

SUPPLEMENT to the Solomon Islands GazetteFriday 7th October, 2011

S.I. No.36

[Legal Notice No. 65]

**AGRICULTURAL AND LIVESTOCK (PLANT PROTECTION) RULE
(LN 88 OF 1986)****AGRICULTURAL AND LIVESTOCK (QUARANTINE AREA) ORDER 2011**

IN exercise of the powers conferred upon me by rule 6 of the Agricultural and Livestock (Plant Protection) Rule, I make this Order –

Citation and commencement

1. This Order may be cited as the Agriculture and Livestock (Quarantine) Order 2011, and comes into force on the date of publication in the *Gazette*.

Interpretation

2. In this Order, unless the context otherwise requires –

“cocoa pod borer” means the pest known as *conopomorpha cramerella* that destroys or affects cocoa plant;

“cocoa plant” includes cocoa seeds or cocoa pod, cocoa cuttings or any other part of cocoa plants;

“control measures” includes activities such as spraying of insecticides, pruning, removal of cocoa pods and other risk materials, removal or destruction of host plant species and restrictions on the movement of cocoa plant or other host plant materials in and out of quarantine areas;

“host plant” means rambutan, akwa, kola or nam-nam or any other plant capable of harbouring cocoa pod borer;

“quarantine area” means any area demarcated for the purposes of investigation, control and eradication of cocoa pod borer

Declaration of
quarantine areas

3. The following areas are declared as quarantine areas –

- (a) Mono Island and Stirling Island as they are considered to be an area with cocoa borer infestation.
- (b) any other island in the Shortland Islands group [or in the Western Province], considered by the Director of Quarantine, areas at risk from infestation.

Removal of cocoa
plant from quaran-
tine area

4. No person shall –

- (a) take or remove or cause to be taken or removed any cocoa plant or host plant from the quarantine area;
or
- (b) bring into or cause to be brought into the quarantine area any cocoa plant or host plant.

5. Any cocoa plant, host plants, or other plant material or item found to be moved from or to a quarantine area in contravention of this Order may –

- (a) be seized and detained by the inspector;
- (b) be destroyed by or under the supervision of the inspector without payment of any compensation.

Duty of person-in-
charge of vessels

6. The person-in-charge of a vessel or boat travelling from any quarantine area shall not allow any cocoa plant or any other risk item than may be infested with cocoa pod borer to be transported through the vessel.

- (1) Any cocoa plant, host plant, plant or any other materials or item that may be infested with cocoa pod borer may –
 - (a) be seized and detained by the inspector; and
 - (b) be destroyed by or under the supervision of the inspector without mandatory payment of any compensation.

(2) If the inspector has reasonable suspicion that an area may be infested with cocoa borer, the inspector may take appropriate control measures which may include the destruction of any cocoa plant, host plant, plant or any other material or item even though the cocoa plant, plant or any other material or item is not infested.

(3) The Permanent Secretary or person authorised in writing by the Permanent Secretary may, in writing, agree appropriate compensation with the owner of the cocoa plant, plant or any other material or item to be destroyed under subparagraph (1) and (2).

7. A person who contravenes paragraph 4, 5, or 6 commits an offence and is liable on conviction to a fine not exceeding 5,000 penalty units or to 6 months imprisonment. Offence and penalty

MADE AT HONIARA this fifteenth day of September, 2011.

HON. CONNELLY SANDAKABATU
Minister for Agriculture and Livestock

[Legal Notice No. 66]

**SHIPPING (DANGEROUS GOODS AND IMDG CODE)
REGULATIONS 2011**

ARRANGEMENT OF REGULATIONS

PART 1 - PRELIMINARY

1. Citation
2. Interpretation

**PART 2 - INDIVIDUAL RESPONSIBILITIES FOR
DANGEROUS GOODS**

3. Application of this Part
4. Responsibilities of Shippers
6. Responsibilities of Owners
7. Responsibilities of Harbourmasters
8. Responsibilities of Consolidators and Packers
9. Responsibilities of All Persons

**PART 3 - REQUIREMENTS APPLYING TO EXPLOSIVES
AND INFLAMMABLE GOODS**

10. Application of this Part
11. Explosives in Passenger Ships
12. Other dangerous goods not permitted on Passenger Ships
13. Inflammable liquids
14. Copra and other goods liable to spontaneous combustion

**PART 4 - SHIPS CARRYING DANGEROUS LIQUID
CHEMICALS IN BULK**

15. Application of this Part
 16. Requirements for new chemical carriers
 17. Requirements for existing chemical carriers
-

PART 5 - SHIPS CARRYING LIQUEFIED GASES IN BULK

18. Application of this Part
19. Requirements for new gas carriers
20. Requirements for existing gas carriers

PART 6 - REPORTING AND HANDLING OF DANGEROUS GOODS INCIDENTS

21. Application of this Part
22. Dangerous goods that have been offered to a ship in a Solomon Islands port
23. Dangerous goods incidents on a ship in a Solomon Islands port
24. Dangerous goods incidents at sea
25. Obligation to have incident plans

PART 7 - MISCELLANEOUS PROVISIONS

26. Standards and Codes of Practice
27. Offences against these Regulations
28. Prescribes forms and requirements
29. Repeal of Shipping (Dangerous Goods) Regulations 1968
30. Transitional and savings provisions
31. Application of other laws

Schedules

SHIPPING ACT 1998
(No. 5 of 1998)

**SHIPPING (DANGEROUS GOODS AND IMDG CODE)
REGULATIONS 2011**

IN exercise of the powers conferred upon me by sections 3(2) and 220 of the Shipping Act 1998 and section 25 of the Maritime Safety Administration Act 2009, I do hereby make these Regulations –

PART 1 - PRELIMINARY

Citation **1.** These Regulations may be cited as the Shipping (Dangerous Goods and IMDG Code) Regulations 2011.

Interpretation **2.** (1) In these Regulations, unless the contrary intention appears –

“the Act” means the Shipping Act 1998;

“the Administration” means the Solomon Islands Maritime Safety Administration established under the Maritime Safety Administration Act 2009;

“Bulk Chemical Code” or “BCH Code” means the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the IMO by Assembly Resolution A.212(VII), as amended from time to time;

“cargo” includes mail and passengers baggage;

“chemical carrier” means a non-passenger ship constructed or adapted and used for the carriage in bulk of any liquid product listed in chapter 17 of the International Bulk Chemical Code;

“Code for Existing Ships Carrying Liquefied Gases in Bulk” means the Code for Existing Ships Carrying Liquefied Gases in Bulk adopted by the IMO Resolution A.329(IX), as amended from time to time;

“consolidator” means a person who packs or supervises packing of cargo for various shippers into a container or vehicle for transport by sea;

“container” or “freight container” means an article of transport equipment that is –

- (a) of permanent character and accordingly strong enough to be suitable for repeated use; and
- (b) specially designed to facilitate the transport of goods, by one or more modes of transport, without intermediate reloading; and
- (c) designed to be secured or readily handled or both, having fittings for these purposes – but does not include a vehicle or packaging (other than a container that is carried on a chassis);

“constructed” in respect of a ship means a stage of construction where –

- (a) the keel of the ship is laid; or
 - (b) construction identifiable with the specific ship has begun; or
 - (c) assembly of that ship has commenced comprising at least 50 tonnes or 1% of the estimated mass of all structural material, whichever is less;
-
-

“dangerous goods” means –

- (a) any substance, in packaged form or in solid form in bulk, listed and classified according to its hazards in the IMDG Code; and
- (b) any harmful substance;
- (c) any substance liable to spontaneous combustion (including copra); and
- (d) empty receptacles that have been used for substances specified in paragraph (a), unless the receptacles have been cleaned, subsequently dried, and, where appropriate, gas freed –

but does not include goods forming part of the equipment or stores of the ship in which they are carried;

“dangerous goods document” means a certificate for a consignment of dangerous goods containing the information required by Volume 1, Section 9.3, 9.5, 9.6 and 9.7 of the IMDG Code;

“dangerous goods list or manifest” and “list or manifest” means –

- (a) a special list or manifest setting out the dangerous goods on board and their location on board; or
- (b) a detailed stowage plan that identifies by class, and sets out the location of, all dangerous goods on board;

“Director” has the same meaning given in the Maritime Safety Administration Act 2009;

“explosive” includes alal substances used or manufactured with a view to producing a practical effect by explosion, or a pyrotechnic effect, or any other substance which by experience has been or may be found to produce such an effect;

“foreign ship” means any ship that is not a Solomon Islands ship;

“gas carrier” means a non-passenger ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in chapter 19 of the International Gas Carrier Code;

“Gas Carrier Code” means the Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk adopted by the IMO Resolution A.328(IX), as amended from time to time;

“harbourmaster”, in relation to a port, means any person appointed as a harbourmaster of that port under the Ports Act [Cap. 161], and includes any person lawfully acting in that capacity;

“harmful substance” means –

- (a) any substance in packaged form for the time being identified as a marine pollutant in the IMDG Code; and
- (b) any empty packaging that has been used previously for the carriage of a substance specified in paragraph (a), unless adequate precautions have been taken to ensure that the packaging contains no residue that is harmful to the marine environment –

but does not include ship’s stores and equipment;

“IMO” means the International Maritime Organisation;

“in bulk” means carried in the cargo or other spaces of a ship without any intermediate form of containment or packaging;

“intermediate bulk container” or “IBC” means any rigid, semi-rigid or flexible portable packaging, other than those specified in Parts 4 and 6 of the IMDG Code, that –

- (a) has a capacity of –
 - (i) not more than 3.0 cubic metres (3000 litres) for solids and liquids of packaging group II and III; or
 - (ii) not more than 1.5 cubic metres for solids of packaging group I when packed in flexible, rigid plastics, composite, fibreboard or wooden IBCs; or
 - (iii) not more than 3.0 cubic metres for solids of packaging group I when packed in metal IBCs; and
- (b) is designed for mechanical handling; and
- (c) is resistant to the stresses produced in handling and transport, as determined by the tests specified in Volume 1 of the IMDG Code –

but does not include any portable tank;

“International Gas Carrier Code” or “IGC Code” means the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk adopted by the Maritime Safety Committee of the IMO by Resolution MSC.5(48), as amended from time to time;

“labelling” means to durably identify with distinctive label or stencil of the label to make clear the dangerous properties of the goods;

“leakage and spillage” includes –

- (a) any leakage and spillage of dry contents;
and
- (b) emission of radiation at levels that are either directly or indirectly injurious to human health;

“marking” means to durably mark an item with the proper shipping name of the contents, and, when assigned, the corresponding United Nations UN Number preceded by the letters “UN”;

“non-passenger ship” means any ship that is not a passenger ship or a fishing ship;

“offshore installation” or “installation” includes any artificial structure (including a floating structure other than a ship) used or intended to be used in or on, or anchored or attached to, the seabed for the purpose of the exploration for, or the exploitation or associated processing of, any mineral, but does not include a pipeline;

“offshore terminal” means any place in the sea where cargo is loaded or unloaded;

“onshore terminal” means any place at which dangerous goods are stored prior to deliver to a ship to which this Part applies for carriage;

“owner”,-

- (a) in relation to a ship registered in Solomon Islands under the Shipping Act 1998 - means the registered owner of the ship;
- (b) in relation to a ship registered in any place outside Solomon Islands - means the registered owner of the ship;
- (c) in relation to a fishing ship, other than one to which paragraph (a) or (b) of this definition applies - means the person registered as the owner under the Fisheries Act 1998;
- (d) in relation to a ship to which paragraph (a), (b) or (c) applies, where, by virtue of any charter or demise or for any other reason, the registered owner is not responsible for the management of the ship - includes the charterer or other person who is for the time being so responsible; and
- (e) in relation to an unregistered ship or a registered ship that does not have a registered owner - means the person who is for the time being responsible for the management of the ship;

“package” and “packages” are the complete product of the packing operation, consisting of the packaging and its contents prepared for transport;

“packaged form” in relation to harmful substances means the forms of containment specified for harmful substances in the IMDG Code;

“packaging” includes all receptacles, and any other components or materials necessary for the receptacle to perform its containment function;

“passenger” means any person carried on a ship, other than -

- (a) the master and members of the crew, and any other person employed or engaged in any capacity on board the ship on the business of the ship;
- (b) a person on board the ship either in pursuance of an obligation laid upon the master to carry shipwrecked, distressed, or other persons, or by reason of any circumstance that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled; or
- (c) a child under the age of 1 year;

“passenger ship” means a ship that carries more than 12 passengers on a voyage;

“placarding” means affixing an enlarged label (a placard) to the exterior surfaces of a cargo transport unit, unit load, or overpack to provide warning that the contents of the unit are dangerous goods and present risks, unless the labels or marks affixed to the packages are clearly visible from the exterior of the unit;

“placarding” means affixing an enlarged label (a placard) to the exterior surfaces of a cargo transport unit, unit load, or overpack to provide warning that the contents of the unit are dangerous goods and present risks, unless the labels or marks affixed to the packages are clearly visible from the exterior of the unit;

“pleasure craft” means a ship that is used exclusively for the owner’s pleasure or as the owner’s residence, and is not offered or used for hire or reward; but does not include –

- (a) a ship that is provided for transport or sport or recreation by or on behalf of any institution, hotel, motel, place of entertainment, or other establishment or business;
- (b) a ship that is used on any voyage for pleasure if it is normally used or intended to be normally used as a fishing ship or for the carriage of passengers or cargo for hire or reward; or
- (c) a ship that is operated or provided by any club, incorporated society, trust, or business;

“port” has the same meaning as in the Ports Act [Cap. 161];

“Ports Authority” means the Solomon Islands Ports Authority established under the Ports Act [Cap. 161];

“portable tank” means a tank having a capacity of more than 450 litres whose shell is fitted with items of service equipment and structural equipment necessary for the transport of dangerous substances whose vapour pressure is not more than 3 bar (absolute) at a temperature of 50°C. It is a tank that has stabilising members external to the shell and is not permanently secured on board the ship. Its contents should not be loaded or discharged while the tank remains on board. It should be capable of being loaded and discharged without the need of removal of its structural equipment and be capable of being lifted on and off the ship when loaded;

“prescribed documentation” means any document required under a Schedule, the IMDG Code, or as directed in writing by the Director;

“proper shipping name” in respect of any dangerous good, means –

- (a) the same as ‘correct technical name’ as required by Chapter VII Part A Regulation 4.1 of SOLAS; and
- (b) the name distinguished in the General Index, Volume One of the IMDG code with capital letters in the first column headed SUBSTANCE or ARTICLE. Where alternative shipping names are provided in the IMDG Code, the entry most accurately describing the dangerous goods is the appropriate proper shipping name;

“receptacle” means any containment vessel for receiving and holding substances or articles, and includes any vehicle used for that purpose;

“reward” means any remuneration, recompense, or other payment, whether of money or money’s worth;

“shipper” means any person by whom or in whose name or on whose behalf a contract of goods by sea has been concluded with a carrier, or any person by whom or in whose name or on whose behalf the goods are actually delivered to the carrier in relation to the contract of carriage by sea;

“Solomon Islands jurisdiction” means -

- (a) the internal waters of Solomon Islands;
- (b) the territorial sea of Solomon Island;
- (c) the exclusive economic zone of Solomon Island;
- (d) those waters under or about any ship or offshore installation constructed, erected, placed or used in, on, or above the continental shelf of Solomon Island but beyond the outer limits of the exclusive economic zone of Solomon Island in connection with the exploration of the continental shelf or the exploitation of its natural resources;

“Solomon Islands ship” means a ship that is registered under the Shipping Act 1998, and includes a ship that is not registered under the Act but is required or entitled to be registered under the Act;

“Solomon Islands waters” means -

- (a) the territorial sea of Solomon Island; and
- (b) the internal waters of Solomon Island; and
- (c) all rivers and other inland waters of Solomon Island;

“UN number” means the number assigned to an item of dangerous goods in the IMDG Code;

“vehicle” means any road freight or tank vehicle or railway freight or tank wagon permanently attached to an under frame and wheels, or chassis and wheels, that is loaded and unloaded as a unit, and includes a trailer, semitrailer or similar mobile unit (except those used solely for the purposes of loading and unloading);

“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

(2) ~~All words and phrases in these Regulations shall~~ have the same meaning as is given to them under the Shipping Act 1998 and the IMDG Code, unless a contrary intention appears.

**PART 2 - INDIVIDUAL RESPONSIBILITIES FOR
DANGEROUS GOODS**

3. (1) This Part applies to any commercial ship that is on, or about to embark upon, a voyage – Application of
this Part

- (a) to Solomon Islands from any place outside of Solomon Islands jurisdiction; and
- (b) from a Solomon Islands port to any place outside of Solomon Islands jurisdiction.

(2) This Part also applies to any ship that is a pleasure craft that is carrying dangerous goods, or about to carry dangerous goods, that are harmful substances in packaged form, on a voyage referred to in sub-regulation (1).

(3) In this Part, a reference to “ship” is a reference to a ship to which this Part applies in accordance with sub-regulation (1).

4. (1) The master of any ship must ensure that dangerous goods are only loaded on the ship once the master or a person appointed by the master for that purpose has received the prescribed documentation that meets the requirements stated in Schedule 4. Responsibilities
of Masters

(2) The master of a ship must ensure that -

- (a) dangerous goods are only loaded on the ship once the master has received from the owner a list or manifest of the dangerous goods to be loaded; and
- (b) the prescribed documentation is fully and correctly completed.

(3) The master of a ship must ensure that dangerous goods –

- (a) are stowed and kept stowed on the ship in accordance with the requirements stated in Schedule 5, and as required by the IMDG Code; and
-

- (b) that the master knows, or ought to know, are liable to be incompatible and liable to interact dangerously, are kept adequately segregated on board the ship in accordance with –
 - (i) Schedule 5;
 - (ii) the IMDG Code; and
 - (iii) any direction given by the Administration from time to time

 - (4) The master of ship must ensure that –
 - (a) all dangerous goods on board are identified on a dangerous goods list or manifest in accordance with the classifications specified in Schedule 1;
 - (b) the position of any dangerous goods on board the ship is noted on the dangerous goods list or manifest; and
 - (c) where any dangerous good is also a harmful substance in packaged form, this is indicated on the dangerous goods list or manifest.

 - (5) The master of a ship that is carrying dangerous goods must ensure that –
 - (a) the dangerous goods list or manifest referred to in sub-regulation (4) is carried on board the ship; and
 - (b) if the ship departs from a port or offshore installation, a copy of the dangerous goods list or manifest referred to in sub-regulation (4) is provided to the owner of the ship and the harbourmaster.
-
-

(6) The master of a ship must not permit the loading of any package, container or receptacle onto the ship if the master believes that the package, container, or receptacle –

- (a) contains dangerous goods; and
- (b) is not packaged, marked, labelled and documented in accordance with the requirements specified in the Schedules.

(7) The master of a ship must make –

- (a) all dangerous goods documentation; and
- (b) the dangerous goods list or manifest referred to in sub-regulation (4) –

available on request to any harbourmaster, any officer of the Administration and any police officer.

(8) The master of a ship arriving from a voyage outside of Solomon Islands jurisdiction that is carrying dangerous goods must ensure that notice of the arrivals of the ship is given to the harbourmaster of the port at the ship's first port of call, at least 48 hours prior to arrival at that port.

(9) The master of a ship that is arriving from a Solomon Islands port or offshore installation, or any other location within Solomon Islands, that is carrying dangerous goods must ensure that notice of the arrival of the ship is given to the harbourmaster of the port of arrival –

- (a) as soon as practicable; and
 - (b) before the ship enters the port limits declared under the Ports Act [Cap. 161].
-
-

Responsibilities
of Shippers

- 5.** (1) The shipper of any container or vehicle containing dangerous goods being shipped only by that shipper on any ship must –
- (a) fully and accurately complete the prescribed documentation that meets the requirements of Schedule 4; and
 - (b) provide to the owner or the master of that ship the completed documentation.
- (2) The shipper of any dangerous goods that are to be taken on board any ship as a part load in a container or vehicle must –
- (a) fully and accurately complete the prescribed documentation; and
 - (b) provide the completed documentation to the consolidator.
- (3) Any documentation required to be provided by the shipper to an owner, master or consolidator under this regulation must be provided –
- (a) as soon as practicable; and
 - (b) before the dangerous goods are loaded on any ship.
- (4) The shipper of any dangerous goods to be taken on board any ship must ensure that all packaging used for the goods, including IBCs, complies with the prescribed requirements in Schedule 2, and as required by the IMDG Code.

Responsibilities
of Owners

- 6.** (1) The owner of a ship must ensure that dangerous goods are not taken on board the ship until the master or a person appointed by the master for that purpose has received the prescribed documentation for those dangerous goods.
-
-

- (2) The owner of a ship must –
- (a) provide to the master of that ship a list or manifest of the dangerous goods to be loaded as soon as practicable, and before the dangerous goods are loaded on the ship; and
 - (b) ensure that dangerous goods are not taken on board the ship until the owner has delivered to the master of the ship the list or manifest of dangerous goods to be loaded.
- (3) The owner of a ship arriving from a voyage from outside of Solomon Islands jurisdiction, that is carrying dangerous goods must ensure that a copy of the dangerous goods list or manifest for the arrival condition of the ship including –
- (a) the UN number and class of every dangerous good; and
 - (b) the quantity of every dangerous good –
- is supplied to the harbourmaster at the ship's first port of call, at least 48 hours prior to the ship's arrival.
- (4) The owner of a ship that is arriving from a Solomon Islands port, that is carrying dangerous goods must ensure that a copy of the dangerous goods list or manifest for the arrival condition of the ship including –
- (a) the UN number and class of every dangerous good; and
 - (b) the quantity of every dangerous good
- is supplied to the harbourmaster as soon as practicable, and before the ship enters the port limits.
-
-

(5) Any owner who receives a copy of the dangerous goods list or manifest under this regulation must keep that copy available for inspection by the Director at all times –

(a) until the ship is known to have arrived safely at its destination; or

(b) for six months –

whichever is the shorter period.

(6) The owner of a ship must ensure that –

(a) dangerous goods are stowed and kept stowed on the ship in the manner specified in Schedule 5; and

(b) dangerous goods that the owner knows, or ought to know, are liable to be incompatible and liable to interact dangerously, are kept adequately segregated on board the ship in the manner under Schedule 5.

(7) The owner of a ship must not permit the loading of any package, container or receptacle onto the ship if the owner believes that the package, container or receptacle –

(a) contains dangerous goods; and

(b) is not packaged, marked, labelled, and documented in the manner specified in the Schedules.

Responsibilities of
Harbourmasters

7. Any harbourmaster's who receives a copy of the dangerous goods list or manifest under these Regulations must keep that copy available for inspection by the Director at all times –

(a) until the ship is known to have arrived safely at its destination; or

(b) for six months -

whichever is the shorter period.

8. (1) Any consolidator of any container or vehicle containing dangerous goods and intended for shipment in any ship must – Responsibilities
of Consolidators
and Packers

- (a) not pack the dangerous goods into a container or vehicle unless that person is in receipt of the prescribed documentation completed by the shipper;
- (b) complete the prescribed documentation; and
- (c) forward all prescribed documentation to the owner or the master of the ship on which the container or vehicle is to be shipped.

(2) Any consolidator of any container or vehicle intended for carriage on any ship, must not load any package into the container or vehicle if he or she believes that the package -

- (a) contains dangerous goods; and
- (b) is not packaged, marked, labelled, and documented in accordance with the Schedules.

(3) Any person who completes packing, for one shipper, any container or vehicle containing dangerous goods intended to be shipped on any ship must -

- (a) ensure that all packaging, including intermediate bulk containers, comply with the requirements specified in Schedule 2;
 - (b) ensure that all marking, labelling, and placarding is in accordance with Schedule 3; and
 - (c) complete and forward to the shipper the prescribed documentation.
-
-

Responsibilities
of all Persons

9. (1) Any person who offers to carry any dangerous goods, or who causes or allows any dangerous goods to be loaded into a ship, must ensure that the dangerous goods are -

- (a) properly marked and labelled in the manner specified in Schedule 3; and
- (b) packaged in such a manner as to withstand the ordinary risks of handling and transport by sea, having regard to the nature and properties of the goods.

(2) A person must not cause or allow any dangerous goods intended for carriage by sea to be packed in a container of any type, or in any vehicle, unless the container or vehicle is marked and labelled in the manner specified in Schedule 3.

(3) A person must not cause any dangerous goods to be loaded onto a ship if -

- (a) the package or receptacle is damaged so as to -
 - (i) permit leakage and spillage; or
 - (ii) be of reduced effectiveness in preventing leakage and spillage; or
- (b) there is evidence of leakage or spillage of the contents.

(4) A person must not cause or permit any dangerous goods in bulk to be loaded into a ship, if that person knows, or ought to know, that the goods cannot be carried safely to the destination to which they are consigned while stowed in bulk.

(5) In connection with the handling, stowage, and carriage of dangerous goods on a Solomon Islands ship, a person must not -

- (a) intentionally or recklessly interfere with or misuse anything provided on that ship; or
- (b) disobey instructions displayed in the interest of health or safety on that ship.

(6) The employer of any person involved in the transportation or handling of dangerous goods intended for carriage by sea must ensure that person has received training that meets the requirements specified in Schedule 7, and any additional requirements imposed by the Director under regulation 28(2).

(7) Any person involved in the transportation or handling of dangerous goods intended for carriage by sea must ensure that they have received training that meets the requirements specified in Schedule 7, and any additional requirements imposed by the Director under regulation 28(2).

PART 3 - REQUIREMENTS APPLYING TO EXPLOSIVES AND INFLAMMABLE GOODS

10. (1) This Part applies to all ships in Solomon Islands waters.

Application of this Part

(2) In this Part, a reference to "ship" is a reference to a ship to which this Part applies in accordance with sub-regulation (1).

11. (1) Subject to sub-regulation (2), the owner and the master of a passenger ship must not carry explosives on that ship, unless -

Explosives in Passenger Ships

- (a) the explosive articles are for life-saving purposes, and the total net explosives mass of such articles does not exceed 50 kg per ship;
- (b) the explosives fall into compatibility groups C, D and E of the IMDG Code, and the total net explosives mass does not exceed 10 kg per ship;
- (c) the explosive articles fall into compatibility group G of the IMDG Code other than those requiring special stowage, and the total net explosives mass does not exceed 10kg per ship; or

- (d) the explosive articles fall into compatibility group B of the IMDG Code, and the total net explosives mass does not exceed 5kg per ship; and
- (e) any such carriage is consistent with the IMDG Code.

(2) The Director may give written approval for the carriage of additional quantities or types of explosives in a passenger ship if special safety measures approved by the Director are taken, and if such arrangements are consistent with the IMDG Code.

Other dangerous goods not permitted on Passenger Ships

12. No person shall take or permit to be taken on board a passenger ship, any quantity of dangerous goods unless those goods, and the quantity to be taken on board, are permissible under any Standards or Codes of Practice published from time to time by the Administration under regulation 26.

Inflammable liquids

13. (1) No inflammable spirits or other goods which the owner or master of a ship (or any employee or agent of the owner or master), knows or ought to know to be inflammable, shall be taken on board any ship for carriage unless –

- (a) the spaces in which such goods are to be carried are adequately ventilated as required by the Director or the Principal Surveyor, or any officer of the Administration acting with the authority of the Director or the Principal Surveyor;
- (b) the ship is equipped with adequate fire-fighting equipment, as required by the Director or the Principal Surveyor, or any officer of the Administration acting with the authority of the Director or the Principal Surveyor;
- (c) no deck passengers are to be carried, except where such goods are stowed on deck in a part of the ship to which passengers are not permitted access, and in such small quantities and containers and so stowed that the goods may be easily jettisoned; and

- (d) adequate measures are taken to prevent smoking cigarettes or anything of that nature, or the use of naked lights and flames in the vicinity of such goods, and such measures must include the prominent display of notices prohibiting smoking and the use of naked lights and flames.

14. (1) No copra or any other goods or substances which the owner or master of a ship (or any employee or agent of the owner or master) knows or ought to know to be liable to spontaneous combustion shall be - Copra and other goods liable to spontaneous combustion

- (a) taken on board any ship unless adequate precautions are taken for the prevention of the spontaneous combustion of the goods or substance; or
- (b) stored in the same compartment as any explosives.

(2) For the purposes copra and other goods or substances referred to in sub-regulation (1) shall be deemed to be dangerous goods.

PART 4 - SHIPS CARRYING DANGEROUS LIQUID CHEMICALS IN BULK

15. This Part applies to all chemical carriers in Solomon Islands waters. Application of this Part

16. The owner and the master of - Requirements for new chemical carriers

(a) a chemical carrier constructed on or after 1 July 1986; or

(b) a ship irrespective of the date of construction, for which conversion to a chemical carrier was commenced on or after 1 July 1986 -

must ensure that the requirements of the IBC Code are complied with.

Requirements
for existing
chemical carriers

17. The owner and the master of a chemical carrier constructed before 1 July 1986 must ensure that -

- (a) the requirements of the BCH Code are complied with; and
- (b) any repairs, alterations, and modifications to the ship of a major character, and any outfitting related thereto, meet the requirements of the IBC Code.

PART 5 - SHIPS CARRYING LIQUEFIED GASES IN BULK

Application of
this Part

18. This Part applies to all gas carriers in Solomon Islands waters.

Requirements for
new gas carriers

19. The owner and the master of -

- (a) a gas carrier constructed on or after 1 July 1986; or
- (b) a ship irrespective of the date of construction, for which conversion to a gas carrier was commenced on or after 1 July 1986 -

must ensure that the requirements of the IGC Code are complied with.

Requirements for
existing gas
carriers

20. (1) The owner and the master of a gas carrier -

- (a) constructed before 1 July 1986 and for which -
 - (i) the building contract is placed after 31 October 1976; or
 - (ii) in the absence of a building contract, the keel of which is laid or that is at a similar stage of construction after 31 December 1976; or

(iii) the delivery is after 30 June 1980; or

- (b) constructed before 1 July 1986 and for which a major conversion has occurred -
- (i) for which the contract was placed after 31 October 1976; or
 - (ii) in the absence of a contract the conversion of which was begun after 31 December 1976; or
 - (iii) that was completed after 30 June 1980 -

must ensure that the requirements of the Gas Carrier Code are complied with.

(2) The owner and the master of a gas carrier constructed before 1 July 1986 and to which the IGC Code and the Gas Carrier Code do not apply, must ensure that all of the requirements of the *Code for Existing Ships Carrying Liquefied Gases in Bulk* are complied with.

(3) The owner and the master of a gas carrier constructed before 1 July 1986 must ensure that any repairs, alterations, and modifications to the ship of a major character, and any outfitting related thereto, meet the requirements of the IGC Code.

PART 6 - REPORTING AND HANDLING OF DANGEROUS GOODS INCIDENTS

21. (1) This Part applies to all ships in Solomon Islands waters. Application of this Part

(2) In this Part, a reference to "ship" is a reference to a ship to which this Part applies in accordance with sub-regulation (1).

22. The master of a ship must notify the Director of any dangerous goods that do not comply with the requirements of the IMDG Code, that have been offered for carriage on the ship in a Solomon Islands port or at a Solomon Islands onshore or offshore terminal. Dangerous goods that have been offered to a ship in a Solomon Islands waters.

Dangerous goods
incidents on a ship
in a Solomon
Islands port

23. (1) The master of a ship must ensure that where a ship that is in a Solomon Islands port or at a Solomon Islands offshore terminal and has on board a package or receptacle from which there is actual or probable leakage or spillage of dangerous goods, the harbourmaster and the Director are notified as soon as possible of such leakage or spillage.

(2) The master of a ship which is in a Solomon Islands port or at a Solomon Islands offshore terminal, and has on board a package or receptacle from which there is actual or probable leakage or spillage of dangerous goods must, subject to sub-regulation (3), ensure that where appropriate -

- (a) the package or receptacle and any dangerous goods that have leaked or spilled from it are not handled; and
- (b) if the package or receptacle is stowed in an underdeck space, the other cargo is not handled in that space; and
- (c) if the package or receptacle is stowed on a deck space, other cargo is not handled on or over the deck space; and
- (d) if the package or receptacle is stowed in an underdeck space, no pumping of the bilges or wells in the space is carried out until the master is satisfied that it is safe to do so.

(3) The master of any ship carrying a package or receptacle referred to in sub-regulation (2) must ensure that commencement or resumption of handling of dangerous goods does not take place until -

- (a) the master, or person authorised by the master, inspects the package or receptacle; and
 - (b) an agreement has been reached with the harbourmaster determining the circumstances under which handling of the package or receptacle may occur.
-

(4) Subject to sub-regulation (5), the master of a ship that is in a Solomon Islands port or at a Solomon Islands offshore terminal must ensure that, when there has been a leakage or spillage of dangerous goods on board the ship, no person is in or on a part of the ship where the leaked or spilled dangerous goods are situated until agreement has been reached with the harbourmaster on giving permission for access to the area.

(5) The master of a ship may allow the following people access to a part of a ship where spilled dangerous goods are situated -

- (a) an officer of the ship;
- (b) the harbourmaster; and
- (c) any person specifically authorised by the master or the harbourmaster

(6) The master of a ship that is in a Solomon Islands port or at a Solomon Islands offshore terminal and that has on board a package or receptacle that for any reason does not comply with these Regulations must as soon as possible notify the harbourmaster and the Director of such non-compliance.

24. (1) The master of a ship must report the particulars of the following incidents to the Director as soon as possible and to the fullest possible extent -

Dangerous goods
incidents at sea

- (a) any actual or probable loss or spillage into the sea of dangerous goods from any ship in Solomon Islands waters;
 - (b) any actual or probable loss or spillage into the sea of dangerous goods from a Solomon Islands ship in any waters; and
 - (c) dangerous goods for which their receptacles have been found damaged on a ship coming to a Solomon Islands port or Solomon Islands offshore terminal, or on a Solomon Islands ship in any waters.
-

(2) Where an incident takes place involving any actual or probable loss or spillage of dangerous goods into the sea from a Solomon Islands ship in waters outside Solomon Islands waters, the master must report the particulars to the nearest coastal state as soon as possible and to the fullest possible extent.

(3) If a ship is abandoned while carrying dangerous goods, or in the event of a report from such a ship being incomplete or unobtainable, the owner must make or complete the report and forward it to the Director as soon as possible and to the fullest possible extent.

Obligation to
have incident
plans

25. The operator of any port that handles any ship that carries dangerous goods must develop, maintain, publicise and conduct exercises in relation to plans for any foreseeable incident concerning dangerous goods on a ship in the port area.

PART 7 - MISCELLANEOUS PROVISIONS

Standards and
Codes of
Practices

26. (1) The Administration may approve and publish Standards and Codes of Practice for any purpose for which they are contemplated or required by these Regulations, or which relate to any aspect of the carriage of dangerous goods at sea and the application of the IMDG Code in accordance with these Regulations.

(2) Without limiting the generality of sub-regulation (1), the Administration may prepare and publish Standards and Codes of Practice specifying -

- (a) classes and types of dangerous goods;
- (b) the properties of dangerous goods of different classes and types;
- (c) quantities of certain dangerous goods;
- (d) maximum quantities permitted on passenger ships and any other type or class of ship;
and
- (e) ~~stowage requirements and other restrictions~~
applying to particular dangerous goods.

27. (1) Any person who commits or permits any act which - Offences against these Regulations
- (a) causes any part of the ship or its cargo to catch fire; or
 - (b) causes any dangerous goods to spill or leak from its container -

commits an offence and liable upon conviction to a fine not exceeding 20,000 penalty units, or to a term of imprisonment for up to 3 months, or both.

(2) Any person who breaches any requirement, duty or obligation provided for in these Regulations or the IMDG Code, or under any Standards or Code of Practice approved by the Administration in relation to the carriage of dangerous goods, for which no offence is stated or no penalty is provided for, commits an offence and liable upon conviction to a fine not exceeding 20,000 penalty units, or to a term of imprisonment for up to 3 months, or both.

(3) It is a defence for an offence against this regulation if the master, owner, shipper or consolidator who is charged with an offence proves that all reasonable steps were taken to prevent the breach.

28. (1) The Minister may, for the purposes of these Regulations, approve forms and documents, and packaging, marking, Prescribed forms and requirements labelling, placarding, stowing or training required under these Regulations.

- (2) Any matter approved under sub-regulation (1) -
- (a) is deemed to be a prescribed requirement;
 - (b) must be published in the *Gazette*; and
 - (c) must be consistent with the IMDG Code

(3) The Minister may approve, allow or apply any form or requirement applying in another jurisdiction to be the prescribed form or requirement for the purposes of these Regulations.

Repeal of Shipping
(Dangerous Goods)
Regulations 1968

29. The Shipping (Dangerous Goods) Regulations 1968 made under the Shipping Act 1967 [Cap. 163] and saved by the Maritime Safety Administration Act 2009 are hereby repealed.

Transitional and
savings provi-
sions

30. (1) At the commencement of these Regulations all existing forms prescribed in the repealed regulations are to continue in use until replaced by forms approved under regulation 28.

(2) All proceedings commenced for breaches of the repealed regulations are saved and may be continued as if those regulations remain in force, and proceedings may be commenced for any breach of the repealed regulations prior to the date of commencement.

(3) The Minister may determine that any of the requirements shall not take effect for a period of not more than 6 months from the date of commencement.

Application of
other laws

31. The provisions shall be read and construed as supplementary to and not in derogation of the provisions of laws relating to explosives, petroleum or dangerous goods, or any other laws of Solomon Islands.

SCHEDULE 1 CLASSIFICATIONS OF DANGEROUS GOODS

Dangerous goods must be divided into the following classes:

(a)	Class 1	Explosives
(b)	Class 2	Gases: compressed, liquefied or dissolved under pressure
(c)	Class 3	Inflammable liquids
(d)	Class 4(a)	Inflammable solids
(e)	Class 4(b)	Substances liable to spontaneous combustion
(f)	Class 4(c)	Substances that, in contact with water, emit flammable gases
(g)	Class 5(a)	Oxidising substances
(h)	Class 5(b)	Organic peroxides
(i)	Class 6(a)	Poisonous (toxic) substances
(j)	Class 6(b)	Infections substances
(k)	Class 7	Radioactive materials
(l)	Class 8	Corrosives
(m)	Class 9	Miscellaneous dangerous substances

**SCHEDULE 2
PACKAGING REQUIREMENTS**

2.1 Packaging Specifications and Standards

- (1) Packaging of dangerous goods must -
 - (a) comply with the specifications of Parts 4 and 6 of the IMDG Code; and
 - (b) be well made and in good condition; and
 - (c) be of such a character that any interior surface with which the contents may come in contact is not dangerously affected by the substance being conveyed; and
 - (d) be capable of withstanding the ordinary risks of handling and carriage by sea; and
 - (e) when used for harmful substances, be adequate to minimise the hazard to the marine environment, having regard to the specific contents.

 - (2) Where absorbent or cushioning material is used in the packaging of liquids in receptacles, that material must be -
 - (a) capable of minimising the dangers to which the liquid may give rise; and
 - (b) so disposed as to prevent movement and ensure that the receptacle remains surrounded; and
 - (c) where reasonably possible, of sufficient quantity to absorb the liquid in the event of breakage of the receptacle.

 - (3) Receptacles containing dangerous liquids must have an ullage at the filling temperature sufficient to allow for the highest temperature during the course of normal carriage.

 - (4) Cylinders or receptacles for gases under pressure must be adequately constructed, tested, maintained and correctly filled.
-
-

- (5) Any packaging of a dangerous good that is an intermediate bulk container manufactured in Solomon Islands for use in transporting dangerous goods must be -
- (a) constructed in accordance with section 26 of the General Introduction of the IMDG Code; and
 - (b) tested, certified, and marked to show that the intermediate bulk container meets the packaging requirements of the IMDG Code; and
 - (c) approved by one of the following -
 - (i) the Director (for classes 1,2,3,4,5 and 9); or
 - (ii) the Ministry of Labour (for Classes 1,2,3,4,5 and 9); or
 - (iii) the Ministry of Health (for Classes 6, 8 and 9); or
 - (iv) a recognised National Radiation Laboratory in the South Pacific Region (for Class 7).

Intermediate bulk containers not manufactured in Solomon Islands must comply with the requirements of the Administration of the country in which they were manufactured and must be tested, certified, and marked to show that the container meets the packaging requirements of the IMDG Code.

- (6) Any packaging for dangerous goods used for international shipping manufactured in Solomon Islands must comply with Annex 1 of the General Introduction to the IMDG Code. It must be constructed in accordance with the design criteria of the IMDG Code, tested, certified, and marked to show that it meets the packaging requirements of the IMDG Code and then approved by one of the following -
- (a) The Director (for classes 1,2,3,4,5 and 9); or
 - (b) the Director of Civil Aviation in Solomon Islands (for classes 1,2,3,4,5,6,8 and 9); or
 - (c) the Ministry of Labour (for Classes 1,2,3,4, 5 and 9); or
 - (d) the Ministry of Health (for Classes 6, 8 and 9); or
 - (e) a recognised National Radiation Laboratory in the South Pacific Region (for Class 7).
-

Packaging for dangerous goods not manufactured in Solomon Islands used for international shipping must comply with the requirements of the Administration of the country in which they were manufactured and must be constructed in accordance with the design criteria of the IMDG Code, and be tested, certified, and marked to show that they meet the packaging requirements of the IMDG Code.

- (7) Any packaging for dangerous goods used only within Solomon Islands waters must -
- (a) comply with one of the following sets of requirements -
 - (i) the IMDG Code;
 - (ii) the United Nations Recommendations on the Transport of Dangerous Goods;
 - (iii) the International Civil Aviation Organisation's Technical Instructions for the Safe Transport of Dangerous Goods by Air; and
 - (b) if required under the respective code or standard, be constructed in accordance with its design, tested, certified, and marked to show that they meet the packaging requirements and then approved by one of the following -
 - (i) the Director (for classes 1,2,3,4, 5 and 9); or
 - (ii) the Director of Civil Aviation in Solomon Islands (for classes 1,2,3, 4, 5 and 9); or
 - (iii) the Ministry of Labour (for Classes 1,2,3,4, 5 and 9); or
 - (iv) Ministry of Health (for Classes 6, 8 and 9); or
 - (v) a recognised National Radiation Laboratory in the South Pacific Region (for Class 7).

Packaging for dangerous goods not manufactured in Solomon Islands used only within the offshore limits must comply with the requirements of the Administration of the country in which they were manufactured and must comply with one of the sets of codes specified in paragraph (7)(a) of this Schedule.

(8) Packaging manufactured in Solomon Islands must be designed, manufactured, remanufactured, maintained, reused or reconditioned under AS/NZS 9000:1994 Quality System requirements.

(9) The approval of packaging for dangerous goods is subject to evidence of satisfactory service as found by normal handling during loading and unloading operations.

(10) Packaging of dangerous goods of Classes 3,4,5.1, 6.1, 8 and 9, does not require approval, providing the packaging -

- (a) complies with the quantity limits as specified in 2.2; and
- (b) is appropriate for the nature and quantity of the dangerous goods does not contaminate or react with them; and
- (c) is sufficiently robust to remain intact, and continue to contain the dangerous goods safely, for normal conditions of loading, transport and unloading, allowing also for reasonably foreseeable changes in temperature, humidity and pressure.

2.2 Quantities of Goods exempted from packaging approval

Dangerous goods carried in the quantities listed below do not require certification or testing of their packaging:

<i>Classification of Goods</i>	<i>Quantity</i>
3,4,5.1,6.1,8,9 I -	1kg or 1 litre or less
4,5.1,6.1,8,9 II -	3kg or 3 litre or less
3 II -	5 litre or less
3,4,5.1,6.1,8,9 III -	5kg or 5 litre or less

SCHEDULE 3
MARKING, LABELLING AND PLACARDING REQUIREMENTS

Marking, labelling and placarding specifications and standards

- 3.1 Marking, labelling and placarding must comply with the specifications of Volume I, Sections 7 and 8 of the IMDG Code and those contained in NZS5417:1986 as amended from time to time.
- 3.2 Packaging containing dangerous goods must be durably marked with the proper shipping name. Trade names alone must not be used.
- 3.3 Packages containing a harmful substance must be durably marked or labelled to indicate that the substance is a marine pollutant.
- 3.4 To make clear the class or classes and therefore the dangerous properties of the goods contained therein, packages containing dangerous goods must be provided as appropriate with distinctive label, stencils of the labels or placards.
- 3.5 The method of -
- (a) marking the proper shipping name and of affixing labels; and
 - (b) applying stencils of labels; and
 - (c) affixing placards on packages containing dangerous goods -
- must be such that this information will still be identifiable on packages surviving at least three (3) months immersion in the sea.
- 3.6 In considering suitable marking, labelling, and placarding methods, account must be taken of the durability of the materials used and of the surface of the package.
- 3.7 The following dangerous good packages do not have to meet the labelling requirements if the -
- (a) packages contain dangerous goods of a low degree of hazard or are packed in limited quantities as allowed by the specific exemptions provided in the IMDG Code; or
 - (b) packages are stowed and handled in units that are identified by labels or placards in special circumstances specifically provided for in the IMDG Code.
-
-

**SCHEDULE 4
PRESCRIBED DOCUMENTS**

Requirements applying to documents under these Regulations

- 4.1 A dangerous goods document and a signed certificate or declaration that the shipment offered for carriage is properly packaged and marked, labelled or placarded as appropriate, and in proper condition for carriage may be combined in one form.
- 4.2 A signed container packing certificate or vehicle packing declaration stating that -
- (a) the cargo in the unit has been properly packed; and
 - (b) the cargo in the unit has been properly secured; and
 - (c) all applicable transport requirements have been met -
- may be combined with the documentation referred to in Schedule 5.
- 4.3 If the documentation relates to a harmful substance, the signed certificate or declaration must state that the shipment offered for carriage is properly packaged and marked, labelled or placarded as appropriate, and in proper condition for carriage, so as to minimise the hazards to the marine environment.
- 4.4 In all documents relating to the carriage of dangerous goods by sea where the goods are named, the proper shipping name of the goods must be used (trade names alone must not be used) and the correct description given in accordance with the classification set out in Schedule 1.
- 4.5 On all documents relating to the carriage of harmful substances, the words "MARINE POLLUTANT" must be added.
- 4.6 All documents required to be completed for the shipment of dangerous goods must be in the English language.
-
-

**SCHEDULE 5
STOWAGE REQUIREMENTS**

- 5.1 All dangerous goods must be loaded, stowed, and secured safely and appropriately in accordance with the nature of the goods and the requirements of Volume I, Section 14 of the IMDG Code.
- 5.2 Incompatible dangerous goods must be segregated from one another as required by Volume I, Section 15 of the IMDG Code.
- 5.3 Cargo transport units, including freight containers, must be loaded, stowed and secured throughout the voyage in accordance with the ship's Securing Manual.
- 5.4 Explosive (except ammunition) that present a serious risk must be -
- (a) stowed in a magazine that is kept securely closed while at sea; and
 - (b) segregated from detonators
- 5.5 Electrical apparatus and cables in any compartment in which explosives are carried must be so designed and used as to minimise the risk of fire or explosion.
- 5.6 Dangerous goods in packaged form that give off dangerous vapours must be stowed in a mechanically ventilated space or on deck.
- 5.7 Dangerous goods in solid form in bulk that give off dangerous vapours must be stowed in a well ventilated space.
- 5.8 In ships carrying flammable liquids or gases, special precautions must be taken as necessary against fire or explosion.
- 5.9 Substances that are liable to spontaneous heating or combustion must not be loaded unless adequate precautions have been taken to minimise the likelihood of the outbreak of fire.
- 5.10 Harmful substances must be properly stowed and secured to minimise hazards to the marine environment without impairing the safety of the ship and persons on board.
-
-

SCHEDULE 6
TRAINING REQUIREMENTS

- 6.1 A person other than a passenger involved in the transportation or handling of dangerous goods intended for carriage by sea must be trained in -
- (a) the safe transport of dangerous goods; and
 - (b) the safe handling of dangerous goods
- 6.2 The required training must include a description of-
- (a) the classes of dangerous cargoes;
 - (b) marking of dangerous cargoes;
 - (c) labelling and placarding of dangerous cargoes;
 - (d) packing dangerous cargoes;
 - (e) relevant segregation and compatibility requirements;
 - (f) the purpose and content of the transport documents;
 - (g) available emergency response documents
- 6.3 The training must include safety training, as applicable to an individual's duties, on -
- (a) methods and procedures for accident avoidance, such as proper use of package handling equipment and appropriate methods of stowage of dangerous goods; and
 - (b) available emergency response information and how to use it; and
 - (c) general dangers presented by the various classes of dangerous goods and how to prevent exposure to those hazards, including if appropriate the use of personal protection clothing and equipment; and
 - (d) immediate procedures to be followed in the event of an unintentional release of dangerous goods, including any emergency response procedures for which the person is responsible and personal protection procedures to be followed.

MADE AT HONIARA this twentieth-third day of September, 2011.

HON. JACKSON FIULAU
Minister for Infrastructure Development

[Legal Notice No. 66]

SHIPPING (MARINE POLLUTION) REGULATIONS 2011

ARRANGEMENT OF REGULATIONS

PART 1 - PRELIMINARY

1. Citation
2. Interpretation
3. Government vessels bound by these Regulations
4. Application of international marine pollution conventions
5. Application of these Regulations and other pollution laws
6. Criminal liability under these Regulations

PART 2 - MARINE POLLUTION PREVENTION

7. Design of vessels and pollution prevention equipment
8. Operation of vessels
9. Discharge of pollutants or harmful substances
10. Discharge of ballast water
11. Hull-scraping and cleaning
12. Anti-fouling systems
13. Management of waste from vessel repair facilities
14. Discharge Permits
15. Waste reception facilities in ports
16. Duty to report discharges
17. Records
18. Powers of inspection

PART 3 - MARINE POLLUTION RESPONSE

19. General Application of this Part
 20. Committees to Implement these Regulations
 21. Marine Spill Contingency Plans
 22. Regional Cooperation
 23. Appointment of On-Scene-Commander
 24. Marine pollution response equipment
 25. National Marine Pollution Fund (POLFUND)
-
-

PART 4 - MARINE CASUALTIES

- 26. General Application of this Part
- 27. Powers in relation to marine casualties
- 28. Right to compensation
- 29. Offences against this Part
- 30. Protection from liability

PART 5 - INSURANCE COVER FOR POLLUTION DAMAGE

- 31. Requirement for insurance for pollution damage
- 32. Issue of Certificates for Solomon Islands vessels and bunkers
- 33. Failure to carry the required certificate insurance

PART 6 - DUMPING AND INCINERATION OF WASTES AT SEA

- 34. General Application of this Part
- 35. Permits for the Dumping of Wastes at Sea
- 36. Offences relating to disposing of wastes at sea

PART 7 - MISCELLANEOUS PROVISIONS

- 37. General offences and penalties
 - 38. Recovery of fines by distress
 - 39. Standards and Codes of Practice
-
-
-

[Legal Notice No. 67]

SHIPPING ACT 1998
(No 5 of 1998)

SHIPPING (MARINE POLLUTION) REGULATIONS 2011

IN exercise of the powers conferred upon me by section 220 of the Shipping Act 1998 and also by section 25 of the Maritime Safety Administration Act 2009, I, do hereby make these Regulations -

PART 1 - PRELIMINARY

- | | | |
|----|---|----------------|
| 1. | These Regulations may be cited as the Shipping (Marine Pollution) Interpretation. | Citation |
| 2. | (1) In these Regulations, unless the context otherwise requires - | Interpretation |
| | “abrasive blasting medium” means a substance used to remove paint, rust and other materials from metal and timber surfaces an abrasive blasting technique, including but not restricted to copper slag, garnet, glass and sand; | |
| | “Administration” means the Solomon Islands Maritime Safety Administration established under the Maritime Safety Administration Act 2009; | |
| | “Anti-fouling Convention” means the International Convention on the Control of Harmful Anti-fouling Systems on Vessel 2001; | |
| | “anti-fouling systems” means a coating, surface treatment, surface or device that is used on a vessel to control or prevent attachment of unwanted organisms; | |
| | “ballast water” means water with its suspended matter taken on board a ship to control trim, list, draught, stability or stresses of the ship; | |
| | “Bunkers Convention” means the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001; | |
| | “CLC 92” means the International Convention on Civil Liability for Oil Pollution Damage, 1992; | |
-

“Committee” means the Marine Pollution Advisory Committee established under regulation 20(1);

“Convention to which these Regulation apply” means a Convention listed in regulation 4(1), and includes any other international marine pollution convention, protocol, agreement or arrangement added to the list in accordance with regulation 4(2), and “applicable Convention” has the same meaning;

“Crude oil” means a liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation, and includes crude oils from which certain distillate fractions have been removed (sometimes referred to as “topped crudes”), or to which certain distillate fractions have been added (sometimes referred to as “spiked” or “reconstituted crudes”);

“Director” has the same meaning as is given in the Maritime Safety Administration Act 2009;

“discharge” means in relation to pollutants, harmful substances or effluents containing such pollutants or substances, a release into the sea howsoever caused from a vessel, platform or place on land and includes an escape, disposal, spilling, leaking, pumping, emitting or emptying, but does not include -

- (a) dumping within the meaning of the London Convention; or
 - (b) release of pollutants or harmful substances for purposes of pollution abatement or control, or for purposes of combating specific pollution incidents, as permitted by the Director under regulation 14;
-
-

“dumping” means -

- (a) a deliberate disposal into the sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea; and
- (b) a deliberate disposal into the sea of vessels, aircraft, platforms or other man-made structures at sea; and
- (c) storage of wastes or other matter in the seabed and the subsoil thereof from vessels, aircraft, platforms or other man-made structures at sea; or
- (d) abandonment or toppling at site of platforms or other man-made structures at sea, for the sole purpose of deliberate disposal;

but does not include -

- (i) the discharge of wastes or other matter incidental to, or derived from, the normal operation of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms and other man-made structures;
 - (ii) placement of matter or things for a purpose other than their disposal; or
 - (iii) abandonment in the sea of matter such as cables, pipelines and marine research devices placed for the purpose other than the mere disposal thereto;
-
-

“Discharge Permit” means permission to discharge for purposes of combating specific pollution incidents granted in advance by the Director under regulation 14;

“fuel oil” means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials’ Specification for Number Four Fuel Oil (Designation D 396-69)”, or heavier;

“FUND Convention 92” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992;

“FUND 92” means the international organisation established under FUND Convention 92;

“garbage” includes all kinds of food, domestic and operational waste, including plastics, excluding fresh fish and parts of fresh fish, generated during the normal operation of a vessel and liable to be disposed of continuously or periodically, but does not include oil, noxious liquid substances and other pollutants, or sewage from vessels;

“harmful substance” means a substance which, if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, and without affecting the general application of this definition, includes a substance deemed by these Regulations and any other law, and by a Code of Practice approved under these Regulations, to be a harmful substance in the context of the marine environment;

“HNS Convention” means the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996;

“HNS Protocol” means the Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000 (HNS Protocol), which is a Protocol to the OPRC Convention;

“hull scraping and cleaning” means the scraping and cleaning of the hull and other external surfaces of a vessel to remove marine organisms that may be attached to or living on that hull or external surface;

“incident” means any occurrence, or series of occurrences having the same origin, which causes a discharge or creates a grave or imminent threat of causing a discharge;

“incineration at sea” means the combustion on board a vessel, platform or other man-made structure at sea of wastes or other matter for the purpose of their deliberate disposal by thermal destruction; but does not include the incineration of wastes or other matter on board a vessel, platform or other man-made structure at sea if such wastes or other matter were generated during the normal operation of the vessel, platform or other man-made structure at sea -

and “to incinerate” and “incinerated” have corresponding meanings;

“IMDG Code” means the International Maritime Dangerous Goods Code published by the International Maritime Organisation from time to time;

“International Fund” means the “International Oil Pollution Compensation Fund 1992; established under FUND Convention 92;

“International Maritime Convention” means a convention relating to the prevention of and response to marine pollution, for the compensation of damage resulting from marine pollution and to maritime safety, including those listed in regulation 4;

“International Maritime Organisation” means the organisation set up under the International Maritime Organisation Convention, 1958 whose task is to develop a comprehensive body of international maritime conventions, codes and recommendations which could be implemented by all members to the conventions;

“INTERVENTION Convention” means the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (1969) and the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances Other than Oil, 1973;

“London Convention” means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972), as amended by the Protocol of 1996 relating thereto;

“marine casualty” means a collision, grounding or stranding of a vessel or vessels or other incident of navigation, or other occurrence on board a vessel, or external to it resulting in material damage or imminent threat of material damage to a vessel or cargo;

“marine pollution incident” means the actual or probable discharge of a pollutant or other harmful substance from a vessel or a platform or a place on land;

“MARPOL 73/78” means the International Convention for the Prevention of Pollution from Vessels (1973) as modified by the Protocol of 1978 relating thereto;

“master” means the person-in-charge of a vessel at any time;

“NATPLAN” means National Marine Spill Contingency Plan as referred in regulation 21;

“non-indigenous harmful aquatic organisms or pathogens” means any species of aquatic microbe, plant or animal whose natural biogeographical range does not include Solomon Islands waters and which, if introduced into Solomon Islands waters, has the potential to create hazards to human health, to harm living resources and marine life, to damage or impair facilities and amenities or to interfere with other legitimate uses of the sea, and includes exotic invasive species;

“noxious liquid substances” means a substance referred to in Appendix II of Annex II of MARPOL 73/78;

“occupier”, means the occupant of land or premises or building, and if the land or premises or building is unoccupied or the occupier is unknown or cannot be found, includes the owner of the land or premises or building or the owner of an interest in the land or premises or building;

“oil” means -

- (a) petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products (other than petrochemicals which are subject to the provisions of Annex III of MARPOL 73/78) and, without limiting the generality of the foregoing, includes the substances listed in Appendix I to Annex I of MARPOL 73/78; and
- (b) includes an persistent hydrocarbon mineral oil such as crude oil, fuel oil, heavy diesel oil and lubricating oil, whether carried on board a vessel as cargo or in the bunkers of such vessel;

“oil tanker” means a vessel constructed or adapted for the carriage of oil in bulk as cargo and includes combination carriers and a chemical tanker as defined in Annex II of MARPOL 73/78 when it is carrying oil in bulk as cargo and during a voyage following such carriage of oil in bulk aboard;

“oily mixture” means a mixture with any oil content;

“OPRC Convention” means the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990;

“owner” means -

- (a) in relation to a vessel -
 - (i) the registered owner of owners, if the vessel is a registered vessel;
 - (ii) the person owning the vessel, if the vessel is an unregistered vessel;
 - (iii) the person or agency registered as the operator of the vessel, if the vessel is owned by the Government;

and includes -

- (iv) a charterer, manager, or operator of the vessel or any other person for the time being responsible for the navigation or management of the vessel;
 - (v) an agent in Solomon Islands of the owner, charterer, manager, or operator; and
 - (vi) any other person interested in or in possession of the vessel, including a salvor in possession of the vessel, and an employee or agent of a salvor in possession of the vessel; and
- (b) in relation to platform -
 - (i) the owner or manager or licensee for the time being of the platform or structure, or an agent or employee, or a person-in-charge of operations connected therewith; and
-
-

- (ii) a person having a right or privilege or license to explore the seabed and subsoil and to exploit the natural resources thereof in connection with which the platform or structure is or has been or is to be used;

“place on land” means a place on dry land, or on a dry, inter-tidal or submerged reef, or a place connected with dry land or a reef;

“platform” means a man-made fixed or floating offshore structure used for any purpose whatsoever;

“POLFUND” means the National Marine Pollution Fund established by law;

“pollutant” includes oil and oily mixtures, noxious liquid substances, harmful packaged substances, sewage and garbage as defined by MARPOL 73/78 and any water contaminated by any such substance, and any other substance which added to any waters has the effect of contaminating those waters so as to make them unclean, noxious or impure or detrimental to the health, safety or welfare of any person, or poisonous or harmful to marine life;

“pollution damage” includes -

- (a) all loss or damage caused outside a vessel by contamination resulting from the escape or discharge of a pollutant from the vessel, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than losses of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken;
-
-

- (b) all loss or damage caused outside a vessel by contamination resulting from the escape or discharge of oil from the vessel, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than losses of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and
- (c) the costs of preventative measures and further loss or damage caused by preventive measures;

“preventive measures” means any reasonable measures taken by a person after a pollution incident has occurred to prevent or minimise pollution damage;

“reception facilities” means facilities for enabling vessels using a port to discharge or deposit oil, oil mixtures, noxious liquid substances, sewage or garbage from those vessels;

“related interests” include interests directly affected or threatened, including, but not limited to maritime, coastal, port or estuarine activities, fisheries activities, tourist attractions, public health and welfare, and the conservation of living marine resources and of wildlife;

“sea” means all areas of water below highest astronomical tide and includes the ocean and an estuary, tidal area and lagoon;

“sewage”, in relation to vessels, includes -

- (a) drainage and other wastes from any form of toilets, urinals and toilet scuppers;
 - (b) drainage from medical premises, including dispensaries and sick bays, by way of wash basins, wash tubs and scuppers located in such premises;
-
-

- (c) drainage from spaces containing living animals; and
- (d) other waste waters when mixed with the drainage mentioned in the foregoing provisions of this definition;

“ship repair facility” means a place on land, in the inter-tidal zone and in Solomon Islands waters where vessels are repaired and maintained, including cleaning, scraping and painting;

“Solomon Islands vessel” means a vessel owned in Solomon Islands or a vessel registered or required to be registered under the Act, or any other vessel based in Solomon Islands and operating under the authority of the Government;

“Solomon Islands waters” includes the internal waters of Solomon Islands, the territorial sea of Solomon Islands, the contiguous zone of Solomon Islands and the waters of the Exclusive Economic Zone of Solomon Islands as provided for in any law;

“SPREP” means the South Pacific Regional Environment Programme;

“SPREP Convention” means the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, 1990 and its related Protocols;

“SPREP Dumping Protocol” means the Protocol on the Prevention of Pollution of the South Pacific by Dumping (a protocol of the SPREP Convention);

“SPREP Pollution Emergencies Protocol” means the Protocol Concerning Cooperation in Combating Pollution Emergencies in the South Pacific Region (a protocol of the SPREP Convention);

“synthetic fishing nets” includes synthetic material used in the repair of such nets;

“transfer” in relation to oil or a pollutant means the conveyance in bulk from the vessel to a place on land or vice versa, or from one vessel to another, or the internal transfer from tank to tank within the vessel;

“Waigani Convention” means the Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region’ (Waigani Convention), Waigani, 1995; and

“wastes or other matter” means material and substances of any kind, form or description.

(2) All words and phrases used in these Regulations shall have the same meaning as is given to them in an applicable convention, unless the context otherwise requires.

Government vessels
bound by these
Regulations

3. (1) Subject to the provisions of these Regulations, the Government is bound by these Regulations.

(2) The provisions of these Regulations shall apply to vessels belonging to or operated by the Government, and any of its agencies.

(3) The provisions of these Regulations shall not apply to -

- (a) warships of another State; or
 - (b) aircraft being used as an aircraft of another State.
-

4. (1) For the purposes of these Regulations the following are the international marine pollution conventions to which these Regulations apply -

Application of international marine pollution conventions

- (a) The Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, 1990 (SPREP Convention) and its Protocol for the Prevention of Pollution of the South Pacific by Dumping (SPREP Dumping Protocol) and Protocol concerning Cooperation in Combating Pollution Emergencies in the South Pacific Region (SPREP Pollution Emergencies Protocol);
 - (b) The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972) as amended by the Protocol of 1996 relating thereto (London Convention);
 - (c) The International Convention for the Prevention of Pollution from Vessel (1973) as amended by the Protocol of 1978 relating thereto (MARPOL 73/78);
 - (d) The International Convention on Civil Liability for Oil Pollution Damage, 1992 (CLC 92);
 - (e) The International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (HNS Convention);
 - (f) The International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (OPRC Convention);
 - (g) The International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (FUND 92);
-

- (h) The International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (1969) and the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances Other than Oil, 1973 (INTERVENTION Convention);
- (i) The Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000 (HNS Protocol);
- (j) The International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunkers Convention); and
- (k) International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001 (Anti-fouling Convention).

(2) Subject to these Regulations, any other law and any reservation that Solomon Islands has made under a Convention to which these Regulations apply, all obligations, duties, legal processes and rights provided for under the Conventions to which these Regulations apply (and including any Protocols, Annexes, Appendices and Addenda to them from time to time) shall have the force of law in Solomon Islands, and may be applied or enforced by any legal process available under the laws of Solomon Islands.

(3) The contravention of an obligation or duty arising under a Convention to which these Regulations apply shall constitute an offence under section 219 of the Shipping Act.

(4) Subject to any provision of these Regulations in relation to the exercise of specific powers and responsibilities, the Minister shall have the power to take any action that may be taken by State Parties under the Conventions to which these Regulations apply.

(5) The Administration shall have the principal responsibility for implementing the Conventions to which these Regulations apply, and shall ensure that other Ministries and agencies having responsibilities in relation to the protection and management of the marine environment are involved in the actions that are taken by the Administration under the authority of these Regulations.

(6) In the event of an inconsistency between the provisions of a Convention to which these Regulations apply and a provision of these Regulations, these Regulations shall apply.

5. (1) These Regulations shall be the principal subsidiary Application of these Regulations and other pollution law legislation dealing with pollution incidents affecting the marine environment where the source of the pollution is a vessel, and shall apply to -

- (a) all vessels in Solomon Islands waters; and
- (b) all Solomon Islands vessels

(2) In the event that pollution to the marine environment arises from a source which is not a vessel, the provisions of these Regulations shall be applied subject to any other law which makes provision in relation to -

- (a) pollution from terrestrial sources;
- (b) pollution in the airspace; and
- (c) disaster and emergency response

(3) Nothing in this regulation shall affect the validity of a prosecution taken for an offence against these Regulations, and shall not constitute a defence to an offence against these Regulations.

Criminal liability
under these
Regulations

6. Unless otherwise specifically provided for in these Regulations, the following persons may be liable in respect of a contravention of these Regulations which constitutes the commission of an offence -

- (a) where the contravention arises from a vessel - the owner, master, manager or agent of the vessel;
- (b) charterers of a vessel where they, or their servants or agents, exercise any degree of control over the vessel or its cargo, or the course of the voyage of the vessel;
- (c) where the contravention arises from an apparatus used for transferring a pollutant to or from a vessel - the owner or person-in-charge of the apparatus, and the master or owner of the vessel;
- (d) where the contravention arises from a platform - the owner, operator or person-in-charge of the platform;
- (e) where the contravention arises from a place on land - the owner or occupier of the land, or a person who has caused or contributed to the contravention; and
- (f) where the contravention arises from the exploration of the seabed or sub-soil, or any natural resources in the marine environment - the owner or person-in-charge of such exploration.

PART 2 - MARINE POLLUTION PREVENTION

Design of vessels
and pollution
prevention equip-
ment

7. (1) A vessel to which MARPOL 73/78 applies must comply with all of the design and pollution prevention equipment provisions specified in that Convention.

(2) Subject to subregulation (3), the owner and master of a vessel which contravenes any of the requirements applying to a vessel under subregulation (1) commits an offence and is liable upon conviction -

- (a) if the vessel is in excess of 24 metres - to a fine not exceeding 5000 penalty units, and to imprisonment for a term not exceeding 12 months, or both; or
- (b) if the vessel is 24 metres or less - to a fine not exceeding 2500 penalty units, and to imprisonment for a term not exceeding 6 months, or both.

(3) For a period of 2 years after the commencement of these Regulations, a vessel to which this regulation applies which has operated prior to the commencement of these Regulations and is not in compliance with the requirements of MARPOL 73/78 may be allowed to continue to operate under such conditions and for such duration as the Director may determine, and if such a vessel has this authority and is in compliance with any conditions imposed it shall not contravene these Regulations.

8. (1) A vessel to which MARPOL 73/78 applies must be operated in compliance with the requirements specified in that Convention. Operation of vessel

(2) If a vessel to which this regulations applies contravenes a requirement of MARPOL 73/78, the owner or master commits an offence and is liable upon conviction to -

- (a) if the vessel is in excess 24 metres - to a fine not exceeding 5000 penalty units, and to imprisonment for a term not exceeding 12 months, or both; or
- (b) if the vessel is 24 metres or less - to a fine not exceeding 2500 penalty units, and to imprisonment for a term not exceeding 6 months, or both.

(3) For a period of 2 years after the commencement of these Regulations, a vessel to which this regulation applies which has operated prior to the commencement of these Regulations and is not in compliance with the requirements of MARPOL 73/78 may be allowed to continue to operate under such conditions and for such duration as the Director may authorise in writing, and if such a vessel has the written authority and is in compliance with any conditions imposed it shall not contravene these Regulations.

Discharge of pollutants or harmful substances

9. (1) For the purposes of this Part –
- (a) “existing oil tanker” means a tanker which is not a new tanker;
 - (b) “new tanker” means a tanker –
 - (i) for which the building contract was placed, or in the absence of a building contract, the keel or which was laid, or which was at a similar stage of construction, on or after 27th September 2003; or
 - (ii) the delivery of which was 3 years or more after 27th September 2003;
 - (c) “pollutant and harmful substance” includes, but is not limited to, any oil, plastics, synthetic ropes and synthetic fishing nets; and
 - (d) “special area” means a sea area, identified in accordance with MARPOL 73/78, where for recognised technical reasons in relation to its oceanographical and ecological condition and to the particular character of its traffic the adoption of special mandatory methods for the prevention of sea pollution by oil has been required.
- (2) Subject to subregulations (4) and (5) and to regulation 14, no pollutant or harmful substance may be discharged from a vessel, platform or place on land into Solomon Islands waters, or from a Solomon Islands vessel into any waters.
- (3) A person who contravenes subregulation (2) commits an offence and
- (a) is liable upon conviction to a fine not exceeding 5000 penalty units or to imprisonment for a term not exceeding 12 months, or both; and
-

- (b) is liable to pay for the total costs of any clean up operations and all necessary action to restore the environment to its original condition.

(4) It is a defence to an offence against this regulation to prove that the discharge -

- (a) was necessary for the purposes of securing the safety of a vessel or the saving of life at sea (provided that the discharge was necessary and reasonable in the circumstances); or
 - (b) resulted from damage to a vessel or its equipment, and that -
 - (i) the offender took all reasonable precautions after the occurrence of the damage or discovery of the discharge to prevent or minimise the discharge; and
 - (ii) the owner or the master acted with no intent to cause damage, and did not act recklessly with knowledge that damage would probably result; or
 - (c) was for a purpose of -
 - (i) training government officers or other persons who are tasked with functions relating to pollution control as approved by the Director; or
 - (ii) combating specific pollution incidents in order to minimise the damage from pollution, as permitted by a Discharge Permit issued in accordance with regulation 14.
-
-

(5) It shall be a defence to a prosecution under this regulation if the offender can prove that the discharge into the sea was of oil, oily mixtures, noxious liquid substances, sewage and garbage that are allowed under MARPOL 73/78, including -

- (a) discharge by an oil tanker if all of the following criteria apply to the discharge -
 - (i) the oil tanker is not in a special area;
 - (ii) the oil tanker is more than 50 nautical miles from the nearest land;
 - (iii) the oil tanker is proceeding on or along the way;
 - (iv) the instantaneous rate of discharge of oil content does not exceed 30 litres per nautical mile;
 - (v) the total quantity of oil discharged into the sea does not exceed 1/15,000 of the total quantity of the particular cargo of which the residue formed a part in the case of existing oil tankers, and 1/30,000 of the total quantity of the particular cargo of which the residue formed a part in the case of new tankers; and
 - (vi) the oil tanker has in operation an oil discharge monitoring and control system and a slop tank arrangement as required by Regulation 15 of Annex I of MARPOL 73/78 (Retention on board);
-
-

- (b) discharge by a vessel of 500 tons gross tonnage and above (other than an oil tanker) from machinery space bilgas (excluding cargo pump-room bilges of an oil tanker unless mixed with oil cargo residue) if all of the following criteria apply to the discharge -
 - (i) the vessel is not within a special area;
 - (ii) the vessel is proceeding on or along the way;
 - (iii) the oil content of the effluent without dilution does not exceed 15 parts per million; and
 - (iv) the vessel has in operation equipment as required by Regulation 16 of Annex 1 of MARPOL 73/78 (oil discharge monitoring and control system and oil filtering equipment);
- (c) discharge of garbage which shall be allowed from all vessels, if it is made as far as practicable from the nearest land, but in all cases is prohibited if the distance from the nearest land is less than -
 - (i) 25 nautical miles for dunnage, lining and packing materials which will float; and
 - (ii) 12 nautical miles for food wastes and all other garbage including paper products, rags, glass, metal, bottles, crockery and similar refuse.

(6) The exceptions stated in subregulation (5) do not allow the discharge of any plastics, the discharge of which is prohibited from all vessels in all locations.

Discharge of
ballast water

10. (1) No ballast water containing non-indigenous harmful aquatic organisms or pathogens may be discharged from a vessel into Solomon Islands waters.

(2) The master of a vessel that discharges ballast water in Solomon Islands waters must -

- (a) obtain all necessary approvals under the laws applying to quarantine prior to the discharge; and
- (b) comply with all voluntary or mandatory ballast water management requirements issued by the International Maritime Organisation and which are in force at the time of the discharge.

(3) The master of a vessel who intends to discharge ballast water in Solomon Islands waters shall, prior to any discharge, complete and give to the Director notice of the discharge -

- (a) which may be a copy of any form of this nature required to be given under the any law dealing with quarantine; or
- (b) in the form approved by the Director for that purpose.

(4) The Ministry may approve and publish Standards and Codes of Practice relating to the discharge of ballast water, and all discharges must be in accordance with the requirements stated in any approved Standards or Code of Practice.

(5) The owner or master of an offending vessel commit an offence if -

- (a) any ballast water containing non-indigenous harmful aquatic organisms or pathogens is discharged from an offending vessel into Solomon Islands waters;
-

- (b) ballast water is discharged from an offending vessel in Solomon Islands waters in a manner which does not comply with –
 - (i) any of the voluntary or mandatory ballast water management requirements issued by the International Maritime Organisation in force at the time of the discharge; or
 - (ii) any requirement prescribed in approved Standards or Code of Practice approved under subregulation (4);
- (c) no notice of the discharge as required by this regulation is submitted to the Director prior to a discharge of ballast water in Solomon Islands waters; or
- (d) false or misleading particulars are provided in a notice submitted under this regulation -

and are liable upon conviction to a fine not exceeding 5000 penalty units or to imprisonment for a term not exceeding 12 months, or both.

(6) It is a defence to an offence under subregulation (5)(a) if the owner or master proves that all reasonable measures to comply with any voluntary or mandatory ballast water management requirements issued by the International Maritime Organisation in force at the time were taken to ensure that no ballast water containing non-indigenous harmful aquatic organisms or pathogens were discharged from a vessel into Solomon Islands waters.

11. (1) The scraping and cleaning of the hulls and other external surfaces of vessels must be undertaken in a manner that prevents the introduction of non-indigenous harmful aquatic organisms or pathogens into Solomon Islands waters. Hull scraping and cleaning

(2) The Administration may prepare and publish Standards and Codes of Practice relating to the scraping and cleaning of hulls, and all such activities must be done in accordance with the requirements stated in any approved Standards or Code of Practice.

(3) A person who scrapes or cleans any hull or other external surface of a vessel in a manner -

- (a) which permits the introduction of non-indigenous harmful aquatic organisms or pathogens into Solomon Islands waters;
- (b) which is inconsistent with any requirements applying to the scraping and cleaning of hulls -
 - (i) published by the International Maritime Organisation from time to time; or
 - (ii) as prescribed in Standards or Codes of Practice approved under subregulation (2);
- (c) which contravenes a direction given to the person by an authorised officer of the Administration in relation to the scraping or cleaning of the hull -

commits an offence and is liable upon conviction to a fine not exceeding 5000 penalty units or to a term of imprisonment not exceeding 12 months, or both.

(4) The owner and master of a vessel in relation to which an offence is committed under this regulation shall also be liable for that offence.

12. (1) The Anti-fouling Convention shall apply to all vessels of 24 metres or more in length in Solomon Islands waters. Anti-fouling systems

(2) Vessels of 400 gross tonnage and above engaged in international voyages shall be required to undergo -

- (a) an initial survey and be certified before the vessel is put into service or before the International Anti-fouling System Certificate is issued for the first time; and
- (b) a survey and be certified when the anti-fouling systems are changed or replaced.

(3) Documentary evidence to confirm compliance with subregulation (2) must be provided to the Director as soon as practicable after the certification is made.

(4) Vessels of 24 metres or more in length but less than 400 gross tonnage engaged in international voyages and operating in Solomon Islands waters shall carry a Declaration on Anti-fouling Systems signed by the owner or owner's authorised agent, and the Declaration shall be accompanied by appropriate documentation to verify its contents including a paint receipt or contractor invoice.

(5) The use and application of harmful anti-fouling systems containing organotin compounds and any other prescribed harmful substance on vessels in Solomon Islands waters or a man-made structure is prohibited.

(6) An owner or master who contravenes any provision of the Anti-fouling Convention commits an offence and is liable upon conviction to a fine not exceeding 5000 penalty units or to imprisonment for 6 months, or both.

(7) The owner or master of a Solomon Islands vessel or any vessel in Solomon Islands waters shall not use any harmful anti-fouling system, containing organotin compounds or any other prescribed harmful substance in Solomon Islands waters and a person that applies harmful anti-fouling systems to a vessel or man-made structure in Solomon Islands commits an offence and is liable upon conviction to a fine not exceeding 5000 penalty units, or to imprisonment for 6 months, or both.

(8) For the purposes of this regulation, 'man-made structures' includes any buoy, markers or any object specifically created for use or placement in water.

management of
waste from vessel
repair facilities

13. (1) The discharge, disposal or escape of –
- (a) hull scrapings;
 - (b) paints and paint residues;
 - (c) abrasive blasting mediums;
 - (d) any other pollutant or harmful substance; or
 - (e) any effluent containing such pollutants or harmful substances

into Solomon Islands waters from vessel repair facilities is prohibited.

(2) A vessel repair facility must put in place systems for the effective containment and recovery of all of the substances specified in subregulation (1) for proper re-use, recycling, treatment or disposal in a waste management facilities on-shore that have been approved under any law.

(3) The owner or operator of a ship repair facility who contravenes any prohibition or requirement stated in this regulation commits an offence and is liable upon conviction to a fine not exceeding 5000 penalty units or to imprisonment for a term not exceeding 6 months, or both.

Discharge Permits

14. (1) A person wishing to discharge a pollutant or harmful substance for the purpose associated with responding to a specific pollution incident must apply in writing to the Director for a Discharge Permit, and must provide the following information –

- (a) the identity and full contact details of the person responsible for the proposed discharge;
- (b) the reasons for the proposed discharge;
- (c) the likely benefits of the proposed discharge;
- (d) the location of the proposed discharge;

- (e) the nature of the pollutant or harmful substance proposed to be discharged (including their correct technical names, IMDG Code Classification and UN number, if applicable), and its chemical composition and physical and chemical properties and biological toxicity;
- (f) the quantity or volume of pollutant or harmful substance proposed to be discharged;
- (g) the proposed method of discharged;
- (h) the details of the measures to be used to control, mitigate and monitor the environmental impacts of the discharge; and
- (i) documentary evidence of financial ability to meet the total cost of any clean up operation necessary to restore the environment to its original condition.

(2) In assessing an application for a Discharge Permit, the Director shall consider –

- (a) all potential adverse impacts to human life, health and safety; and
- (b) the environmental impacts that are likely to occur from the proposed discharge is not permitted.

(3) The Director may issue or refuse to issue a Discharge Permit, and may impose conditions in relation to a permit.

(4) It shall be a condition of every Discharge Permit issued under this regulation to any person who is responsible for the pollution incident arising that the permit holder is liable to pay all costs of any clean up operation necessary to restore the environment to its original condition if the environment is affected by a discharge done under a permit.

- (5) A person who –
- (a) provides any information of the nature required under subregulation (1) which is false or misleading;
 - (b) fails to comply with a condition of the Discharge Permit, or with an applicable Standards or Codes of Practice; or
 - (c) undertakes any discharge for a purpose or of a nature that is different from that for which the Discharge Permit is applied of or issued - commits an offence and is liable upon conviction to a fine not exceeding 5000 penalty units or to a term of imprisonment not exceeding 3 months, or both.

waste reception
facilities in ports

15. (1) The Administration may approve and publish Standards and Codes of Practice in relation to the provision of waste reception facilities at Solomon Islands ports to regulate vessels in the discharge of waste oil or oily residues, hazardous and noxious substances and sewage from those vessels, and the disposal of their garbage.

(2) Waste reception facilities shall not provided where a vessel's wastes may cause unacceptable environmental impacts in Solomon Islands.

(3) The full or partial cost of providing and operating these waste reception facilities may be recovered by user fees which may be set –

- (a) by Regulations; or
 - (b) by the Minister if no such Regulations apply; or
 - (c) by any agency which is given responsibility for providing or managing the waste reception facilities.
-

(4) No waste containing pollutants that have not been first processed by the vessel's oily water separator, or other effective process for separating the pollutant from the water, may be discharged into a waste reception facilities.

(5) The owner and master of a vessel which discharges at a waste reception facility in contravention of subregulation (4) commit an offence and is liable upon conviction –

- (a) to a fine not exceeding 5000 penalty units or to imprisonment for a term not exceeding 6 months, or both; and
- (b) to pay compensation for any damage done to the facility or the cost of any remedial action that is necessary as a result of the contravention.

16. (1) If any pollutant, harmful substance, non-indigenous harmful aquatic organism or pathogen is discharged into Solomon Islands waters from a vessel, platform or a place on land - Duty to report discharges

- (a) the owner, master or person-in-charge of the vessel or platform; or
- (b) the occupier of the place on land -

must immediately and by the quickest available means report the occurrence to the Director and to the Permanent Secretary responsible for disaster management.

(2) A report made under subregulation (1) must provide all of the following particulars -

- (a) the time of the discharge;
- (b) the position of the discharge, including latitude and longitude if possible;
- (c) the event to which the discharge is directly attributable;
- (d) the precise source of the discharge;

- (e) the weather and sea conditions at the time of the discharge and at the time when the report was made;
 - (f) where oil has been discharged -
 - (i) the quantity and description of each type of oil that was discharged;
and
 - (ii) the quantity and description of each type of oil remaining on board;
 - (g) where a pollutant other than oil has been discharged the quantity and description of each type of pollutant discharged (including their correct technical names, IMDG Code Classification and UN number, if applicable);
 - (h) the quantity and description of each type of pollutant other than oil remaining on board;
 - (i) where garbage or sewage has been discharged, the quantity, description and concentration that was discharged;
 - (j) the types, quantity and condition of other cargo carried or stored;
 - (k) the existence of a slick and the estimated direction and speed of its movement;
 - (l) the measures that have been taken to -
 - (i) stop or reduce the discharge;
 - (ii) contain the pollutant and prevent the spread of it;
 - (iii) remove the pollutant from the sea or to disperse it; and
 - (iv) minimise damage or the possibility of damage resulting from the discharge; and
-
-

(m) the identity and full contact details of the person making the report.

(3) If a vessel becomes stranded, wrecked or is abandoned in Solomon Islands waters, or if a Solomon Islands vessel becomes stranded, wrecked or is abandoned in any waters outside Solomon Islands, then the owner, master or person-in-charge must immediately and by the quickest available means report the occurrence to the Director, and shall provide -

- (a) full details of the vessel and damage sustained;
- (b) the types, quantity and condition of the cargo carried;
- (c) a complete list of all pollutants carried, including the types, quantity and their condition;
- (d) if a discharge has occurred, the details required in subregulation (2); and
- (e) the identity and full contact details of the person making the report.

(4) A person who -

- (a) fails to comply with any provision of this regulation; or
- (b) makes a report containing any information that is false, misleading or incomplete -

commits an offence and is liable upon conviction to a fine not exceeding 5000 penalty units or to imprisonment for a term not exceeding 6 months, or both.

ords

17. (1) The master of any of the following vessels -

- (a) a Solomon Islands oil tanker; and
- (b) an oil tanker in Solomon Islands waters of 150 tons gross tonnage and above and
- (c) a Solomon Islands vesse; and
- (d) a vessel in Solomon Islands waters of 400 tons gross tonnage and above other than an oil tanker -

must carry and maintain an Oil Record Book Part I (Machinery Space Operations) and enter a record whenever any of the following machinery space operations are carried out -

- (i) ballasting or cleaning of oil fuel tanks;
- (ii) discharge of dirty ballast or cleaning water from tanks referred to in paragraph (a) above;
- (iii) disposal of oily residues (sludge); and
- (iv) discharge overboard or disposal otherwise of bilge water which has accumulated in machinery spaces.

(2) The master of a Solomon Islands oil tanker or of an oil tanker in Solomon Islands waters of 150 tons gross tonnage and above must also carry and maintain an Oil Record Book Part II (Cargo/Ballast Operations) and shall enter a record whenever any of the following cargo/ballast operations are carried out -

- (a) loading of oil cargo;
 - (b) ~~internal transfer of oil cargo during voyage;~~
-

- (c) unloading of oil cargo;
- (d) ballasting of cargo tanks and dedicated clean ballast tanks;
- (e) cleaning of cargo tanks including crude oil washing;
- (f) discharge of ballast except from segregated ballast tanks;
- (g) discharge of water from slop tanks;
- (h) closing of all applicable valves or similar devices after slop tank discharge operations;
- (i) closing of valves necessary for isolation of dedicated clean ballast tanks from cargo and stripping lines after slop tank discharge operations; and
- (j) disposal of residues

(3) The Oil Record Books required under subregulation (1) and (2) whether as a part of the vessel's official log-book or otherwise, must be in the Forms specified in Regulation 20 and Appendix III of Annex I of MARPOL 73/78, or any other form which may supersede those forms.

(4) The person-in-charge of a platform in Solomon Islands waters, must comply with the provisions of subregulations (1) and (2), as far as is applicable and with all necessary modifications.

(5) The master of a Solomon Islands vessel or a vessel in Solomon Islands waters to which Annex II of MARPOL 73/78 applies, must carry a Recorded Book, and shall record -

- (a) the loading or unloading of pollutants specified in that Annex;
 - (b) the transfer of pollutants specified in that Annex; and
 - (c) any other operations in respect of pollutants specified in that Annex; and
-

- (d) any discharge or escape of such pollutants and the circumstances and reasons relating to their discharge or escape.

(6) A person who fails to comply with any requirement imposed by this regulation commits an offence and is liable upon conviction to a fine not exceeding 2500 penalty units or to imprisonment for a term not exceeding 1 month, or both.

(7) A person who makes an entry in any records to be kept in accordance with this regulation which is false, misleading or incomplete commits an offence, and is liable upon conviction to a fine not exceeding 1000 penalty units, or to imprisonment for a term not exceeding 6 months, or both.

owers of
pection

18. (1) The Director may by written notice appoint properly trained and qualified persons to be an inspector to investigate and report –

- (a) as to whether the provisions of these Regulations have been complied with;
 - (b) on what measures have been taken to prevent the discharge of pollutants, other than those made in accordance with the provisions of these Regulations;
 - (c) as to whether reception facilities provided in ports are adequate to meet the needs of the vessels using them without causing undue delay; and
 - (d) any other matter associated with the administration of these Regulations and the implementation of the Conventions to which these Regulations apply.
-
-

- (2) An inspector may –
- (a) enter and inspect a vessel, platform, facility, place on land and any apparatus used for the storage, transfer or processing of pollutants, garbage or sewage;
 - (b) test any equipment with which the vessel or platform is required to be fitted in accordance with any International Maritime Convention and any requirement of these Regulations;
 - (c) require the production of any records required to be kept and shall have the power to copy records and require the person by whom the records are to be kept to certify the copy as a true copy;
 - (d) board a vessel or platform to ascertain the circumstances relating to an alleged discharge of a pollutant into Solomon Islands waters or from a Solomon Islands vessel into any waters; and
 - (e) board a vessel and take, or require to be taken, soundings of tanks, spaces, and bilges, and any sample or samples of any pollutant from the vessel for analysis.
- (3) An inspection under this regulation may verify that there is on board all valid certificates as required by these Regulations.
- (4) If the inspector believes that the condition of the vessel or its equipment does not correspond substantially with the particulars of any applicable certificate or if the vessel does not carry a valid certificate, the Director –
- (a) shall take all necessary steps to ensure that the vessel shall not sail until it –
 - (i) ~~it is in compliance with the~~ provisions of these Regulations; and
-
-

(ii) it can proceed to sea without presenting a threat of harm to the marine environment; or

(b) may grant permission for the vessel to leave the port or offshore terminal for the purpose of proceeding to the nearest appropriate repair yard available.

(5) If the Director denies a foreign vessel entry to a port or offshore terminal, or takes any action against a vessel for the reasons that it does not comply with the provisions of these Regulations, the Director shall immediately inform the consul or diplomatic representative of the State whose flag the vessel is entitled to fly, or if this is not possible, the Maritime Administration of the vessel concerned.

(6) All powers conferred by this regulation shall be exercised so that a vessel is not unnecessarily detained or delayed in proceeding on any voyage.

(7) An person who –

(a) fails to reasonably comply with any requirement of this regulation; or

(b) obstructs a person acting in the exercise of a power conferred by this regulation -

commits an offence and is liable upon conviction to a fine not exceeding 5000 penalty units or to a term of imprisonment for a term not exceeding 12 months, or both.

PART 3 - MARINE POLLUTION RESPONSE

19. (1) The provisions of this Part are to be applied subject to the powers of the National Disaster Council established by the National Disaster Council Act [Cap. 148] when a state of disaster is declared, and subject to any laws dealing with pollution, wastes, environment protection or land management where pollution emanates from a source other than a vessel.

General Application
of this Part

(2) Subregulation (1) does not affect right of the Administration to prosecute contraventions of these Regulations, or the liability of an offender who commits an offence against these Regulations.

(3) This Part shall be applied so as to most effectively implement the general principles and provisions of -

- (a) the OPRC Convention and its HNS Protocol;
- (b) the SPREP Pollution Emergencies Protocol; and
- (c) any other provision of a Convention to which these Regulations apply which relates to responses to marine pollution incidents.

20. (1) The Minister may appoint a Marine Pollution Advisory Committee consisting of the following members -

Committees to
Implement these
Regulations

- (a) government representatives from Ministries and agencies which are relevant to the management of the marine environment and the proper management of the POLFUND; and
 - (b) industry representatives representing -
 - (i) the Shipping industry;
 - (ii) the oil industry;
 - (iii) port users; and
 - (iv) the fishing industry
-

- (2) The functions of the Marine Pollution Advisory Committee are to -
- (a) develop, review and implement the National Marine Spill Contingency Plan (NATPLAN) required under regulation 21, and related matters;
 - (b) assist in the establishment and maintenance of the inventory of marine pollution response equipment under this Part, and its effective utilisation;
 - (c) review the provision and operation of waste facilities in Solomon Island's ports and to recommend standards for such facilities;
 - (d) ensure the proper administration and utilisation of the monies held in the National Marine Pollution Fund (POLFUND) to meet the objectives of these Regulations and the implementation of the relevant conventions;
 - (e) promote the effective participation of Solomon Islands in any bilateral, multilateral and regional marine spill contingency plans and related arrangements; and
 - (f) any other matter related to marine pollution as required by the Minister or Cabinet.
- (3) The Committee shall meet at such times and places as are nominated by the Minister and may regulate its own procedures as it thinks fit.
- (4) The Annual Report prepared by the Administration shall report on the operations and determinations of the Marine Pollution Advisory Committee and an Advisory Committee established under subregulation (5).
-
-

(5) For the purposes of preparing for and responding to marine pollution incidents which may be declared to be states of disaster, an Advisory Committee of the National Disaster Council may be established in accordance with any law relating to disaster and emergency management.

21. (1) The Director shall ensure that a National Marine Spill Contingency Plan (NATPLAN) is developed, maintained and implemented. Marine Spill
Contingency Plans

(2) The NATPLAN shall take effect when it is approved by the Minister and must conform to all requirements stipulated in -

- (a) a Convention to which this Part applies; and
- (b) plans prepared and approved under any law relating to disaster and emergency management.

(3) An owner and operator of a port, oil facility or chemical handling and storage facility must develop, maintain and implement site-specific marine spill prevention and contingency plans for their facilities, consistent with the NATPLAN and any requirements applying under any law relating to disaster and emergency management.

(4) An owners or operator of a vessel to which MARPOL 73/78 applies must develop, maintain an implement shipboard marine pollution emergency plans consistent with the requirements of MARPOL 73/78.

(5) The plans required to be developed under this regulation must be submitted to the Director, and if approved by the Minister shall form part of the NATPLAN.

ional
operation

22. (1) The Marine Pollution Advisory Committee shall advise the Administration in relation to any matters that -

- (a) can assist in the effective participation of Solomon Islands in regional and international arrangements relating to the response to marine pollution incidents; and
- (b) most effectively implement the arrangements provided for in the Conventions to which these Regulations apply dealing with response to marine pollution incidents.

(2) The Administration shall ensure that all necessary notifications are given in accordance with the procedures stated in a Convention to which these Regulations apply.

(3) Should Solomon Islands require external assistance in response to a marine pollution incident, such assistance may be requested by the Administration in accordance with the procedures contained in any bilateral, multilateral or regional marine spill contingency plan(s), and related arrangements in place at the time.

(4) If a Pacific Island Country or Territories requests assistance from Solomon Islands in response to a marine pollution incident, such request may be considered by the Administration in accordance with the procedures contained in a bilateral, multilateral or regional marine spill contingency plan, and related arrangements in place at the time.

ppointment of
n-Scene-
ommander

23. (1) The Director shall appoint -

- (a) a suitably qualified officer of the Administration to be the Administration's On-Commander; and
- (b) any other suitably qualified persons to be Deputy On-Scene-Commanders, who shall be deemed to be the On-Scene-Commander if the office of On-Scene-Commander is vacant or the incumbent is absent or is otherwise unavailable to act in relation to any specific marine pollution incident.

- (2) The On-Scene-Commander shall –
- (a) command, manage and co-ordinate all operations relating to the response to marine pollution incidents emanating from vessels; and
 - (b) control and direct the use of all resources allocated to the response to marine pollution incidents emanating from vessels.
- (3) During a marine pollution incident emanating from a vessel, the On-Scene-Commander shall direct the use of assets and resources that are necessary to deal with the incident, and has the authority to spend and commit such funds as are reasonable in the circumstances up to the amount contained in the POLFUND established under law.
- (4) The powers exercisable under this regulation are subject to any directions given to the On-scene Commander under the authority of any law relating to disaster and emergency management if a state of disaster has been declared in relation to the incident.

24. (1) The Director shall arrange for the establishment and maintenance of a national marine pollution response equipment inventory. ^{Marine pollution response equipment}

(2) The national marine pollution response equipment inventory shall be an arrangement involving the Government and the industry comprising the owners and operators of all ports and all oil and chemical handling and storage facilities within Solomon Islands, and all parties contributing and having access to the equipment.

(3) In determining equipment needs, the Government and industry stakeholders shall co-operate to ensure compatibility and inter-operability, and to ensure that the inventory is the most appropriate for all levels of marine pollution risk and for local conditions.

(4) Standards and Code of Practice approved and published by the Minister may -

- (a) require an owner or operator of a vessel or platform to carry on board and maintain marine pollution response equipment for the containment, recovery or dispersal of any pollutant that may be discharged by the vessel or platform into Solomon Islands waters;
- (b) specify the type and quantity of such equipment which shall be sufficient to allow an initial response to the pollution incident taking into consideration limitations of the crew and the practicalities of operations at sea;
- (c) prescribe arrangements for the type and quantity of such equipment to be specified in the shipboard marine pollution emergency plan required under these Regulations; and
- (d) make any other necessary provision relating to marine pollution response equipment in Solomon Islands.

National Marine
Pollution Fund
(POLFUND)

25. (1) The Administration shall facilitate arrangements for the establishment and management of a Fund to be known as the National Marine Pollution Fund (POLFUND) to finance the implementation of the National Marine Spill Contingency Plan (NATPLAN).

(2) The POLFUND shall be constituted and managed in accordance with the laws of Solomon Islands.

PART 4 - MARINE CASUALTIES

General Application
of the Part

26. (1) This Part shall be applied so as to implement the general principles and provisions of the INTERVENTION Convention.

(2) The provisions of this Part shall be in addition to and shall not in any way prejudice any other rights or powers of the Government which are exercisable under international law.

(3) The powers conferred by this Part shall only be exercised and the measures shall only be taken as a result of -

- (a) a marine casualty in Solomon Islands waters or on the High Seas; or
- (b) a pollution incident occurring onboard a vessel, where it appears to the Director necessary to prevent, reduce or eliminate grave and imminent danger from any pollutant -
 - (i) in or to Solomon Islands waters; or
 - (ii) to the coast of Solomon Islands; or
 - (iii) to related interests -

following upon a marine casualty, or acts related to a marine casualty.

27. (1) Where it appears to the Director that as a result of a marine casualty or incident referred to in regulation 26(3) a vessel constitutes or is likely to constitute a risk of pollution then, for prevention, reduction or elimination of the pollution, the Director may - Powers in relation to marine casualties

- (a) issue any instructions to -
 - (i) the master, owner or agent of the vessel; or
 - (ii) a person-in-charge of any salvage operation in respect of the vessel, and to an employee or agent of that person -

requiring any specified action to be taken or determining that no specified action be taken with respect to the vessel or its cargo; and

- (b) take any measures whatsoever with respect to the vessel or its cargo whether or not the Director has issued instructions under paragraph (a).
-

(2) In determining what measures should be taken under subregulation (1), the Director shall have regard to –

- (a) the extent and probability of imminent damage if those measures are not taken;
- (b) the likelihood of those measures being effective;
- (c) the extent of the damage which may be caused by such measures; and
- (d) the views of the Solomon Islands Ports Authority and the Ministries responsible for fisheries, disaster management and the environment (if these can be readily obtained in the circumstances).

(3) The measures that the Director may direct to be taken or may take under subregulation (1) shall include –

- (a) the removal to another place of the vessel or its cargo;
- (b) the removal of cargo from the vessel;
- (c) the salvage of the vessel or its cargo, or both;
- (d) the sinking or destruction of the vessel, or the destruction of the cargo, or both; and
- (e) the taking over of control of the vessel

(4) In order to carry out any of the measures referred to in subregulation (1), the Director may, after consulting with the owner of a vessel to whose master the instructions are to be given –

- (a) instruct the master of any Solomon Islands vessel, or the master of any other vessel within Solomon Islands waters, to render assistance to a vessel that is or is likely to be a marine casualty; and
-
-

- (b) instruct the master of a Solomon Islands vessel to –
- (i) render assistance to any vessel;
 - (ii) take on board any equipment;
 - (iii) sail to any place, to render assistance to a vessel assisting a marine casualty
 - (iv) assist in any operations for the cleaning up, removal, or dispersal of any oil or other pollutant; and
 - (v) obey the instructions of any person authorised by the Director to exercise control over or responsibility for a marine casualty.

(5) The powers of the Director to issue instructions or to take measures under subregulation (1) shall be exercisable by a Persons authorised by the Director –

- (a) in writing; or
- (b) orally and later confirmed in writing, in cases of emergency where the giving of written authority is not practicable.

(6) Before taking any measures under subregulation (1), the Director shall take all available and practicable measures to consult with a State affected by the marine casualty, and in particular the Flag State of the vessel involved.

(7) The Director shall notify a person known to have interests which can reasonably be expected to be affected by the measures that are proposed to be taken under subregulation (1), but a failure to do so does not affect the powers of the Director, or give rise to any liability for non-compliance with this regulation.

ght to compensa-
n

28. (1) A person who has incurred expense, loss or damage as a result of the taking or any action or measure under regulation 27 may seek compensation from the Government only if he or she can prove that the instruction given or measure taken –

- (a) was wholly inappropriate in the circumstances and in excess of any instruction or measure that could have reasonably been given by any reasonable person in the circumstances; or
- (b) had no prospect of preventing, reducing or eliminating the pollution to which it was directed.

(2) A claim made for compensation under subregulation (1) shall be made to the High Court which may take into account any relevant matter in determining whether the criteria stated in subregulation (1) apply.

(3) Nothing in subregulation (2) prevents a claim from being dealt with by conciliation or arbitration provided for under domestic or international law.

(4) Where any measures have been taken pursuant to regulation 27 on the high seas and there is a dispute between the Government and -

- (a) the owner of the vessel; or
- (b) the Government of the State where the vessel is registered; or
- (c) the Government of the State having any related interests s-

and the dispute relates to -

- (i) whether such measures were necessary to prevent, reduce or eliminate grave and imminent danger to Solomon Islands waters or the cost of Solomon Islands or related interests from pollution or the threat of pollution by pollutant; or

- (ii) whether the measures taken were in excess of that reasonably necessary to prevent, eliminate or reduce pollution or the risk of pollution; or
- (iii) whether compensation should be paid in accordance with subregulation (1); or
- (iv) the amount of such compensation -

then, if settlement by negotiation between the parties has not been possible and if the parties do not otherwise agree, the matter shall be submitted, upon the request of any of the parties, to conciliation, and if that does not succeed, then to arbitration according to the procedures set out in the Annex to the INTERVENTION Convention.

29. (1) A person commits an offence if the person – Offences against
this Part
- (a) fails to comply with any instructions issued by the Director pursuant to regulation 27, or by a person duly authorised by the Director; or
 - (b) wilfully obstructs a person acting in compliance with any instructions issued by the Director pursuant to regulation 27 or by a person duly authorised by the Director; or
 - (c) wilfully obstructs the Director or any person acting on behalf of the Director in carrying out any of the powers conferred on the Director by regulation 27.

(2) A person who commits an offence under subregulation (1) is liable to a fine not exceeding 5000 penalty units, and to an additional fine of 1000 penalty units for each day during which the offence continues.

(3) It is a defence for an offence under subregulation (1) to prove that -

- (a) the failure to comply with any instructions issued under regulation 27; or
- (b) the wilful obstruction of -
 - (i) a person acting in compliance with such instruction duly issued; or
 - (ii) the Director or a person acting on behalf of the Director -

resulted from the need to save life at sea

(4) It is also a defence for an offence under subregulation (1) to prove that all due diligence to comply with any instructions issued by the Director pursuant to regulation 27 or by a person duly authorised by the Director.

Protection from
liability

30. Where -

- (a) the Director or a person duly authorised by the Director has taken any measures under regulation 27; or
- (b) a person has taken action or refrained from taking action in accordance with instructions issued under regulation 27 -

then subject to regulation 28, the Director or that person, as the case maybe, shall not incur any civil liability in respect of the instruction given or measures taken.

PART 5 - INSURANCE COVER FOR POLLUTION DAMAGE

Requirement for
insurance for pollu-
tion damage

31. (1) This regulation applies to all -

- (a) oil tankers carrying oil in bulk as cargo in Solomon Islands waters;
- (b) vessels carrying hazardous and noxious substances in Solomon Islands waters;

- (c) Solomon Islands vessels having a gross tonnage greater than 500 gross tonnage; and
- (d) any other Solomon Islands vessel, or class of Solomon Islands vessel, that is determined from time to time by the Minister to be a vessel to which this regulation applies.

(2) A vessel to which this regulation applies must be covered by insurance or other financial security in accordance with –

- (a) a Convention to which these Regulations apply; and
- (b) if the vessel is one to which subregulation (1)(c) or (d) applies, any requirement imposed by the Director that is consistent with this regulation.

(3) The insurance cover or other financial security must be in the form of a current –

- (a) policy of insurance;
- (b) bank guarantee;
- (c) certificate issued by an international compensation fund; or
- (d) other appropriate security or cover approved from time to time by the Director

(4) A vessel to which this regulation applies must carry a certificate which certifies that the vessel currently has the required insurance cover or other financial security, and which is issued –

- (a) in accordance with an applicable Convention to which these Regulations apply; and
 - (b) by a competent authority under those Conventions, or by the Director under regulation 32.
-
-

(5) A certificates required to be carried under this regulation shall be in the form required under the applicable Convention to which these Regulations apply, and shall include the following particulars –

- (a) name of the vessel, its distinctive number or letters and its port of registry;
- (b) name and principal place of business of the owner;
- (c) IMO vessel identification number;
- (d) type and duration of security;
- (e) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and
- (f) period of validity of certificate, which shall not be longer than the period of validity of the insurance or other security.

(6) The certificate must be carried on board the vessel and a copy must be deposited with the authorities that keep the record of the vessel's registry or, if the vessel is not registered in a Contracting State, with the authorities of the State issuing or certifying the certificate.

(7) A Certificate issued or certified under the authority of a Contracting State in accordance with paragraph 2 of Article VII of CLC 92, shall be accepted by Solomon Islands for the purposes of that Convention, and shall be regarded by Solomon Islands as having the same force as certificates issued or certified by them even if issued or certified in respect of a vessel not registered in a Contracting State.

(8) A certificates to which this regulation applies shall be in the official language or languages of the issuing State, and if that language is not English, the text must include a translation into English.

(9) An insurance or other financial security required under this regulation shall not satisfy the requirements of this regulation if it can cease to extend cover for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under subregulation (2), before 3 months have elapsed from the date on which notice of its termination is given to the authorities referred to in subregulation (6), unless the certificate has been surrendered to those authorities or a new certificate has been issued within that period.

(10) Subregulation (9) shall similarly apply to any modification that results in the insurance or security no longer satisfying the requirements of this regulation.

(11) A claim for compensation for pollution damage may be brought directly against the insurer or other person providing financial security for the owner's liability for pollution damage, and in such cases the defendant –

- (a) may have the benefit of limitations of liability prescribed by law, even if the owner is not entitled to limit his or her liability;
- (b) may invoke a defence which the owner would have been entitled to invoke (other than a defence based upon the bankruptcy or winding up of the owner);
- (c) may invoke the defence that the pollution damage resulted from the wilful misconduct of the owner.
- (d) has the right to require the owner to be joined in the proceedings -

but the defendant shall not have the right to claim any other defence which he or she might have been entitled to invoke in proceedings brought by the owner.

(12) In the case of oil pollution damage any sums provided by insurance or by other financial security maintained in accordance with subregulation (1) shall be available exclusively for the satisfaction of claims under CLC 92.

ue of Certificates
Solomon Islands
ssels and bunkers

32. (1) In relation to a Solomon Islands vessel of the nature specified in regulation 31(1), the Administration -

- (a) shall apply all relevant insurance related requirements to Solomon Islands vessels in accordance with all applicable Conventions to which these Regulations apply, and to any additional requirements applying under these Regulations;
- (b) shall ensure that the insurance cover or other financial security relating to the vessel meets the requirements stated in regulation 31(3), (5), (8) and (9); and
- (c) may issue a certificate in the appropriate form and meeting the requirements of the applicable Convention.

(2) No Solomon Islands vessel to which regulation 31 applies may conduct trade unless -

- (a) it is covered by the required policy of insurance or other financial security as required by this Part; and
- (b) a certificate has been issued under this regulation.

(3) The owner and master of a Solomon Islands vessel which contravenes any of the requirements of subregulation (2) commit an offence and is liable upon conviction to a fine of 5000 penalty units, or to a term of imprisonment for a period of 12 months, or both.

(4) The Administration may approve Codes of Practice relating to bunkers in Solomon Islands and which may require bunkers to have prescribed insurance cover, or any other prescribed financial security, and may prescribe requirements for any matter associated with such a requirement.

33. (1) No vessel to which regulation 31 applies, wherever registered, may enter or leave a Solomon Islands port unless it has current insurance cover or other financial security as required under this Part. Failure to carry the required certificate insurance

(2) The owner and master of a vessel which contravenes subregulation (1) commit an offence and is liable upon conviction to a fine of 5000 penalty units, or to a term of imprisonment for a period of 12 month, or both.

PART 6 - DUMPING AND INCINERATION OF WASTES AT SEA

34. (1) This Part shall be applied in accordance with the requirements, procedures and standards stated in – General Application of this Part

- (a) the London Convention as amended by the Protocol of 1996 to that Convention;
- (b) the Wanigan Convention relating to the dumping and incineration of wastes at sea; and
- (c) the SPREP Dumping Protocol (as amended) made under the SPREP Convention.

(2) The provisions of this Part do not apply to the disposal of garbage from vessels as permitted by MARPOL 73/78 and referred to in regulation 9(5)(c).

(3) The provisions of this Part shall apply to all the internal waters, territorial sea and exclusive economic zone of Solomon Islands, and shall apply to its continental shelf in accordance with the requirements of the SPREP Dumping Protocol.

(4) The provisions of this Part shall not apply to the disposal or storage of wastes or other matter directly arising from, or related to, the exploration and associated off-shore processing of seabed mineral resources as stated in Article 2.3 of the SPREP Dumping Protocol.

(5) Words and phrases used in this Part shall have the same meaning as is given to them in SPREP Dumping Protocol.

(6) The "polluter pays" principle and the precautionary principle shall be applied in the application of this Part as required by section 24 of the Maritime Safety Administration Act 2009.

Permits for the
Dumping of Wastes
at Sea

35. (1) The Ministry responsible for the environment shall have responsibility and authority for the issuing of permits for the dumping of wastes at sea in accordance with the SPREP Dumping Protocol, and shall be the designated authority for the purposes of the Protocol.

(2) An application for permission to dump wastes at sea must be made to the Director of Environment on the form approved for that purpose by the Director of Environment, and must be accompanied by an application fee of \$1,000.

(3) In assessing an application under this regulation, the Director of Environment shall have full regard to the matters stated in Annex II of the SPREP Dumping Protocol, and may require that a Public Environment Report and Environment Impact Assessment be undertaken in accordance with the *Environment Regulations 2008*, and for that purpose the provisions of Part 5 of the *Environment Regulations 2008* shall apply to permits under this Part, with any necessary modifications.

(4) The Director of Environment may reject an application made under this Regulation if there is insufficient time to consider the impacts of the proposed activity, or if insufficient information is provided to permit a proper assessment of the application, and the possible impacts of the proposed activity.

(5) No application may be granted to permit the dumping of wastes other than those prescribed in Annex I of the SPREP Dumping Protocol, or for the incineration of any wastes at sea.

(6) The Director of Environment may approve an application made under this regulation and issue a permit in the approved form.

(7) The Director of Environment may impose on a permit issued under this regulation any conditions that he or she considers appropriate.

(8) It shall be a condition of every permit issued under this Regulation that the holder of the permit -

- (a) comply with any Standards or Code of Practice approved from time to time by the Ministry of Environment, Conservation and Meteorology or by the Administration, or approved under the SPREP Dumping Protocol to be applied by all Parties to the SPREP Convention;
- (b) provide full information in relation to the dumping undertaken under the permit to enable adequate recording, monitoring and reporting upon the nature, timing and effect of the dumping as required by the SPREP Dumping Protocol.

36.
wastes are -

(1) The owner or master of a vessel from or on which

Offences relating
to disposing of
wastes at sea

- (a) dumped at sea otherwise than as permitted by these Regulations; or
- (b) incinerated at sea -

commits an offence and is liable upon conviction to a fine not exceeding 5000 penalty units, or to a term of imprisonment not exceeding 12 months, or both.

(2) The holder of a permit under regulation 35 who -

- (a) fails to comply with any condition applying to the permit;
 - (b) fails to provide any information relating to the dumping activity when required to do so by the Director of Environment or the Administration; or
-

- (c) dumps any wastes that are not of the type referred to in Annex I of the SPREP Dumping Protocol -

commits an offence and is liable upon conviction to a fine not exceeding 5000 penalty units, or to a term of imprisonment not exceeding 12 months, or both

- (3) A person who exports any wastes or other matter from Solomon Islands to a place within the Protocol area, as defined in the SPREP Dumping Protocol, for the purposes of dumping or incineration at sea, commits an offence and is liable upon conviction to a fine not exceeding 5000 penalty units, or to a term of imprisonment not exceeding 12 months, or both.

- (4) It is a defence to an offence under subregulation (1) or (2) if the offender can prove that the action taken -

- (a) was necessary for the safety of human life, or of a vessel, aircraft, platform or other man-made structure; or
- (b) was in response to dangers posed by force majeure caused by stress of weather, or any other cause posing threat to safety; and
- (i) was required as the only way of averting the threat of danger; and
- (ii) would result in less damage or injury than that which would likely result from the threat or danger.

- (5) In addition to a penalty imposed under this regulation, the court shall order the offender to pay or reimburse all costs arising from the offence, including the costs of investigating the offence and monitoring its impacts, and responding to any environmental damage and rectifying the damage caused.
-
-

PART 7 - MISCELLANEOUS PROVISIONS

37. (1) A person who contravenes a requirement, duty or obligation provided for in these Regulations, or under any Standards or Code of Practice approved under these Regulations, for which no offence is stated or no penalty is provided for, commits an offence and is liable upon conviction to a fine not exceeding 5000 penalty units, or to a term of imprisonment for up to 3 months, or both. General offences and penalties

(2) Where an offence against these Regulations continues for a period after the initial contravention and no other penalty is provided elsewhere for the continuance of the offence, any person who commits that offence shall, in addition to any other liability, be liable upon conviction to a fine not exceeding 1000 penalty units for every day during which the offence continues.

38. (1) A Court may direct that a vessel or its equipment be sold, and that the proceeds of sale be applied to the payment of fines and costs awarded against any person convicted of an offence against these Regulations, if - Recovery of fines by distress

- (a) the person ordered to pay the fine or costs is the owner or master of the vessel; and
- (b) that person has failed or refused to pay the fine or costs, or any part of them within the time and in the manner -
 - (i) ordered by the court; or
 - (ii) applying by reason of any relevant law.

(2) The power provided for under subregulation (1) is in addition to any other power that the Court may have to compel payment of the fine or costs.

39. (1) The Minister may approve and publish Standards and Codes of Practice for any purpose for which they are contemplated or required by these Regulations, or which relate to - Standards and Codes of Practice

- (a) design requirements applying to vessels so as to apply the provisions of any applicable Convention to which these Regulations apply;
-

- (b) pollution prevention equipment which must be carried on board vessels, or which must otherwise be available to respond to a marine pollution incident;
 - (c) operations and operational requirements applying to vessels so as to apply the provisions of any applicable Convention to which these Regulations apply;
 - (d) other measures to prevent the discharge of non-indigenous harmful aquatic organisms or pathogens from ballast waters, or by any other activity;
 - (e) hull scraping and cleaning, and other aspects of vessel cleaning operations;
 - (f) the provision, management and utilisation of waste reception facilities for vessels, and any other matter associated with the discharge or disposal of waste from vessels;
 - (g) the provision, management and utilisation of equipment necessary to respond to marine pollution incidents from any vessel or relevant land-based facility;
 - (h) the consideration and granting of Discharge Permits under regulation 14;
 - (i) duties to report discharges or pollution incidents;
 - (j) duties to keep records for any purpose associated with the implementation of these Regulations, and for the production of such records;
 - (k) procedures for investigations or inspections to be carried out under these Regulations;
 - (l) the preparation and enforcement of any aspect of the NATPLAN;
-
-

- (m) any matter which may facilitate regional cooperation in relation to marine pollution prevention, preparedness or response;
- (n) the role and functions of the On-scene Commander under these Regulations;
- (o) the exercise of powers to be exercised in the event of a marine casualty;
- (p) procedures relating to making or responding to any request for assistance in accordance with any Convention to which these Regulations apply; and
- (q) requirements relating to the insurance or other financial securities required to be held by Solomon Islands vessels, and other vessels in Solomon Islands waters, and in relation to bunkers.

(2) All approved Standards and Codes of Practice under these Regulations shall take effect in accordance with a Notice in the *Gazette*.

MADE AT HONIARA this twentieth-third day of September, 2011.

HON. JACKSON FIULAUA
Minster for Infrastructure Development

[Legal Notice No. 68]

**MARITIME SAFETY ADMINISTRATION (SHIP AND PORT
SECURITY) REGULATIONS 2011**

ARRANGEMENT OF REGULATIONS

PART 1 – PRELIMINARY

1. Citation
2. Interpretation
3. Application of these Regulations

PART 2 – ROLES OF THE ADMINISTRATION

4. Responsibilities of the Administration
5. The Maritime Security Committee
6. Administration to set Security Levels

PART 3 – DECLARATIONS OF SECURITY

7. Declarations of Security
8. Initiating a Declaration of Security
9. Form of a Declaration of Security
10. Review of a Declaration of Security

PART 4 – PORT SECURITY

11. Responsibilities of the Ports Authority
12. Responsibilities of Port Security Officers
13. Port Security Plans
14. Port Facility Security Plans
15. Responsibilities of Port Facility Operators
16. Security exercises
17. Responsibilities of port employees and agents
18. Responsibilities of other port users

PART 5 – OBLIGATIONS OF SHIPS ENTERING PORT

19. Information to be provided by ships prior to entry into port
 20. Assessment of information related to ships prior to entry into port
-
-

PART 6 – SHIP SECURITY

21. Responsibilities for Ship Security
22. Ship Security Plans
23. Responsibilities of Company Security Officers and Ship Security Officers
24. Responsibilities of company employees and agents
25. Overriding authority of masters

PART 7 – DEALING WITH SECURITY THREATS

26. Contingency Procedures at Ports
27. Contingency Procedures for Ships

PART 8 – SECURITY TRAINING

28. Security Training at Ports
29. Security Training for Ships

PART 9 – INTERNATIONAL SHIP SECURITY CERTIFICATES

30. Requirement to hold a Certificate
31. Verification and Intermediate Verifications
32. Issue and endorsement of Certificates
33. Period of Validity of Certificates
34. Extension of Validity of Certificates
35. Interim Certification
36. Cancellation of Certificates
37. Fees and charges for Certificate

PART 10 – MISCELLANEOUS PROVISIONS

38. Duties to assist police and comply with security plans
 39. Guidelines, Standards and Codes of Practice
 40. Offences against these Regulations
 41. Prescribed forms and requirements
 42. Repeal of the Shipping (Maritime Security) Regulations 2004
 43. Transitional and savings provisions
 44. Application of other laws
-
-

[Legal Notice No. 68]

**MARITIME SAFETY ADMINISTRATION ACT 2009
(No. 8 of 2009)**

**MARITIME SAFETY ADMINISTRATION (SHIP AND PORT
SECURITY) REGULATIONS 2011**

IN exercise of the powers conferred upon me by section 25 of the Maritime Safety Administration Act 2009 and by sections 3(2), 56 and 220 of the Shipping Act 1998, I do hereby make these Regulations –

PART 1 – PRELIMINARY

tation

1. These Regulations may be cited as the Maritime Safety Administration (Ship and Port Security) Regulations 2011.

terpretation

2. (1) In these Regulations, unless the context otherwise requires –

“approved” in relation to any guideline, standard or code of practice to be applied under these Regulations, means any such document approved by the Minister in accordance with regulation 39;

“company” means a shipping company incorporated in Solomon Islands which operates a ship to which these Regulations apply;

“company security officer” means the person designated by a Company to perform the duties and responsibilities stated in Part 6 in relation to the security of the ships operated by the Company;

“contracting party” means any State which is a party to SOLAS and which has adopted and applied the ISPS Code;

“Convention” means the International Convention for the Safety of Life at Sea, 1974 (SOLAS), and “SOLAS” is the corresponding acronym;

“deadweight tonnage” means the total load of cargo, fuel, stores and ballast that a ship can carry, and “DWT” is the corresponding acronym;

- “declaration of security” means a declaration of security determined under regulation 7;
- “Director” means the Director of Marine holding office from time to time under the Act, and includes any officer of the Administration acting in the position of Director;
- “exclusion zone” means a waterside area to which access is temporarily restricted to persons authorised by the Ports Authority;
- “gross registered tonnage” means the total capacity of a vessel in tonnage units of 100 cubic feet, and “GRT” is the corresponding acronym;
- “high security level” means a security level specified by the Director under regulation 6(1);
- “International Ship Security Certificate” means an International Ship Certificate issued by the Administration in accordance with Part 9, or by a Designated Authority of a Contracting Party;
- “ISPS Code” means the International Ship and Port Facility Security Code adopted under the Convention, and as amended from time to time;
- “Maritime Administration” means the duly constituted maritime administration of a contracting party which has jurisdiction over a ship to which these regulations apply and which is not a Solomon Islands ship;
- “Maritime Security Committee” means the committee established under regulation 5;
- “master” means any person having command or charge of a ship;
- “Minister” means the Minister responsible for maritime transport;
-
-

“port facility operator; means the manager of any port facility that provide for the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons, goods or the provisions of port services to or from a ship;

“port facility security officer” means a suitably qualified person designated by a Port Facility Operator to be responsible for performing the duties stated in Part 4 of these Regulations;

“port facility security plan” means a plan developed and approved in accordance with Part 4, and which provides for the application of measures designed to protect the port facility and ships, persons, cargo, cargo transport units and ship’s stores within the port facility, from the risks of a security incident;

“port security officer” means a suitably qualified person designated by the Ports Authority to be responsible for performing the duties in stated in Part 4;

“restricted area” means any area on a ship to which access is permitted only for crew, persons invited by the master or ship security officer, and other persons authorised pursuant to these Regulations or the relevant safety plan;

“restricted zone” means landside areas to which access is permitted only for persons authorised by a Port Facility Operator, or persons authorised pursuant to these Regulations;

“screener” means a person who is responsible in accordance with a Security Plan approved under these Regulations, to screen people or goods for disallowed items, including any weapons or dangerous goods, which are not allowed aboard a ship or within any sterile area;

“screening procedures” means those measures applied to the inspection of people and goods, and which involve ~~checking for disallowed items to make sure that~~ the items are not carried into sterile areas or onto a ship;

“ship security officer” means the person on board a ship, who is designated by the Company and accountable to the master, and responsible for performing the duties stated in Part 6;

“ship security plan” means a plan developed and approved in accordance with Part 6 of these Regulations for any ship to which these Regulations apply;

“Ship to which these Regulations apply” means any ship of the nature or type referred to in regulation 3(1);

“Solomon Islands ports” means any port in Solomon Islands that services ships engaged on international voyages;

“Solomon Islands ship” means any ship that is registered in Solomon Islands;

“sterile area” means an area of a port that is designated under an approved Plan, to which persons, vehicles and goods are not permitted until given security clearance in accordance with the Plan;

“unaccompanied baggage” means any baggage or other personal effects, which are not with the passenger or member of ship’s crew at the point where screening takes place;

“unlawful interference” includes any of the following types of acts committed by a person without a lawful excuse –

- (a) seizing, or exercising control of, a ship by force, or threat of force, or any other form of intimidation;
 - (b) damaging or destroying a ship that is in service;
 - (c) placing, or causing to be placed, on board a ship in service a thing that is likely to -
 - (i) destroy the ship; or
 - (ii) endanger its safety;
 - (d) ~~communicating information, which is known~~ to be false, thereby endangering the safety of a ship; and
-
-

- (e) committing an act of violence against a person, property or the environment at a port, if the act -
 - (i) causes, or is likely to cause, injury or death; and
 - (ii) endangers, or is likely to endanger, the safe and efficient operation of the port or the safety of anyone at the port; or

and includes any attempt to commit any of the above acts.

(2) The Administration shall be the "Designated Authority" under the International Ship and Port Facility Code, and the term "Contracting Government" wherever it may be used in relation to the ISPS Code shall include a reference to the Designated Authority.

(3) Terms not otherwise defined in these Regulations shall have the same meaning as the meaning attributed to them in the ISPS Code and the SOLAS Convention.

Application of
these Regulations

3. (1) These Regulations apply to -
- (a) Solomon Islands passenger ships, including high-speed craft, engaged on international voyages;
 - (b) Solomon Islands cargo ships, of 500 gross tonnage and upwards, engaged on international voyages;
 - (c) ports and port facilities within ports in Solomon Islands that serve vessels engaged on international voyages;
 - (d) all foreign vessels in Solomon Islands waters to which the SOLAS Convention applies; and
 - ~~(e) fishing vessels of 12 metres in length and above which are fishing in the Exclusive Economic Zone of Solomon Islands.~~

(2) Notwithstanding the provisions of sub-regulation (1), the Director may determine the nature and extent of the application of these Regulations to any port facilities serving ships on domestic voyages, and which occasionally serve ships arriving or departing on international voyages.

PART 2 – ROLES OF THE ADMINISTRATION

- | | | | |
|----|-----|--|--|
| 4. | (1) | The Administration is responsible for – | Responsibilities
of the
Administration |
| | (a) | initiating, developing, promoting and reviewing maritime security policy, legislation, standards and procedures; | |
| | (b) | auditing and enforcing compliance with maritime security policy, legislation, standards and procedures; | |
| | (c) | approving Security Plans in accordance with these Regulations; | |
| | (d) | coordinating the maritime security policy response to any threat, and any act which threatens the security of the maritime transport sector; | |
| | (e) | coordinating the provision of intelligence and information on threats to the maritime industry; | |
| | (f) | providing advice on maritime security to government, industry and the public. | |
| | (g) | ensuring that all ships to which these Regulations apply hold valid International Ship Security Certificates in accordance with Part 9 of these Regulations and the ISPS Code; and | |
| | (h) | advising of the need for additional security measures to be taken. | |

(2) The Administration shall provide administrative and technical support to the Maritime Security Committee.

the Maritime
Security Committee

5. (1) The Maritime Security Committee is established by this Regulation consisting of the following members –

- (a) the Director, who shall be Chairperson;
- (b) the General Manager of the Ports Authority, who shall be Deputy Chairperson; and
- (c) other members appointed under sub-regulation (2)

(2) The Minister shall appoint members to the Maritime Safety Committee, to include appropriate representation of-

- (a) Government Ministries, Departments and agencies whose functions and responsibilities -
 - (i) require their presence in a port; and
 - (ii) relate to security and safety;
- (b) private companies having operations within ports, or which provide services to the maritime sector; and
- (c) the shipping industry

(3) Meetings of the Maritime Security Committee shall be convened when considered necessary by the Director.

(4) The functions of the Maritime Safety Committee shall be to -

- (a) coordinate the implementation of national maritime security measures in Solomon Islands ports and on ships in Solomon Island waters;
 - (b) provide a forum for the discussion of maritime security matters affecting port operations, port users and ships visiting Solomon Island ports;
-

- (c) draw up and maintain a list of vulnerable points of the ports, including essential equipment and facilities, and review their security implications from time to time;
- (d) provide a forum for communication between port operators, port users and shipowners on issues of security and procedures in place to meet threats,
- (e) provide information to all ports users and ships on approved security plans and procedures, and approved contingencies for periods of heightened tension and emergency situations;
- (f) otherwise promote security awareness amongst port workers and users, and shipowners.
- (g) liaise with external agencies on security issues and responses to threats; and
- (h) ensure that maritime security measures and processes are implemented in a coordinated manner.

(5) The Administration shall ensure that a record of each meeting is kept, and that minutes are forwarded, either in written or electronic form, to all committee members in advance of each meeting.

(6) The Director shall convene a meeting of the Committee in response to any reported security incident, and the Committee shall make arrangements for the establishment of a support team to effectively coordinate a response to the incident.

(7) The functions of a support team appointed by the Committee under sub-regulation (6) shall be to –

- (a) provide technical and operational advice and assistance to the police in relation to operational matters and resources available at a port;
- (b) consult with the police and ensure the orderly conduct of other operations in the port that are not associated with or affected by the incident; and
- (c) provide incident-related advice and information to their respective organisations and to the Administration.

Administration to
Security Levels

6. (1) After consultation with the Maritime Safety Committee, the Director shall specify in writing security levels for the purposes of these Regulations, which shall generally reflect the following designations –

- (a) “Security Level 1” indicates the level for which minimum appropriate protective security measures must be maintained at all times;
- (b) “Security Level 2” indicates the level for which appropriate additional protective security measures must be maintained for a period of time as a result of heightened risk of a security incident; and
- (c) “Security Level 3” indicates the level for which further specific protective security measures must be maintained for a limited period of time when a security incident is probable or imminent, although it may not be possible to identify the specific target.

(2) Where there is greater likelihood of occurrence of a security incident a higher security level shall be applied as specified in sub-regulation (1), and the factors to be considered in applying the appropriate security level shall include –

- (a) the degree that the threat information is credible;
- (b) the degree that the threat information is corroborated;
- (c) the degree that the threat information is specific or imminent; and
- (d) the potential consequences of such a security incident.

(3) After consultation with the Maritime Safety Committee, the Director shall issue appropriate instructions whenever necessary, and shall provide security related information to the ships and port facilities that may be affected by a security threat.

(4) A higher levels of alert the Director may impose additional preventive and protective security measures, and such measures may be applied to an entire port, specific port operations or certain port facilities.

(5) Additional security measures may be implemented either at the direction of the Director, or on the initiative of the Ports Authority or ship owner or master, who shall promptly notify the Director of the implementation of the measures.

(6) The Director may delegate to a Recognised Security Organisation certain duties and responsibilities under these Regulations, but no such delegation may be to permit –

- (a) the setting of the applicable security level;
 - (b) the approval a Port, Port Facility or Ship Security Assessment, and subsequent amendments to an approved assessment;
 - (c) the determination of the port or port facilities that will be required to appoint a Port or Port Facility Security Officer; or
 - (d) the approval of a Port, Port Facility or Ship Security Plan, and subsequent amendments to an approved plan.
-
-

PART 3 – DECLARATIONS OF SECURITY

Declaration of
security

7. (1) A Declaration of Security may be made under this regulation to facilitate agreement a ship and a port facility, or with other ships with which the ship interfaces, as to the respective security measures each will undertake in accordance with the provisions of their respective approved security plans.

(2) The Director shall determine when a Declaration of Security is required, by assessing the risk the ship-to-port interface or ship-to-ship activity poses to persons, property or the environment.

(3) The owner or master of a ship can request a Declaration of Security when -

- (a) the ship is operating at a higher security level than the port facility or another ship it is interfacing with;
- (b) there is agreement on a Declaration of Security between Contracting Governments covering certain international voyages or specific ships on those voyages;
- (c) there has been a security threat or a security incident involving the ship or involving the port facility;
- (d) the ship is at a port that is not required to have and implement an approved port or port facility security plan; or
- (e) the ship is conducting ship-to-ship activities with another ship not required to have and implement an approved ship security plan.

Initiating a
Declaration of
Security

8. (1) A Declaration of Security shall be initiated in accordance with this regulation in respect of a port or port facility when the Director deems it necessary or when the owner or master of a ship makes a written request and states adequate grounds for a Declaration of Security to be initiated that are consistent with regulation 7(3).

- (2) The need for a Declaration of Security may be indicated by the results of the Port Facility Security Assessment, and the reason and circumstances in which a Declaration of Security is required shall be set out in the Port Facility Security Plan.
- (3) The need for a Declaration of Security may be indicated by the Maritime Administration for ships entitled to fly its flag or as a result of a ship security assessment, and shall be set out in the ship security plan.
- (4) A Declaration of Security may be requested at higher security levels if –
- (a) a ship has a higher security level than the port facility, or another ship with which it interfaces; or
 - (b) ship-to-port interface or ship-to-ship activities pose a higher risk to persons, property or the environment for reasons specific to that ship (including its cargo or passengers), or the circumstances at the port facility or a combination of these factors.
- (5) If a ship or a Maritime Administration, on behalf of ships entitled to fly its flag, requests the imposition of a Declaration of Security, the Port Facility Security Officer or Ship Security Officer shall acknowledge the request and undertake consultations about appropriate security measures.
- (6) A Port Facility Security Officer may also initiate a Declaration of Security prior to ship-to-port interfaces that are identified in the approved Port Facility Security Assessment as being of particular concern, including –
- (a) embarking or disembarking passengers; and
 - (b) transferring, loading or unloading dangerous goods or hazardous substances.
- (7) A Port Facility Security Assessment may also identify facilities at or near highly populated areas or economically significant operations that warrant a Declaration of Security.
-

Form of a
Declaration of
Security

9. (1) All Declarations of Security shall be in a form that complies with the ISPS Code, and any requirements imposed from time to time by the Director.

- (2) An agreed Declaration of Security must -
- (a) be signed and dated by the relevant port facility security officer and the ship security officer of any relevant ship or ships;
 - (b) indicate compliance with SOLAS Chapter XI-2 and Part A of the ISPS Code;
 - (c) state its duration, the relevant security level, or levels; and
 - (d) provide the relevant contact details for all parties.
- (3) The Declaration of Security must be completed in the English language.
- (4) A Declaration of Security must address the security requirements that can be shared between a port facility and a ship (or between ships), and must state the responsibility for each.
- (5) A Declaration of Security must specify the minimum period for which it shall be applied by port facilities located within Solomon Islands.
- (6) The Administration must specify the minimum period for which Declarations of Security shall be applied by ships entitled to fly the Solomon Islands flag.

Review of a
Declaration of
Security

10. A change in the security level may require that a new or revised Declaration of Security be initiated and completed in accordance with this Part.

PORT 4 – SECURITY SECURITY

- | | | | |
|-----|-----|--|--|
| 11. | (1) | The Ports Authority must - | Responsibilities of
the Ports Authority |
| | | (a) establish a Port Security Committee comprising senior officers of the Ports Authority; | |
| | | (b) conduct a Port Security Assessment and prepare a Port Security Plan for each port under its authority; | |
| | | (c) submit each Port Security Plan for approval by the Director; | |
| | | (d) appoint a Port Security Officer for each port under its authority; | |
| | | (e) enforce compliance with the provisions of a Port Security Security Plan, and with additional security measures required by the Administration from time to time; and | |
| | | (f) initiate periodic internal audits or reviews of the Port Security Plan to ensure compliance with, and the effectiveness of, existing security measures. | |
| | (2) | All actions taken by the Ports Authority under sub-regulation (1) must be in accordance with all guidelines, standards and codes or practice recommended by the Maritime Safety Committee, or imposed by the Director from time to time. | |
| 12. | | Port Security Officers must - | Responsibilities of
Port Security
Officers |
| | | (a) in consultation with Port Facility Security Officers, ensure that appropriate security measures are maintained at the port; | |
| | | (b) maintain and supervise the implementation of the Port Security Plan, including any amendments to the Plan; | |
-
-

- (c) propose modifications to the Port Security Plan;
- (d) report to the General Manager of the Ports Authority any deficiencies and compliance issues identified during internal audits, periodic reviews, security inspections and verifications of compliance;
- (e) implement any necessary corrective measures;
- (f) attend meetings of the Port Security Committee;
- (g) enhance security awareness and vigilance by all employees of the Ports Authority;
- (h) ensure adequate security training has been provided to port employees and agents with regard to their security roles and responsibilities, and the maintenance of training records;
- (i) ensure that security equipment is appropriate operated, tested, calibrated and maintained;
- (j) ensure effective communication and cooperation between the port and members of the Port Security Committee;
- (k) report all security incidents to the Administration; and
- (l) oversee the distribution of copies of the Port Security Plan, and maintain a record of all authorised holders of the Plan.

Security Plans **13.** (1) Port Security Officers must prepare a Draft Port Security Plan on behalf of the Ports Authority, which must –

- (a) meet the requirements of these Regulations, any guidelines, standards and codes of practice applied by the Administration, and the provisions of the ISPC Code;
-

- (b) be based upon the findings of the Port Security Assessment;
 - (c) reflect the views of the Maritime Safety Committee; and
 - (d) be signed by the Manager of the Ports Authority.
- (2) Draft Port Security Plans must be submitted by the Ports Authority to the Director, who may endorse the draft plan for circulation to all relevant stakeholders, as determined by the Director.
- (3) A Port Security Plan shall become effective upon final approval by the Director after consideration of comments from stakeholders and when appropriate modifications have been made to the satisfaction of the Director.
- (4) All approved Port Security Plans must -
- (a) be treated as confidential and made available only to those employees of the Ports Authority who have responsibilities relating to the implementation of particular aspects of the Plan; and
 - (b) not be reproduced or transmitted, in any form or by any means, without the written consent of the Port Security Officer.
- (5) The Port Security Officer may review an approved Plan from time to time, and any review shall have regard to -
- (a) developments in relation to human and other resources, and advances in security procedures; and
 - (b) experience gained in relation to security by other port authorities.
-
-

(6) The Port Security Officer may prepare an amended Port Security Plan if, after review of the approved Plan, the Port Security Officer is satisfied that -

- (a) the approved Plan is no longer adequate for any one or more of the Plan's purposes; or
- (b) the effectiveness of the Plan for those purposes could be substantially improved.

(7) The Port Security Officer must submit an amended Plan to the Director for approval.

Port Facility
Security Plans

14. (1) All Port Facility Operators must conduct a Port Facility Security Assessment and prepare a Draft Port Facility Security Plan, to be issued under the authority of Port Facility Security Officer.

(2) A Draft Port Facility Security Plan must -

- (a) meet the requirements of these Regulations, any guidelines, standard and codes of practice applied by the Director, and the provisions of the ISPS Code;
- (b) be based upon the findings of the Port Facility Security Assessment; and
- (c) reflect the views of the Maritime Safety Committee.

(3) The Director shall review the Draft Plan and may approve its contents prior to its circulation to stakeholders identified by the Director.

(4) A Port Facility Security Plan shall become effective upon final approval by the Director.

(5) Each Port Facility Security Plan shall be incorporated into the relevant Port Security Plan.

(6) The Port Facility Security Officer may review an approved Plan from time to time, and any review shall have regard to -

- (a) developments in relation to human and other resources, and advances in security procedures; and

- (b) experience gained in relation to security by other port authorities and port facilities.

(7) The Port Facility Security Officer may prepare an amended Port Facility Security Plan if, after review of the approved Plan, the Port Security Facility Officer is satisfied that -

- (a) the approved Plan is no longer adequate for any one or more of the Plan's purposes; or
- (b) the effectiveness of the Plan for those purposes could be substantially improved.

(8) The Port Facility Security Officer shall submit an amended Plan to the Director for approval.

15. (1) All port facility operators, and their less and tenants, are responsible for - Responsibilities of
Port Facility
Operators

- (a) the security of their facilities and areas specifically allocated for their use;
- (b) maintaining access control procedures as they apply to any of their facilities; and
- (c) ensuring that any staff or other persons, such as contractors, who enter restricted zones or sterile areas do so only on current essential duties related to that area; and
- (d) ensuring compliance with the requirements of these Regulations by contractual arrangements other appropriate means.

(2) All port facility operators, and their lessees and tenants, may be required by the Ports Authority or the Administration to comply with security systems and procedure variations resulting from increases in maritime security threats.

security exercises

16. (1) Security exercise to test measures and response arrangements must be conducted by the Ports Authority and Port Facility Operators at times required by the Director, and in accordance with any guidelines and codes of practice applied by the Administration under these Regulations.

(2) Security exercise shall take the form of -

- (a) theoretical or desktop exercises;
- (b) simulated incidents to practice response and handling arrangements; and
- (c) any other exercise, operation or procedure stated in any approved guideline or code of practice.

(3) Security exercise shall test response arrangements to a simulated act of unlawful interference, and -

- (a) practice call out of all involved elements;
- (b) test the adequacy of facilities;
- (c) involve members of the port security committee in the provision of effective support to police operational elements; and
- (d) test the adequacy of applicable contingency plans.

(4) The relevant Port Security Officer and Port Facility Security Officers must review each security exercise and submit a formal report to the Director, and the Maritime Security Committee, within 1 month of the completion of each exercise.

responsibilities
port employees
agents

17. (1) All employees and agents of the Ports Authority whose duties require them to implement security controls at the port or routinely access a restricted zone at the port have a responsibility to ensure that the protective security arrangements covered by this Plan are observed at all times.

- (2) Any employee or agent who -
- (a) becomes aware of any breach or suspected breach of security arrangements;
 - (b) identifies any deficiency in the Plan; or
 - (c) observes activities of a suspicious nature -

must report the matter immediately to the relevant Port Security Officer.

18. All persons who enter a port must comply with all regulatory provisions brought to their notice by any means including public notices, signs, announcements, publications or verbal directions or instructions. Responsibilities of other port users

PART 5 – OBLIGATIONS OF SHIPS ENTERING PORT

19. (1) As stipulated in a Code of Practice approved under regulation 39, or as otherwise required by the Director from time to time, certain ships or classes of ships intending to enter a Solomon Islands port may be required to provide the following information and supporting evidence - Information to be provided by ships prior to entry into port

- (a) confirmation that the ship possesses a valid internationally recognised security certificate, and the name of its issuing authority;
- (b) details of the security level at which the ship is currently operating;
- (c) details of the security level at which the ship operated in the previous 10 calls at port facilities where it has conducted a ship-to-port interface, and details of any special or additional measures that were taken by the ship during that timeframe, including -
 - (i) any records of the measures taken while visiting a port facility located in the territory of a State which is not a Contracting Party, especially those measures that would normally have been provided by port facilities located in the territories of Contracting Governments; and

- (ii) any Declarations of Security that were entered into with port facilities or other ships;
- (d) confirmation that appropriate ship security procedures were maintained during ship-to-ship activity conducted within the period of the last 10 calls at a port facility, including -
- (i) records of the measures taken while engaged in a ship-to-ship activity with a ship flying the flag of a State which is not a Contracting Government, including those measures that would normally have been provided by ships flying the flag of Contracting Governments;
 - (ii) records of the measures taken while engaged in a ship-to-ship activity with a ship that is flying the flag of a Contracting Government but is not required to comply with the provisions of chapter XI-2 and part A of the Code, including a copy of any security certificate issued to that ship under other provisions; and
 - (iii) in the event that persons or goods rescued at sea are on board, all known information about such persons or goods, including their identities and the results of any checks run on behalf of the ship to establish the security status of those rescued, but only to the extent that it does not delay or prevent the delivery of those in distress at sea to a place of safety;
-
-

- (e) particulars of other practical security related information required by the Director from time to time, or under an approved Code or Practice including -
- (i) information contained in the Continuous Synopsis Record;
 - (ii) location of the ship at the time the report is made;
 - (iii) expected time of arrival of the ship in port;
 - (iv) a complete crew list;
 - (v) a general description of cargo aboard the ship;
 - (vi) a complete passenger list;
 - (vii) information regarding parties responsible for appointing shipboard personnel, including ship management companies; manning agents, contractors and concessionaries;
 - (viii) information regarding parties responsible for deciding the employment of the ship including, time or bareboat charterers, or any entity acting in such a capacity; and
 - (ix) in cases when the ship is employed under the terms of a charter party, the contact details of those parties including time or voyage charterers.

(2) Provision of the information stated in sub-regulation (1) shall be a condition of entry into port.

(3) All information required under this regulation must be provided -

-
- (a) in the English language; and
 - (b) 24 hours before the ship's estimated time of arrival into the port.
-

assessment of
information related
to ships prior to
entry into port

20. (1) If a master declines to provide information requested in accordance with regulation 19, the Director or the Harbourmaster may deny the ship entry into port, and in any such case the Administration shall, by the most expeditious means, ensure that the Flag State Administration of the ship is informed in writing (by facsimile or e-mail) specifying the reasons for declining entry.

(2) If the assessment of available information regarding a ship does not establish clear grounds that the ship is contravening these Regulations or the ISPS Code, the Director may allow the ship to enter port.

(3) If the assessment of available information regarding the ship shows that there are clear grounds to believe that the ship is contravening these Regulations and the requirements of Chapter XI-2 or Part A of the ISPS Code, the Director shall attempt to establish communication with the ship and the relevant Flag State Administration, in order to remedy the non-compliance.

(4) If the communication does not result in rectification of the apparent non-compliance, or if the Director has clear grounds for believing the ship is contravening these Regulations, the Director may -

- (a) allow the ship to enter the port, knowing that the ship is apparently non-compliant; or
- (b) inspect the ship before it enters port; or
- (c) deny the ship entry into port.

PART 6 – SHIP SECURITY

responsibilities for
Ship Security

21. (1) Any company which owns a ship to which these Regulations apply that is registered in Solomon Islands or operating in Solomon Islands waters must -

- (a) appoint a Company Security Officer to oversee all security arrangements of the Company, and to ensure that the Company and each of its Ship Security Officers comply with these Regulations and the ISPS Code;
-

- (b) appoint a Ship Security Officer with responsibilities to apply and enforce these Regulations in relation to the designated ship for which the officer is responsible;
- (c) ensure that Ship Security Assessment are undertaken and that Ship Security Plans are prepared and approved for each ship operated by the company;
- (d) enforce compliance with the provisions of each Ship Security Plan, and with additional security measures required by the Administration from time to time; and
- (e) ensure that periodic internal audits or reviews are undertaken for each Ship Security Plan.

(2) All actions taken by a company under sub-regulation (1) must be in accordance with all guidelines, standards and codes of practice recommended by the Maritime Safety Committee, or imposed by the Director from time to time.

22. (1) Any company which owns a ship to which these Regulations apply must conduct a Ship Security Assessment and produce a Ship Security Plan for each ship that it operates on international voyages that - Ship Security Plans

- (a) meets the requirements of these Regulations;
- (b) complies with all standards and requirements approved from time to time by the Maritime Security Committee, or imposed by the Director; and
- (c) be issued under the authority of Company Security Officer.

(2) The Director must review each draft Ship Security Plan and must give approval prior to the Company putting the Plan into effect.

- (3) An approved Ship Security Plan must -
- (a) be treated as confidential and made available only to those crew members who have responsibilities relating to the implementation of particular aspects of the Plan in relation to the ship; and
 - (b) not be reproduced or transmitted, in any form or by any means, without the written consent of the Company Security Officer.
- (4) No part of an approved Ship Security Plan may be reproduced or transmitted, in any form or by any means, without the written consent of the Company Security Officer.
- (5) The Company Security Officer may review an approved Plan from time to time, and any review shall have regard to -
- (a) developments in relation to human and other resources, and advances in security procedures; and
 - (b) experience gained in relation to security involving ships.
- (6) The Company Security Officer may prepare an amended Ship Security Plan if, after review of the approved Plan, the Company Security Officer is satisfied that -
- (a) the approved Plan is no longer adequate for any one or more of the Plan's purposes; or
 - (b) the effectiveness of the Plan for those purposes could be substantially improved.
- (7) The Company Security Officer must submit an amended Plan to the Director for approval.
-
-

23. (1) Each Company Security Officer must -
- Responsibilities of
Company Security
Officers and Ship
Security Officers
- (a) give advice to the Company and any master of a ship operated by the company on international voyages, of the level of threats likely to be encountered by the ship, utilising appropriate security assessment and other relevant information;
 - (b) ensure that ship security assessments are carried out and regularly reviewed;
 - (c) ensure that a Ship Security Plan for each of the company's ships used on international voyages is prepared, approved and implemented in accordance with these Regulations and the ISPS Code;
 - (d) ensure that each Ship Security Plan is amended from time to time to address each of the security requirements of the individual ship;
 - (e) arrange for internal audits and reviews of security activities relevant to the company's operations;
 - (f) ensure that deficiencies identified during internal audits, periodic reviews, security inspections and verifications of compliance are promptly addressed and dealt with;
 - (g) enhance security awareness and vigilance by the company's employees and agents;
 - (h) ensure adequate training is provided to company personnel responsible for any aspect of the security of a ship;
 - (i) ensure effective communication and cooperation between the Ship Security Officer and the relevant Port and Port Facility Security Officers;
 - (j) ensure consistency between security requirements and safety requirements;
-
-

- (k) ensure that the plan for each ship accurately reflects the ship-specific information in any sister-ship or fleet security plans adopted by the company;
- (l) ensure that any alternative or equivalent arrangements approved for a particular ship or group of ships are implemented and maintained; and
- (m) authorise the issue of copies of each Ship Security Plan to appropriate personnel, and maintain a record of all authorised holders of Plans.

(2) Each Ship Security Officer must -

- (a) undertake regular security inspections of the ship to ensure that appropriate security measures are maintained;
 - (b) maintain and supervise the implementation of the Ship Security Plan, including any amendments to the Plan;
 - (c) coordinate the security aspects of the handling of cargo and ship's stores with other shipboard personnel and with the relevant Port and Port Facility Security Officers;
 - (d) propose modifications to the Ship Security Plan;
 - (e) report of the Company Security Officer any deficiencies identified during internal audits, periodic reviews, security inspections and verifications of compliance, and implement necessary corrective actions;
 - (f) enhance security awareness and vigilance on board the ship;
-
-

- (g) ensure adequate training is provided to shipboard personnel with regard to their security roles and responsibilities, and the maintenance of training records;
- (h) report all security incidents to the Company Security Officer and the Director;
- (i) coordinate the implementation of the Ship Security Plan with the Company Security Officer and the relevant Port and Port Facility Security Officers; and
- (j) ensure that security equipment is properly operated, tested, calibrated and maintained.

24. (1) All ships' crews and other employees and agents of a company to which these Regulations apply, must ensure that the protective security arrangements prescribed in a Ship Security Plan are observed at all times.

Responsibilities
of company
employees and
agents

(2) All crew members and other employees or agents of a company to which these Regulations apply, who -

- (a) observes or becomes aware of any breach or suspected breach of security arrangements;
- (b) identifies any deficiency in the Plan in relation to a matter which is under the responsibility of that person; or
- (c) observes activities of a suspicious nature on board a ship or affecting the security of a ship -

must report the matter immediately to the Company Security Officer or Ship Security Officer.

25. Nothing in these Regulations removes from the master the overriding authority and responsibility to make decisions with respect to the safety and security of the ship, and to request the assistance of the Company or of any government as may be necessary.

Overriding
authority of masters

PART 7 – DEALING WITH SECURITY THREATSContingency
Procedures at Ports

26. (1) All employees and agents of the Ports Authority or of a Port Facility Operator who becomes aware of an act of unlawful interference to any aspect of a Port Safety Plan or procedures, or of an unlawful threat to security at a port or involving a ship, must report the incident or threat as soon as practicable to the Port Security Officer.

(2) Where the incident or threat may impact upon another organisation, the Port Security Officer must provide details of the incident or threat to an appropriate representative of the organisation as soon as possible.

(3) Assessing and classifying threats in accordance with this regulation is the responsibility of -

- (a) the Ports Authority, if the threat is against any of the port's facilities or operations; or
- (b) the Port Facility Operator, if the threat is against any of the operator's facilities or operations.

(4) Threats are to be classified as either "Genuine", in which case appropriate response procedures are to be implemented, or as a "Hoax", in which case no further action (other than to report the incident to the local police and the Administration) is necessary.

(5) Where the search of a building or facility over which the Ports Authority or Port Facility Operator has management control is considered necessary, the threat shall be considered to remain genuine until the Port Security Officer advises that the threat has been reclassified as a hoax, or any suspicious object discovered during the search has been removed, or rendered and declared safe.

(6) The Port Security Officer must report to the local police details of significant breaches of security or threats impacting upon the operations of the Ports Authority or Port Facility Operator which involve any act or threat of violence.

(7) The Port Security Officer must report to the Administration at the earliest opportunity, all security related incidents and all actual or suspected acts of terrorism, impacting upon the operation of the Ports Authority or Port Facility Operator, including -

- (a) the discovery of weapons or prohibited items (including explosive devices) within the Port of Port Facility;
- (b) any unauthorised access to restricted areas;
- (c) any unauthorised access to a ship
- (d) any bomb or sabotage threats;
- (e) disruptive or abusive behaviour by passengers, stevedores or other employees in the port area; and
- (f) incidents that have attracted any media attention.

(8) Contingency procedures must be developed and maintained to provide for situations that could present a threat to the security of the Port or Port Facility, and these procedures shall form part of the Port Security Plan or Port Facility Security Plan.

(9) Port Security Plans and Port Facility Security Plans must provide for emergency procedures for incidents involving -

- (a) bomb search routine;
- (b) evacuation procedures;
- (c) security equipment failure; and
- (d) action to be taken in respect of any major security incidents at the port.

(10) A preliminary report must be forwarded to the Administration if it may not be possible to provide a full report within a reasonable time frame due to the need to undertake further investigations.

(11) All reports provided to the Administration by a Port Security Officer must include the information specified in Annex VI of the ISPC Code and any requirement imposed from time to time by the Director.

Emergency
procedures for
ships

27. (1) Any person who becomes aware of an act of unlawful interference to a ship at sea or in port, or of an unlawful threat to security involving a ship, must report the incident or threat as soon as practicable to the Ship Security Officer and the Company Security Officer.

(2) Where the incident or threat may impact upon another organisation, the ship's master or the relevant Security Officer must provide details of the incident or threat to an appropriate representative of the organisation as soon as possible.

(3) Assessing and classifying threats in accordance with this regulation is the responsibility of the owner, charterer and master of the ship.

(4) Threats are to be classified as either "Genuine", in which case appropriate response procedures are to be implemented, or as a "Hoax", in which case no further action (other than to report the incident to the local police and the Administration) is necessary.

(5) Where any search is considered necessary, the threat shall be considered to remain genuine until the master or Company Security Officer advises that the threat has been reclassified as a hoax, or any suspicious object discovered during the search has been removed, or rendered and declared safe.

(6) The master or Company Security Officer must report to the local police details of significant breaches of security or threats impacting upon the operations of the ship which involve any act or threat of violence.

(7) The master or Company Security Officer must report to the Administration and the Company at the earliest opportunity, all security related incidents and all actual or suspected acts of terrorism impacting upon the operations of the ship or any port or port facility, including -

-
- (a) the discovery of weapons or prohibited items (including explosive devices) aboard the ship;
-

- (b) any unauthorised access to restricted areas;
 - (c) any unauthorised access to the ship
 - (d) any bomb or sabotage threats;
 - (e) any disruptive or abusive passengers or crew; and
 - (f) incidents that have attracted media attention.
- (8) Contingency procedures must be developed and maintained to provide for situations that could present a threat to the security of the ship and to a Port or Port Facility, and these procedures shall form part of the Ship Security Plan.
- (9) Ship Security Plans must provide for emergency procedures for incidents involving -
- (a) bomb search routine in port;
 - (b) bomb search routine at sea;
 - (c) repelling unsolicited boarders at sea;
 - (d) evacuation of the vessel;
 - (e) security equipment failure; and
 - (f) security procedures while in dry-dock or during extended maintenance.
- (10) A preliminary report must be forwarded to the Administration if it may not be possible to provide a full report within a reasonable time frame due to the need to undertake further investigations.
- (11) All reports provided to the Company or to the Administration by a Ship or Company Security Officer must include the information specified in Annex VII of the ISPS Code and any requirement imposed from time to time by the Director.
-
-

PART 8 – SECURITY TRAINING

Security Training
Ports

28. (1) The Ports Authority is responsible for developing and maintaining the security awareness and training at Solomon Island ports, and must provide appropriate programs and courses for its employees and agents, and those of port facility operators.

(2) The Port Security Officer must ensure that employees and agents of the Ports Authority are provided with a basic level of training, the object of which is to establish a minimum mandatory level of security awareness, including training relating to -

- (a) port layout and organisations within the port area;
- (b) the role of the Ports Authority, the Administration, Police and other government agencies;
- (c) fundamental port security procedures;
- (d) access control within port areas;
- (e) threat response; and
- (f) other appropriate training specific to their duties.

(3) The Port Security Officer must ensure that employees and agents of the Ports Authority who have responsibilities relevant to port security, undertaken more advanced training, including instruction relating to -

- (a) principles of protective maritime security;
- (b) applicable legislation and legal requirements;
- (c) IMO standards applicable to maritime security;
- (d) the administration and enforcement of these Regulation;
- (e) the role of other law enforcement agencies in relation to maritime security;

- (f) screening procedures and requirement applying to passengers, crews, cargo and baggage;
- (g) bomb threat assessment; and
- (h) search and evacuation procedures.

(4) Training modules, programs and courses provided under this regulation must be reviewed periodically with regard being given to developments in relevant equipment and internationally accepted procedures, and courses involving refresher training must be devised and offered to achieve full compliance with these Regulations and the ISPS Code.

(5) The Port Security Officer must ensure that records relating to the content, duration and dates of training activities undertaken by employees and agents of the Ports Authority are retained on an on-going basis for at least the previous 5 years.

(6) Port Facility Security Training is the responsibility of the Port Facility Operator, and the operator is responsible for developing and maintaining security awareness and providing training to its employees and agents, which must meet the requirements of this regulation.

29. (1) Owners and masters of each ship must ensure that all crew members are provided with sufficient training to enable them to understand and carry out their security responsibilities in accordance with these Regulations and the approved security plan. Security Training
for Ships

(2) Security training to ship's crews must consist of initial training in procedures and practices applicable to their position, and appropriate refresher training which takes into account development in relation to the security equipment and internationally accepted maritime security procedures.

(3) The Ship Security Officer must ensure that records relating to the content, duration and dates of training activities undertaken by crew members are retained on an on-going basis for at least the previous 5 years.

(4) Crew members on voyages to destinations beyond Solomon Islands must be provided with current travel advice information prepared by the Government and relating to the foreign ports they are to be visited by the ship, and the potential impact that any special port security procedures applying at those ports of call may have in relation to the operations of the ship.

PART 9 – INTERNATIONAL SHIP SECURITY CERTIFICATES

required to hold a certificate

30. (1) All ships to which these Regulations must hold an International Ship Security Certificate which is current for the entire period of its voyage within Solomon Islands waters.

(2) The master of each ship to which these Regulations apply must produce a the International Ship Security Certificate, or provide any details relating to it, whenever required to do so by the Administration or the Ports Authority.

verification and intermediate verifications

31. (1) Prior to the issue or renewal of an International Ship Security Certificate by the Administration, the ship must have been subjected to -

- (a) an initial verification undertaken by the Administration, if the ship is not currently holding a Certificate;
- (b) a renewal verification at a time specified by the Director when the Certificate was first issued by the Administration;
- (c) at least one intermediate verification during the currency of the Certificate; and
- (d) any additional verification required from time to time by the Director.

(2) All verifications must be conducted in accordance with any requirements determined by the Director, and shall involve -

- (a) verification of the ship's security system;
- (b) an assessment of compliance by the ship with these Regulations, the approved ships security plan and training requirements; and
- (c) the fitness of the ship for its intended service.

(3) If only one intermediate verification is carried out during the currency of a Certificate, the verification must take place between the second and third anniversary of the issue of the Certificate.

(4) All intermediate verifications shall be endorsed on the Certificate.

(5) If an intermediate verification is conducted before the time specified by the Director when the Certificate is issued -

(a) the expiry date shown on the Certificate shall be amended by endorsement to a date which shall not be more than 3 years later than the date on which the intermediate verification was conducted; or

(b) the expiry date may remain unchanged provided one or more additional verifications are carried out so that the maximum interval of 5 years between verifications is not exceeded.

32. (1) An International Ship Security Certificate may only be issued by the Administration after an initial or renewal verification has been carried out, and if the ship security systems have been found to comply with these Regulations and the ISPS Code. Issue and endorsement of Certificates

(2) Each International Ship Security Certificate issued by the Administration shall be given under the authority of the Director.

33. (1) A certificate issued by the Administration under this Part shall be valid for a term specified by the Director in the certificate, which shall not exceed 5 years. Period of Validity of Certificates

(2) If the initial term of validity is less than 5 years, the Director may, at any time prior to the expiry of the Certificate, extend the term for any period up to 5 years from the date of issue of the Certificate.

(3) The Director may specify any requirements for intermediate verifications when extending the term of a Certificate under sub-regulation (2).

(4) The expiry date for a Certificate confirmed by a renewal verification shall be -

- (a) five years from the initial expiry date, if the renewal verification is conducted within 3 months of the initial expiry date; or
- (b) five years from the date of the renewal verification, if the renewal verification is conducted prior to 3 months before the initial expiry date; or
- (c) five years from the initial expiry date, if the renewal verification is conducted after expiry of the initial expiry date, unless the Director specifies a period of validity of less than 5 years.

(5) If a renewal verification has been completed but a new certificate cannot be issued or placed on board the ship before the expiry date of the existing certificate, the Director may endorse the existing certificate to be valid for an additional period not exceeding 3 months.

extension of
validity of
certificates

34. (1) If a ship is not in port at the time when the expiration of its Certificate occurs, the Company may apply to the Director for an extension of the Certificate.

(2) Upon application made under sub-regulation (1), the Director may extend the period of validity of the Certificate, but only for such time as is necessary for the ship to complete its voyage.

(3) No extension granted under sub-regulation (2) may be for a period of more than 3 months, and no ship which has entered the port of Honiara after the granting of an extension may leave the port before a renewal verification has been undertaken.

(4) The Director may extend the period of validity of a Certificate for up to 1 month from the date of expiry of the existing Certificate, if -

- (a) the ship is only engaged on short voyages; and
- (b) no other extension of the Certificate has been granted.

35. (1) The Director may issue an interim Certificate to a ^{Interim Certificate} ship which -

- (a) which holds no Certificate, and has been recently delivered to Solomon Islands prior to its entry or re-entry into service;
- (b) has been recently transferred from the Solomon Islands registry to the flag of another Contracting Party;
- (c) has recently been transferred to the Solomon Islands registry to the registry of a State which is not a Contracting Party; or
- (d) is to be operated by a new Company.

(2) An Interim Certificate shall not be issued until -

- (a) the initial verification has been undertaken;
 - (b) a copy of the Ship Security Plan has been submitted to the Director by the Company Security Officer for review and approval, and it has been confirmed that it is being implemented on the ship;
 - (c) the ship has an adequate ship security alert system;
 - (d) the ship has established or implemented arrangements for security drill and training, and for internal audits; and
-
- (e) the Ship Security Officer is discharging his or her responsibilities in accordance with these Regulations.

(3) An Interim Certificate shall be valid for a period of 6 months, and shall cease to be valid when a Certificate is issued under regulation 32.

(4) An Interim Certificate may not be extended, and no further Interim Certificate may be issued for that ship.

cancellation of
Certificates

36. Any Certificate issued under this Part shall be deemed to be cancelled if –

- (a) the required verifications are not completed within the applicable times;
- (b) no endorsement is made as provided for by these Regulations;
- (c) the operation of the ship is transferred to another Company; or
- (d) the registration of the ship is removed from the Solomon Islands registry.

fees and charges
Certificates

37. (1) The following fees and charges shall apply to the issue of Certificates under this Part –

- (a) for the issue of an International Ship Security Certificate \$ 5000
- (b) for any endorsement on a Certificate \$ 2500
- (c) for the issue of an Interim Certificate \$ 3000
- (d) for the conduct of any verification \$ 2000

(2) Subject to sub-regulation (3), fees prescribed under this regulation shall increase by 5% per annum, and each increased fee shall be deemed to be imposed under these Regulations from the 1st January each year after the commencement of these Regulations.

(3) Fees shall increase in accordance with sub-regulation (2), if the Director publishes a list of revised fees in the *Gazette* no later than the 30th November prior to the year for which the revised fees are to apply.

PART 10 – MISCELLANEOUS PROVISIONS

38. (1) All provisions within ports and on board ships must obey any direction given by a member of the police force who is responding to a threat to maritime security, and must assist any such member of the police force to remove or minimise any such threat. Duties to assist police and comply with security plans

(2) All government officers performing functions and exercising lawful powers within ports or on board vessels must do so in a manner which complies with these Regulations and approved safety plans.

39. (1) The Minister may approve and publish Guidelines, Standardss and Codes of Practice for any purpose for which they are contemplated or required by these regulations, or which relate to any aspect of maritime security. Guidelines, Standards and Codes of Practice

(2) All requirements imposed under Guidelines, Standards and Codes of Practice applied under this regulation must be consistent with the ISPS Code.

(3) All approved Guidelines, Standards and Codes of Practice under these Regulations shall take effect in accordance with a Notice in the *Gazette*.

40. (1) Any person who - Offences against these Regulations

- (a) breaches any requirement under these Regulations, or any approved Guidelines, Standardss of Codess of Practice;
- (b) acts in contravention of any duty or responsibility under a safety plan approved in accordance with these Regulations;
- (c) fails to discharge any duty or responsibility imposed by these Regulations;
- (d) commits any act on board a ship or within a port which breaches any provision or requirement of the ISPS Code;

- (e) does any act on board a ship or within a port, or which affects the operations of a ship or a port, and which constitutes a threat to security as provided for in the ISPS Code, these Regulation or an approved safety plan;
- (f) communicates any false information which may have the effect of endangering the operation of a ship, a port or a port facility;
- (g) enters any area or zone that is restricted in accordance with an approved safety plan, without authority to enter that area –

commits an offence and shall be liable upon conviction to a fine not exceeding 5000 penalty units, or to a term of imprisonment for up to 3 months, or both.

(2) Where any offence against these regulations continues for a period after the initial breach and no other penalty is provided elsewhere for the continuance of the offence, any person who commits that offence shall, in addition to any other liability, be liable upon conviction to a fine not exceeding 1000 penalty units for every day during which the offence continues.

prescribed forms
and requirements

41. (1) The Director may, from time to time, approve forms for use in accordance with these regulations.

(2) Notwithstanding any provision of these regulations, the Director may, from time to time, impose requirements relating to any security relating procedure or to any security training required under these regulations, and such requirements shall be deemed to be prescribed requirements.

(3) All requirements imposed under this regulation must be consistent with the ISPS Code.

(4) The Director may approve, allow or apply any form or requirement applying in another jurisdiction to be the prescribed form or requirement for the purposes of these regulations.

42. The Shipping (Maritime Security) Regulations 2004 made under the Shipping Act 1998 and saved by the Maritime Safety Administration Act 2009 are hereby repealed.

Repeal of the Shipping (Maritime Security) Regulations 2004

43. (1) All formss used under the repealed regulations may be used for the purposes of these regulations until the Director exercise the powers stated in regulation 41.

Transitional and savings provisions

(2) The Appendices under the repealed regulations shall continue to have full force and effect until the Administration exercises its powers under regulations 39 and 41.

(3) All proceedings commenced for breaches of the repealed regulations are saved and may be continued as if those regulations remain in force, and proceedings may be commenced for any breach of the repealed regulations prior to the date of commencement of these regulations.

44. The provisions of these regulations shall be read and construed as supplementary to and not in derogation of the provisions of laws relating to port security and the safe operations of ships and ports, or any other laws of Solomon Islands.

Application of other laws

MADE AT HONIARA this twentieth-third day of September, 2011.

HON. JACKSON FIULAUA
Minster for Infrastructure Development

[Legal Notice No. 69]

**SHIPPING (MARINE INQUIRIES AND INVESTIGATIONS)
REGULATIONS 2011**

ARRANGEMENT OF REGULATIONS

PART 1 – PRELIMINARY

1. Citation
2. Interpretation

**PART 2 – GENERAL PRINCIPLES TO BE APPLIED
IN MARINE INQUIRIES**

3. General Principles relating to Investigations and safety reviews
4. General Principles relating to Marine Inquiries
5. Regional and International Cooperation

PART 3 – PRELIMINARY INVESTIGATIONS

6. Authorised investigators
7. Scope of preliminary investigations
8. Findings of a preliminary investigation
9. Recommendations of a preliminary investigation
10. Confidentiality of preliminary investigation findings and recommendations

**PART 4 – PROCEEDINGS OF BOARDS OF MARINE
INQUIRY**

11. Instigating a marine inquiry
12. Independence of the Board to be maintained
13. Marine inquiry Procedures
14. Powers relating to Voyage Data Recorders
15. Compellability of witnesses
16. Draft and Final Reports
17. Confidentiality of Reports
18. Recommendations affecting certified seafares

PART 5 – SAFETY REVIEWS

19. Instigating a safety review
20. Appointment of additional advisers
21. Report of a safety review
22. Implementation of findings and recommendations

PART 6 – MISCELLANEOUS PROVISIONS

23. Offences against these Regulations
 24. Application of other laws
-

**SHIPPING ACT 1998
(No. 5 of 1998)**

**SHIPPING (MARINE INQUIRIES AND INVESTIGATIONS)
REGULATIONS 2011**

IN exercise of the powers conferred upon me by sections 92(2)(u) and 220 of the Shipping Act 1998, I do hereby make these Regulations -

PART 1 - PRELIMINARY

- | | | |
|----|---|----------------|
| 1. | These Regulations may be cited as the Shipping (Marine Inquiries and Investigations) Regulations 2011. | Citation |
| 2. | (1) In these Regulations, unless the context otherwise requires - | Interpretation |
| | “Board of marine inquiry” means any Board of marine inquiry appointed under section 86 of the Act, and “Board” has the same meaning; | |
| | “Casualty Investigation Code” means the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident as adopted and amended from time to time by the IMO; | |
| | “Director” means the Director of Marine holding office in accordance with the Maritime Safety Administration Act 2009; | |
| | “IMO” means the International Maritime Organization; | |
| | “ISM Code” includes any safety management procedure applying under the International Management Code for the Safe Operation of Ships and for Pollution Prevention as adopted and amended from time to time by the IMO; | |
-

“investigator” means a person appointed under these Regulations to conduct an investigation;

“marine inquiry” means an inquiry conducted by a Board of marine inquiry in accordance with these Regulations;

“preliminary investigation” means a preliminary investigation conducted under section 85 of the Act, and in accordance with Part 3 of these Regulations;

“safety” includes all aspects of maritime safety involving ships, crews, passengers, cargo, maritime infrastructure (including workers at and users of such infrastructure), and the protection of the marine environment;

“safety review” means the extension of a preliminary investigation to review safety related issues conducted from time to time by the Administration in accordance with Part 5 of these Regulations; and

“voyage data recorder” means any device installed on board a vessel which has the capacity to record data of any nature, or which has the purpose of recording data from various instruments on board the vessel, or making voice recordings, and “VDR” is the corresponding acronym.

(2) All words and phrases in these Regulations shall have the same meaning as is given to them under the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (as amended from time to time), unless a contrary intention appears.

PART 2 – GENERAL PRINCIPLES TO BE APPLIED IN MARINE INQUIRIES AND INVESTIGATIONS

General Principles
relating to
investigations and
safety reviews

3. (1) A preliminary investigation under section 85 of the Act, and a safety review conducted in accordance with Part 5, must be conducted so as to –

(a) be unbiased and free from any commercial considerations or influences;

- (b) be functionally independent from all persons involved in the incident or subject matter of the investigation, and from the Administration and any other government agency having responsibilities in relation to any matter under investigation;
- (c) ensure a free flow of information to the fullest extent possible; and
- (d) achieve a timely outcome consistent with the Act and these Regulations, based upon methodical investigation of all relevant factors and underlying conditions that may have contributed to the incident under investigation, and all failures that may exist in the whole chain of responsibility.

(2) Nothing in sub-regulation (1)(b) shall restrict the right of the Administration's officers from conducting an authorised preliminary investigation in accordance with these Regulations.

(3) A preliminary investigation and safety review must be conducted so as to achieve compliance with, and meet the objectives of, the Casualty Investigation Code, relevant IMO resolutions, the ISM Code and the recommendations or instruments published from time to time by the International Labour Organizations.

(4) A safety review must -

- (a) include consideration of systemic and regulatory issues, and not focus only on the proximate causes of the relevant incidents;
 - (b) give full consideration to the adequacy of relevant managerial and regulatory systems and process (both on board vessels and external to the operation of a vessel), and whether these were followed by all relevant persons;
 - (c) aim to prevent future accidents by ~~determining all causes and contributing~~ factors to the casualty or incident, and all other relevant circumstances; and
-
-

- (d) contribute to safe shipping operations and the development of effective maritime regulation in Solomon Islands.

General Principles
relating to Marine
Inquiries

4. (1) The proceedings of a Board of marine inquiry conducted in accordance with these Regulations must be undertaken in accordance with the principles stated in regulation 3(1) and (4), and –

- (a) take full account of the principles of natural justice and procedural fairness; and
- (b) be unbiased and free from any commercial considerations or influences;

(2) All persons appointed to be a member of a Board of marine inquiry may be required to sign a Code of Conduct approved for this purpose by the Director.

(3) A Marine Inquiry must be conducted so as to achieve compliance with, and meet the objectives of, the Casualty Investigation Code, relevant IMO resolutions, the ISM Code and the recommendations or instruments published from time to time by the International Labour Organisation.

Regional and
International
Cooperation

5. (1) Any notifications of a preliminary investigation, safety review and a proceeding of a Boards of marine inquiry must be given to coastal States and flag States having any involvement or interest in a subject under investigation, review or inquiry in accordance with the notification requirements stated in the Casualty Investigation Code.

(2) Agreement shall be reached with the Administrations of any State having a substantial interest in any matter or incident under investigation, review or inquiry in accordance with these Regulations, as to which State shall be the marine investigating State for the purposes of the Casualty Investigation Code.

(3) In accordance with the Casualty Investigation Code, cooperation must be extended during any preliminary investigation, safety review or marine inquiry to any substantially interested State which is conducting a parallel investigation in relation to the relevant incident, and such coordination as is practicable must be facilitated with the Administration of any such State.

(4) Copies of draft and final reports arising from any preliminary investigation, safety review or marine inquiry must be provided in a timely manner to any substantially interested State, and an opportunity for comment must be extended to the Administration of any such State in accordance with the Casualty Investigation Code.

PART 3 – PRELIMINARY INVESTIGATIONS

6. (1) The Director may appoint the Administration's Marine Investigating Officer or any other suitably qualified officer of the Administration to undertake a preliminary investigation. Authorised investigators

(2) At any time during a preliminary investigation the Director may appoint any other suitably qualified and experienced person to assist an investigator.

(3) Any person appointed under sub-regulation (2) to assist an investigator is authorised to exercise the powers provided for in section 85 of the Act.

7. (1) Whenever the Director causes a preliminary investigation to be held under section 85 of the Act, the Director shall – Scope of preliminary investigations

- (a) identify the incident, casualty or event that is to be the subject of the investigation;
- (b) set out any specific aspects of the incident, casualty or event that area to be investigated; and
- (c) set a date by which the investigation is to be completed, which shall ordinarily be within 14 days.

(2) During the course of a preliminary investigation the investigator shall –

- (a) identify all vessels involved in the incident, casualty or event under investigation;
 - (b) determine the status of the registration of each such vessel, and ascertain all certificates required to be held by each vessel, and the status of them;
 - (c) determine all other legal requirements applying to the vessel at the time of the incident, casualty or even under investigation;
-

- (d) identify all relevant masters, crew members, owners, shippers, passengers and witnesses of the incident, casualty or event under investigation;
- (e) obtain as many signed statements as possible from all relevant masters, crew members, owners, shippers, passengers and witnesses; and
- (f) otherwise investigate and report upon all relevant issues, matters and occurrences.

findings of a preliminary investigation

8. (1) The investigator must ensure that the report of a preliminary investigation provides details of all matters referred to in regulation 7(2), and identifies possible grounds for further inquiry into –

- (a) all issues relating to safety arising from the incident, casualty or event under investigation;
- (b) any failure of duty by any person or agency, including matters relating to the navigation, management or working of a vessel, or the discharge of any statutory responsibility;
- (c) possible breaches of laws; and
- (d) possible failure to observe international convention obligations and accepted international best practice.

(2) The report of a preliminary investigation shall not make any findings in relation to blame, fault, culpability or breach of any legal obligation.

(3) The report of a preliminary investigation shall only be given to the Director, who shall then make it available only to the Minister.

recommendations of a preliminary investigation

9. (1) Subject to sub-regulations (2) and (3), the report of a preliminary investigation shall make one of the following recommendations –

- (a) that a Board of marine inquiry be convened in accordance with section 86 of the Act; or
-

- (b) that the preliminary investigation be extended to consider certain issues by means of a safety review conducted in accordance in accordance with Part 5 of these Regulations; or
 - (c) that no grounds exist to justify any further investigation, review or inquiry.
- (2) A recommendation that a Board of marine inquiry be convened shall only be made if –
- (a) there is *prima facie* evidence that a failure of duty, breach of law or failure to observe international obligations has been committed by any person or vessel; or
 - (b) the investigator has not been given full access to all necessary information, evidence and records, and considers that such access can be best achieved by use of the powers vested in a Board of marine inquiry; or
 - (c) the circumstance of the case require that a comprehensive independent inquiry be undertaken in the national interest, or to fulfil Solomon Islands obligations under international maritime law.
- (3) A recommendation that a safety review be conducted shall only be made if –
- (a) the issues identified in sub-regulation (2) are not indicated in the outcomes and findings of the preliminary investigations, and are unlikely to arise in the course of further investigation, review or inquiry; and
 - (b) there are safety related issues that require further investigation and review.
- (4) Where a recommendation is made that a Board of marine inquiry should be convened, the report of the preliminary investigation shall identify all interested parties and recommend that notice should be given, and the rights under section 86(4) and (5) of the Act should be extended, to those parties.
-
-

Confidentiality of preliminary investigation findings and recommendations

10. (1) All evidence given to and collected by an investigator under this Part, and all the reports, findings and recommendations shall be kept confidential, and may only be used for the purposes of a safety review or Board of marine inquiry established and conducted in accordance with these Regulations.

(2) No report of a preliminary investigation may be used in any civil, criminal or disciplinary proceedings, except for any inquiry under the Death and Fire Inquiry Act [Cap. 9].

PART 4 - PROCEEDINGS OF BOARDS OF MARINE INQUIRY

Investigating a marine inquiry

11. Nothing in these Regulations affects the power of the Director to cause a marine inquiry to be conducted under sections 84 and 86 of the Act, in the absolute discretion of the Director, whether a preliminary investigation has been undertaken or not.

Independence of the Board to be maintained

12. (1) To ensure that the objectives of functional independence of the proceedings of Boards of marine inquiry are maintained, the Chairperson of the Board and members appointed by the Minister must not hold positions within the Administration, or in any company or agency that is, or is likely to be, the subject of any aspect of the Inquiry.

(2) Expert advisers appointed to assist a Board of marine inquiry may be officers of the Administration, but may not participate in determining any findings of the Board.

(3) Board members shall be entitled to receive sitting allowances and reimbursement of expenses that are consistent with allowances paid to members of Government boards and committees.

Marine inquiry procedures

13. (1) Unless special circumstances warrant the application of alternative procedures, a Board of marine inquiry shall apply the following procedural requirements –

- (a) leave to appear as a party before a marine inquiry must be sought by all persons, companies and agencies, unless they have been determined to be interested parties to which section 86 (4) and (5) of the Act apply;

- (b) the Board may conduct such preliminary hearings as are necessary to prescribe the procedural requirements of the Board, and the time for giving statements, evidence or submissions to the Board;
 - (c) all proceedings shall be held in public, but the Board may determine that special circumstances exist to justify the taking of evidence in private hearing, if –
 - (i) the nature of the evidence justifies a claim for confidentiality based upon commercial or other considerations; or
 - (ii) there is a possibility that unfair or unjustifiable action may be taken against the person giving evidence in relation to that person's employment, or any office held by that person; or
 - (iii) any other matter of public interest or procedural fairness justifies the taking of the evidence in private hearing;
 - (d) a Board is not strictly bound by the rules of evidence applicable to the courts, and subject to the rights and duties stated in section 86 of the Act, the Board may inform itself in any way it considers appropriate;
 - (e) evidence in chief from all witnesses may consist of written statements, with cross-examination only by leave of the Board;
 - (f) expert evidence is to be admissible in the form of written and signed statements;
 - (g) claims that certain evidence is of a confidential nature may be made by or on behalf of persons giving evidence before a Board, and the Board may approve any necessary arrangements for keeping certain evidence confidential;
-
-

- (h) the order in which evidence is to be given or received shall be in the Board's discretion, and shall take account of the availability of witnesses and the convenience applying to their attendance; and
- (i) oral addresses and written submission may be made by or on behalf of persons entitled to appear before the Board.

(2) Any other procedural requirement imposed by Board under sub-regulation (1) must be consistent with the rights and duties stated in section 86(4) and (5) of the Act.

owers relating to
yage Data
records

14. (1) A Board of marine inquiry may require information contained in any VDR on board an vessel which is the subject of the inquiry to be downloaded and transcribed, and made available in s usable form to the inquiry.

(2) When imposing a requirement under sub-regulation (1) the Board may stipulate the type of information that is to be provided, and the time frame of recordings or other data that are to be downloaded, transcribed and made available.

(3) All information provided under this regulation shall be kept confidential by the Board, and shall only be released in accordance with a court order to that effect, but the Board shall be free to use the information to make its findings and recommendations.

(4) This regulation shall be implemented and applied so as to conform with the requirements applying under the Casualty Investigation Code, or any other relevant guideline or requirement of the IMO relevant to VDR's.

ompellability of
itnesses

15. (1) A person appearing before a Board of marine inquiry, or is required to make a statement or provide any record or evidence to a Board of marine inquiry, must provide full and truthful evidence, and complete and records or documents, and may not refuse to do son on the grounds of self-incrimination.

(2) Any answer or evidence given by a person to a Board of marine inquiry may not be used as evidence against that person in any civil or criminal proceeding taken against that person.

16. (1) The Board shall prepare a draft report, which shall be provided on a confidential basis to – Draft and Final Reports

- (a) interested State parties in accordance with regulation 5(4); and
- (b) a person, company or agency about whom adverse conclusions are made.

(2) A person to whom a draft report has been provided shall be given 7 days to make comment upon the proposed findings and recommendations.

(3) After taking account of any comments submitted under sub-regulation (2) the Board shall ensure that the final Report is prepared and submitted to the Minister as soon as practicable.

(4) The Director shall ensure that action is taken to implement any recommendation made in a report of a Board of marine inquiry, and that any safety issue is rectified, and shall report to the Minister on all remedial action taken, not later than 2 months after the completion of a Report.

17. (1) A report prepared by a Board of marine inquiry shall be kept confidential until their release is approved by the Minister. Confidentiality of Reports

- (2) No person shall be liable to any civil or criminal proceedings relating to the publication of a true account of any evidence taken in public in pursuance of the powers conferred by these Regulations, or of any report made public by the authority of the Minister.

18. (1) Prior to making any recommendation for the suspension or cancellation of a certificate held by a qualified seaman, the Board shall ensure that a statement is given to the seaman which – Recommendations affecting certified seafarers

- (a) identifies the nature of the subject matter under inquiry by the Board; and
- (b) states the case against the seaman which the Board considers should be proceeded with.

(2) The Board shall ensure that the relevant seaman is given an opportunity to respond to the case stated by the Board, either verbally or by written submission, before the Board makes its recommendations.

- (3) All relevant information relating to the involvement of a qualified seaman in a matter which is the subject of a marine inquiry shall be given by the Board to the Director in a timely manner, and in sufficient detail and with sufficient support evidence, so as to –
- (a) permit the Director to exercise the powers of suspension stated in section 86(11) of the Act, pending the outcome of any marine inquiry; and
 - (b) enable the Director to make a properly informed decision prior to the exercise of the powers stated in section 87 of the Act.

PART 5 – SAFETY REVIEWS

Investigating a safety review

19. The Director or the Minister may order that a safety review be conducted in accordance with this Part after the conduct of a preliminary investigation, whether a recommendation has been made for the safety review to be undertaken or not.

Appointment of additional advisers

20. The Director may appoint additional advisers for the conduct of a safety review in accordance with this Part, and such advisers shall have the rights and powers stated in section 85 of the Act.

Report of a safety review

21. (1) Within the time stipulated by the Director, the persons responsible for carrying out a safety review shall provide a Report to the Director and the Minister which –

- (a) presents the findings of the safety review in relation to each safety issue relevant to the Review;
- (b) makes recommendations for any change of procedure, role, function, power or personnel, or for any addition to or alteration to the organisational structure or other human resource issue relevant to the Administration or any other agency or company whose activities have been subject to investigation; and
- (c) identifies the need for any reform of the marine laws enforced by the Administration, or any other Ministry or agency whose functions and powers apply to the maritime sector.

(2) A report of a safety review shall include the following statement in its introduction –

“This Report is not written with litigation of legal proceedings of any nature in mind, and pursuant to the provisions of the Shipping (Marine Inquiries and Investigations) Regulations, shall be inadmissible in any judicial proceedings whose purpose is to attribute or apportion blame in any way.”

(3) A report of a safety review shall not be admissible as evidence in any legal proceedings, except for any inquiry under the Death and Fire Inquiry Act [Cap. 9].

22. The Director shall ensure that action is taken to implement any recommendation made in a report of a safety review, and that any safety issue is rectified, and shall report to the Minister on all remedial action taken, not later than 2 months after the completion of a Report. Implementation of findings and recommendations

PART 6 – MISCELLANEOUS PROVISIONS

23. Any person who – Offences against these Regulations

- (a) divulges any information that is required under these Regulations to be kept confidential;
- (b) makes a report prepared in accordance with these Regulations available to any person who is not entitled to receive the Report as provided for by these Regulations;
- (c) acts in any manner during the discharge of a function or duty under these Regulations that is prompted by bias or other commercial or improper considerations; or
- (d) provides any false or misleading information during a preliminary investigation, safety review or marine inquiry –

commits an offence and is liable upon conviction to a fine not exceeding 500 penalty units.

24. These Regulations shall be read and construed as supplementary to and not in derogation of other relevant laws, and in particular the Commissions of Inquiry Act and any other laws that relate to the exercise of investigatory powers and to procedural fairness. Applications of other laws

MADE AT HONIARA this twentieth-third day of September, 2011.

HON. JACKSON FIULAUA
Minister for Infrastructure Development

Honiara, Solomon Islands
Printed under the authority of the
Solomon Islands Government
Printed by Solomon Islands Printers Limited.
