

**MARINE.**

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**No. 97 of 1963.**



AN ACT to amend the *Marine Act 1921*.

[Reserved, 17 January 1964; Royal Assent proclaimed, 12 August 1964.]

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title, citation, and commencement.

**1**—(1) This Act may be cited as the *Marine Act 1963*.

(2) The *Marine Act 1921*, as subsequently amended, is in this Act referred to as the Principal Act.

(3) This Act shall not commence until Her Majesty's pleasure thereon has been publicly signified in this State, and, after the signification thereof, this Act shall commence on a date to be fixed by proclamation.

**2** After section two of the Principal Act the following section is inserted:—

“3—(1) Nothing in this Act applies to or in relation to vessels of the naval, military, or air forces of any— Application of Act.

- (a) Commonwealth country; or
- (b) foreign Government.

“(2) Except as provided in subsection (1) of this section and in section seventy-six, the provisions of this Act apply to and in relation to all vessels of the Crown.

“(3) The provisions of this Act apply to and in relation to all vessels of a board or trust.

“(4) In this section, ‘Commonwealth country’ means a country (including the United Kingdom) that is a member of the Commonwealth of Nations and includes any territory for the international relations of which the Government of such a country is responsible.”.

**3** Section five of the Principal Act is amended—

Interpretation.

- (a) by inserting before the definition of “board” the following definition:—

“‘Authority’ means the Navigation and Survey Authority of Tasmania constituted under this Act;”;

- (b) by omitting the definition of “burthen” and substituting therefor the following definition:—

“‘burthen’ means tonnage according to the register or, in the case of a fishing vessel that is not registered, as ascertained by a surveyor of ships;”;

- (c) by inserting after the definition of “collector” the following definitions:—

“‘collision regulations’ has the meaning assigned to that expression by section one hundred and twenty-seven A;

“‘constituent board’ means any of the following boards, namely:—

- (a) The Marine Board of Hobart;
- (b) The Marine Board of Launceston;
- (c) The Marine Board of Burnie; and
- (d) The Marine Board of Devonport;”;

- (d) by omitting the definitions of “dangerous goods” and “detaining officer” and substituting therefor the following definitions:—

“ ‘detaining officer’ means—

- (a) a harbourmaster; and
- (b) an officer who is authorized by the Authority, or by a board or trust, to detain unsafe vessels;

“ ‘equipment’, used in relation to a vessel, includes the machinery and boilers thereof and every article or thing belonging to or to be used in connection with, or necessary for, the navigation and safety of the vessel and, in particular, includes boats, tackle, pumps, apparel, furniture, life-saving appliances, spars, masts, rigging, sails, fog signals, lights, signals of distress, radio equipment, medicines, medical and surgical stores and appliances, apparatus for preventing or extinguishing fires, buckets, compasses, charts, axes, lanterns, and gear and apparatus for loading and discharging cargo;

“ ‘fishing vessel’ means a vessel that is used in fishing for the purposes of sale or business or for collecting and carrying to land fish caught by or from other vessels;”;

- (e) by inserting after the definition of “harbourmaster” the following definition:—

“ ‘lighter’ includes a barge, hulk, or other vessel of a like nature that has no independent motive power;”;

- (f) by omitting from the definition of “passenger” the word “trading”;

- (g) by inserting after that definition the following definition:—

“ ‘plying’, used in relation to a vessel, includes proceed, go, or navigate (whether for trading purposes or not);”;

- (h) by inserting after the definition of “property” the following definition:—

“ ‘seaplane’ includes a flying boat and any other kind of aircraft (by whatever name it is commonly known) that is capable of alighting upon water;”;

- (i) by omitting the definition of “tonnage” and substituting therefor the following definition:—

“ ‘tonnage’, used in relation to a vessel, means (except where otherwise expressly provided by or under this Act) the net registered tonnage of the vessel;”;

(j) by omitting the definition of "vessel" and substituting therefor the following definition:—

"'vessel' means any ship, boat, or other description of vessel used or designed for use for any purpose of navigation, and includes—

(a) a dinghy, lighter, punt, raft, houseboat, pontoon, or other thing declared by the regulations to be a vessel for the purposes of this Act; and

(b) a seaplane;" and

(k) by adding at the end thereof the following subsection:—

"(2) In this Act—

(a) a reference (however expressed) to a vessel going to sea, or proceeding to sea, or being taken to sea, or being sent to sea includes a reference to a vessel—

(i) plying seaward beyond the limits of a port within the jurisdiction of a board or trust (being those limits as defined pursuant to subsection (4) of section one hundred and thirty-one); and

(ii) getting under way or attempting to get under way for the purpose of going to sea; and

(b) a reference to a seagoing vessel, includes a reference to a vessel going to sea, or proceeding to sea, or being taken to sea, or being sent to sea."

4 After section five of the Principal Act the following Part is inserted:—

#### " PART IA.

##### " THE NAVIGATION AND SURVEY AUTHORITY OF TASMANIA.

" 5A—(1) For the purposes of this Act there shall be an authority, to be known as the Navigation and Survey Authority of Tasmania.

Constitution  
and incorpora-  
tion of  
Authority.

"(2) The Authority shall consist of four persons, of whom—

(a) one shall be the person for the time being holding office as the master-warden of the Marine Board of Hobart (who shall be the chairman of the Authority);

- (b) one shall be the person for the time being holding office as the master-warden of the Marine Board of Launceston;
- (c) one shall be the person for the time being holding office as the master-warden of the Marine Board of Burnie; and
- (d) one shall be the person for the time being holding office as the master-warden of the Marine Board of Devonport.

“(3) The Authority is a body corporate having perpetual succession and a common seal and may acquire, hold, and dispose of real and personal property, and sue and be sued in its corporate name, and do and suffer all such other acts and things as bodies corporate may by law do and suffer.

Quorum and procedure of Authority.

“5B—(1) Three members of the Authority constitute a quorum for the transaction of business at a meeting of the Authority.

“(2) At meetings of the Authority, the members present may regulate their own procedure.

Delegation of powers, &c., by the Authority.

“5C—(1) The Authority may, by instrument in writing under its common seal, delegate to—

- (a) a member of the Authority;
- (b) an officer of the Authority; or
- (c) an officer of a board or trust,

either generally or in particular cases or in relation to particular matters, such of the powers, functions, authorities, and duties of the Authority (other than its power of delegation) as are specified in the instrument of delegation.

“(2) A delegation under this section is revocable at will and does not prevent the exercise or performance by the Authority of any power, function, authority, or duty so delegated.

General powers and duties of the Authority.

Cf. 7 Eliz. II No. 37 (Q<sup>ld</sup>), s. 12; 1952, No. 49 (N.Z.), s. 8 (3), (4).

“5D—(1) The Authority—

- (a) has, within its jurisdiction, such powers, functions, authorities, and duties as are conferred or imposed upon it by or under this Act; and
- (b) may exercise such administrative and other functions as are necessary for the due performance and exercise of those powers, functions, authorities, and duties.

“(2) For the purposes of this Act, any power, function, authority, or duty that any officer or employee of the Authority, or any person acting under the direction or superintendence of the Authority, is by or under this Act authorized

or required to exercise or perform shall be deemed to be a power, function, authority, or duty conferred or imposed on the Authority by this Act.

“(3) For the purposes of the exercise by the Authority of its powers, functions, authorities, and duties under this Act, the Authority has jurisdiction in and over—

- (a) all waters that are within the jurisdiction of a board or trust;
- (b) the waters of all inland lakes, rivers, and streams (whether within the jurisdiction of a board or trust or not); and
- (c) all vessels used, or capable of being used, for any purposes of navigation on any of those waters.

“5E—(1) The Authority may appoint—

- (a) a person to be the secretary of the Authority; and
- (b) such other officers and employees as it may think necessary for the due exercise and performance of the powers, functions, authorities, and duties of the Authority.

Officers,  
&c., of the  
Authority.

“(2) In lieu of appointing officers and employees as provided in subsection (1) of this section, the Authority—

- (a) may enter into a written agreement with a board or trust for the use by the Authority, as provided in the agreement, of the services of—
  - (i) any particular officer or officers of the board or trust; or
  - (ii) any officer or officers of the board or trust possessing any specified qualification or qualifications; or
- (b) subject to subsection (3) of this section, may, with the consent of the Governor, make use of the services of any officer or temporary employee of the Public Service for such purposes and to such extent as may be agreed upon between the Authority and the Minister having the administration of the Act under or for the purposes of which, or the Department in which, that officer is employed.

“(3) The Governor shall not consent to the use by the Authority of the services of an officer to whom the provisions of the *Public Service Act 1923* apply except upon the recommendation of the Public Service Commissioner.

“(4) A person—

- (a) who is appointed as the secretary, or as an officer or employee, of the Authority pursuant to subsection (1) of this section; or
- (b) whose services are made use of by the Authority pursuant to subsection (2) of this section,

shall be paid such remuneration as the Authority, subject to any industrial award that may be applicable, may determine.

“(5) Notwithstanding anything in subsection (4) of this section, the Authority shall not, except with the approval of the Public Service Commissioner, determine the remuneration to be paid to any officer or temporary employee of the Public Service to whom the *Public Service Act 1923* applies whose services are made use of by the Authority.

**Advisory  
committee.**

“5F—(1) For the purposes of assisting the Authority in the exercise and performance of its powers, functions, authorities, and duties there shall be an advisory committee (in this section referred to as ‘the committee’).

“(2) The committee shall consist of six persons appointed by the Authority, of whom—

- (a) one shall be a person (being an officer of a constituent board) who is the holder of a master’s certificate in respect of a foreign-going ship (as defined in the Commonwealth Act), who shall be the chairman of the committee;
- (b) four other persons (being officers of constituent boards); and
- (c) the person for the time being holding office as Chief Inspector of Machinery under the *Inspection of Machinery Act 1960*.

“(3) The members of the committee appointed pursuant to paragraphs (a) and (b) of subsection (2) of this section shall each hold office during the pleasure of the Authority.

“(4) The committee—

- (a) shall advise the Authority with respect to—
  - (i) any matters referred to it by the Authority for consideration and report; and
  - (ii) the exercise and performance generally by the Authority of its powers, functions, authorities, and duties; and
- (b) shall exercise and perform such other functions and duties as are prescribed in the regulations.

“(5) In this section, ‘Commonwealth Act’ means the *Navigation Act 1912-1961* of the Commonwealth, and includes that Act as amended from time to time and any Commonwealth Act passed in substitution for that Act.

**Financial  
provisions.**

“5G—(1) The Authority shall cause to be opened in the Commonwealth Trading Bank of Australia such accounts as it may consider to be necessary for the purposes of this section and—

- (a) all moneys received by the Authority shall be paid into; and
- (b) all expenditure of the Authority shall be drawn from,

those accounts.

“(2) The Authority shall, on or before the fifteenth day of June in each year, prepare and submit to each constituent board an estimate of—

- (a) the Authority’s expenditure during its financial year then next ensuing; and
- (b) the revenue likely to be received by the Authority during that financial year.

“(3) Contributions shall be made to the Authority by each constituent board in accordance with this section.

“(4) The amount of the contribution to be made to the Authority by a constituent board in any financial year of the Authority is a sum equal to one-quarter of the difference between the estimated expenditure and the estimated revenue of the Authority, as set out in the estimate for that financial year prepared in pursuance of subsection (2) of this section, after allowing for the credit balance (if any) carried forward from the previous financial year of the Authority.

“(5) All contributions that are required to be made to the Authority by a constituent board pursuant to this section shall, unless otherwise agreed upon between the Authority and that board, be made by equal quarterly instalments on the last days of September, December, March, and June of the relevant financial year of the Authority.

“(6) The Authority may, with the consent of the Treasurer, borrow by overdraft on its bank account any sums not exceeding £10,000.

“(7) The Authority shall submit its accounts to the Auditor-General for audit on or before the thirty-first day of July in each year.

“(8) The Auditor-General has, in respect of the accounts of the Authority, all the powers conferred on him by the *Audit Act 1918* in relation to the public accounts.

“(9) If the accounts of the Authority in respect of any financial year of the Authority, as audited and certified by the Auditor-General, show a debit balance, a sum equal to one-quarter of the amount of that debit balance shall be paid to the Authority by each constituent board within fourteen days after the receipt by the board of a notice from the Authority requesting payment of that sum.

“(10) If a sum that becomes payable by a constituent board to the Authority pursuant to this section is not paid at the appropriate time prescribed in this section, it may be recovered from the board by the Authority by action in a court of competent jurisdiction.

“(11) For the purposes of this section, the financial year of the Authority is the period of twelve months ending on the thirtieth day of June.”.

**5** Section forty-two of the Principal Act is amended by omitting subsection (4) thereof and substituting therefor the following subsection:—

Casual  
vacancies.



“(4) If there is no poll, the person to fill the casual vacancy shall be determined by lot.”.

General powers of boards.

**6** Section sixty-four of the Principal Act is amended—

(a) by adding at the end of paragraph (s) of subsection (1) thereof the words “at any one time or forty years in the aggregate;”; and

(b) by adding at the end of that subsection the following word and paragraph:—

“; and

“(za) to define by by-law the limits of any port, or of any part thereof, or of any coast trade, for any of the purposes of this Act (except for the purposes of Division IIA of Part XII and of Part XIV).”.

Construction of wharf below high-water mark.

**7** Section sixty-five A of the Principal Act is amended by adding at the end of subsection (1) thereof the words “or otherwise than upon and subject to such terms and conditions as the board or trust may impose.”.

**8** After section sixty-five A of the Principal Act the following section is inserted in Division I of Part VII:—

Unauthorized dumping and reclamation work.

Cf. 1901 (N.S.W.), s. 141; 7 Eliz. II, No. 37 (Q'ld), s. 198.

“65B—(1) No person shall—

(a) cast or discharge into, or place or leave in, under, or upon any waters within the jurisdiction of a board or trust any prohibited things; or

(b) reclaim or attempt to reclaim any land beyond or below the high-water mark of any such waters,

without the consent, in writing, of the board or trust.

Penalty: Two hundred pounds.

“(2) Where on a prosecution for an offence against this section a person is convicted of the offence, the justices before whom he is convicted, in addition to or in lieu of imposing a penalty in respect of the offence, may order that person, within such time and manner as is specified in the order, to remove the things or to abate and demolish the reclamation works that are the subject-matter of the prosecution and to restore the site thereof as nearly as is practicable to its former condition.

“(3) If a person in respect of whom an order is made under subsection (2) of this section fails to comply in all respects with the terms of the order within the time specified in that behalf in the order the board or trust may itself remove the things or abate and demolish the works to which the order relates and do all such acts and things as may be necessary for the purpose of restoring the site thereof

to its former condition and may recover from that person, as a debt due to the board or trust, all costs and expenses incurred by the board or trust in so doing.

“(4) In this section, ‘prohibited things’ means—

- (a) any stones, earth, ashes, coal, rubbish, timber, or wreck; or
- (b) any other articles or things that are declared, by the by-laws of a board or trust, to be prohibited things for the purposes of this section either generally or in relation to all or any specified waters within the jurisdiction of the board or trust.”.

**9** Section seventy-one of the Principal Act is amended by omitting paragraphs (f) and (g) thereof and substituting therefor the following paragraphs and word:—

“(f) in the case of a board, the fees payable in respect of any examination held or certificate issued by it, or payable to any officer of the board who is for the time being holding office as a shipping master under the *Merchant Seamen Act 1935*;

“(g) fines and penalties for offences against the provisions of any by-laws made by the board or trust, and damages and expenses recovered under this Act by the board or trust; and”.

Revenues of boards and trusts.

**10** Sections ninety-one and ninety-two of the Principal Act are repealed and the following sections are substituted therefor:—

“91 A board or trust shall, on the demand of a master on the first occasion of his vessel arriving at a port within the jurisdiction of the board or trust, furnish the master with a copy of the by-laws of the board or trust.

Master of vessel to be furnished with copies of by-laws.

“92 A harbourmaster or any other officer authorized for the purpose by the Authority or by a board or trust may detain any vessel in respect of which any fee, due, or charge is owing to the Authority or to the board or trust until payment thereof.”.

Detention of vessels for non-payment of fees, &c.

**11** Sections one hundred and three and one hundred and four of the Principal Act are repealed.

Meaning of equipment: Sufficiency of equipment.

**12** Section one hundred and ten of the Principal Act is amended by inserting therein, after the word “made”, the words “by the regulations under section one hundred and eleven”.

Fixing of deck lines.

**13** Section one hundred and eleven of the Principal Act is amended by inserting therein, after the word “may”, the words “, on the recommendation of the Authority,”.

Regulations as to load and deck lines.

**14** After section one hundred and fourteen of the Principal Act the following Division is inserted:—

*“ Division IIA—Manning of vessels.*

Application  
of this  
Division.

“ 114A—(1) Except as otherwise expressly provided in the regulations, this Division applies to and in relation to all Tasmanian vessels while they are engaged—

- (a) in the coast trade;
- (b) in the limited coast trade; or
- (c) in the river and harbour trade.

“(2) In this section—

‘ coast trade ’ means plying between different ports within the jurisdiction of the Authority;

‘ limited coast trade ’ means plying from and to a port in this State within such limits as are defined pursuant to subsection (4) of section one hundred and thirty-one in relation to that port;

‘ river and harbour trade ’ means plying exclusively within the limits of any port (as defined pursuant to subsection (4) of section one hundred and thirty-one) or exclusively on any inland waters in this State;

‘ Tasmanian vessel ’ means a vessel that is engaged or employed solely in plying between ports in this State or on inland waters in this State, or within the limits of any port (as defined pursuant to subsection (4) of section one hundred and thirty-one).

Manning  
require-  
ments.

“ 114B—(1) A vessel to which this Division applies—

- (a) when plying to seaward from any port within the jurisdiction of the Authority; or
- (b) when plying within the limits of any port (as defined pursuant to subsection (4) of section one hundred and thirty-one) or on any inland waters in this State,

shall be provided with a duly certificated master and such other officers and crew, holding such certificates or possessed of such experience and qualifications, if any, as may be prescribed in the regulations.

“(2) If default is made in complying with this section in relation to any vessel, the owner of the vessel, and each other person (including the master of the vessel) who knowingly authorizes or permits the default, is guilty of an offence against this Act.

Penalty: One hundred pounds.”.

Application  
of Part XIII.

**15** Section one hundred and twenty-four of the Principal Act is amended—

- (a) by omitting from paragraph (a) thereof the words “, and any collision occurring between any vessels,” and substituting therefor the words “within the jurisdiction of the Authority”;
- (b) by omitting from that paragraph the words “, or of either or any of which,”;
- (c) by omitting from that paragraph the words “by a board” and substituting therefor the words “under section one hundred and forty-four”;
- (d) by omitting from paragraph (b) thereof the words “or collision”, and by omitting from that paragraph the words “a board” and substituting therefor the words “the Authority”;
- (e) by omitting paragraph (c) thereof;
- (f) by transposing the word “and” after paragraph (b) thereof to follow paragraph (a) thereof; and
- (g) by adding at the end thereof the following sub-sections:—

“(2) In the application of the provisions of this Part or of the collision regulations to a vessel that is a seaplane, a reference to—

- (a) the master of the vessel; or
- (b) the officer in charge of the deck of the vessel,

shall be read as a reference to the pilot or person in command of the seaplane.

“(3) For the purposes of this Part and of the collision regulations, a seaplane that is taking off from, or alighting on, the water shall be deemed to be on the surface of the water when it is in contact therewith.”.

**16** After section one hundred and twenty-four of the Principal Act the following section is inserted:—

“124A For the purposes of this Act, a casualty shall be deemed to occur when—

- (a) within the jurisdiction of the Authority, a vessel is lost, abandoned, stranded, grounded, or materially damaged (whether by fire or otherwise), or has been in collision with another vessel or with any other thing; or
- (b) loss of life or injury to a person ensues by reason of a casualty occurring to or on board a vessel at any place within the jurisdiction of the Authority.”.

Cases where a casualty is deemed to occur.

Cf. 57 & 58 Vict., c. 60 (Imp.), s. 464; 1952, No. 49 (N.Z.), s. 323.

**17** Section one hundred and twenty-five of the Principal Act is amended—

- (a) by omitting therefrom the words “or collision” (first occurring);

Inquiries into casualties and collisions.

(b) by omitting from paragraph (a) thereof the words "or collision", and by omitting from that paragraph the word "board" and substituting therefor the word "Authority";

(c) by omitting paragraphs (b) and (c) thereof and substituting therefor the following paragraphs:—

"(b) The chairman of the Authority shall, as soon as practicable after receipt of that report, direct an officer of the Authority or of a board to conduct a preliminary inquiry into the casualty and to report thereon to the Authority;

"(c) On receipt of a report under paragraph (b) of this subsection the Authority shall decide whether any further inquiry is necessary and, if it considers that a further inquiry is necessary it—

(i) shall request the Governor to direct a further inquiry to be held; and

(ii) shall at the same time furnish a copy of the finding of the officer by whom the preliminary inquiry is conducted and a copy of the evidence on which that finding is based to the master or other person affected thereby and shall also furnish to the Governor, for the use of any court of inquiry that he may direct to inquire into the casualty, a copy of that finding and evidence; and"; and

(d) by omitting from subsection (2) thereof the words "or collision" (wherever occurring); and

(e) by adding at the end thereof the following subsection:—

"(3) An officer by whom a preliminary inquiry is conducted—

(a) may, at any time, board the vessel in relation to which the inquiry is being conducted and inspect the hull and equipment thereof and any articles or things that he finds on board the vessel or that are in any way connected with the navigation or safety of the vessel; and

(b) has, and may exercise, the powers and authority conferred by Division II of Part II of the *Evidence Act 1910* on persons holding inquiries on commission."

**18** After section one hundred and twenty-seven of the Principal Act the following sections are inserted in Part XIII:—

“127A—(1) Without limiting the general power to make regulations conferred by section one hundred and sixty-nine A—

Collision regulations.  
Cf. No. 4 of 1913 (C'th), s. 258 (1); No. 49 of 1952 (N.Z.), s. 286.

(a) regulations may be made under that section with respect to vessels on the surface of the water for or in relation to—

- (i) the prevention of collisions; and
- (ii) the lights to be carried and exhibited, and the fog signals to be used, by any such vessels; and

(b) those regulations (in this Act referred to as ‘the collision regulations’) may contain such provisions as appear to the Governor, on the recommendation of the Authority, to be necessary or desirable for the purpose of preventing collisions between vessels on the surface of the water, or of minimizing the danger of any such collisions, or of prescribing and regulating the duties and responsibilities of the owners, masters, and officers of vessels that are involved in any such collisions.

“(2) The collision regulations may—

- (a) contain such provisions as appear to the Governor, on the recommendation of the Authority, to be necessary to give effect to, or to give the force of law within the jurisdiction of the Authority to, the provisions of such international treaties, agreements, conventions, regulations, and rules as may for the time being be in force for the prevention of collisions at sea as the Governor may consider desirable; and
- (b) adopt, either specifically or by reference, the provisions of any such treaties, agreements, conventions, regulations, or rules.

“127B—(1) No person (being the owner or master of a vessel) shall—

Observance of collision regulations.  
Cf. C'th, s. 258 (2), (3); N.Z., s. 287.

(a) contravene or fail to comply with any of the provisions of the collision regulations; or

(b) carry or exhibit any lights or shapes, or carry or use any means of making fog signals, other than those that are required or permitted by the collision regulations to be carried, exhibited, or used.

Penalty: One hundred pounds.

“(2) The conviction of a person for an offence against the provisions of the collision regulations does not relieve that person from civil liability for damage occasioned by the default of that person.

“(3) If any injury or damage to a person or property arises from the non-observance by or in relation to a vessel of any of the provisions of the collision regulations, the injury or damage shall be deemed to have been occasioned by the default of the master or officer in charge of the deck of the vessel at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulations necessary.”.

**19** Sections one hundred and twenty-eight and one hundred and twenty-eight A of the Principal Act are repealed and the following headings and sections are substituted therefor:—

“*Division I—Application of this Part.*

Application  
of Part XIV.

“128 Nothing in this Part applies to or in relation to—

- (a) vessels used as pleasure yachts only; or
- (b) a vessel, or a vessel included in a class of vessels, declared by the Minister, by order made on the recommendation of the Authority, to be a vessel or class of vessels to which the provisions of this Part do not apply.

“*Division II—Survey of vessels generally.*

Annual  
survey.

“128A The owner of a vessel (other than a vessel to which Division III or Division IV of this Part applies) shall cause the vessel to be surveyed, in accordance with the provisions of this Division, at least once in each year.”.

Survey:  
How made.

**20** Section one hundred and twenty-nine of the Principal Act is amended—

- (a) by omitting from paragraph (c) thereof the words “shipwright surveyor” (first occurring) and substituting therefor the words “surveyor of ships”; and
- (b) by omitting therefrom the word “board” (wherever occurring) and substituting therefor, in each case, the word “Authority”.

Certificates  
for vessels.

**21** Section one hundred and thirty of the Principal Act is amended—

- (a) by omitting from subsection (1) thereof the words “and of the machinery, if any”;
- (b) by adding at the end of that subsection the words “or, as the case may be, for the other purposes for which the vessel is or is intended to be employed”;
- (c) by omitting from that subsection and from subsection (3) thereof the word “board” (wherever occurring) and substituting therefor, in each case, the word “Authority”; and
- (d) by omitting subsection (4) thereof.

**22** Section one hundred and thirty-one of the Principal Act is amended— Kinds of certificates.

(a) by omitting paragraph (a) of subsection (1) thereof and substituting therefor the following paragraph:—

“(a) within the limits of some port, or of some part thereof;”;

(b) by omitting paragraph (a) of subsection (2) thereof and substituting therefor the following paragraph:—

“(a) within the limits of some port, or of some part thereof;” and

(c) by adding at the end thereof the following subsection:—

“(4) The Governor, on the recommendation of the Authority, may, by regulation, define the limits of—

(a) any port; or

(b) any coast trade,

for the purposes of this section.”.

**23** Sections one hundred and thirty-three and one hundred and thirty-four of the Principal Act are repealed and the following Divisions are substituted therefor:—

“*Division III—Fishing vessels.*”

“133—(1) This section applies to and in relation to all fishing vessels of an overall length of sixty feet or less, other than those that are used solely for pleasure and not for profit or reward. Fishing vessels.

“(2) The owner of a vessel to which this section applies shall cause it to be surveyed, as prescribed, at least once in each year.

“(3) If it is satisfied that the survey at any time of a vessel to which this section applies would occasion unreasonable or unnecessary expense or inconvenience to the owner, and that no danger to the vessel or its crew would be caused by an extension of time for the survey, the Authority may extend the time within which, but for this subsection, the vessel would have been required to be surveyed for such period (not exceeding one month) as the Authority may think fit.

“(4) No person shall cause or permit a vessel to which this section applies to ply—

(a) seaward from a port; or

(b) on a voyage within the limits of a port, or on any inland waters,

within the jurisdiction of the Authority unless—

(c) there is in force in relation to the vessel a certificate of survey and sufficiency granted by the Authority; and



(d) the vessel—

- (i) is in charge of a person who is the holder of a certificate of the appropriate prescribed kind or class granted by the Authority; and
- (ii) carries as crew such persons, holding such certificates, or possessed of such experience and qualifications, if any, as are prescribed in the regulations.

“(5) A certificate of survey and sufficiency issued for the purposes of this section in relation to a vessel may specify—

- (a) the waters in which the vessel may be employed; or
- (b) the limits beyond which the vessel may not be employed,

and in that case no person shall cause or permit the vessel to ply or to be employed in waters other than the waters so specified or, as the case may be, in waters outside the limits so specified.

“(6) No person shall cause or permit a vessel to which this section applies to ply—

- (a) seaward from a port; or
- (b) on a voyage within the limits of a port, or on any inland waters,

within the jurisdiction of the Authority, unless the vessel is provided with such equipment as is prescribed.

“(7) A person who contravenes or fails to comply with a provision of this section that is applicable to him is guilty of an offence against this Act.

Penalty: One hundred pounds.

“*Division IV—Launches.*

Launches.

“134—(1) This section applies to and in relation to any launch (whether decked, undecked, or partly decked) that—

- (a) is propelled by an engine of any kind;
- (b) is used for plying for hire or is held or let for hire or reward; and
- (c) does not exceed an overall length of sixty feet, measured as prescribed.

“(2) The Authority may, as prescribed—

- (a) grant a licence for a launch to ply for hire or to be held or let for hire or reward and—
  - (i) grant a licence to a person to have charge of a launch so licensed, or of its engines, or both, or of a similar launch or engine or both; and
  - (ii) provide for the examination of persons applying for licences under sub-paragraph (i) of this paragraph;

- (b) grant a licence for a launch to be hired without master, engineer, crew, or boatman; and
- (c) in either case, fix by the licence the number of persons to be carried in the launch and in what waters it may ply or be used.

“(3) The Authority shall not grant a licence under this section—

- (a) in respect of a vessel, unless it has been surveyed as prescribed; or
- (b) to a person, unless he has passed an examination conducted by the Authority for the purposes of this section.

“(4) The nature of any—

- (a) survey to be made; and
- (b) examination to be conducted,

for the purposes of this section shall be determined by the Authority.

“(5) The Authority may at any time cancel or suspend any licence granted under this section.

“(6) A person who is aggrieved by the cancellation or suspension by the Authority of a licence under this section may appeal from that cancellation or suspension to a court of survey.

“(7) If a launch to which this section applies plies for hire or is held or let for hire or reward while it is unlicensed the owner and the person in charge of the launch is each guilty of an offence against this Act.

Penalty: Twenty-five pounds.

“(8) If a person hires a launch to which this section applies—

- (a) that is unlicensed; or
- (b) without any master, engineer, crew, or boatman (except where the launch is licensed pursuant to paragraph (b) of subsection (2) of this section),

that person is guilty of an offence against this Act.

Penalty: Twenty-five pounds.

“(9) If a person carries, or permits to be carried, on a launch plying for hire or hired without master, engineer, crew, or boatman any greater number of persons than the number specified in that behalf in the licence issued in respect of the launch that person is guilty of an offence against this Act.

Penalty: Twenty-five pounds, with an additional ten shillings in respect of each person in excess of the number permitted to be carried.

“(10) No person shall have charge of a launch plying for hire or let on hire, or of its engines, or of both, unless he holds a valid licence granted by the Authority in respect of the launch.

Penalty: Twenty-five pounds.”.

Heading to  
Division V  
of Part XIV.

**24** Before section one hundred and thirty-five of the Principal Act the following heading is inserted:—

“*Division V—General.*”.

**25** Sections one hundred and thirty-six and one hundred and thirty-seven of the Principal Act are repealed and the following sections are substituted therefor:—

Vessel not to  
be employed  
without  
certificate.

“136—(1) No vessel that is required to be surveyed under this Part shall be employed for any purpose of navigation or shipping unless—

- (a) the owner thereof is the holder of a subsisting certificate of survey and sufficiency in respect of the vessel applicable to the trade or purpose in or for which the vessel is engaged or employed; and
- (b) that certificate, or a true and legible copy thereof, is at all times kept exhibited in a conspicuous place on the vessel.

“(2) If a vessel is employed for any purpose of navigation or shipping in contravention of any of the provisions of subsection (1) of this section, the owner of the vessel and the master thereof is each guilty of an offence.

Penalty: In the case of a contravention of paragraph (a) of subsection (1) of this section, one hundred pounds; in the case of a contravention of paragraph (b) of that subsection, twenty-five pounds.

“(3) In a prosecution in respect of an offence under the foregoing provisions of this section, the onus of proving the holding or exhibition of a certificate lies on the defendant.

“(4) If a vessel carries more passengers (whether deck passengers or other passengers) than the number stated in its certificate of survey and sufficiency the owner of the vessel and the master thereof, is each guilty of an offence.

Penalty: Twenty-five pounds, together with ten shillings for each passenger in excess of the number so stated.

Regulations  
as to fees, &c.,  
payable for  
certificates.

“137—(1) The Governor may, on the recommendation of the Authority, make regulations prescribing the fees to be paid in respect of the survey of vessels and the granting of certificates, licences, and permits under this Part and by candidates desiring to submit themselves for examination under this Part or under Part XIVA.

“(2) The regulations made under the authority of this section may—

- (a) prescribe different fees in respect of different kinds of examinations;
- (b) prescribe different fees in respect of different kinds or classes of certificates, licences, and permits, and provide that the fees payable therefor shall differ according to differences in the tonnage or length, or differences in the kinds or classes, of vessels in respect of which they are granted; and
- (c) provide that, in the case of the survey of a vessel, the owner thereof shall, in addition to paying the prescribed fee for a certificate of survey and sufficiency, pay to the Authority, if it so requires, such reasonable charges as may be prescribed or as the Authority may determine for the purpose of defraying the costs of transport and sustenance necessarily incurred by the surveyor in proceeding to and from the place at which the vessel is surveyed.

“137A The fees received by the Authority under any regulations made pursuant to section one hundred and thirty-seven shall be apportioned between the funds of the Authority and the Consolidated Revenue in such manner as may be prescribed in the regulations.” Application of fees.

**26** Section one hundred and thirty-eight of the Principal Act is amended— Cancellation, &c., of certificate.

- (a) by omitting therefrom the words “A board” and substituting therefor the words “The Authority”; and
- (b) by adding at the end thereof the following subsection:—

“(2) Where a certificate expires or is cancelled or suspended, the owner or master of the vessel to which it relates, on demand therefor being made by the secretary of the Authority, shall forthwith deliver up the certificate to the secretary.”

**27** Section one hundred and thirty-nine of the Principal Act is repealed. Open launches.

**28** Section one hundred and forty-one of the Principal Act is repealed. Signature of certificates, &c.

**29** Section one hundred and forty-two of the Principal Act is amended by adding at the end thereof the following subsections:— Exemptions.

“(2) Where the Authority is satisfied that public convenience with regard to the transport of passengers or cargo from a port to any other port or place in this State cannot otherwise be reasonably and economically served, the Authority may grant to the owner of any vessel not exceeding seventy-five tons gross register, and usually engaged in fishing, a permit to carry passengers and cargo or either passengers or cargo, not exceeding such number or quantity respectively as may be specified in the permit, between the port of departure and the other port or place, in either direction, without compliance with such of the provisions of this Part as may be specified in the permit, subject to such conditions as the Authority may impose.

“(3) A permit in force under this section shall, subject to compliance with its conditions, be deemed to be a valid certificate under this Part in respect of the matters to which it relates.”.

New Part  
XIVA.

**30** Before section one hundred and forty-four of the Principal Act the following heading is inserted:—

“PART XIVA.

“CERTIFICATES OF COMPETENCY.”.

Grant of  
certificates.

**31** Section one hundred and forty-four of the Principal Act is amended—

- (a) by omitting from subsection (1) thereof the words “Each board” and substituting therefor the words “The Authority”;
- (b) by omitting from that subsection the word “trading” and substituting therefor the word “plying”;
- (c) by inserting after that subsection the following subsection:—

“(1A) The Authority may grant certificates of the prescribed kinds or classes in respect of fishing vessels plying in waters within the jurisdiction of the Authority to—

- (a) skippers;
- (b) coxswains;
- (c) engineers;
- (d) engine drivers; and
- (e) deck hands.”;
- (d) by omitting from subsection (2) thereof the word “board” and substituting therefor the word “Authority”, and by omitting from paragraph (b) of that subsection the words “and fix the fees payable by applicants”; and
- (e) by adding at the end thereof the following subsection:—

“(4) The Authority shall not admit to examination for a certificate under this section a person who—

- (a) is not a natural-born or naturalized British subject;
- (b) does not, in the opinion of the Authority speak the English language intelligibly; or
- (c) does not possess the prescribed qualifications.”.

**32** Section one hundred and forty-seven of the Principal Act is repealed.

Vessel not to be employed without certificate.

**33** Section one hundred and forty-eight of the Principal Act is amended—

Right of holders of seagoing certificates to navigate in Tasmanian waters.

- (a) by inserting in subsection (1) thereof, after the words “seagoing vessel,” the words “or as a marine engine-driver or marine motor-driver (as defined in the regulations) of a river and harbour vessel,”;
- (b) by omitting from subsection (2) thereof the words “(other than a fishing boat)”, and by omitting from that subsection the words “a board” and substituting therefor the words “under this Part”; and
- (c) by adding at the end thereof the following subsection:—
  - “(3) In this section, ‘river and harbour vessel’ means a vessel that is engaged in the river and harbour trade (as defined in section one hundred and fourteen A).”.

**34** After section one hundred and forty-eight of the Principal Act the following section is inserted in Part XIV:—

“148A—(1) Subject to this section, no person shall act as both master and engineer—

Person not to act as both master and engineer in certain cases.

- (a) of a seagoing vessel; or
- (b) except with the approval in writing of the Authority, of any other kind of vessel.

“(2) The Authority, having regard to the size or equipment of any vessel, or the method of propulsion of any vessel, or the purposes for which or waters in which any vessel is or is intended to be used, may, in its discretion, by notice in writing to the owner or master of that vessel exempt that vessel from the operation of this section either unconditionally or upon and subject to such terms and conditions as the Authority may impose and as may be specified in the notice.

“(3) A notice under subsection (2) of this section—

- (a) has effect according to its tenor; and

(b) may at any time be revoked by the Authority, in its discretion, if the Authority considers it desirable that it should be revoked.”.

Courts of inquiry and of survey.

**35** Section one hundred and forty-nine of the Principal Act is amended—

(a) by inserting in subsection (2) thereof, after the word “under”, the words “section one hundred and thirty-four or”;

(b) by omitting paragraph (b) of subsection (3) thereof and substituting therefor the following paragraph:—

“(b) There shall be two assessors (being persons of nautical, engineering, or special skill) appointed by the Governor to assist the court from a list of assessors kept by the Authority in accordance with the regulations;”;

(c) by inserting in paragraph (c) of that subsection, before the word “board”, the words “Authority or”;

(d) by omitting from paragraph (ba) of that subsection the word “A” and substituting therefor the words “Subject to the regulations, a”.

Meaning of registered tonnage.

**36** Section one hundred and fifty-six of the Principal Act is amended by omitting therefrom the words “shipwright surveyor” and substituting therefor the words “surveyor of ships”.

**37** Section one hundred and sixty-two of the Principal Act is repealed and the following section is substituted therefor:—

Appropriation of fines, &c.

“162—(1) All—

(a) fines and penalties imposed under this Act in proceedings in respect of an offence in which a board or trust is the complainant; and

(b) damages and expenses recovered under this Act in proceedings in respect of damage to the property of a board or trust,

shall be paid to that board or trust.

“(2) Except as provided in subsection (1) of this section, all fines, penalties, damages, and expenses enforced or recovered under this Act shall be paid to the Authority.”.

**38** After section one hundred and sixty-nine of the Principal Act the following Division is inserted:—

*“ Division VII—Regulations.*

“ 169A—(1) In addition to the regulations authorized to Regulations  
be made by any other provision of this Act, the Governor  
may, on the recommendation of the Authority, make regula-  
tions for or with respect to—

- (a) the respective numbers and qualifications of the masters and officers of vessels and of all or any of the several descriptions of persons to be carried as crew in vessels;
- (b) the equipment to be carried in vessels and the nature thereof and the use and maintenance thereof;
- (c) the inspection and survey of vessels and of the hull and equipment thereof;
- (d) the carriage and storage of deck cargo and livestock on vessels; the conditions to be observed in relation to the carriage and storage thereof; and the places or parts of vessels in which deck cargo may or may not be carried or stored and the places or parts of vessels in which livestock may or may not be carried;
- (e) the conduct of musters and drills (including practice musters and practice drills); the allotment of crew and passengers to lifeboats and muster stations; and the books and records to be kept in relation thereto by the masters or other prescribed officers of ships;
- (f) the carriage and storage on vessels of dangerous or hazardous substances (as defined in the regulations) and the precautions and conditions to be observed in relation to the carriage and storage thereof; the marking or branding of dangerous or hazardous substances or of packages in which they are contained; the giving of notices to the Authority or to prescribed bodies or persons in relation to the carriage, storage, or handling, or proposed carriage, storage, or handling, of dangerous or hazardous substances; the inspection of dangerous or hazardous substances carried or proposed to be carried in vessels; and the places or parts of vessels in which dangerous or hazardous substances may or may not be carried or stored;
- (g) the prevention of accidents resulting from the use, in waters not within the jurisdiction of a board or trust, of vessels of prescribed kinds or classes; the licensing of those vessels; the cases in which and grounds upon which licences in respect of those vessels may be cancelled or suspended; and the prohibition of the use, either generally or in a particular manner or in particular cases, of vessels so required to be licensed



unless they are in charge of persons holding such certificates of competency or possessing such other qualifications as are prescribed;

- (h) the reporting of casualties;
- (i) the records to be kept in relation to vessels of prescribed kinds or classes (including registers to be kept by persons who let out vessels for hire or reward); and the inspection of those records;
- (j) the equipping of vessels with radio installations and radio navigational aids and the operation, maintenance, and use on vessels of those installations and aids; the requirements with which those installations and aids shall comply and the survey, inspection, and testing thereof; and the number of operators of those installations and aids to be carried on vessels and the grades and qualifications of those operators;
- (k) the procedure to be observed at preliminary inquiries conducted by the Authority and by courts of inquiry and of survey, the giving and service of notices, charges, process, and other documents by and to parties to proceedings on those inquiries or before those courts, the appointment and summoning of nautical assessors, and the qualifications and classification of nautical assessors, the fees and allowances to be paid to nautical assessors and the persons by whom they are to be paid, and the allowances to be paid to witnesses and interpreters appearing or attending before any such inquiry or court;
- (l) the matters in respect of which fees shall be payable and the amounts of those fees, the persons who shall be liable for payment of those fees, and the time and manner of payment of those fees; and
- (m) the appointment, remuneration, suspension, dismissal, leave of absence for recreation or on account of sickness, and conditions of employment generally of officers and employees of the Authority.

“(2) Regulations made under this section may impose a penalty not exceeding two hundred pounds or three months’ imprisonment in respect of offences against the regulations.

“(3) Regulations made under this section—

- (a) may be of general or specially limited application;
- (b) may apply to or in relation to vessels generally or vessels of specified kinds or classes;
- (c) may differ according to differences in the purposes for which vessels are used, or in time, locality, place, or circumstance;

(d) may exempt from the operation of the regulations (either wholly or to a specified extent) vessels of prescribed kinds or classes or vessels used for specified purposes; and

(e) may prescribe different fees according to differences in tonnage, length, draught, or other characteristics of vessels to which they relate.

“(4) In the making of regulations in regard to any matter specified or referred to in subsection (1) of this section, regard shall be had to the requirements of the laws (if any) of the Commonwealth with respect to that matter.

“(5) If a provision of a by-law made under the *Local Government Act 1962* is inconsistent with a provision of a regulation made under this Act, the last-mentioned provision, to the extent of the inconsistency, prevails.”.

**39** The sections of the Principal Act that are specified in the first column of the schedule to this Act are amended as respectively specified in the second column of that schedule. Consequential amendments.

**40** Any— Transitory provisions.

(a) certificate of survey and sufficiency or certificate of competency granted under the Principal Act; or

(b) permit under section one hundred and twenty-eight of that Act,

granted by a board before, and in force at the date of, the commencement of this Act shall, subject to the provisions of the Principal Act (as amended by this Act), continue in force for the period for which it was granted, and may be renewed, cancelled, suspended, or otherwise dealt with, in accordance with those provisions, by the Authority as if it had been granted by the Authority after the commencement of this Act.

## THE SCHEDULE.

(Section 39.)

### CONSEQUENTIAL AMENDMENTS.

FIRST COLUMN. Section amended.	SECOND COLUMN. How amended.
5	By omitting from the definition of “owner” the words “a board or trust” and substituting therefor the words “the Authority”.
108	By omitting from subsection (2) the word “board” (wherever occurring), and substituting therefor, in each case, the word “Authority”.
117	By inserting in subsection (2), before the word “board”, the words “Authority or, as the case may be, to the”.

FIRST COLUMN. Section amended.	SECOND COLUMN. How amended.
	By omitting from that subsection the words "shipwright surveyor" and substituting therefor the words "surveyor of ships".
	By inserting in subsection (4), before the word "board" (first occurring), the words "Authority or, as the case may be, the".
	By inserting in that subsection, before the word "board" (last occurring), the words "Authority or the".
118	By inserting in subsection (2), before the word "board", the words "Authority or, if the detention was ordered by a board, to the".
120	By omitting the words "a board" and substituting therefor the words "the Authority or of a board or trust".
	By omitting the word "board" (last occurring) and substituting therefor the words "Authority or the board or trust".
121	By omitting the words "the board" (wherever occurring) and substituting therefor, in each case, the words "the Authority or the board or trust".
122	By omitting from subsection (1) the words "the board" and substituting therefor the words "the Authority or, as the case may be, the board or trust".
	By omitting from subsections (3), (4), and (5) the words "the board" (wherever occurring) and substituting therefor, in each case, the words "the Authority, board, or trust, as the case may be".
	By omitting from subsection (4) the words "a board" and substituting therefor the words "the Authority, board, or trust".
126	By omitting from paragraph (a) the word "board" and substituting therefor the word "Authority".
127	By inserting before the words "a board" the words "the Authority or".
131	By omitting the word "board" (wherever occurring) and substituting therefor, in each case, the word "Authority".
135	By omitting the words "a board" (wherever occurring) and substituting therefor, in each case, the words "the Authority".
140	By omitting from subsection (1) the word "board" (twice occurring) and substituting therefor, in each case, the word "Authority".
165	By inserting before the words "a board" the words "the Authority or upon".
166	By inserting before the words "any board" (first occurring) the words "the Authority or of".
	By inserting before the words "a board" the words "the Authority or".
	By inserting before the word "warden" the words "member or officer of the Authority or of any".
167	By inserting after the word "against" the words "the Authority or".
168	By omitting subsection (1B).