the control measure;
(c) a list of corrective action required to be taken to rectify the deficiency;
(d) any conditions associated with the control measure; and

(e) the contact details through which further information about the control measure may be obtained.

(5) The control measures imposed under this Section shall as far as practicable be:
(a) imposed in accordance with IMO procedures, Chapter 3; and
(b) reported in accordance with IMO procedures, Chapter 4.

86 Release from detention

(1) A detained vessel may be released, with or without conditions, if the Inspector or Harbourmaster is satisfied that its further detention is no longer necessary.

(2) All possible efforts shall be made by Inspectors and Harbourmasters to expedite the release of a detained vessel.

(3) Any reasonable compensation in respect of the detention of a vessel is payable where:
(a) the detention was reasonable in all the circumstances, by the owner; or
(b) the detention was not reasonable in all the circumstances, to the owner.

(4) If the proper amount of compensation payable under subsection (3) is not agreed to, the Court may determine the amount payable, which may be recovered as a debt.

87 Compliance by masters and others

(1) A master shall:
(a) comply with every direction or requirement given on an inspection; and
(b) take all reasonable steps to comply, and to ensure that crew members comply, with:
(i) a prohibition direction;
(ii) a mitigation direction; and
(iii) a rectification direction.

(2) Every person:
(a) to whom a requirement or direction is given on an inspection;
(b) to whom a prohibition direction is given; or
(c) who has knowledge of a prohibition direction,
shall comply.

88 Appeal

(1) A person aggrieved by the detention of a vessel may make a complaint in writing to:
(a) the flag state of the vessel; or
(b) the recognised organisation responsible for certification of the vessel in connection with the relevant deficiency.

(2) Where the Director receives a request from any of the parties specified under subsection (1) then:
(a) the PSC review panel shall be convened by the Responsible Minister to review the imposition of the control measure;
(b) the PSC review panel shall review the imposition of the control measure and reach a decision by majority;
(c) within 7 days, the PSC review panel should affirm, vary or reverse the imposition of the control measure; and

(d) inform the aggrieved party of the decision.

(3) The Cabinet may make regulations to provide for further review of detention.

[The next page is 91,301]

PART 4 — LIABILITY AND LIMITATION OF LIABILITY

DIVISION 1 — GENERAL

89 Interpretation

(1) In this Part:

'Director' means:
(a) in Division 5, the Director of the 1992 Fund; or
(b) in Division 6, the Director of the HNS Fund;

'IMSBC Code' means the International Maritime Solid Bulk Cargoes Code, as amended;

'internal regulations' means the Internal Regulations of the 1992 Fund;

'freight' in Division 5, includes passage money and hire; and

'vessel' means:
(a) in Division 2, a 'ship' as defined in Article 1(3) of the PAL Convention;
(b) in Division 4, a 'ship' as defined in Article 1(1) of the BUNKER Convention;
(c) in Division 5, a 'ship' as defined in Article 2(1) in the 1992 CLC Protocol; and
(d) in Division 6, a 'ship' as defined in Article 1(1) of the HNS Convention.

(2) Unless the contrary intention appears, words and phrases defined in:
(a) the PAL Convention shall have the same meaning when used in Division 2;
(b) the LLMC Convention shall have the same meaning when used in Division 3;
(c) the BUNKER Convention shall have the same meaning when used in Division 4;
(d) the 1992 CLC Protocol and 1992 FUND Convention shall have the same meaning when used in Division 5; and
(e) the 2010 HNS Protocol shall have the same meaning when used in Division 6.

(3) Reference to damage or loss caused by the fault of any vessel in Divisions 5 and 8 include any salvage or other expenses consequent upon that fault, recoverable at law by way of damages.

90 Application

(1) Unless the context otherwise requires, this Part applies to the following vessels:
(a) Nauruan vessels everywhere; and
(b) foreign vessels in Nauru waters and the exclusive economic zone.

(2) Unless the context or regulations provide otherwise, this Part does not apply to:
(a) military vessels; or
(b) other vessels owned or operated by a State on government non-commercial service.

91 Liability and limitation of liability

The owner of a vessel is liable and entitled to limit liability, in accordance with the conventions given the force of law under this Part.

DIVISION 2 — PASSENGERS AND LUGGAGE

92 PAL Convention

Subject to this Division, the PAL Convention has the force of law in the Republic in relation to any carriage to which the PAL Convention applies, irrespective of the nationality of the vessel that performs the carriage.

93 Where contract of carriage deemed to be made

(1) A contract of carriage to which the PAL Convention applies is, for the purposes of Article 2(1)(b), deemed to be made in the Republic if the passenger is:
   (a) ordinarily resident in the Republic; or
   (b) in the Republic at the time the contract is concluded.

(2) In any proceedings in the Republic, a term in a contract of carriage is invalid to the extent of any inconsistency with subsection (1).

DIVISION 3 — GENERAL MARITIME CLAIMS

94 LLMC Convention

Subject to this Division, the LLMC Convention, other than Articles 2(1)(d) and (e), has the force of law in the Republic.

95 Limitation in respect of Article 2(1)(a) claims

The owner of a Nauruan vessel is not entitled to limit liability in respect of any claim described in Article 2(1)(a) of the LLMC Convention made by:

(a) a servant of the owner whose duties are connected with the vessel; or

(b) any heir or dependant of the servant or any other person who is, within the meaning of Article 3(e) of the LLMC Convention, a person entitled to make such a claim.

96 Priority of claims in respect of port damage

For the purposes of Article 6(3) of the LLMC Convention, a claim in respect of damage to port facilities, basins and waterways and aids to navigation has priority over any other claim under Article 6(1)(b).

97 Exclusions

Subject to Article 4 of the LLMC Convention, the owner of a Nauruan vessel is not liable for any loss or damage in the following cases:

(a) where any property on board is lost or damaged by reason of fire on board; or

(b) where:
   (i) any gold, silver, watches, jewels or precious stones on board are lost or damaged by reason of theft or other dishonest conduct; and
   (ii) their nature and value were not, at the time of their shipment, declared in the bill of lading or otherwise in writing.

DIVISION 4 — BUNKER OIL

98 BUNKER Convention

Subject to this Division, the BUNKER Convention has the force of law in the Republic.

99 Application

(1) This Division applies to:
   (a) pollution damage occurring in the Republic, Nauru waters or the Exclusive Economic Zone; and
   (b) preventive measures, wherever taken, to minimise pollution damage in Nauru waters or the Exclusive Economic Zone.

(2) Nothing in this Division applies to pollution damage within the meaning of the CLC Convention.

100 Responder immunity

(1) Subject to this Section, a person is not liable in relation to anything done or omitted to be done by that person, reasonably and in good faith to prevent or minimise pollution damage occurring in Nauru or the Exclusive Economic Zone.

(2) Subsection (1) does not apply in relation to anything done or omitted to be done:
   (a) with intent to cause pollution damage;
   (b) recklessly and with knowledge that damage would likely result; or
   (c) by an owner of a vessel from which pollution damage from bunker oil originates.

DIVISION 5 — OIL FROM TANKERS

101 1992 CLC Protocol

Subject to this Division, the 1992 CLC Protocol has the force of law in the Republic.

102 1992 FUND Convention

Subject to this Division, the 1992 FUND Convention has the force of law in the Republic.

103 Application

This Division applies to:
(a) pollution damage occurring in the Republic, Nauru waters or the Exclusive Economic Zone; and
(b) preventive measures, wherever taken, to minimise pollution damage in Nauru or the Exclusive Economic Zone.

104 1992 Fund

For the purposes of this Division and any proceedings brought in respect of this Division, the 1992 Fund:

(a) has the same legal personality as a company incorporated under the *Corporations Act 1972*;
(b) is represented by the Director;
(c) may intervene in any proceedings instituted in accordance with:
  (i) Article 9 of the 1992 CLC Protocol; or
  (ii) Article 4 of the 1992 FUND Convention;
(d) is not bound by any judgment or decision in proceedings to which it was not a party; and
(e) shall acquire by subrogation the rights that a person compensated by the 1992 Fund had against any other person in respect of that damage.

105 Contributions to 1992 Fund

(1) A person who has received Contributing Oil in a total quantity exceeding 150 000 tons in a calendar year, is liable to make annual contributions to the 1992 Fund in accordance with Articles 10, 12(4) and 36 *ter* of the 92 FUND Convention.

(2) All contributions under subsection (1) are payable to the 1992 Fund as agent of the Republic.

(3) Where any contribution payable by a person under this Section remains unpaid after the time when it became due for payment, the Republic may recover such contribution, together with any interest thereon for which the internal regulations may provide, as a debt to the Republic.

(4) In any proceeding under subsection (3), liability for costs is to be determined as if the 1992 Fund were a party to the proceedings and the Republic were not a party.

(5) Any amounts recovered under subsection (3), other than in respect of costs, shall be paid to the 1992 Fund.

(6) For the purpose of determining who are, at any time, the persons liable to make contributions under this Section, the Responsible Minister may require a person in writing to:
  (a) produce documents;
  (b) make copies of documents and produce such copies;
  (c) provide information; or
  (d) verify the authenticity of any document or the accuracy of any information, by statutory declaration.

(7) A person is not excused from compliance with a requirement under subsection (6) on the ground that the document or information may incriminate the person or expose the person to a penalty.

(8) A document or information provided pursuant to a requirement under subsection (6) is not admissible in any criminal proceedings other than under this Act.

(9) The Responsible Minister shall advise the Director of the names and addresses of persons liable to make contributions under this Section.

106 Responder immunity

(1) Subject to this Section, a person is not liable in relation to anything done or omitted to be done by that person, reasonably and in good faith to prevent or minimise pollution damage occurring in Nauru or the EEZ.

(2) Subsection (1) does not apply in relation to anything done or omitted to be done:
(a) with intent to cause pollution damage;
(b) recklessly and with knowledge that damage would likely result; or
(c) by an owner of a vessel from which pollution damage from oil originates.

DIVISION 6 — HAZARDOUS AND NOXIOUS SUBSTANCES

107 Commencement

This Division shall commence on:
(a) if Nauru expresses its consent to be bound by the 2010 HNS Protocol before entry into force, the date that the 2010 HNS Protocol enters into force; or
(b) if Nauru expresses its consent to be bound by the 2010 HNS Protocol after entry into force, the date calculated in accordance with Article 46(2) of the HNS Convention.

108 Interpretation

In this Section:

'vessel' means a ship as defined in Article 1(1) of the HNS Convention but excludes:
(a) military vessels; or
(b) other vessels owned and operated by a State on government non-commercial service.

109 2010 HNS Protocol

Subject to this Division, the 2010 HNS Protocol has the force of law in the Republic.

110 Application

(1) This Division applies exclusively to:
(a) damage occurring in Nauru or Nauru waters;
(b) damage by contamination of the environment in the EEZ;
(c) damage, other than by contamination of the environment, caused outside Nauru or Nauru waters, if caused by a substance carried on board a Nauruan vessel; and
(d) preventive measures, wherever taken, to minimise damage to which this subsection refers.

(2) This Division applies to claims arising from the carriage of hazardous and noxious substances by sea.

(3) This Division applies subject to any inconsistent written law relating to workers' compensation or social security.

(4) This Division does not apply to:
(a) claims arising out of any contract for the carriage of goods and passengers;
(b) pollution damage as defined in the CLC Convention whether or not compensation is payable in respect of such pollution damage under that convention; and

(c) damage caused by radioactive material of class 7 in the IMDG Code or the IMSBC Code.

111 HNS Fund

For the purposes of this Division and any proceedings brought in respect of this Division, the HNS Fund:

(a) has the same legal personality as a company incorporated under the *Corporations Act 1972*;
(b) is represented by the Director;
(c) may intervene in any proceedings instituted in accordance with the HNS Convention against an owner or the owner's guarantor;
(d) is not bound by any judgment or decision in proceedings to which it was not a party; and
(e) shall acquire by subrogation the rights that a person compensated by the HNS Fund had against any other person in respect of that damage.

DIVISION 7 — DAMAGE TO PORTS

112 Responsibility for damage to port

(1) In this Section:

'owner' means the owner of any of the things listed under subsection (2); and

'port property' means:
(a) port facilities;
(b) property vested in the Authority by this Act;
(c) other property held by the Authority; or
(d) property of a port operator or port service provider.

(2) The owner is liable to pay damages if any port property is damaged by any:
(a) vessel or its cargo;
(b) floating object;
(c) material, product or substance;
(d) vehicle, plant, machinery, equipment or infrastructure; or
(e) person employed in, on or in relation to any of the things described in paragraphs (a) to (d).

(3) The owner is liable to pay damages for the whole of the damage, whether or not the damage is caused through another person's wilful or negligent act or omission.

(4) Where the damage is caused through the wilful or negligent act or omission of the master of a vessel, the owner and master are jointly and severally liable to pay damages for the whole of the damage.

(5) Nothing in this Section:
(a) permits double recovery in respect of the same loss and damage; or
(b) affects the ability of a person liable under this Section to recover damages or to seek contribution from another party.

(6) In an action for damages under this Section, the damages recoverable are to be determined on the basis of:
(a) the actual cost incurred in repair or replacement, without deduction for any betterment or depreciation; and
(b) any economic loss suffered by the Authority as a result of the damage.

DIVISION 8 — MULTIPLE FAULT

113 Application

This Division applies to owners of vessels.

114 Rule as to division of liability

(1) Where, by the fault of 2 or more vessels, damage or loss is caused to:
(a) one or more of those vessels;
(b) vessels' cargoes or freight;
(c) any property on board;
(d) property outside the vessel; or
(e) the environment,
the liability to make good the damage shall be in proportion to the degree in which each vessel was at fault.

(2) Where having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.

(3) Nothing in this Section:
(a) operates so as to render any vessel liable for loss or damage to which the vessel has not contributed;
(b) affects the liability of a person under a contract of carriage or any other contract;
(c) shall be construed as imposing liability upon a person from which the person is exempted by any contract or other written law; or
(d) affects the limits of liability established under this Part or otherwise by any written law.

115 Joint and several liability for personal injury and death

(1) Where loss of life or personal injuries is suffered by a person on board a vessel owing to the fault of that vessel and of any other vessels, the liability is joint and several.

(2) Nothing in this Section:
(a) shall be construed as depriving a person of any right of defence on which, apart from this Section, the person might have relied in an action brought in respect of loss of life or personal injury; or
(b) affects the limits of liability established under this Part or otherwise by any written law.

116 Right of contribution for personal injury and death

(1) Where loss of life or personal injuries are suffered by a person on board a vessel owing to the fault of that vessel and of any other vessels and a proportion of the damages is recovered in respect of one of the vessels which exceeds the proportion in which the vessel was in fault, the owner or operator as the case may be may recover by way of contribution the amount of the excess from the owner or operator, as the case may be, of such other vessels to the extent to which those vessels were respectively at fault.

(2) Nothing in this Section authorises the recovery of any amount which could not, by reason of any statutory or contractual limitation or exemption or any

other reason, have been recovered in the first instance as damages by the person entitled to sue for that amount.

(3) In addition to any other remedy provided by any written law, the persons entitled to any contribution under this Section have, for the purposes of recovering it, the same rights and powers as the persons entitled to sue for damages in the first instance.

DIVISION 9 — LIMITATION OF ACTIONS

117 Application

This Division applies to any proceedings to enforce any claim or lien in respect of:

(a) damage or loss caused by the fault of any vessel; or

(b) loss of life or personal injury caused by the fault of any vessel.

118 Time limit

(1) Subject to subsection (2) and Section 181, no proceedings to which this Division applies shall be brought after a period of 2 years from the date when:

(a) the damage or loss was caused; or

(b) the loss of life or injury was suffered.

(2) No proceedings to which this Division applies for any contribution in respect of any overpaid proportion of any damages, may be brought after a period of 1 year from the date of payment.

(3) The Court may, in accordance with any applicable rules of court, extend the period allowed for bringing such proceedings.

(4) The Court, if satisfied that there has not been during any period allowed for bringing proceedings any reasonable opportunity of arresting the defendant vessel within:

(a) it's jurisdiction;

(b) the territorial sea of the flag state of the plaintiff's vessel; or

(c) the State in which the plaintiff resides or has its registered office,

shall extend the period allowed for bringing proceedings to the extent sufficient to provide a reasonable opportunity for arresting the vessel.

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PART 5 — ENVIRONMENTAL PROTECTION

DIVISION 1 — GENERAL

119 Intepretation

(1) In this Part:

'owner' of a vessel, includes the operator;

'valid' in relation to any certificate, waiver or other document, means duly issued and current; and

'vessel' means:

(a) in Division 2, a 'ship' as defined in Article 1(12) of the BWM Convention;

(b) in Division 3, a 'ship' as defined in Article 2(4) of MARPOL; and

(c) in Division 4, 'ship' as defined in Article 2(9) of the AFS Convention.

(2) Unless the contrary intention appears, words and phrases defined in:

(a) the BWM Convention have the same meaning when used in Division 2;

(b) MARPOL have the same meaning when used in Division 3; and

(c) the AFS Convention have the same meaning when used in Division 4.

120 Application

(1) Unless the context otherwise requires, this Part applies to the following vessels:

(a) Nauruan vessels everywhere; and

(b) foreign vessels in Nauru waters and the Exclusive Economic Zone.

(2) Unless the context or regulations provide otherwise, this Part does not apply to:

(a) military vessels; or

(b) other vessels owned or operated by a State on government non-commercial service.

121 Saving of international law of the sea

Nothing in this Part shall prejudice the rights and obligations of any State under customary international law as reflected under UNCLOS.

DIVISION 2 — BALLAST WATER

122 Interpretation

(1) In this Division:

'ballast water management' means ballast water management in accordance with the Annex to the BWM Convention;

'BWMP' means a ballast water management plan:

(a) specific to a vessel;

(b) approved by the flag administration of the vessel; and

(c) containing at least the matters set out in regulation B-1;

'BWRB' means a ballast water record book containing at least the information specified in Appendix II to the BWM Convention;

'certificate' means an International Ballast Water Management Certificate issued under the BWM Convention; and

'guidelines' means IMO Resolution MPEC.289(71) of 7 July 2017 or any subsequent resolution on risk assessment under regulation A-4.

(2) In this Division, references to:
(a) articles are references to articles of the BWM Convention; and
(b) regulations are references to regulations annexed to the BWM Convention,
as amended from time to time.

123 BWM Convention

Subject to this Division, the BWM Convention has the force of law in the Republic.

124 Application

(1) Subject to subsection (2), this Division does not apply to:
(a) vessels not designed or constructed to carry ballast water;
(b) permanent ballast water in sealed tanks on vessels that is not subject to discharge;
(c) vessels operating only:
(i) in Nauru waters; or
(ii) in Nauru waters and the high seas; and
(d) Nauruan vessels operating only:
(i) in waters under the jurisdiction of a state party to the BWM Convention; or
(ii) in waters under the jurisdiction of such party and the high seas,
where the administration of that State has excluded the vessel under article 3(2)(c).

(2) Where:
(a) the Authority; or
(b) the Director of Quarantine,
determines that the discharge of ballast water from vessels to which subsection (1) applies may impair, endanger or damage the environment, human health, property or resources of the Republic or another State, the Authority or the Director of Quarantine may serve written notice on the owner or master of such vessel requiring that the provisions of this Part be complied with in relation to the ballast water held in the vessels.

(3) A notice served under subsection (2) may:
(a) apply to a single voyage or for a specific period of time; and
(b) specify any particular measures that shall be undertaken to comply with the BWM Convention.

125 Prohibition on entry without certificate

A vessel to which this Division applies shall not, without the prior written permission of the Authority, enter Nauru waters:
(a) without a valid certificate for that vessel; or

(b) where the vessel or its equipment does not correspond substantially with the particulars of that certificate.

126 Ballast water management plan

(1) The owner, master and agent of every vessel to which this Division applies, shall ensure that a BWMP is:
  (a) made and maintained in accordance with regulation B-1;
  (b) kept on board; and
  (c) implemented.

(2) The owner, master and agent of every vessel to which this Division applies, shall ensure that:
  (a) officers and crew members are familiar with their duties in relation to the implementation of the BWMP; and
  (b) officers and crew members are familiar with the BWMP as it applies to their specific duties.

127 Ballast water record book

(1) The owner, master and agent of every vessel to which this Division applies, shall ensure that a BWRB is:
  (a) made and maintained in accordance with regulation B-2;
  (b) kept readily available for inspection at all reasonable times; and
  (c) kept on board for a period of at least 2 years prior to the current date and thereafter in the control of the owner for a further period of 3 years.

(2) The master of every vessel to which this Division applies, shall ensure that, in relation to a BWRB:
  (a) entries required to be made are recorded as soon as reasonably practicable;
  (b) each entry is signed by the officer in charge of the operation concerned; and
  (c) each completed page is signed by the master.

128 Discharge of ballast water

(1) Except where expressly provided in this Division, the discharge of ballast water or sediment from any vessel to which this Division applies shall be conducted only through ballast water management.

(2) Subsection (1) does not apply to the:
  (a) uptake or discharge of ballast water and sediments necessary for the purpose of ensuring the safety of a vessel in emergency situations or saving life at sea; or
  (b) accidental discharge or ingress of ballast water and sediments resulting from damage to a vessel or its equipment:
    (i) provided that all reasonable precautions have been taken before and after the occurrence of the damage or discovery of the damage or discharge for the purpose of preventing or minimising the discharge; and
    (ii) unless the owner or master wilfully or recklessly caused damage;
  (c) uptake and discharge of ballast water and sediments when being used for the purpose of avoiding or minimising the discharge of any contaminant;

(d) uptake and subsequent discharge on the high seas of the same ballast water and sediments; and
(e) discharge of ballast water and sediments from a vessel at the same location where the whole of that ballast water and those sediments originate and provided that no mixing with unmanaged ballast water and sediments from other areas has occurred.

(3) The owner and master of every vessel to which this Division applies, shall:
(a) conduct ballast water management in accordance with regulation B-3;
(b) ensure that all ballast water management systems are in accordance with regulation D-3;
(c) conduct ballast water exchange to meet the standard in regulation D-1; and
(d) remove and dispose of sediments in accordance with regulation B-5.

(4) The Authority or the Director of Quarantine may grant exemptions to any requirement of subsection (1) in respect of any vessel in Nauru waters or the Exclusive Economic Zone:
(a) to a vessel or vessels on a voyage or voyages between specified ports or locations or to a vessel that operates exclusively between specified ports or locations;
(b) for a period of no more than 5 years and subject to intermediate review;
(c) to vessels that do not mix ballast water or sediments other than between ports or locations specified in paragraph (a); and
(d) having regard to the guidelines.

129 Equivalent compliance

The Cabinet may make regulations prescribing measures for ballast water management alternative to vessels under Section 128 (3) in relation to vessels:
(a) used solely as pleasure craft less than 50 metres in length and that have a maximum ballast water capacity of 8 cubic metres; and
(b) used primarily in search and rescue operations that are less than 50 metres in length and that have a maximum ballast water capacity of 8 cubic metres.

DIVISION 3 — MARINE POLLUTION

130 Interpretation

(1) In this Division:

'BDN' means bunker delivery note complying with Annex VI, regulation 18(5);

'ECA' means an emission control area;

'cargo record book' means a record complying with Annex II, regulation 9;

'chemical tanker' includes an oil tanker when carrying noxious liquid substances in bulk other than oil;

'garbage management plan' means a written plan complying with Annex V, regulation 10(2);

'garbage record book' means a record in the form of Annex V, Appendix II;

'GHS' means the Globally Harmonized System of Classification and Labelling of Chemicals, as amended from time to time;

'harmful substances manifest' means the list or manifest required under Annex III, regulation 4(3);

'necessary document' means:
(a) any valid and current certificate, waiver or exemption; or
(b) record or other document,
required to be held on board a vessel by this Division or a convention given the force of law by this Division;

'noxious liquid substance' includes ballast water, tank washings, or other residues or mixtures containing such substances;

'oil' includes oily mixtures and oil residues;

'oil record book' means a record complying with Annex I, regulation 20(1) or (7), as applicable;

'oil tanker' includes a chemical tanker carrying oil or a mixture of oil and noxious liquid substances;

'owner' of a vessel includes an operator;

'PAM-NLS' means a procedures and arrangements manual complying with Annex II, regulation 14 and approved by the vessel's flag administration;

'placards' means placards complying with Annex V, regulation 10(1);

'reception facilities' means:
(a) in Section 133, facilities complying with Annex I, regulation 38;
(b) in Section 134, facilities complying with Annex II, regulation 18;
(c) in Section 136, facilities complying with Annex IV, regulation 12;
(d) in Section 137, facilities complying with Annex V, regulation 8; and
(e) in Section 138, facilities complying with Annex VI, regulation 17;

'SOPEP' means a shipboard oil pollution emergency plan complying with Annex I, regulation 37 and approved by the vessel's flag administration;

'SO_x' means sulphur oxides;

'SO_x emission control area' means an area so designated:
(a) in or under Annex VI, regulation 14; or
(b) by the IMO; and

'SMPEP' means a shipboard marine pollution emergency plan complying with Annex II, regulation 17 and approved by the vessel's flag administration.

(2) In this Division, references to Annexes are references to Annexes to MARPOL, as amended from time to time.

131 MARPOL

Subject to this Division, MARPOL has the force of law in the Republic.

132 Prohibition on entry without necessary document

A vessel to which this Division applies shall not, without the prior written permission of the Authority, enter Nauru waters:
(a) without the necessary document; or

(b) where the vessel or its equipment does not correspond with the particulars of the necessary document.

133 Oil

(1) The discharge into the sea of oil from a vessel is prohibited unless permitted or excepted by and in accordance with, Annex I.

(2) The following shall have on board a SOPEP:
(a) oil tanker of 150 gross tonnage or more which enters Nauru waters; and
(b) other vessel of 400 gross tonnage or more which enters Nauru waters.

(3) The following shall have on board an oil record book:
(a) oil tanker of 150 gross tonnage or more which enters a Nauru port or is in Nauru waters; and
(b) other vessel of 400 gross tonnage or more which enters a Nauru port or Nauru or is in Nauru waters.

(4) An oil record book shall be:
(a) completed and maintained in accordance with Annex I;
(b) held on board for a period of 3 years since the last entry; and
(c) made available for inspection and copying by Inspectors.

(5) A port operator is required to ensure that reception facilities adequate to meet the needs of vessels using that port are available.

134 Noxious liquid substances

(1) This Section applies to vessels carrying noxious liquid substances in bulk.

(2) The discharge into the sea of noxious liquid substances from a vessel is prohibited unless permitted or excepted by and in accordance with, Annex II.

(3) Every vessel of 150 gross tonnage and above to which this Section applies shall have on board a SMPEP.

(4) A SMPEP:
(a) shall be completed and maintained in accordance with Annex II; and
(b) may, in the case of a vessel to which Annex I, regulation 37 refers, be combined with the SOPEP.

(5) Every vessel to which this Section applies shall have on board a:
(a) PAM-NLS; and
(b) cargo record book.

(6) A cargo record book shall be:
(a) completed and maintained in accordance with Annex II;
(b) held on board for a period of 3 years since the last entry; and
(c) made available for inspection and copying by Inspectors.

(7) A port operator is required to ensure that reception facilities adequate to meet the needs of vessels using that port, are available.

135 Harmful substances in packaged form

(1) In this Section:

'discharge' means, in relation to a vessel:
(a) the jettisoning or throwing overboard of harmful substances in packaged form; or

(b) leakage of harmful substances while the package remains on board.

(2) The carriage of harmful substances is prohibited except in accordance with the provisions of Annex III.

(3) The discharge into the sea of harmful substances from a vessel is prohibited unless permitted or excepted by and in accordance with, Annex III.

(4) Any package containing harmful substances shall:
(a) not be offered for transport on board a vessel to which this Section applies unless documented in accordance with Annex III, regulation 4;
(b) be labelled or marked:
(i) with the words "MARINE POLLUTANT";
(ii) with the applicable GHS pictogram in dimensions of at least 100 x 100 millimetres; and
(iii) otherwise in accordance with Annex III; and
(c) be stowed in accordance with Annex III, regulation 5.

(5) A harmful substances manifest shall:
(a) be held on board the vessel;
(b) be retained, in copy, by the owner or owner's representative until the harmful substance has been unloaded;
(c) be made available for inspection or copying by:
(i) Inspectors; and
(ii) before departure from a Nauru port, the Harbourmaster; and
(d) otherwise comply with Annex III, regulation 4.

(6) All harmful substances are exempt from the requirements of subsections (2) and (4) when packed in the following quantities per package:
(a) 5 kilograms or less for solids; or
(b) 5 litres or less for liquids.

136 Sewage

(1) This Section applies to vessels:
(a) of 400 gross tonnage or more; and
(b) certified to carry 15 passengers or more.

(2) The discharge into the sea of sewage from a vessel is prohibited unless permitted or excepted by and in accordance with, Annex IV.

(3) The discharge of sewage from any vessel while moored in a Nauru port or anchored or moored in the approaches to a Nauru port is prohibited.

(4) A port operator is required to ensure that reception facilities adequate to meet the needs of vessels using that port are available.

137 Garbage

(1) The discharge into the sea of garbage from a vessel is prohibited unless permitted or excepted by and in accordance with, Annex V.

(2) The following shall have on board a garbage management plan:
(a) every vessel of 100 gross tonnage or more;
(b) every vessel certified to carry 15 passengers or more; and
(c) every fixed or floating platform.

(3) The following shall display placards in prominent places on board the vessel, including at least all galley spaces, bridge, main deck and passenger accommodation:

(a) every vessel 12 metres or more in length;
(b) every vessel certified to carry passengers; and
(c) every fixed or floating platform or vessel operating within 500 metres of such platforms.

(4) The following shall have on board a garbage record book:
(a) every vessel of 400 gross tonnage or more;
(b) every vessel certified to carry 15 passengers or more, engaged in voyages to ports or offshore terminals under the jurisdiction of a state party to MARPOL; and
(c) every fixed or floating platform.

(5) A garbage record book shall be:
(a) completed and maintained in accordance with Annex V;
(b) held on board for a period of 3 years since the last entry; and
(c) made available for inspection and copying by Inspectors.

(6) A port operator is required to ensure that reception facilities adequate to meet the needs of vessels using that port are available.

138 Air

(1) The deliberate emission of ozone-depleting substances from a vessel is prohibited unless permitted or excepted by and in accordance with, Annex VI.

(2) The operation of each diesel engine to which Annex VI, regulation 3 applies is prohibited unless permitted or excepted by and in accordance with, Annex VI.

(3) The sulphur content of any fuel oil used on board a vessel shall:
(a) not exceed 4.5% m/m; and
(b) within SOx emission control areas, comply with the requirements of Annex VI, regulation 14(3), (4) and (6).

(4) Any shipboard incineration is prohibited unless permitted or excepted by and in accordance with, Annex VI.

(5) Any fuel oil for combustion purposes shall not be used on vessels unless such fuel complies with Annex VI, regulation 18.

(6) Every vessel of 400 gross tonnage or more shall have on board a BDN.

(7) A BDN shall:
(a) be signed and certified by a representative of the fuel oil supplier for that vessel; and
(b) contain the information specified in Annex VI, Appendix V.

(8) A port operator is required to ensure that reception facilities adequate to meet the needs of vessels using that port are available.

DIVISION 4 — ANTI-FOULING SYSTEMS

139 Interpretation

(1) In this Division:

'certificate' means an International Anti-Fouling System Certificate issued under, and in compliance with, regulation 2;

'external parts' means the hull and includes all other external parts or surfaces;

'harmful' refers to the presence in any anti-fouling system of:
(a) any organotin compound;
(b) any other substance specified in Annex I of the AFS Convention from time to time; or
(c) any other substance prescribed by regulations; and

'platform' means every:
(a) fixed or floating platform;
(b) FSU; and
(c) FPSO.

(2) In this Division, references to regulations are references to regulations at Annex 4 to the AFS Convention, as amended from time to time.

140 Application

This Division does not apply to foreign vessels outside Nauru waters.

141 AFS Convention

Subject to this Division, the AFS Convention has the force of law in the Republic.

142 Prohibition on entry without certificate

A vessel to which regulation 1 applies shall not, without the prior written permission of the Authority, enter Nauru waters:
(a) without a valid certificate for that vessel; or
(b) where the vessel or its equipment does not correspond substantially with the particulars of that certificate.

143 Controls on anti-fouling systems

(1) The application, re-application, installation, removal or use of harmful anti-fouling systems on or from a vessel is prohibited in Nauru and in Nauru waters.

(2) No vessel bearing a harmful anti-fouling system on its external parts may enter Nauru waters unless such vessel:
(a) was constructed before 1 January 2003;
(b) if a platform, has not been in dry-dock since 1 January 2003; and
(c) bears a coating on such external parts that forms a barrier to the leeching of harmful substances from the underlying anti-fouling systems.

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144 Interpretation

In this Part:

'certificate of insurance' means a certificate attesting that wreck removal insurance is in force:

(a) in accordance with the requirements of Article 12 of the Nairobi Convention; and

(b) in the form set out in the Annex to the Nairobi Convention;

'Convention Area' means:

(a) the exclusive economic zone of a State party to the Nairobi Convention; or

(b) if such party has not established such a zone, an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured;

'Director' for the purposes of Division 3 has the same meaning as provided in the *National Heritage Act 2017*;

'freight at risk' includes payments due to an owner or charterer for the carriage of cargo;

'hazard' means any condition that:

(a) poses a danger or impediment to navigation; or

(b) may reasonably be expected to result in major harmful consequences to:

(i) the marine environment; or

(ii) related interests of the Republic,

having regard to the criteria set out in Article 6 of the Nairobi Convention;

'historic wreck' means a wreck declared to be a historic wreck under Section 156(1) and includes any part of such wreck;

'insurer' means the underwriter of wreck removal insurance;

'payment', in respect of a salvage operation, includes:

(a) reward due to a salvor under Article 12(1) of the Salvage Convention; and

(b) special compensation due to a salvor under Article 14 of the Salvage Convention;

'property' means any property not permanently and intentionally attached to the shoreline and includes freight at risk;

'related interests' means such interests of the Republic as may be directly affected by a wreck, including without limitation:

(a) maritime coastal, port and estuarine activities, including fisheries activities;

(b) tourist attractions and other economic interests;

(c) the health of the people of Nauru and of the environment; and

(d) offshore and underwater infrastructure;

'removal' means any form of prevention, mitigation or elimination of a hazard created by a wreck;

'salvage operation' means any activity undertaken to assist a vessel or any other property in danger in any waters;

'valid' in relation to any certificate, waiver or other document, means duly issued and current;

'vessel' includes an aircraft;

'wreck' includes:
(a) a sunken or stranded vessel;
(b) any part of a sunken or stranded vessel, including any object that is or has been on board such a vessel;
(c) any object that is lost at sea from a vessel and that is stranded, sunken or adrift at sea; or
(d) a vessel that is about or may reasonably be expected, to sink or strand, where effective measures to assist the vessel or any property in danger are not already being undertaken; and

'wreck removal insurance' means insurance covering liability under the Nairobi Convention in an amount no less than the amount calculated under Article 6(1)(b) of the LLMC Convention.

145 Application

(1) Division 2 applies to:
  (a) Nauru regulated vessels; and
  (b) foreign vessels.
(2) Division 2 does not apply to:
  (a) historic wrecks;
  (b) any warship or other ship owned or operated by a State and used at the relevant time only on government non-commercial service, unless that State decides otherwise; or
  (c) measures taken under the *Intervention Convention 1969* or the *Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil 1973*.
(3) Division 3 applies to historic wrecks.
(4) Division 4 applies:
  (a) to all vessels other than:
    (i) historic wrecks;
    (ii) fixed or floating platforms; or
    (iii) mobile offshore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources; or
  (b) whenever judicial or arbitral proceedings relating to the provision of salvage operations are brought in the Republic.
(5) The provisions of this Part apply in respect of aircraft as they apply to other vessels with such modifications as the circumstances require.

DIVISION 2 — WRECK

146 Nairobi Convention

Subject to this Division, the *Nairobi Convention* has the force of law in the Republic and applies in:

(a) Nauru waters; and
(b) the Exclusive Economic Zone.

147 Reporting

(1) Where a maritime casualty results in a wreck, the master of a Nauru regulated vessel involved in the maritime casualty, shall make a written report to:
  (a) if the wreck is in a Convention area, the government of the affected State; or
  (b) if the wreck is in the Exclusive Economic Zone:
    (i) the Director; and
    (ii) the Authority.

(2) A report under subsection (1) shall:
  (a) be made as soon as reasonably practicable; and
  (b) include the information prescribed under Article 5(2) of the *Nairobi Convention*, so far as is known.

(3) A person who finds or takes possession of any wreck in Nauru waters or the Exclusive Economic Zone or brings any wreck into such area, shall give written notice to the Director:
  (a) that the person has found, taken possession of the wreck or brought it into Nauru waters or the Exclusive Economic Zone; and
  (b) of the location of the wreck and the marks by which it may be recognised.

148 Locating and marking

(1) Upon becoming aware of a wreck, the Director shall use all practicable means urgently to warn mariners and the States concerned of the nature and location of the wreck.

(2) Where the Director has reason to believe that a wreck in Nauru waters or the Exclusive Economic Zone poses a hazard, the Director shall take all practicable steps:
  (a) to establish the precise location of the wreck; and
  (b) mark the wreck in accordance with the *International Association of Marine Aids to Navigation and Lighthouse Authorities Buoyage System Region A*.

149 Removal

(1) Where the Director has determined that a wreck in Nauru waters or the Exclusive Economic Zone poses a hazard, the Director shall take all practicable steps to:
  (a) inform the flag state of the wreck;
  (b) consult with the flag state of the wreck and any other affected State; and
  (c) inform the owner of the vessel.

(2) Where the Director has determined that a wreck in Nauru waters or the Exclusive Economic Zone poses a hazard, the owner shall:
  (a) take all practicable steps to remove the wreck; and
  (b) provide the Director with evidence of wreck insurance.

(3) Further to subsection (2)(a), the Director:

(a) shall give written notice to the owner:
  (i) setting a reasonable time within which the wreck is to be removed, taking into account the nature of the hazard;
  (ii) specifying that if the owner does not remove the wreck within such time, the Director may do so at the owner's cost and expense;
  (iii) informing the owner that the Director reserves the right to intervene immediately if the hazard posed by the wreck becomes severe; and
  (iv) attaching copies of any reports received by the Director pursuant to Section 147; and
(b) if removal of the wreck has already commenced, may give directions to the owner or salvor as may be necessary in respect of safety or protection of the marine environment.

(4) The Director may remove the wreck by the most practical and expeditious means available where:
(a) the owner fails to comply with a notice given under subsection (3)(a);
(b) the owner is unknown or unable to be contacted, despite reasonable efforts; or
(c) immediate action is required to mitigate any hazard.

(5) Further to subsection (4)(c) the Director may:
(a) require a person to render assistance;
(b) require the master of any nearby vessel to render assistance; or
(c) requisition the use of any vessel or vehicle and engage persons to operate the same.

(6) The Director and anyone assisting or required to assist the Director under subsection (5) may, without the consent of the occupier of any land:
(a) pass and repass, with or without vehicles or equipment, that land to gain access to any wreck; and
(b) deposit any equipment or wreck on such land.

(7) The measures taken by the Director under this Section shall:
(a) be proportionate to the hazard;
(b) not go beyond what is reasonably necessary to mitigate a hazard;
(c) cease as soon as a wreck has been removed; and
(d) not unnecessarily interfere with the rights and interests of other States or any other person.

150 Liability of owner

(1) Subject to subsections (2) and (3), the owner is liable for the costs of locating, marking and removing a wreck under Sections 148 and 149.

(2) The owner is not liable for costs under subsection (1), if the owner proves that the maritime casualty that caused the wreck:
(a) resulted from an act of war, hostilities, civil war, insurrection, or a natural phenomenon of an exceptional, inevitable and irresistible character;
(b) was wholly caused by an act or omission done with intent to cause damage by a third party; or
(c) was wholly caused by the negligence or other wrongful act of any government or other authority responsible for the maintenance of lights or other aids to navigation in the exercise of that function.

(3) The owner is not liable for costs under subsection (1), if and to the extent that, liability for such costs would be in conflict with:
(a) a convention listed under Article 11(1) of the *Nairobi Convention*, provided the convention is in force and applicable; or
(b) an enactment implementing such a convention.

151 Recovery of costs

(1) The Director may recover from the owner of a wreck the costs arising under Section 150(1) as a debt due:
(a) on behalf of the Republic; or
(b) on behalf of a person or the owner of any vessel required to give assistance under Section 149(5).

(2) The amount of any loss or damage suffered and of any expense incurred by:
(a) the owner of land utilised under Section 149(6); or
(b) the owner of a vessel or vehicle requisitioned under Section 149(5)(c),
may be recovered as a debt from the Republic and shall be a charge upon the Treasury Fund.

(4) Where the owner of each of 22 or more vessels is liable for costs under Section 150(1) but the costs for which each is liable cannot reasonably be separated, the owners are jointly and severally liable.

(5) To the extent that measures taken by the Director under this Division are considered to be salvaged under Division 4 or an applicable international convention, Division 4 or such convention shall apply to questions of the remuneration or compensation payable to the salvor to the exclusion of anything contained in this Division.

(6) An action to recover costs under subsection (1), shall not be brought after the end of whichever is the earlier of:
(a) the period of 3 years beginning with the date on which a notice under Section 149(3)(a) was issued in respect of the wreck; and
(b) the period of 6 years beginning with the date of the maritime casualty which resulted in the wreck.

152 Compulsory wreck removal insurance

(1) This Section applies to vessels with a gross tonnage of 300 or more.

(2) The owner and master of a Nauru regulated vessel shall:
(a) maintain wreck removal insurance; and
(b) not enter or leave any port without a current certificate of insurance on board.

(3) A foreign vessel shall not enter or leave Nauru waters or a Nauru port unless the vessel has:
(a) wreck removal insurance; and
(b) a current certificate of insurance on board.

(4) For a vessel registered in a state party to the Nairobi Convention, the certificate of insurance shall have been issued by or under the authority of, the government of that State.

(5) The master of any vessel in Nauru waters shall, on request, produce the certificate of insurance to:
(a) a Harbourmaster; or

(b) an Inspector.

(6) A vessel may be detained if it attempts to navigate in or out of a Nauru port in contravention of this Section.

153 Certificates of insurance

(1) This Section applies where the owner of a vessel applies to the Director for a certificate of insurance.

(2) Where such application is made by a Nauru regulated vessel, the Director or a person authorised by the Director shall issue the certificate of insurance if satisfied that:
(a) the vessel has wreck removal insurance for the period to which the certificate will relate; and
(b) the obligations of the insurer will be met.

(3) Where such application is made by a foreign vessel of a State party to the Nairobi Convention, the Director or a person authorised by the Director may issue the certificate of insurance if satisfied of the matters under subsection (2).

(4) A copy of any certificate issued under this Section shall be sent:
(a) for a Nauru regulated vessel, to the Registrar as the case may be; or
(b) otherwise, to the flag administration.

[subs (4) am Act 3 of 2025 s 86(4), opn 28 Jan 2025]

154 Third parties' rights against insurers

(1) This Section applies where:
(a) a vessel has been involved in a maritime casualty as a result of which anything from it has become a wreck in Nauru waters or the Exclusive Economic Zone;
(b) at the time of the maritime casualty the vessel had wreck removal insurance; and
(c) there is an insurance certificate in relation to such wreck removal insurance.

(2) Where the Director is entitled to recover any costs arising under Section 150(1), such costs may be recovered directly from the insurer.

(3) The insurer may assert as a defence:
(a) that the maritime casualty was caused by the wilful misconduct of the owner; and
(b) any defences available to the owner.

(4) The insurer may assert as a defence:
(a) that the maritime casualty was caused by the wilful misconduct of the owner; and
(b) any defences including under Section 151(6) available to the owner, other than the bankruptcy or winding-up of the owner.

(5) The insurer may limit liability in respect of claims made against it:
(a) to the same extent as the owner; and
(b) even where the owner is not entitled to limit liability, to an amount equal to the amount of the wreck removal insurance.

155 Savings

Nothing in this Division:

(a) affects any claim or the enforcement of any claim, a person having liability under this Division may have against any other person in respect of that liability; or
(b) affects or limits the powers of any customs officer under the *Customs Act 2014*.

DIVISION 3 — HISTORIC WRECKS

156 Declaration of historic wreck

(1) Where the Director is of the opinion that a wreck:
(a) is of cultural, historical or archaeological interest; and
(b) is or was situated on the seabed of Nauru waters,
the Director may, by notice published in the Gazette, declare the wreck to be a historic wreck.
(2) A declaration under subsection (1), may be made in relation to a wreck that has been removed from Nauru waters and will continue to apply if, subsequent to the declaration, a wreck is removed from Nauru waters.
(3) A declaration under subsection (1), may be made in relation to a wreck that has been removed from Nauru waters before the commencement of this Act.
(4) A declaration under subsection (1), remains in force, subject to any amendment, until and unless revoked.
(5) The Director shall keep and make available for public inspection a register of historic wrecks in which is contained:
(a) particulars of all known historic wrecks in Nauru waters; and
(b) copies of all declarations made under subsection (1) still in force.

157 Notice of historic wreck

Where a person has possession of a historic wreck, the person shall, within 30 days after publication of a notice under Section 156(1), notify the Director in writing of such possession.

158 Effect of declaration of historic wreck

Upon publication of a notice under Section 156(1), the historic wreck to which it relates is deemed to be an object of heritage for the purpose of the *National Heritage Act 2017* and:
(a) may be appropriated by the Responsible Minister out of funds appropriated for that purpose on behalf of the Republic; and
(b) shall not be bought, sold, pledged as security, exported or removed from Nauru waters without the written permission of the Responsible Minister.

DIVISION 4 — SALVAGE

159 Salvage Convention

Subject to this Division, the Salvage Convention has the force of law in the Republic.

160 Salvage claims against the Republic

Subject to the provisions of any other written law, this Division applies to

salvage operations which assist any vessel or other property owned by the Republic in the same manner as if such vessel or property belonged to a private person.

161 Salvage claims by the Republic

Where salvage operations are rendered by any vessel owned by the Republic, the Republic is entitled to claim payment in respect of such operations to the same extent as any other salvor and shall have the same rights as any other salvor.

162 Apportionment between salvors

A payment in respect of a salvage operation that is due to more than one person shall in the absence of agreement between those persons, be apportioned among such persons in such manner as the Court deems fit, having regard to Article 15 of the Salvage Convention.

163 Salvage of persons

Payment in respect of the salvage of a person, when payable by the owners of the vessel, is payable in priority to all other claims in respect of salvage.

164 Detention of property

(1) Where payment in respect of salvage operations is due to a person, the Director shall, upon the request of the salvor, detain the vessel or wreck until:
   (a) payment is made;
   (b) if the claim for payment is less than $10,000, security is given to the satisfaction of the Director;
   (c) if the claim for payment is more than $10,000, security is given to the satisfaction of the Court; or
   (d) the Court orders otherwise.

(2) The Court may order that any part of the security given under subsection (1) be forfeited.

(3) The Director may, in relation to any security given or property detained under subsection (1):
   (a) sell the property if the amount of payment is not disputed and payment is not made within 20 days after it becomes due; or
   (b) apply to the Court for directions.

(4) The proceeds of sale under subsection (3) shall, after payment of the expenses of sale, be applied in the following priority:
   (a) first, in payment in respect of salvage operations; and
   (b) second, to the owner or other person as may be entitled to the vessel.

(5) For the avoidance of doubt, nothing in this Section shall affect or limit the salvor's maritime lien under any convention or a written law.

165 Limitation on actions for indemnity

A person who:
(a) is liable to make a payment in respect of salvage operations; and
(b) is indemnified against that liability,

shall not bring any action to enforce such indemnity after the end of a period of 2 years, commencing on the date on which the liability arose.

166 Savings

Nothing in this Division affects any rights or liabilities arising out of any salvage operations which had started or other acts done before the commencement of this Act.

[The next page is 91,901]

167 Interpretation

In this Part:

'accident' means an occurrence that involves a vessel and in which:

(a) a person is seriously harmed as a result of:
  (i) being on board the vessel;
  (ii) direct contact with any part of the vessel, including any part that has become detached from the vessel;
  (iii) direct exposure to the wash of the vessel or interaction other than direct contact between 2 vessels; or
  (iv) being involved in the salvage of any vessel,

except where the injuries are self-inflicted or inflicted by other persons, or where injuries are to stowaways hiding outside areas normally available to passengers and crew members;

(b) a vessel sustains damage or structural failure that:
  (i) adversely affects the structural strength, performance or seaworthiness of the vessel;
  (ii) would normally require major repair or replacement of an affected component; or
  (iii) poses a threat to the safety of people on board the vessel;

(c) there is a complete or partial failure of machinery or equipment that affects the seaworthiness of the vessel;

(d) there is a loss of, or damage to, or movement of, or change in the state of, the cargo of the vessel which poses a risk to the vessel or to other vessels;

(e) there is a significant loss of, or significant damage to, property not being the cargo carried by the vessel or the property of a person whether or not on board the vessel, whether or not the loss or damage arises from an interaction between 2 vessels;

(f) there is a loss or escape of any contaminant;

(g) a person is lost at sea whether or not subsequently found or is missing; or

(h) a vessel has foundered, capsized, been abandoned, stranded, collided or has suffered a major fire;

'Casualty Investigation Code' means the IMO Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident, as amended or substituted from time to time;

'chairperson' means the chairperson of a Marine Inquiry appointed under Section 170(2)(a);

'final report' means a report under Section 170(5)(b);

'Guidelines' means the IMO Guidelines to Assist Investigators in the Implementation of the Casualty Investigation Code, as amended or substituted from time to time;

'incident' includes any occurrence, other than an accident, that is associated with the operation of a vessel and affects or could affect the safety of its operation;

'investigator' means a person appointed under Section 169(2) or 170(2)(b), as the case may be;

'Marine Inquiry' means a Marine Inquiry established under Section 170; and

'members' means the chairperson and the investigators for a Marine Inquiry.

168 Reporting

(1) An accident on or involving a Nauruan vessel shall be reported if:
  (a) registered under the *Vessel Registration Act 2024* to the Registrar;
  (b) [Repealed]
  (c) it occurs in Nauru waters, to:
    (i) the Authority; and
    (ii) the Director.

[subs (1) am Act 3 of 2025 s 86(4), opn 28 Jan 2025]

(2) An accident and incident on or involving a foreign vessel in Nauru waters shall be reported:
  (a) to the Director; and
  (b) if it occurs in or in the approaches to, a Nauru port, to the Authority.

(3) An accident and incident involving the discharge or possible discharge of a contaminant from a vessel in Nauru waters or the Exclusive Economic Zone in such quantity as may substantially impair or interfere with amenity and other uses of the environment shall be reported:
  (a) to the Director; and
  (b) if it occurs in or in the approaches to, a Nauru port, to the Authority.

(4) A report under this Section shall contain as much of the following information as is readily available:
  (a) the names of all vessels involved in the accident or incident and their flag States;
  (b) the IMO numbers or other registration numbers of all vessels involved in the accident or incident;
  (c) the nature of the accident or incident;
  (d) the location of the accident or incident;
  (e) the time and date of the accident or incident;
  (f) the number of any persons injured or killed; and
  (g) the consequences of the accident or incident to individuals, property and the environment.

DIVISION 2 — INVESTIGATION

169 Preliminary Investigation

(1) The Director may cause a preliminary investigation to be conducted in relation to any accident or incident in the interests of maritime safety or security.

(2) The Director shall, in writing, appoint such persons and such number of persons as the Director deems fit to conduct the preliminary investigation.

(3) The purpose of a preliminary investigation is to:

(a) ascertain the general circumstances;
(b) identify material witnesses;
(c) limit the loss of perishable evidence, including the degradation of witness memory;
(d) identify any continuing or consequential hazards; and
(e) determine what, if any, further action ought to be taken.

(4) The owner and master of a vessel have a duty to facilitate a preliminary investigation.

(5) All Investigators have the power to:
(a) go on board any vessel in Nauru waters;
(b) go on board any Nauru regulated vessel;
(c) require any crew member, passenger or other person found on such vessels to answer questions relating to the accident or incident;
(d) require a person found on such vessels to remain aboard for a period not longer than 24 hours;
(e) require that any thing on board a vessel not be brought ashore;
(f) require any document or thing held on board to be produced;
(g) take photographs, sound recordings or any measurements whatsoever; and
(h) take and remove samples of any thing on board.

(6) The investigators shall:
(a) make such interim reports to the Director as may be necessary in all the circumstances; and
(b) provide to the Director and the Minister a final report containing:
(i) a description of the accident or incident and relevant background;
(ii) a list of material witnesses;
(iii) everything gathered pursuant to subsection (4);
(iv) a summary of possible causes;
(v) a recommendation as to whether and if so what, further action may be indicated; and
(vi) any other matter specified in the instrument of appointment of the investigators.

170 Marine Inquiry

(1) The Cabinet shall, by Gazette notice, establish a Marine Inquiry to investigate an accident if:
(a) Nauru is required to investigate the accident under a convention to which it is a party or the Casualty Investigation Code; or
(b) the Director or Minister considers it necessary or desirable to investigate the accident in the interests of maritime safety or security.

(2) The Cabinet in consultation with the Department of Justice, shall formulate the terms of reference of the Marine Inquiry and appoint:
(a) a chairperson to conduct the Marine Inquiry; and
(b) 2 investigators.

(3) The chairperson or one of the investigators shall be a person duly admitted to practice law for not less than 10 years in a country designated by the Chief Justice under the *Legal Practitioners Act 2019*.

(4) The purpose of a Marine Inquiry is to:

(a) conduct a detailed inquiry into the accident to ascertain its underlying causes; and
(b) consider how best to prevent such accidents in the future.

(5) The role of the chairperson is to:
(a) conduct the Marine Inquiry in an impartial and objective way:
(i) according to the terms of reference;
(ii) if applicable, according to Regulation XI-1/6 of the SOLAS; and
(iii) if applicable, as nearly as possible according to Part III of the Casualty Investigation Code, having regard to the Guidelines; and
(b) deliver to Cabinet draft and final reports containing the matters set out at paragraph 2.12 of the Casualty Investigation Code.

(6) The role of the investigator is to:
(a) assist the chairperson to conduct the Marine Inquiry; and
(b) where appropriate, provide expertise in particular subjects as to which the Marine Inquiry raises issues.

(7) Where it appears that a possible outcome of the Marine Inquiry is an order under Section 174(2), one of the investigators shall hold an equivalent certificate of equal or higher rank.

171 Procedure of Marine Inquiry

(1) Subject to this Section, a Marine Inquiry shall be conducted and may inform itself in such manner as the chairperson deems appropriate having regard to the subject matter.

(2) Every owner and master of a vessel have a duty to facilitate the proceedings of a Marine Inquiry.

(3) A Marine Inquiry shall not be bound by the strict rules of evidence.

(4) A Marine Inquiry shall be conducted at such times and in such places as the chairperson may determine.

(5) The chairperson may direct that all or any part of a Marine Inquiry be conducted in public or private.

(6) A person who attends a Marine Inquiry to answer questions may be accompanied by a legal practitioner.

(7) A person whose conduct is likely to be questioned during the course of a Marine Inquiry or who is likely to be adversely affected by a finding or recommendation of a Marine Inquiry is entitled to:
(a) attend the Marine Inquiry personally and to be represented by a legal practitioner;
(b) give evidence before the Marine Inquiry;
(c) subpoena and call witnesses;
(d) examine, cross-examine and re-examine witnesses;
(e) take all proper exceptions to the admission of evidence; and
(f) address the Marine Inquiry, either at the conclusion or at any other proper time.

172 Information gathering powers of Marine Inquiry

(1) The chairperson may, by written notice, require a person to:
(a) give any relevant information to the Marine Inquiry;
(b) produce any relevant document or thing to the Marine Inquiry; or

(c) appear before the Marine Inquiry to answer questions on oath or affirmation.

(2) A notice under subsection (1):
(a) shall specify a time and date at least 14 days after the notice is given and place for compliance;
(b) in the case of a requirement under subsection (1)(b), shall specify the manner of compliance; and
(c) in the case of a requirement under subsection (1)(c), shall if the person usually resides more than 50 kilometres from the place specified under paragraph (a) is located, tender funds sufficient for transport, meals and accommodation in connection with attending the inquiry.

(3) A member may:
(a) go on board any vessel in Nauru waters;
(b) go on board any Nauruan vessel;
(c) require any crew member, passenger or other person found on such vessel to answer questions relating to the accident or incident;
(d) take photographs, sound recordings or any measurements whatsoever; and
(e) take and remove samples of any thing on board.

173 Self-incrimination

(1) A person is not excused from complying with any requirement under Section 169(4), 172(1) or 172(3) on the ground that it might tend to incriminate the person or expose the person to a penalty.

(2) Any information, document, thing or answer to a question given by an individual in compliance with a requirement under Section 169(4), 172(1) or 172(3) is not admissible against that individual in any civil or criminal proceedings.

174 Final report of Marine Inquiry

(1) A final report shall:
(a) contain the findings and recommendations of the majority of the members;
(b) if any member dissents from any finding or recommendation of the majority, include the reasons for such dissent; and
(c) be signed by every member, with or without reservations.

(2) Where the conduct of the holder of a certificate issued under Part 6 of the *Vessel Registration Act 2024* is at issue, the final report may include:
(a) an order suspending or cancelling the certificate; and
(b) a censure of the holder of the certificate.

[subs (2) am Act 3 of 2025 s 86(5), opn 28 Jan 2025]

(3) An order under subsection (2) shall not be made unless a statement of the reasons for such decision has been provided and the person has had an opportunity to respond.

(4) An order under subsection (2) may be made where it appears to the Marine Inquiry that the holder of the certificate:
(a) is unfit to hold the certificate;
(b) has been seriously negligent in the discharge of their duty; or

(c) has failed to comply with a requirement made under Section 169(4) or 172(1).

(5) Where a certificate has been suspended or cancelled under subsection (2), the Registrar may, having regard to the findings of the Marine Inquiry or any re-hearing:
(a) issue a new certificate of lower grade; or
(b) re-issue or return the certificate, with or without conditions.

[subs (5) am Act 3 of 2025 s 86(4), opn 28 Jan 2025]

(6) The holder of a certificate that has been cancelled or suspended under subsection (2), shall immediately deliver up the certificate to the Registrar for cancellation or suspension.

[subs (6) am Act 3 of 2025 s 86(4), opn 28 Jan 2025]

(7) A final report may include an order that the whole or any part of the costs and expenses of the Marine Inquiry be paid by a person and shall give reasons for such an order.

175 Reporting to IMO

The Director shall provide the IMO such information as to accidents and reports of Marine Inquiries as are required by applicable international conventions.

DIVISION 3 — RE-HEARING AND APPEAL

176 Re-hearing

(1) Where a Marine Inquiry has been held under Division 2, the Responsible Minister and the Accountable Minister may jointly order the whole or part of the Marine Inquiry to be re-heard, and shall do so if:
(a) new and important evidence which could not be produced at the Marine Inquiry has been discovered; or
(b) there appears to the Responsible Minister and the Accountable Minister to be other grounds for suspecting that a miscarriage of justice has occurred.

(2) An order under subsection (1) may provide that the re-hearing shall be by the Court.

(3) Where a re-hearing has been ordered under subsection (1), no appeal may be brought under Section 177 until a report on the re-hearing has been given.

177 Appeal

A person aggrieved by a final report may appeal to the Court on a point of law and the Court may make such orders as the Court deems fit.

[The next page is 92,101]

PART 8 — OFFENCES

DIVISION 1 — PRELIMINARY

178 Interpretation

(1) In this Part:

'alleged offender' means a person suspected of having committed an offence;

'issuer' means a person issuing an infringement notice;

'modified penalty' means the penalty prescribed by the regulations to be the penalty payable for a prescribed offence;

'prescribed offence' means an offence prescribed by the regulations, for which an infringement notice may be issued; and

'serious' means:

(a) in relation to damage to the environment, a change in the physical environment or biota, including changes in climate, which have significant deleterious effects on human health or on the composition, resilience and productivity of natural and managed ecosystems, or on materials useful to mankind; and

(b) in relation to personal injury, an injury:

(i) endangering life;

(ii) that is substantial and protracted;

(iii) resulting in permanent or serious impairment or loss of a bodily function;

(iv) resulting in permanent serious disfigurement;

(v) resulting in permanent severe mental or behavioural disturbance or disorder; or

(vi) resulting in the loss of a foetus.

(2) In this Part, words and phrases have the same meaning as in the Section, Division or Part to which the offence relates.

(3) In this Part, a reference to an offence against this Act includes an offence against the regulations.

179 Extraterritorial criminal jurisdiction

(1) A person is criminally responsible for any act or omission comprising an offence under this Act, if such act or omission or any part of such act or omission occurred:

(a) on a Nauruan vessel anywhere; or

(b) on a foreign vessel in Nauru waters.

(2) A person is criminally responsible for any act or omission comprising an offence under this Act wherever occurring if that person is:

(a) a citizen of Nauru;

(b) an individual ordinarily resident in Nauru;

(c) an individual found in Nauru who has not been extradited; or

(d) an incorporated or unincorporated legal entity:

(i) registered or domiciled in Nauru; or
(ii) conducting any business or operations in Nauru.

DIVISION 2 — PROSECUTIONS

180 Prosecutions by Director of Public Prosecutions

A prosecution for an offence under this Act may be commenced by the Director of Public Prosecutions or a person authorised to do so by the Director of Public Prosecutions.

181 Time for bringing prosecution

A prosecution for an offence under this Act shall be commenced within 5 years after the date on which the offence is alleged to have been committed.

182 Averment

(1) In any prosecution for an offence under this Act, the averment of the prosecutor contained in the complaint is *prima facie* evidence of the matter or matters averred.

(2) This Section applies to every matter averred, although:
(a) evidence in support or rebuttal of a matter averred is given by a witness or otherwise; or
(b) the matter averred is a mixed question of law and fact, but in that case the averment shall be *prima facie* evidence of the fact only.

(3) Any evidence given by a witness in support or rebuttal of a matter averred shall be considered on its merits and its weight is not affected by this Section.

(4) This Section does not lessen or affect any onus of proof otherwise falling on a defendant.

DIVISION 3 — CONSEQUENTIAL ORDERS

183 Costs and expenses recoverable

The Court may order a person who is convicted of an offence under this Act, in addition to suffering any penalty imposed in respect of that offence, to pay all costs and expenses incurred in the prosecution of that offence.

184 Compensation recoverable

The Court may order a person who is convicted of an offence under this Act, in addition to any penalty imposed in respect of that offence, to pay to the Republic or any other person compensation for any loss or damage suffered by reason of the commission of that offence.

185 Disgorgement

The Court may order a person who is convicted of an offence under this Act, in addition to any penalty imposed in respect of that offence, to pay to the Republic an amount equal to any profit derived by reason of the commission of that offence.

186 Orders under this Division

An Order made under this Division:

(a) shall be made if the Court entering the conviction is satisfied on the balance of probabilities:
  (i) that Section 183, 184 or 185 applies; and
  (ii) as to the general amount of the costs and expenses, compensation or profits, as the case may be;
(b) shall specify the amount of costs and expenses, compensation or profits, as the case may be; and
(c) may be recovered as a debt.

187 Recovery by distress

The Court may, in addition to any other power, direct that such amount that remains unpaid be levied by distress or by the sale of the vessel or the equipment of the vessel where:

(a) an owner or master has been convicted of an offence under this Act;
(b) a fine has been imposed; and
(c) that fine has not been paid for more than 60 days.

DIVISION 4 — INFRINGEMENT NOTICES

188 Infringement notices

(1) An infringement notice may be issued if an issuer has reason to believe that a person has committed a prescribed offence in the preceding 7 days.

(2) An infringement notice shall specify the modified penalty for that offence at the time it was committed.

(3) A modified penalty is due within 7 days of the date of service of the infringement notice.

(4) An infringement notice may be issued by:
  (a) the Director;
  (b) a Harbourmaster; or
  (c) an Inspector.

(5) An infringement notice may be served:
  (a) where the alleged offender is:
    (i) a crew member;
    (ii) an agent of the owner; or
    (iii) owner,
    on the master; or
  (b) otherwise, on the alleged offender.

(6) An infringement notice shall:
  (a) be in the prescribed form; and
  (b) contain a description of the alleged offence.

189 Withdrawal of infringement notices

(1) An issuer may withdraw an infringement notice.

(2) An issuer may issue a substituted infringement notice in place of an infringement notice withdrawn on the same day, even if the substituted infringement notice is issued after the period stated in Section 188(1).

(3) An issuer shall withdraw an infringement notice where the issuer ceases to believe that the person or vessel on whom the infringement notice was served committed the offence to which it relates.

(4) An infringement notice may be withdrawn:
(a) before or after the date on which the modified penalty was due; and
(b) whether or not the modified penalty has been paid.

(5) Where an infringement notice is withdrawn after the modified penalty has been paid, the amount paid shall be refunded.

(6) Where an infringement notice is withdrawn, the issuer shall advise the person on whom it was served in writing that it has been withdrawn.

190 Effect of payment of modified penalty

(1) Where:
(a) the modified penalty specified in an infringement notice is paid by the due date; and
(b) the infringement notice has not been withdrawn,
the bringing of proceedings for the same offence against the alleged offender is prohibited to the same extent as if the alleged offender had been convicted by the Court of the alleged offence.

(2) The payment of a modified penalty is not to be regarded as an admission for the purposes of any civil or criminal proceedings.

(3) The failure to pay a modified penalty may, if the alleged offender is subsequently found guilty of the prescribed offence, be taken into consideration in determining the appropriate penalty.

DIVISION 5 — GENERAL OFFENCES

191 Records

(1) A person who fails to:
(a) make or maintain such record;
(b) make or maintain such a record in the form required;
(c) enter into such record, as soon as practicable, any matter for which the record provides or which is otherwise required to be recorded;
(d) keep such record or document in a place where such record is required to be kept; or
(e) produce a record or copy of any record or certificate within any time required or otherwise within 14 days,
commits an offence and upon conviction is liable to a fine not exceeding $25,000.

(2) The offences in this Section are offences of strict liability.

(3) In this Section, ***'record'*** includes every part of a record.

192 Failure to give notice

(1) For the purposes of this Act, where a person is required to do any of the following in relation to giving notice, he or she shall comply with the requirement to:
(a) give such notice; or
(b) give such notice in the form or manner required.

(2) A person who contravenes subsection (1) and fails to comply with the requirements in relation to giving notices, commits an offence and upon conviction is liable to a fine not exceeding $25,000.

(3) The offence in this Section is an offence of strict liability.

(4) In this Section, ***'notice'*** means every notice, report or other communication.

193 Giving misleading information

(1) In this Section:
  (a) '***gives***' means the:
    (i) entry of information in any record required to be made or maintained by this Act;
    (ii) labelling or marking of any cargo or other article on board or intended to be taken on board, a vessel; or
    (iii) provision of documents or information by any other means to a person exercising powers or performing functions under this Act;
  (b) ***'misleading'*** means false or misleading in a material particular, including by omission; and
  (c) ***'record'*** has the same meaning as in Section 191.

(2) A person who knowingly or recklessly, gives misleading documents or information commits an offence and upon conviction is liable to a fine not exceeding $25,000 or to a term of imprisonment not exceeding 12 months or to both.

(3) No person shall knowingly or recklessly, give information that is misleading and such misleading information is a substantial cause of any:
  (a) loss of life or serious personal injury; or
  (b) serious damage to the environment.

(4) A person who contravenes subsection (3), commits an offence and upon conviction is liable to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 24 months or to both.

194 Hindering

(1) A person hinders the operation of this Act if the person:
  (a) obstructs, impedes or interferes with the doing of a thing required or authorised to be done under this Act;
  (b) instructs or directs a person to do otherwise than required by this Act;
  (c) obstructs, impedes or interferes with:
    (i) port facilities in a Nauru port; or
    (ii) the operation of a Nauru port or port facilities or other property of a port operator or port service provider;
  (d) causes a nuisance in a Nauru port; or
  (e) uses any threatening language to, or otherwise molests, a person doing or attempting to do anything required or authorised to be done under this Act.

(2) A person who knowingly or recklessly, does anything listed under subsection (1), commits an offence and upon conviction is liable to a fine not exceeding $35,000.

(3) No person shall knowingly or recklessly, give information that is misleading and such misleading information is a substantial cause of any:

(a) loss of life or serious personal injury; or
(b) serious damage to the environment.

(4) A person who contravenes subsection (3), commits an offence and upon conviction is liable to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 24 months or to both.

195 Failure to comply with directions

(1) A person who without excuse, fails to comply with any direction or requirement imposed upon them under this Act commits an offence and upon conviction is liable to a fine not exceeding $75,000.

(2) It is an excuse that non-compliance with the direction or requirement was necessary to save a person's life or to avoid a sudden or extraordinary emergency.

(3) It is an excuse that a person could not comply with a direction or requirement without serious danger to a vessel or persons thereon.

(4) It is an excuse for a person who fails to comply with a requirement under Section 172(1)(c) that:
(a) no or insufficient funds were tendered under Section 172(2)(c); or
(b) the person was not aware of the requirement.

196 Breach of duty

(1) A person who fails to comply with any duty or obligation imposed upon them under Section 51, 52, 53 or 54 commits an offence and upon conviction is liable to a fine not exceeding $100,000 or to a term of imprisonment not exceeding 5 years or to both.

(2) It is an excuse that non-compliance with the direction or requirement was necessary to save a person's life or to avoid a sudden or extraordinary emergency.

(3) It is an excuse that compliance was not possible without serious danger to a vessel or persons thereon.

DIVISION 6 — OFFENCES RELATING TO PART 3

197 Operating a vessel in contravention of COLREGS

An owner or master of a vessel who contravenes Section 37, commits an offence and upon conviction is liable to a fine not exceeding $50,000.

198 Navigating without a pilot

A master who contravenes Section 43, commits an offence and upon conviction is liable to a fine not exceeding $50,000.

199 Offences in relation to aids to navigation

(1) No person shall do any of the following things in relation to an aid to navigation without the prior written approval of the Authority:
(a) damages or removes it;
(b) makes a vessel fast to it or otherwise uses a vessel in a way that might damage it;
(c) obstructs or interferes with its display or operation; or

(d) obstructs or interferes with any emission or transmission from it.

(2) A person who contravenes subsection (1), commits an offence and upon conviction is liable to a fine not exceeding $25,000.

200 Trespassing on vessels

(1) No person shall without the permission of the owner, master or an agent of the owner or master, climb into or over or otherwise enters onto, any vessel in a Nauru port.

(2) A person who contravenes subsection (1), commits an offence and upon conviction is liable to a fine not exceeding $25,000.

DIVISION 7 — OFFENCES RELATING TO PART 5

201 Interpretation

In this Division:

'corresponding certificate' means a necessary certificate, the particulars of which correspond to the vessel to which it relates;

'necessary certificate' means a valid:

(a) in relation to Part 5, Division 2, certificate as defined under Section 122;

(b) in relation to Part 5, Division 3, necessary document required under that Division; or

(c) in relation to Part 5, Division 4, certificate as defined under Section 139;

'prohibited discharge' means the discharge from a vessel of any:

(a) ballast water;

(b) oil;

(c) noxious liquid substance;

(d) harmful substance in packaged form;

(e) sewage

(f) garbage; or

(g) substance to which Section 138 refers,

contrary to Part 5 or regulations made under Section 129; and

'restricted place' means any place to which the entry of a vessel is prohibited without a necessary certificate or necessary document under Part 5.

202 Failure to have necessary certificates and necessary documents

(1) The owner and master of a vessel that enters or remains in any restricted place without the necessary certificate, corresponding certificate or necessary document each commits an offence and upon conviction is liable to a fine not exceeding $50,000.

(2) The owner and master of a vessel that:

(a) enters or remains in any restricted place without a necessary certificate or necessary document; or

(b) enters or remains in any restricted place without a corresponding certificate; and

(c) the presence of that vessel in that restricted place is a substantial cause of serious damage to the environment,

each commits an offence and upon conviction is liable to a fine not exceeding $100,000 or to a term of imprisonment not exceeding 5 years or to both.

(3) The offences in this Section are offences of strict liability.

203 Discharge of pollutants

(1) The owner and master of every vessel:
(a) from which there has been a prohibited discharge in Nauru; or
(b) on which Section 138(4) or (5) has been contravened,
each commits an offence and upon conviction is liable to a fine not exceeding $75,000.

(2) Every crew member of a vessel from which there has been a prohibited discharge whose negligence caused or contributed to the discharge, commits an offence and upon conviction is liable to a fine not exceeding $10,000.

(3) The master of every vessel that causes a prohibited discharge from another vessel by negligently colliding with it, commits an offence and upon conviction is liable to a fine not exceeding $25,000.

(4) Subsection (1) is an offence of strict liability.

DIVISION 8 — OFFENCES RELATING TO PART 6

204 Offences relating to removal of wreck

An owner of a vessel who fails to comply with Section 149(2), commits an offence and upon conviction is liable to a fine not exceeding $35,000.

205 Offences relating to wreck removal insurance

(1) An owner and master of a vessel who contravenes Section 152(2) or (3) each, commits an offence and upon conviction is liable to a fine not exceeding $50,000.

(2) An offence under Section 152(2) is a strict liability offence.

206 Defacing or obliterating marks on wreck

(1) A person shall not deface, obliterate or do any act which causes the defacement or obliteration of a mark on wreck of or from:
(a) a Nauru regulated vessel situated in the Exclusive Economic Zone or Nauru waters; or
(b) a foreign vessel situated in Nauru waters.

(2) A person who contravenes subsection (1), commits an offence and upon conviction is liable to a fine not exceeding $25,000.

DIVISION 9 — OFFENCES RELATING TO PART 7

207 Contempt of Marine Inquiry

(1) No person shall:
(a) wilfully insult the members or wilfully interrupt the proceedings of the Marine Inquiry or is in any other manner in wilful contempt of a Marine Inquiry; or
(b) fail to deliver up any certificate as required under Section 174(6).

(2) A person who contravenes subsection (1), commits an offence and upon conviction is liable to a fine not exceeding $25,000.

DIVISION 10 — OFFENCES RELATING TO PART 10

208 Contravention of regulation

A person who contravenes a regulation for which no other offence is provided, commits an offence and upon conviction is liable to a fine not exceeding $5,000.

209 Contravention of emergency rule

A person who contravenes an emergency rule, commits an offence and upon conviction is liable to a fine not exceeding $5,000.

[The next page is 92,301]

PART 9 — MISCELLANEOUS

DIVISION 1 — LIABILITY OF OFFICIALS

210 Immunities

(1) In this Section:

'exercise', of a power, includes the attempted or purported exercise of the power in good faith;

'performance', of a function or duty, includes the attempted or purported performance of the function or duty in good faith; and

'port user' means a person using any service or facility provided at a Nauru port and includes a person acting on their behalf.

(2) A person is not civilly or criminally liable for an act done or omitted to be done by a person in the exercise of a power or performance of a function under this Act.

(3) An employee of the Authority is not civilly or criminally liable for an act done or omitted to be done in the performance of a duty of their employment, except in cases of gross negligence and serious misconduct.

(4) The Authority is not civilly liable for any loss or damage:

(a) resulting from an event outside the reasonable control of the Authority, including:

(i) an act of God;

(ii) an act of war or use of a port for the purpose of war or defence;

(iii) an act of public enemies;

(iv) any insurrection, revolution or civil disorder;

(v) the unlawful seizure or control of any people or vessels, vehicles or other property; or

(vi) any industrial dispute, including strikes, lockouts, stoppages or restraints of labour;

(b) resulting from anything done or omitted to be done by a port user;

(c) caused by or relating to any delay in the delivery of any goods loaded to or unloaded from, a vessel at a Nauru port;

(d) resulting from a defect in a mooring or anything else provided by the Authority;

(e) caused to any goods that a person other than the Authority loads to or unloads from, a vessel at a Nauru port;

(f) caused to any goods stored at a Nauru port;

(g) resulting from compliance with any direction or requirement given or made by a person in the exercise of a power or performance of a function under this Act; or

(h) anything done or omitted to be done by a person in the exercise of a power or performance of a function under this Act.

DIVISION 2 — NUISANCES

211 Regulations

The Cabinet may make regulations to provide for:

(a) the hours during which specified activities may be undertaken in a Nauru port;

(b) the hours during which specified equipment might be operated in a Nauru port; and
(c) specific measures to be undertaken to mitigate any nuisance at a Nauru port.

212 Nuisance, prohibition against bringing action

A person may not bring an action for nuisance in relation to the noise, vibration, light, dust or waves caused by a vessel in a port or any works at a port unless the noise, vibration, light, dust or waves are expressly prohibited.

DIVISION 3 — PRIVILEGES

213 Privileges and immunities not affected

This Act does not affect an immunity or privilege that is conferred under the:
(a) *Consular Privileges and Immunities Act 1976*;
(b) *Diplomatic Privileges and Immunities Act 1976*;
(c) *Special Missions Privileges and Immunities Act 1976*;
(d) *Facilitation of Australian Assistance Act 2004*; or
(e) any other written law.

214 Ministerial directions

The Responsible Minister may make directions on the application of this Act to persons accorded a privilege or immunity under an Act mentioned in Section 213.

DIVISION 4 — DOCUMENTS

215 Definitions

In this Division:

'certificate' means a document issued by a flag administration or its representatives that shows:
(a) compliance by a person or vessel with IMO requirements; or
(b) approved operating conditions or requirements in respect of any vessel;

'electronic certificate' means a certificate issued in an electronic format;

'unique tracking number' means a string of numbers, letters or other characters used as an identifier to distinguish an electronic certificate from another electronic certificate issued by the same flag administration; and

'verification' means a reliable, secure and continuously available process to confirm the authenticity and validity of an electronic certificate using a unique tracking number or other data contained on or embedded in the electronic certificate.

216 Documents

In this Act:
(a) a record required to be made or kept may be made or kept electronically;
(b) a record required to be made or kept may be integrated within another record or system, subject to any relevant conditions in an applicable international convention;

(c) a requirement to keep any certificate on board a vessel or in any other place, is satisfied if an electronic certificate is kept on board or in the place, provided that:

(i) the certificate was issued as an electronic certificate;

(ii) the electronic certificate is available to be viewed on board the vessel or the other required place; and

(iii) verification of the certificate can be conducted on board the vessel or in the other required place;

(d) a requirement that any certificate be copied is satisfied if printed from an electronic certificate;

(e) a requirement to keep any record or document on board a vessel is, if that vessel is unmanned and under tow, satisfied if the record or document is kept on board the towing vessel; and

(f) a record required to be kept on or in respect of, a Nauruan vessel shall be kept in English and in the working language of the vessel.

[The next page is 92,501]

217 General matters

(1) The Cabinet may make regulations prescribing matters:
  (a) required or permitted by this Act to be prescribed; or
  (b) necessary or convenient to give effect to this Act.

(2) Without limiting subsection (1), regulations may be made:
  (a) prescribing and providing for the payment of charges under this Act, including charges:
    (i) to fund the establishment, maintenance and operation of facilities and services provided under this Act, or generally for the purposes of the maritime sector;
    (ii) for the exercise of powers and functions under this Act; and
    (iii) for a service provided under this Act or generally for the purposes of the maritime sector, that shall be paid directly to a person other than the Authority or the Republic who is authorised under this Act to provide the service;
  (b) prescribing contraventions of rules and regulations that constitute offences against this Act;
  (c) prescribing contraventions of rules and regulations which give rise to liability to a civil penalty;
  (d) prescribing civil or criminal penalties for offences against the regulations or prescribed under paragraph (b) of up to $6,000 for an individual or $30,000 for a body corporate;
  (e) to control any activity or thing, by prohibiting it from being carried out or done in a port unless with a licence or other authorisation of the Authority;
  (f) adopting, either wholly or in part or with modifications:
    (i) any standards, rules, regulations, codes, instructions or similar instrument made, determined or issued by or under international conventions to which the Republic is a party; or
    (ii) any of the standards, rules, codes or specifications of the bodies known as the International Maritime Organization, Standards Australia, the British Standards Institution, the Association of Australian Port and Marine Authorities or Maritime New Zealand;
  (g) prescribing forms; and
  (h) giving a person discretion to decide a matter.

(3) Regulations may make different provision in relation to different matters or classes of matters.

(4) Regulations made under this Section may be expressed to apply to foreign vessels.

(5) An instrument adopted under subsection (2)(f) shall be adopted as in force from time to time unless the regulations specify that a particular text is adopted.

218 Domestication of international agreements

(1) The Cabinet may make regulations giving effect to:
  (a) a maritime or labour convention to which the Republic is a party; or
  (b) any other meteorological or oceanographic convention to which the Republic is a party.

(2) On notification of the regulations, such convention is taken to be part of the regulations except to the extent of any inconsistency.

(3) The convention may be incorporated into the regulations by reference.

(4) A convention incorporated by reference may be incorporated as in force at a particular time or from time to time.

DIVISION 2 — RULES

219 General matters

(1) The rules made under this Division shall be consistent with Nauru's international obligations.

(2) The rules made under this Division may incorporate another document by reference.

(3) A document incorporated under subsection (2):
  (a) forms part of the rule; and
  (b) may be incorporated as in force at a particular time or from time to time.

(4) The rules made under this Division may confer a discretion on a person to decide a matter.

(5) It is not an offence to contravene a rule made under this Division unless the offence is prescribed by regulation.

220 Making of rules

(1) The Authority may, by publication of a notice in the Gazette, make rules for the following:
  (a) the application procedure and forms for any authority, permission or exemption to be given by the Authority under this Act or the regulations;
  (b) matters to be notified to the Authority and the notification procedure and forms for any matter required to be notified to the Authority;
  (c) the manner of display of any identity card in a Nauru port;
  (d) security assessments for any persons employed to work in a Nauru port and the method of conducting such assessment;
  (e) any matter incidental to the functions of the Authority;
  (f) any other matter necessary or convenient for the operation of Nauru ports; and
  (g) to alleviate or minimise a serious risk to persons, property or the environment ('**emergency rule**').

(2) The Responsible Minister may revoke an emergency rule.

[The next page is 92,701]

PART 11 — REPEALS AND TRANSITIONAL MATTERS

DIVISION 1 — REPEAL

221 Repeal

The following Acts are repealed:

(a) *Port Authority Act 2015*;
(b) *Salvage of Derelict Wreck Act 1969*;
(c) *Shipping Licences Act 2012*; and
(d) *Wreck and Salvage Act 1902*.

DIVISION 2 — CONSEQUENTIAL AMENDMENTS

222 Amendment of Acts

The Schedule amends the Act mentioned in it in the manner described.

DIVISION 3 — TRANSITIONAL

223 Interpretation

In this Division:

'commencement date' means the date on which this Act commences; and

'repealed Act' means an Act repealed under Section 221;

224 Saving of regulations

Except to the extent of any inconsistency with this Act:

(a) regulations made under a repealed Act; and
(b) rules, orders, directions, notices or other instruments made or issued under a repealed Act,

shall continue in force as if made under this Act until expressly repealed or revoked.

225 Saving of documents

A licence, rating, certificate, permit, authorisation, approval or other document issued under a repealed Act (a '**document**') and in force immediately before the commencement date continues in force as if issued under this Act until the earlier of the following:

(a) the expiry of the document; or
(b) 12 months after the commencement date.

226 Saving of delegations

A delegation of powers or functions made by the Minister under a repealed Act and in force immediately before the commencement date, continues in force as if made in relation to corresponding powers or functions under this Act.

227 General transitional provision

(1) If anything of a kind required or permitted to be done under a provision of

this Act was done under a corresponding provision of a repealed Act and still had effect immediately before the commencement date, the thing continues in effect on and after that date as if:

(a) this Act had been in force when it was done; and

(b) it had been done under this Act.

(2) Without limiting subsection (1), if a provision of a repealed Act that corresponds to a provision of this Act would, but for its repeal, have applied in relation to anything done or being done or in existence before the commencement date, the corresponding provision of this Act applies with the necessary changes in relation to the thing.

228 Transitional regulations

(1) The regulations may make provision about a matter for which:

(a) it is necessary to make provision for the transition from the operation of a repealed Act to this Act; and

(b) this Act does not make provision or sufficient provision.

(2) A regulation made under this Section may have retrospective operation until the commencement date, provided that it does not retrospectively:

(a) deprive a person of rights; or

(b) impose liability upon a person.

(3) This Section expires 12 months after the commencement date.

[The next page is 92,901]

SCHEDULE

[Section 222]

Consequential Amendments

Shipping (Registration of Foreign Vessels) Act 2018

Item	Section	Amendment
1	3	*Delete* Paragraphs (b), (c), (d) and (e)
3	73	*Delete* subsection 1(b) *Substitute* "(b) required to be registered under this Act."
4	74	*Delete* Subsection (2)
5	75	*Delete* Paragraph 1(b) *Substitute* "(b) required to be registered under this Act."
6	76	*Delete* Paragraph 1(b) *Substitute* "(b) required to be registered under this Act."
7	77	*Delete* the section
8	78	*Delete* the section
9	79	*Delete* the section
10	80	*Delete* the section
11	81	*Delete* the section
12	82	*Delete* the section
13	83	*Delete* the section
14	84	*Delete* the section
15	85	*Delete* the section
16	86	*Delete* the section
17	87	*Delete* the section
18	88	*Delete* the section
19	89	*Delete* the section
20	90	*Delete* the section
21	91	*Delete* the section
22	92	*Delete* the section
23	93	*Delete* the section
24	94	*Delete* the section
25	127	*Insert* in the chapeau after "inspector" "or authorised by any other written law"
26	136	*Delete* the section
27	137	*Delete* the section
28	140	Insert in Subsection (1) after "vessel" (where first used) "registered under this Act"

29	142	*Delete* the section
30	143	*Delete* the section
31	144	*Delete* the section
32	145	*Delete* the section
33	146	*Delete* the section
34	160	*Insert* in Subsection (1) after "subsection (7)" "in relation to a vessel registered under this Act."

[The next page is 98,001]

Ports and Navigation (Infringement Notices) Regulations 2021

TABLE OF PROVISIONS

Regulation	*Title*
1	Citation
2	Commencement
3	Prescribed offences and modified penalties
4	Form of infringement notice
5	Issuer
6	Infringement notice list
7	Infringement notice court appearance
	SCHEDULE 1 — OFFENCES AND MODIFIED PENALTIES
	SCHEDULE 2 — INFRINGEMENT NOTICE

[The next page is 98,201]

Ports and Navigation (Infringement Notices) Regulations 2021

TABLE OF AMENDMENTS

The Ports and Navigation (Infringement Notices) Regulations 2021 SL 25 were notified and commenced on 27 August 2021.

Amending Legislation	Notified	Date of Commencement

[The next page is 98,401]

The Cabinet makes the following Regulations under Section 217 of the *Ports and Navigation Act 2019*:

1 Citation

These Regulations may be cited as the *Ports and Navigation (Infringement Notices) Regulations 2021*.

2 Commencement

These Regulations commence on the day they are notified in the Gazette.

3 Prescribed offences and modified penalties

(1) For the purposes of Section 188 and Part 8, Division 4 of the Act:
  (a) the offences in column A of the table in Schedule 1 are prescribed; and
  (b) the penalties in column C of the table in Schedule 1 are the modified penalties payable for the prescribed offence in the same row.

(2) The penalties shall be paid to the Nauru Revenue Office and a copy of the official receipt is to be submitted to the Registrar of Courts.

(3) Where an alleged offender provides an official Nauru Revenue Office receipt for the payment of the penalty under subregulation (2), the Registrar of Courts shall not list his or her case before the court.

4 Form of infringement notice

For the purposes of Section 188(6) of the Act, the infringement notice to be served on an alleged offender is in Schedule 2.

5 Issuer

An infringement notice issued under Section 188 of the Act shall be signed by the Director, Harbourmaster or an Inspector.

6 Infringement notice list

(1) The Nauru Revenue Office shall issue to the court and to the Director of Public Prosecutions a list of offenders, infringement notice numbers and unpaid fines within 7 days before the date on which the infringement notices are listed before the court.

(2) The Registrar of Courts shall list:
  (a) before the court for hearing of the infringement notices for which the fixed penalties imposed have not been paid on the dates specified in the infringement notices; and
  (b) list the infringement notices on the same date as specified in Part 3 of the infringement notices.

7 Infringement notice court appearance

(1) Where the person pleads guilty on the date of the hearing of the offence contained in Part 1 of the infringement notice, the court shall:
  (a) impose a penalty for the offence as contained in the Act;

(b) order court costs of $100; and
(c) make any such other orders the court deems fit to ensure compliance of the order of the court not limited to committal.

(2) Where the person is not present and is unrepresented in court, a plea of guilty shall be recorded and the matter dealt with in accordance with the procedure of the court and the court shall:
(a) impose a penalty for the offence as contained in the Act;
(b) order court costs of $100; and
(c) make any such other orders the court deems fit to ensure compliance of the order of the court not limited to committal.

(3) Where the person is present or represented by a legal practitioner and pleads not guilty, the matter shall be dealt with in accordance with the procedure of the court.

(4) If the person is found guilty after the hearing of an infringement offence under subregulation (3), the court shall:
(a) impose the penalty for that offence under the Act;
(b) order court costs of $200; and
(c) make any such other orders the court deems fit to ensure compliance of the order of the court not limited to committal.

[The next page is 98,601]

SCHEDULE 1

[Regulation 3]

OFFENCES AND MODIFIED PENALTIES

Column A **Offence**	**Column B** **Penalty in Act**	**Column C** **Modified Penalty**
Section 191(1) – Records Failure to: • make or maintain record; • make or maintain record in required form; • enter into record any matter for which the record provides or required to be recorded; • keep record or document where record or document required to be kept; • produce record or copy of record or certificate within required time or within 14 days	$25,000	$5,000
Section 192(2) – Failure to give notice • failure to give notice; • failure to give notice in the required form or manner.	$25,000	$5,000
Section 193(2) – Giving misleading information • knowingly or recklessly gives misleading documents or information	$25,000	$5,000
Section 193(4) – knowingly or recklessly gives misleading documents or information which is substantial cause of: • loss of life or personal injury; or • serious damage to the environment.	$50,000	$9,000
Section 194(2) – Hindering • obstructs, impedes or interferes with the doing of a thing required or authorised to be done under this Act; • instructs or directs a person to do otherwise than required by this Act; • obstructs, impedes or interferes with: - port facilities in a Nauru port; - the operation of a Nauru port or port facilities or other property of a port operator or port service provider; • causes a nuisance in a Nauru port; or • uses any threatening language to, or otherwise molests, any person doing or attempting to do anything required or authorised to be done under the Act.	$35,000	$7,500
Section 195(1) – Failure to comply with directions.	$75,000	$10,000

Section 196(1) – Breach of duty or obligation imposed under Section 51, 52, 53 or 54.	$100,000	$15,000
Section 197 – Operating a vessel in contravention of COLREGS where the operation of the vessel has not resulted in any collision or accident	$50,000	$5,000
Section 198 – Navigating without a pilot	$50,000	$10,000
Section 199(2) – offences in relation to aids to navigation • damages or removes it; • makes a vessel fast to it or otherwise uses a vessel in a way that might damage it; • obstructs or interferes with its display or operation; • obstructs or interferes with any emission or transmission from it.	$25,000	$5,000
Section 200 – Trespassing on vessels where: (1) the trespasser has not previously been convicted or issued (and paid) an infringement notice for the same offence; and (2) no loss or damage has resulted from the trespass	$25,000	$500
Section 200 – Trespassing on vessels	$25,000	$5,000
Section 202(1) – Failure to have necessary certificates and necessary documents • owner and master of a vessel that enters or remains in any restricted place without the necessary certificate, corresponding certificate or necessary document	$50,000	$7,500
Section 202(2) – Failure to have necessary certificates and necessary documents • owner and master of a vessel that enters or remains in any restricted place without the necessary certificate, corresponding certificate or necessary document; or • owner and master of a vessel that enters or remains in any restricted place without the corresponding certificate; and • the presence of that vessel in that restricted place is a substantial cause of serious damage to the environment.	$100,000	$15,000
Section 203(1) – Discharge of pollutants The owner and master of every vessel: • from which there has been a prohibited discharge in Nauru; or • on which Section 138(4) or (5) has been contravened	$75,000	$10,000

Section 203(2) – Discharge of pollutants crew member of a vessel from which there has been a prohibited discharge whose negligence caused or contributed to the discharge	$10,000	$3,000
Section 203(3) – Discharge of pollutants Master of vessel that causes prohibited discharge from another vessel by negligent collision	$25,000	$7,500
Section 204 – removal of wreck	$35,000	$6,000
Section 205(1) – wreck removal insurance	$50,000	$10,000
Section 206 – defacing or obliterating marks on wreck	$25,000	$5,000
Section 207(2) – contempt of marine inquiry	$25,000	$5,000
Section 208 – contravention of regulation	$5,000	$500
Section 209 – contravention of emergency rule	$5,000	$2,500

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SCHEDULE 2

REPUBLIC OF NAURU

PORTS AND NAVIGATION ACT 2019

[Section 188; Regulation 4]

INFRINGEMENT NOTICE

This Infringement Notice is issued pursuant to the powers under the *Ports and Navigation Act 2019*.
Important Notice: The consequence of not paying a penalty or fine will result in proceedings for offences against you in the court where fines and imprisonment may be imposed.

Notice No.:	
Date of Issue:	
Penalty:	
Penalty Due:	
Due Date:	
Payment must be made at or to the Nauru Revenue Office within 7 days from the date of service of this Notice.	

PART 1: OFFENCE DETAILS

Alleged offender:

Surname: . . . . . .

Given Names: . . . . . .

Nature of Offence: contrary to Section . . .. of the *Ports and Navigation Act 2019*.

Location:. . . . . Date: . . . . . Time: . . . . . .

Details of the circumstances alleged to constitute the offence:

. . . . . .

. . . . . .

Penalty: $. . . . . Issuer's Signature:. . . . . .

Issuer's Name:. . . . . Date: . . . . . / . . . . . / 20. . .

Acknowledgement of Service of Notice by: Name and Signature:

. . . . . .

Note:

1. *This Notice is issued as I . . . . . (issuer) have reason to believe that you committed the offence within the preceding 7 days of the date of this Notice.*
2. *If the modified penalty applicable to the offence is paid within 7 days, no further action will be taken. If the modified penalty is not paid within 7 days, you may be prosecuted for the offence. If you are prosecuted and found guilty you may be subject to much higher penalties and other orders, such as costs orders. The payment of the modified penalty is not regarded as an admission for any civil or criminal purposes.*
3. *Where an official Nauru Revenue Office receipt for the payment of the penalty is provided, the Registrar of Courts shall not list the case before the court.*
4. *Refusal to accept the notice shall be considered hindering the operation of the Act pursuant to Section 194 of the Act.*

PART 2: TIME FOR PAYMENT OF PENALTY

A. Take Notice that the penalty shall be paid to the Nauru Revenue Office within 7 days of the date of the issuance of this Notice. Failure or late payment of the penalty will result in payment of additional costs in the sum of $. . . .

B. Contesting the Infringement Notice

If you intend to defend or contest the Notice, you are to appear in person or by a legal representative in court on the date and time provided in Part 3.

PART 3: NOTICE TO ATTEND TO COURT

Take Notice that if you intend to contest or defend this notice, you must attend the District Court at Yaren on. . . . . day the. . . . day of . . . . . 20. . . . at . . . . . noon for the hearing.

If you fail to attend to the hearing, the court will proceed to hearing of the Infringement Notice in your absence and impose a fine and costs.

If you fail to pay the fine and costs ordered by the court, you will be arrested under a committal warrant without any further notice.

AFFIDAVIT OF SERVICE

I . . . . . Issuer, make oath/solemnly affirm that I did on the. . . . . day of. . . . . .20. . . . served the alleged offender . . . . . the original copy of this Infringement Notice at . . . . . (time) on (date) . . . . . AND he/she acknowledged service by affixing his/her signature to this Infringement Notice.

Issuer: . . . . . Before me: . . . . . .

(Commissioner for Oaths)

Column A **Offence**	**Column B** **Penalty in Act**	**Column C** **Modified Penalty**
Section 191(1) – Records Failure to: • make or maintain record; • make or maintain record in required form; • enter into record any matter for which the record provides or required to be recorded; • keep record or document where record or document required to be kept; • produce record or copy of record or certificate within required time or within 14 days	$25,000	$5,000
Section 192(2) – Failure to give notice • failure to give notice; • failure to give notice in the required form or manner.	$25,000	$5,000
Section 193(2) – Giving misleading information • knowingly or recklessly gives misleading documents or information	$25,000	$5,000
Section 193(4) – knowingly or recklessly gives misleading documents or information which is substantial cause of: • loss of life or personal injury; or • serious damage to the environment.	$50,000	$9,000
Section 194(2) – Hindering • obstructs, impedes or interferes with the doing of a thing required or authorised to be done under this Act; • instructs or directs a person to do otherwise than required by this Act; • obstructs, impedes or interferes with: - port facilities in a Nauru port; - the operation of a Nauru port or port facilities or other property of a port operator or port service provider; • causes a nuisance in a Nauru port; or • uses any threatening language to, or otherwise molests, any person doing or attempting to do anything required or authorised to be done under the Act.	$35,000	$7,500
Section 195(1) – Failure to comply with directions.	$75,000	$10,000
Section 196(1) – Breach of duty or obligation imposed under Section 51, 52, 53 or 54.	$100,000	$15,000
Section 197 – Operating a vessel in contravention of COLREGS	$50,000	$5,000

where the operation of the vessel has not resulted in any collision or accident		
Section 198 – Navigating without a pilot	$50,000	$10,000
Section 199(2) – offences in relation to aids to navigation • damages or removes it; • makes a vessel fast to it or otherwise uses a vessel in a way that might damage it; • obstructs or interferes with its display or operation; • obstructs or interferes with any emission or transmission from it.	$25,000	$5,000
Section 200 – Trespassing on vessels where: (3) the trespasser has not previously been convicted or issued (and paid) an infringement notice for the same offence; and (4) no loss or damage has resulted from the trespass	$25,000	$500
Section 200 – Trespassing on vessels	$25,000	$5,000
Section 202(1) – Failure to have necessary certificates and necessary documents • owner and master of a vessel that enters or remains in any restricted place without the necessary certificate, corresponding certificate or necessary document	$50,000	$7,500
Section 202(2) – Failure to have necessary certificates and necessary documents • owner and master of a vessel that enters or remains in any restricted place without the necessary certificate, corresponding certificate or necessary document; or • owner and master of a vessel that enters or remains in any restricted place without the corresponding certificate; and • the presence of that vessel in that restricted place is a substantial cause of serious damage to the environment.	$100,000	$15,000
Section 203(1) – Discharge of pollutants The owner and master of every vessel: • from which there has been a prohibited discharge in Nauru; or • on which Section 138(4) or (5) has been contravened	$75,000	$10,000
Section 203(2) – Discharge of pollutants crew member of a vessel from which there has been a prohibited discharge whose negligence caused or contributed to the discharge	$10,000	$3,000

Section 203(3) – Discharge of pollutants Master of vessel that causes prohibited discharge from another vessel by negligent collision	$25,000	$7,500
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Section 206 – defacing or obliterating marks on wreck	$25,000	$5,000
Section 207(2) – contempt of marine inquiry	$25,000	$5,000
Section 208 – contravention of regulation	$5,000	$500
Section 209 – contravention of emergency rule	$5,000	$2,500

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Order Designating Port of Nauru

TABLE OF AMENDMENTS

The Order Designating Port of Nauru SL 3 were notified and commenced on 8 April 2022.

Amending Legislation	Notified	Date of Commencement

[The next page is 102,201]

Order Designating Port of Nauru

PURSUANT to Section 4 of the *Ports and Navigation Act 2019* **I**, **LIONEL ROUWEN AINGIMEA**, **MP**, President and Minister for the Nauru Maritime and Port Authority, hereby designate as a Nauru Port:

1 all that area of land, water and seabed enclosed (Port of Nauru) by the below co-ordinates as illustrated:

Boundary Point	Latitude	Longitude
10000	0° 32’ 20.66” S	166° 54’ 37.24” E
10001	0° 32’ 11.63” S	166° 54’ 35.76” E
10002	0° 31’ 53.17” S	166° 54’ 35.97” E
10003	0° 31’ 47.62” S	166° 54’ 36.70” E
5	0° 31’ 46.68” S	166° 54’ 37.93” E
10004	0° 31’ 47.30” S	166° 54’ 41.53” E
10005	0° 31’ 45.80” S	166° 54’ 41.83” E
10006	0° 31’ 45.41” S	166° 54’ 40.13” E
10007	0° 31’ 43.64” S	166° 54’ 40.61” E
10008	0° 31’ 42.32” S	166° 54’ 40.39” E
10009	0° 31’ 40.77” S	166° 54’ 40.94” E
10010	0° 31’ 40.56” S	166° 54’ 40.25” E
10011	0° 31’ 38.94” S	166° 54’ 40.80” E
10012	0° 31’ 37.20” S	166° 54’ 41.53” E
10013	0° 31’ 37.02” S	166° 54’ 41.06” E
10014	0° 31’ 33.25” S	166° 54’ 42.64” E
10015	0° 31’ 32.71” S	166° 54’ 41.25” E
10016	0° 31’ 31.40” S	166° 54’ 41.80” E
10017	0° 31’ 31.40” S	166° 53’ 41.90” E
10018	0° 32’ 20.66” S	166° 53’ 37.35” E

2 all that area of land, water or seabed enclosed (Fishing Transfer Zone) by the below co-ordinates as illustrated:

Boundary Point	**Latitude**	**Longitude**
10019	0° 25’ 56.98” S	166° 45’ 42.51” E
10020	0° 31’ 58.76” S	166° 45’ 42.51” E
10021	0° 25’ 56.98” S	166° 51’ 41.87” E
10022	0° 31’ 58.76” S	166° 51’ 41.87” E

DATED this of 2022.

[The next page is 120,001]