

SOUTH AUSTRALIA

**MARINE ACT, 1936**

*This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 1 October 1991.*

*It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.*

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## MARINE ACT, 1936

being

Marine Act, 1936, No. 2337 of 1936  
[Royal Assent proclaimed 24 March 1937]<sup>1</sup>

as amended by

Harbors Act and Marine Act Amendment Act, 1947, No. 17 of 1947 [Assented to 24 October 1947]  
Marine Act Amendment Act, 1957, No. 46 of 1957 [Assented to 14 November 1957]  
Marine Act Amendment Act, 1962, No. 57 of 1962 [Royal Assent proclaimed 28 February 1963]  
Harbors Act Amendment Act, 1966, No. 89 of 1966 [Royal Assent proclaimed 2 March 1967]<sup>2</sup>  
Marine Act Amendment Act, 1968, No. 62 of 1968 [Assented to 9 January 1969]<sup>3</sup>  
Marine Act Amendment Act, 1970, No. 68 of 1970 [Assented to 17 December 1970]<sup>4</sup>  
Marine Act Amendment Act, 1973, No. 84 of 1973 [Assented to 13 December 1973]<sup>5</sup>  
Marine Act Amendment Act, 1975, No. 54 of 1975 [Assented to 10 April 1975]  
Marine Act Amendment Act, 1976, No. 55 of 1976 [Assented to 4 November 1976]<sup>6</sup>  
Marine Act Amendment Act, 1989, No. 19 of 1989 [Assented to 20 April 1989]<sup>7</sup>  
Marine (State Crewing Committee) Amendment Act 1991 No. 17 of 1991 [Assented to 18 April 1991]<sup>8</sup>

<sup>1</sup> Came into operation 1 July 1937: *Gaz.* 25 March, 1937, p. 641.

<sup>2</sup> Came into operation 20 March 1967: *Gaz.* 2 March 1967, p. 681.

<sup>3</sup> Came into operation 1 September 1969: *Gaz.* 28 August 1969, p. 556: s. 2.

<sup>4</sup> Came into operation 25 March 1971: *Gaz.* 18 March 1971, p. 1143: s. 2.

<sup>5</sup> Came into operation 21 March 1974: *Gaz.* 21 March 1974, p. 988: s. 2.

<sup>6</sup> Came into operation 31 March 1977: *Gaz.* 31 March 1977, p. 1010: s. 2.

<sup>7</sup> Came into operation 2 November 1989: *Gaz.* 2 November 1989, p. 1349.

<sup>8</sup> Came into operation 1 July 1991: *Gaz.* 27 June 1991, p. 2060.

N.B. The amendments effected to this Act by the Marine Act Amendment Act, 1987, have not been included in this reprint as they had not been brought into operation at the date of this reprint and certain of them were repealed by Act No. 59 of 1991 (see legislative history).

*Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.*

**An Act to consolidate and amend the law relating to merchant shipping, and for other purposes.**

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

**Short title**

1. This Act may be cited as the *Marine Act, 1936*.

**Commencement and reservation**

2. This Act shall not come into operation until His Majesty's pleasure therein has been publicly signified in South Australia, but after the signification of the said pleasure the Governor may, by proclamation, appoint a day on which this Act shall come into operation.

**Repealing provision**

3. The Acts mentioned in the first schedule are hereby repealed.

**Arrangement of Act**

4. The provisions of this Act are arranged as follows:—

PART I—Preliminary.

PART II—General Provisions.

PART III—Certificates of masters, mates, and engineers.

PART IIIA—Crewing Committee.

PART IV—Safety and prevention of accidents: Courts of survey.

DIVISION I—Application:

DIVISION II—Unseaworthy ships:

DIVISION III—Scientific referees:

DIVISION IV—Cables and anchors:

DIVISION V—Ship's draught and freeboard:

DIVISION VI—Deck and load lines:

DIVISION VII—Equipment:

DIVISION VIII—Regulations for preventing collisions, etc.; light signals, etc.:

DIVISION IX—Inspection of ships:

DIVISION X—Equipment of steamships:

DIVISION XA—Wireless installations:

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DIVISION XII—Appeal on refusal of certificate as to equipment, etc.:

DIVISION XIII—Carriage of dangerous goods:

DIVISION XIV—Grain cargoes:

DIVISION XV—Deck cargoes:

DIVISION XVI—Misconduct by passengers.

PART V—Investigations and inquiries into casualties, incompetency, and misconduct.

DIVISION I—Application:

DIVISION II—Notice of casualties, etc.:

DIVISION III—Preliminary inquiries:

DIVISION IV—Court of Marine Inquiry.

PART VI—Miscellaneous.

PART VII—Commonwealth Navigation Act and possible transfer of powers.

**Interpretation**

5. In this Act unless inconsistent with the context or subject-matter—

\* \* \* \* \*

"Board of Trade" means the Board of Trade of the United Kingdom:

"boat" means every vessel not a ship as herein defined which is used in navigation:

"casualty" includes the loss, abandonment, collision, grounding, of and any accident, injury by fire, or damage to any ship:

"coast-trade ship" means any ship employed in trading or going between any port or place in South Australia and any other port or place in South Australia:

"department" means the Department of Marine and Harbors:

"equipment" includes boats, tackle, pumps, apparel, furniture, life-saving appliances of every description, spars, masts, rigging and sails, fog signals, sound signals, lights, and signals of distress, medicines and medical and surgical stores and appliances, and every thing or article belonging to or to be used in connection with, or necessary for the navigation and safety of, the ship, including apparatus for preventing or extinguishing fires, buckets, compasses, charts, axes, lanterns, and loading and discharging gear and apparatus of all kinds:

"fishing vessel" means any vessel not propelled solely by oars and used in the taking of fish or oysters for sale (including trawlers, pearling luggers and whale chasers):

"floating establishment" means a vessel or structure not used in navigation that—

(a) is designed to float in or on water;

and

(b) is used while anchored or moored at sea or in a port for dredging, mining, industrial, scientific or commercial operations or purposes:

"foreign ship" means any ship not being a British ship within the meaning of the Merchant Shipping Act:

"foreign-going ship" means any ship which not being a coast-trade ship or river ship is employed in trading or going by sea between any port within South Australia and any port beyond the limits thereof:

"go to sea" includes to proceed beyond the limits of any port in South Australia; "sea-going" and "going to sea" have a corresponding meaning:

"master" includes every person, except a pilot, having command or charge of any ship:

"Merchant Shipping Act" means the Act of the United Kingdom, the *Merchant Shipping Act, 1894*, and any Act amending the same or in substitution therefor:

"Minister" means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor:

"misconduct" used in reference to masters or mates includes reckless or careless navigation:

"Navigation Act" means the Commonwealth Act, the *Navigation Act, 1912-1935*, and any Act amending the same or in substitution therefor:

"passengers" includes all persons carried in a ship except the master and crew and the owner, his family, and servants, and except persons carried by any ship or yacht used solely for pleasure and not engaged in trade unless such persons are carried for hire:

"port" includes harbour, haven, roadstead, channel, and navigable creek, river, or lake:

"river ship" includes any ship plying within any port or on any lake or river within South Australia:

"seaman" includes every person (except masters and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship:

\* \* \* \* \*

"ship" includes every description of vessel used in navigation not propelled by oars:

"steamship" means any ship propelled by steam:

"tidal water" means any part of the sea or river within the ebb and flow of the tide at ordinary spring tides:

"tonnage" means tonnage calculated in accordance with the provisions of the Merchant Shipping Act:

"vessel" means any kind of ship, boat or vessel used in navigation and includes—

(a) a hovercraft or other air cushion vehicle;

or

(b) any other vehicle supported or propelled by pneumatic force, that traverses any navigable waters within or adjacent to the State.

**Validation**

5a. The *Harbors Act and Marine Act Amendment Act, 1947*, the *Marine Act Amendment Act, 1957*, and the *Marine Act Amendment Act, 1962*, shall (notwithstanding that none of those Acts contained a suspending clause providing that it should not come into operation until Her Majesty's pleasure thereon had been publicly signified in South Australia) be deemed to have been valid and effectual enactments, and the amendments that those Acts made, or purported to make, to the *Marine Act, 1936*, the *Marine Act, 1936-1947*, and the *Marine Act, 1936-1957*, respectively, shall be deemed to have been validly and effectually made by, and in accordance with, those Acts.

**Application of provisions relative to steamships to other ships**

6. The provisions of this Act that are applicable to steamships shall apply, subject to such modifications as the Governor may by regulation prescribe, to ships propelled by electricity or any other mechanical means of propulsion.

**Exemptions**

7. (1) This Act shall not apply to ships belonging to His Majesty's Navy, or the Navy of the Commonwealth, or of any British possession, or to the Navy of any foreign Government.

(2) None of the provisions of this Act shall, in the absence of express provision, extend or apply to foreign ships.

**Continuance of certain regulations**

8. All regulations and rules made or continued in force under or by any Act repealed by this Act shall, to the extent to which they are not inconsistent with this Act, continue in force until expressly or impliedly repealed by regulations or rules made or adopted under this Act.

PART II

GENERAL PROVISIONS

**Administration of Act**

9. This Act shall be administered by the Minister of Marine.

**Sealed deed instrument or writing to be evidence**

10. (1) All courts, judges, and persons acting judicially shall take judicial notice of the common seal of the Minister affixed to any deed, instrument, or writing, and shall presume that the seal was properly affixed thereto.

(2) Any such deed, instrument, or writing when sealed, whether the deed, instrument, or writing is required to be sealed or not, shall be received in evidence without any other or further proof of the making of the deed, instrument, or writing.

(3) Every document purporting to be an official copy of any such deed, instrument, or writing so sealed shall, if signed by the Director of Marine and Harbors, be received in evidence and, until the contrary is shown, be deemed a true copy of the original of which it purports to be a copy.

**Penalty for obstructing inspectors in the execution of their duty**

11. Any person who—

- (a) wilfully assaults, resists, obstructs, or impedes any inspector, member, officer, or servant of the department or member of the court of marine inquiry or member of the court of survey in the execution of his duty; or
- (b) disobeys his lawful requisitions or orders; or
- (c) uses abusive or offensive language to any such inspector, member, officer, or servant or member of such court while so executing his duty; or
- (d) aids or incites any person so to assault, resist, obstruct, impede, or disobey such requisition or order or use such language as aforesaid,

whether on board any ship or elsewhere shall be guilty of an offence against this Act, and liable to a penalty of not more than two hundred dollars, and may be seized and detained by the inspector, member, officer, or servant or member of such court or by any person or persons whom he may call to his assistance until the offender can be conveniently taken before some justice or other officer having proper jurisdiction.

**Penalty on persons offering bribes or receiving them**

12. Any person who gives or offers any sum of money or other thing whatsoever by way of reward or bribe to any officer or servant of the department for the purpose of inducing him to give an undue preference in the execution of his office, or to do or omit to do any act, matter, or thing whatsoever in breach of his duty, or any such officer or servant who receives any such sum of money or other thing by way of reward or bribe as aforesaid, shall be guilty of an offence against this Act, and liable to a penalty of not more than three hundred dollars.

**Powers and duties of Minister**

13. Subject to the provisions of this Act, the Minister—

- (a) shall cause examinations to be held as provided by Part III of persons desirous of receiving certificates of competency as masters, mates, and engineers of ships, and may after examination or otherwise issue certificates of competency to masters, mates, and engineers of ships and may cancel or suspend any such certificates; and
- (b) may cancel or suspend certificates of service issued under the provisions of any Act heretofore in force; and
- (c) shall in manner hereinafter provided cause the requirements of this Act for the preservation of life and property and the prevention of accidents at sea to be fulfilled; and
- (d) may make preliminary inquiries or may direct the same to be made by some person or persons in that behalf appointed into the causes of casualties and also into the conduct of masters, mates, and engineers; and
- (e) may direct the court of marine inquiry to hold formal investigations into the causes of casualties and into charges of incompetency or misconduct on the part of masters, mates, and engineers; and
- (f) may cause unseaworthy ships to be detained and ships to be inspected; and
- (g) may issue and revoke certificates that ships have complied with the law with respect to surveys; and
- (h) shall furnish to the Governor lists of persons eligible for appointment as assessors of the court of marine inquiry; and
- (i) may appoint eligible persons as scientific referees.

**Regulations**

14. (1) Subject to the provisions of this Act, the Governor may make regulations for the following purposes:—

- I. For the control, supervision, and guidance of the inspectors, officers, and servants of the department and for prescribing the form of notices, certificates, returns, statements, declarations, licences, and other documents to be given, made, or issued under this Act:
- II. For prescribing the equipments of coast-trade ships and river ships:
- III. For prescribing what boats, life-buoys, life-jackets, and other means of saving life at sea shall be carried by coast-trade ships and river ships, and for regulating the use thereof:
- IV. For the prevention of the overloading of coast-trade ships and river ships either with passengers or with cargo; for securing the safety of the passengers on board such ships, and their proper accommodation, and generally for regulating all matters relating to the protection of life and of the property of passengers and others:

- V. For the carriage of animals on coast-trade ships and river ships and the provision of shelter for deck passengers on board any coast-trade or river ship:
- VI. For prescribing any matter or thing relating to the operation of a vessel or vessels of a class:
- VII. For prescribing the accommodation to be provided for the crew on any class or kind of coast-trade ship or river ship, and providing for the granting of exemptions from any such regulations:
- VIII. For the adjustment of compasses and the transmission of deviation tables:

\* \* \* \* \*

- VIII.B. For providing for matters affecting the stability of ships:
- IX. For the survey of ships by engineer surveyors, ship surveyors and shipwright surveyors, for fixing and appointing the time, places, and manner of making such surveys, for fixing the fees, travelling, or other expenses to be paid in respect of such surveys, and for determining the persons by whom and the conditions under which such payments shall be made:
- X. For the conduct of examinations under Part III of persons desiring to obtain certificates of competency as masters, mates, and engineers, and as to the qualifications to be possessed by such persons, and prescribing the fees to be paid by applicants for examination:
- XI. For regulating the appointment of persons to conduct such examinations, and for prescribing the qualifications to be possessed by such persons:
- XII. For the issue of certificates of competency to masters, mates, and engineers:
- XIII. For the issue of certificates of competency to persons holding limited certificates of competency or service from the Board of Trade or any other authority either after examination or otherwise:
- XIV. For regulating the issue of certificates to ships:
- XV. For fixing the fees and charges to be taken or made in respect of the various matters under the jurisdiction of the Minister and authorized by this Act:
- XVI. For directing to what officer of the department any fees, rates, dues, charges, and other moneys payable under the authority of this Act and not herein directed to be paid to any particular officer shall be paid:
- XVII. For prescribing the mode in which and times at which lists of persons eligible for appointment as assessors of the court of marine inquiry shall be prepared, and prescribing the qualifications of persons eligible to be appointed as assessors:
- XVIII. For prescribing the qualification of persons eligible to be appointed as scientific referees:

- XIX. For the purchase, custody, and sale of Admiralty and other authorized charts:
- XX. For imposing penalties for any breach of any regulation not exceeding for any such breach the sum of five hundred dollars (except in cases of continuing offences when a penalty of one hundred dollars for every day after notice of the offence may be affixed) except in those cases where this Act affixes a special penalty in respect of any specific offence:
- XXI. And generally for duly administering this Act and carrying out the powers conferred upon the Minister by this Act.

(2) Any regulations under this Act may adopt, wholly or partially and with or without modification—

- (a) a code relating to matters in respect of which regulations may be made under this Act or otherwise relating to vessels, floating structures or navigation, either as in force at the time the regulations are made, or as in force from time to time;

or

- (b) an amendment to such a code.

(3) Any regulations adopting a code, or an amendment to a code, may contain such incidental, supplementary and transitional provisions as appear to the Governor to be necessary.

(4) Any regulations under this Act or a code adopted by the regulations may—

- (a) refer to or incorporate, wholly or partially and with or without modification, a code, either as in force at the time the regulations are made, or as in force from time to time;
- (b) be of general or limited application;
- (c) make different provision according to the persons, things or circumstances to which they are expressed to apply;

and

- (d) provide that any matter or thing under the regulations or code is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Director of Marine and Harbors or any specified officer or person performing functions pursuant to this Act.

(5) Where—

- (a) a code is adopted by the regulations;

or

(b) the regulations, or a code adopted by the regulations, refers to a code,

then—

(c) a copy of the code, as adopted or referred to, must be kept available for inspection by members of the public, without charge and during normal office hours, at an office or offices specified in the regulations;

(d) in any legal proceedings, evidence of the contents of the code, as adopted or referred to, may be given by production of a document purporting to be certified by or on behalf of the Minister as a true copy of the code;

and

(e) the code, as adopted or referred to, has effect as if it were a regulation made under this Act.

(6) In this section—

"code" means any code, rules, standard or other document prepared or published by a standards organization or other body specified in the regulations in which the code, rules, standard or other document is referred to or adopted.

### **Power to adopt regulations**

**15.** (1) Where under any provision of this Act the Governor is empowered to make rules or regulations with respect to any matter, the Governor may by proclamation declare that any rules, regulations, orders, instructions, proclamations, or subordinate legislation applicable to the said matter made under or pursuant to or adopted or enacted by the Merchant Shipping Act or the Navigation Act shall apply within South Australia and South Australian waters.

(2) Any such proclamation may be revoked by proclamation made by the Governor.

(3) During the time any such proclamation applying any such rules, regulations, orders, instructions, proclamations, or subordinate legislation remains in force, the rules, regulations, orders, instructions, proclamations or subordinate legislation shall, *mutatis mutandis*, apply to South Australia and South Australian waters as if the same had been made as rules or regulations, as the case may be, by the Governor under this Act.

PART III

CERTIFICATES OF MASTERS, MATES AND ENGINEERS

**Limit of application of this Part**

16. This Part shall not apply to ships used as pleasure yachts and not engaged in trading or plying for hire.

**Examinations to be instituted for masters, mates and engineers**

17. (1) Examinations shall be instituted for persons who wish to obtain certificates hereinafter termed certificates of competency to the effect that they are competent to become—

- (a) masters or mates of coast-trade ships; or
- (b) masters or mates of river ships; or
- (c) first-class engineers of coast-trade ships or river ships; or
- (d) second-class engineers of coast-trade ships or river ships; or
- (e) third-class engineers of coast-trade ships or river ships,

and such examinations shall be held at such places as the Minister directs.

(2) The Minister may appoint times for such examinations, and may subject to the regulations appoint examiners to conduct the same.

(3) The examiners shall be paid such fees as are fixed by the Minister from time to time.

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**Certificates of competency to be granted to those who pass**

18. The examiners shall report upon the result of every such examination to the Minister, who shall thereupon issue to every applicant who is duly reported by the examiners to have passed the examination satisfactorily and to have given satisfactory evidence as to his sobriety, experience, ability, and general good conduct a certificate of competency to the effect that he is competent to act as master or as mate of a coast-trade ship or as master or as mate of a river ship or as first-class engineer, second-class engineer, or third-class engineer of a coast-trade ship or a river ship: Provided that in every case in which the Minister has reason to believe the report to have been unduly made, the Minister may remit the case either to the same or any other examiner and may require a re-examination of the applicant or a further inquiry as to his testimonials or character before granting him a certificate.

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**Certificates for foreign-going and coast-trade ships available for coast-trade and river ships respectively**

21. Every certificate of competency or of service for foreign-going ships shall be deemed to be of a higher grade than the corresponding certificate for coast-trade ships, and every certificate of competency or of service for coast-trade ships shall be deemed to be of a higher grade than the corresponding certificate for river ships; but no certificate for a coast-trade ship or river ship shall entitle the holder to go to sea as master or mate of foreign-going ships, and no certificate for a river ship shall entitle the holder to go to sea as master or mate of a coast-trade ship.

**Penalties on fraudulent use of certificates etc.**

22. (1) (a) Every person not possessed of a valid certificate appropriate to his grade who suffers himself to be engaged or acts as master, mate, or engineer in contravention of this Act; and
- (b) every person who employs or suffers any person to serve as master, mate, or engineer in contravention of this Act without using all reasonable means (proof whereof shall lie on him) to ascertain that the person so serving is duly certificated; and
- (c) every person who fraudulently engages or employs or suffers to be engaged or employed any duly certificated master, mate, or engineer to serve on board any ship for the purpose only of enabling any ship to go to sea and not for the purpose of the whole voyage, and every master, mate, or engineer who fraudulently engages himself for such purpose,

shall be guilty of an offence against this Act, and liable to a penalty of not more than five hundred dollars.

(2) If any certificated master, mate, or engineer is engaged to serve on board any ship and quits the ship before or upon the commencement of her voyage, he shall be deemed, unless the contrary is shown, to have been fraudulently engaged and employed as aforesaid.

**Cancelled and suspended certificates**

23. Where any certificate has been or has been directed to be cancelled or suspended by a competent authority in the United Kingdom or in any British possession or elsewhere, the same shall not be a valid certificate for the purposes of this Act. If any certificate has been temporarily suspended only, the same shall at the end of the period for which it was so suspended become as valid as it was before such suspension.

**Form of certificates, cancellation, etc. to be recorded**

24. (1) All certificates of competency granted by the Minister shall be made in duplicate and in proper form, and one part shall be delivered to the person entitled to receive the certificate and the other shall be kept and recorded by the Director of Marine and Harbors or by such other officer as the department appoints for the purpose.

(2) The Director of Marine and Harbors or other officer as aforesaid shall make an entry in the record of such certificates of all orders made for cancelling, suspending, altering, or otherwise affecting any certificate in pursuance of the powers contained in this Act.

(3) A copy purporting to be certified by the Director of Marine and Harbors or other officer as aforesaid of any certificate shall be *prima facie* evidence of the certificate, and a copy purporting to be so certified as aforesaid of any entry made as aforesaid in respect of any certificate shall be *prima facie* evidence of the truth of the matters stated in the entry.

**In case of loss a copy to be granted**

25. Whenever any master, mate, or engineer proves to the satisfaction of the Minister that he has without fault on his part lost or been deprived of any certificate already granted to him by the Minister, the Minister shall upon payment of such fee (if any) as the Minister directs cause a copy of the certificate to which by the record so kept as aforesaid he appears to be entitled to be made out and certified as aforesaid and to be delivered to him. Any copy which purports to be so made and certified as aforesaid shall have all the effect of the original.

**Cancellation or suspension of certificates of competency by Minister**

26. (1) Where—

- (a) the holder of a certificate of competency has been convicted of an offence in a Commonwealth country; or
- (b) the Minister, having regard to the findings of a court of the Commonwealth or a State, or of a court of marine inquiry or other tribunal established under the law of the Commonwealth or a State, is satisfied that the holder of a certificate of competency is incompetent, has been guilty of misconduct, or has failed in his duty in regard to any collision or in any matter relating to the navigation, management or working of a ship,

the Minister may, in the case of a certificate other than a certificate granted by the Board of Trade or other competent authority recognized as such by the Governor, cancel or suspend the certificate or, in the case of a certificate granted by the Board of Trade or other competent authority recognized as such by the Governor, suspend the certificate in so far as concerns its validity in Australia.

(2) Where the Minister cancels or suspends a certificate under this section, he may, by notice in writing served upon the holder of the certificate, require that person to deliver the certificate to him or to a person named in the notice, within such period as is specified in the notice.

(3) A person upon whom a notice is served under the last preceding subsection shall, unless it is impracticable for him so to do, comply with the notice.

Penalty: Two hundred dollars.

(4) The suspension of a certificate under this section may be revoked by the Minister at any time.

(5) Where a certificate has been cancelled under this section the Minister may, at any time, if he thinks the justice of the case so requires—

- (a) re-issue the certificate; or
- (b) grant a certificate of a lower grade in place of the cancelled certificate.

(6) If, under this section, the Minister suspends, or revokes the suspension of, a certificate granted under the law of a Commonwealth country other than Australia, the Minister shall cause the Government of that country to be informed of the suspension and the reasons for suspension or the revocation of the suspension as the case requires.

(7) In this section—

"certificate of competency" means a certificate of competency issued by the Minister under this Act or any Act repealed by this Act or an equivalent certificate or certificate of a higher grade granted by the Board of Trade or granted by any competent authority recognized as such by the Governor:

"Commonwealth country" means—

(a) Australia, the United Kingdom, Canada, New Zealand, India, Pakistan, Ceylon, Ghana and Malaya; and

(b) any other country declared by the regulations to be a Commonwealth country,

and includes—

(c) a colony, overseas territory or protectorate of a country specified in paragraph (a) of this definition or of a country declared to be a Commonwealth country under paragraph (b) of this definition; and

(d) a territory for the international relations of which a country so specified or declared is responsible.

PART IIIA

CREWING COMMITTEE

**Constitution of Committee**

**26a.** (1) The *State Crewing Committee* is established.

(2) The Committee shall consist of—

- (a) two qualified master mariners and one qualified marine engineer who shall be appointed by the Governor on the recommendation of the Minister and one of whom the Governor shall appoint to be the presiding member;
- (ab) one person appointed by the Governor on the nomination of the Seamen's Union of Australia;
- (ac) one person appointed by the Governor on the joint nomination of the Merchant Service Guild of Australia and the Australian Institute of Marine and Power Engineers;

and

- (b) any other persons not exceeding two in number who have been duly nominated in accordance with this Act by the owner, or the agent of the owner, of a ship in respect of which the Committee is to make or review a determination under this Act.

(2a) A person must not be appointed under subsection (2)(ab) or (ac) unless he or she has, in the opinion of the Governor, relevant qualifications or expertise.

(3) Subject to subsection (6) of this section, the members of the Committee shall hold office for such period and upon such terms and conditions as the Governor may determine.

(4) The members of the Committee shall be entitled to such remuneration, allowances and expenses as may be determined by the Governor.

(5) The Governor, on the recommendation of the Minister, shall make such appointments as are necessary to maintain within the Committee the nucleus of three members established by appointment under paragraph (a) of subsection (2) of this section and shall on the recommendation of the Minister appoint a suitable person to be a deputy of a member if the member is unable to perform his duties as a member or if it is otherwise expedient so to do and a person so appointed to be a deputy of the presiding member shall be deemed to be the presiding member whilst so appointed.

(6) Any person who becomes a member of the Committee by virtue of nomination by the owner, or the agent of the owner, of a ship in respect of which a determination is to be made or reviewed by the Committee shall hold office only whilst business in respect of that ship is being transacted, considered or otherwise dealt with by the Committee.

(7) The *Public Service Act, 1967*, shall not apply to or in relation to the appointment of a member of the Committee and a member shall not, as such, be subject to the provisions of that Act.

**Nomination of members by owner or agent**

**26b.** (1) The Director of Marine and Harbors shall, at least fourteen days before the Committee sits to make or review a determination in respect of a ship or at such time as may be agreed upon by the Director and the owner, or the agent of the owner, of the ship, by notice in writing served personally or by post upon the owner, or the agent of the owner, of the ship, inform him of the place at which the sitting will be held and the day and time of its commencement and request him to nominate a person or persons to be a member or members of the Committee.

(2) The owner, or the agent of the owner, of the ship may, in a manner approved by the Minister nominate a person or persons (not exceeding two in number) to be a member or members of the Committee.

(3) A person shall not be nominated under subsection (2) of this section unless he is a master mariner or marine engineer, or is, in the opinion of the Minister, otherwise qualified to participate in the deliberations and functions of the Committee.

(4) A nomination under subsection (2) of this section shall be made not less than seven days before the day on which the sitting is to commence or at such time as may be agreed upon by the Director and the owner or the agent of the owner, of the ship.

(5) If the owner, or the agent of the owner, of the ship fails to exercise, in accordance with this section, his right to nominate a person or persons to be a member or members of the Committee, he shall forfeit that right.

**Quorum, etc.**

**26c.** (1) Subject to subsection (1a), three members constitute a quorum of the Committee.

(1a) A quorum of the Committee must, unless the Minister otherwise directs, include—

(a) the presiding member or deputy presiding member;

and

(b) the members (if any) duly nominated by the owner, or agent of the owner, of the ship in respect of which the Committee is to make or review a determination.

(2) A decision concurred in by a majority of the members of the Committee, or if the members are equally divided, concurred in by the presiding member and one other member shall be the decision of the Committee.

(3) A decision, act or proceeding of the Committee shall not be invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such decision, act or proceeding shall be as valid and effectual as if the member had been duly nominated or appointed.

**Determination by Committee**

**26d.** (1) The owner, or the agent of the owner, of every coast-trade ship or river ship in respect of which a determination has not been made under this section shall, by instrument in writing addressed to the Director of Marine and Harbors, request that such a determination be made in respect of that ship, and the Director, upon receipt of the request, shall refer it to the Committee.

(2) The owner, the agent of the owner, or the master, of a coast-trade ship or river ship or any other person who, in the opinion of the Director of Marine and Harbors, has a proper interest in the navigation of the ship, may, by instrument in writing, request that a determination made under this section in respect of the ship be reviewed, and the Director, if satisfied that the request is not frivolous or vexatious, shall refer it to the Committee.

(3) The Director of Marine and Harbors may, at any time, by instrument in writing, request the Committee to make a determination in respect of any coast-trade ship or river ship or to review any such determination previously made.

(4) The Committee shall, as soon as practicable after a request in respect of a coast-trade ship or river ship has been referred or made to it under this section, determine with what minimum complement of officers, engineers and seamen the ship should be manned, and what should be their respective minimum qualifications and experience to ensure the safe navigation of the ship and the safe use of the equipment and machinery of the ship in matters incidental to the navigation thereof or, where such a determination has previously been made under this section, shall review the determination and vary it as it thinks fit.

(5) For the purposes of a determination or the review of a determination under subsection (4) of this section, the Committee shall take into account the nature and condition of the ship and of its equipment and machinery and the conditions under which it is being or is to be navigated and any other relevant factors.

(6) The Minister shall cause a copy of a determination of the Committee, or where a determination has been varied under this section, a copy of the determination as varied, to be published in the *Gazette*.

(7) Sections 19 and 20 of the *Marine Act, 1936-1966*, and any regulations made under paragraph VI or paragraph VIIIA of section 14 of the *Marine Act, 1936-1966*, shall, notwithstanding the repeal of those provisions by the *Marine Act Amendment Act, 1968*, continue to apply to and in relation to any coast-trade ship or river ship that was, at the commencement of the *Marine Act Amendment Act, 1968*, trading or plying within South Australian waters, until a determination is made and published under this section in respect of that ship.

(8) A person who—

(a) being the owner, or the agent of the owner, of a coast-trade ship or river ship, fails to comply with subsection (1) of this section;

or

(b) causes a coast-trade ship or river ship in respect of which a determination has been made and published under this section to go to sea or to be navigated within South Australian waters with a lesser complement of officers, engineers and seamen than that prescribed in the determination, or a complement of officers, engineers and seamen having inferior qualifications or less experience than as prescribed in the determination;

or

- (c) causes any coast-trade ship or river ship that was not, at the commencement of the *Marine Act Amendment Act, 1968*, trading or plying within South Australian waters, to go to sea or to be navigated within South Australian waters before a determination has been made and published under this section,

shall be guilty of an offence and liable to a fine not exceeding five hundred dollars.

- (9) This section shall not apply to or in relation to—

- (a) any lighter, barge or hulk possessing no independent motive power or means of propelling itself unless the lighter, barge or hulk is of fifteen tons gross tonnage or more and the owner, the agent of the owner or master thereof intends that the lighter, barge or hulk should go to sea;

and

- (b) any prescribed vessel or vessel of a prescribed class of vessels.

**Power to obtain information**

**26e.** (1) For the purposes of this Act the Committee may—

- (a) by summons under the hand of the presiding member or a member require any person to attend before the Committee;
- (b) require any person to give oral or written answers to any questions relating to any matter before the Committee;
- (c) by summons under the hand of the presiding member or a member require any person to produce any books, maps, plans, papers and documents relating to any matter before the Committee;
- (d) examine witnesses on oath or affirmation, which may be administered by the presiding member or a member;
- (e) require any information given to the Committee to be verified by a statutory declaration;

and

- (f) enter and inspect any vessel in respect of which a determination is to be made or reviewed under this Act and, for the purposes of such entry and inspection, enter any place or premises adjacent thereto.

(2) If any person—

- (a) who has been duly served with a summons to attend before the Committee, neglects or fails to attend in obedience to such summons;

or

- (b) wilfully insults the Committee or any member thereof;

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or

(c) misbehaves himself before the Committee;

or

(d) obstructs the Committee or interrupts the proceedings of the Committee;

or

(e) being called or examined as a witness before the Committee, refuses to be sworn or to affirm or to produce documents specified in a summons served upon him, or any of them;

or

(f) being so called or examined refuses to answer any lawful questions or prevaricates in his evidence,

he shall be guilty of an offence and liable to a fine not exceeding two hundred dollars.

## PART IV

## SAFETY AND PREVENTION OF ACCIDENTS: COURTS OF SURVEY

## DIVISION I—APPLICATION

**Application of this Part of Act**

27. The provisions contained in this Part shall (except where it is otherwise specially provided) apply to all British coast-trade ships and river ships being in South Australian waters or in any port or place in South Australia and to no others: Provided that the Governor may from time to time by proclamation declare that any particular provision or provisions of this Part shall not apply to ships or to steamships trading solely on any particular river or rivers within South Australia and may at any time revoke any such proclamation.

## DIVISION II—UNSEAWORTHY SHIPS

**Court of survey**

28. For the purpose of carrying out the provisions of this Act the court of marine inquiry hereinafter constituted shall when so directed by the Minister sit as the court of survey for the purposes of this Act and shall have all the powers conferred upon and perform all the duties imposed upon the said court of survey by this Act.

**Power to appoint inspectors to report**

29. The Minister may from time to time whenever it seems expedient to him so to do appoint some officer of the department or any person as an inspector to report to it upon the following matters (that is to say):—

- I. Upon the nature and causes of any accident or damage which any ship has sustained or caused or is alleged to have sustained or caused:
- II. Whether the provisions of this Act or any regulations made or in force under or by virtue of this Act have been complied with:
- III. Whether the hull, machinery, or any part of any ship, or any of the equipments or articles on board thereof to which the provisions of this Act apply are sufficient and in good condition:
- IV. Upon such other matters as the Minister may deem necessary to insure the carrying out of the provisions of this Act.

**Powers of inspectors**

30. (1) Every such inspector as aforesaid—

- (a) may go on board any ship and inspect the same or any part thereof or any of the equipments or articles on board thereof to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage; and
- (b) may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make; and

- (c) may by summons under his hand require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make; and
- (d) may require and enforce the production of all books, papers, or documents which he considers important for the purpose of his report; and
- (e) may administer oaths or may in lieu of requiring or administering an oath require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

### **Sending unseaworthy ship to sea a misdemeanour**

**31.** (1) Any person who sends or attempts to send or is party to sending or attempting to send a ship to sea from any port in South Australia, in such an unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of a misdemeanour, and liable to imprisonment for not more than two years, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in such an unseaworthy state was in the circumstances reasonably justifiable.

(2) Any master of a ship who knowingly takes the same to sea from any port in South Australia in such an unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of a misdemeanour, and liable to imprisonment for not more than two years, unless he proves that her going to sea in such an unseaworthy state was in the circumstances reasonable and justifiable.

(3) A prosecution under this section shall not be instituted except by or with the consent of the Minister.

(4) This section shall not apply to any ship employed exclusively in trading or going from place to place in any river or inland water.

### **Obligation of shipowner to crew with respect to use of reasonable efforts to secure seaworthiness**

**32.** (1) In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship, that the owner of the ship, and the master, and every agent charged with the loading of the ship, or the preparing of the ship for sea, or the sending of the ship to sea, shall use all reasonable means to insure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep her in a seaworthy condition for the voyage during the same.

(2) Nothing in this section—

- (a) shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending of the ship to sea is reasonable and justifiable; or
- (b) shall apply to any ship employed exclusively in trading or going from place to place in any river or inland water.

**Ships in an unseaworthy condition**

**33.** Any master who arrives at any port or place within South Australia from any other port or place in South Australia in charge of any ship in such an unseaworthy condition that the life of any person might, had the ship been at sea in that condition, have been endangered thereby, shall, unless he proves—

- (a) that he used all reasonable means to insure her being sent to sea in a seaworthy state; or
- (b) that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable; or
- (c) that she became unseaworthy whilst at sea after leaving the last port of call, in consequence of circumstances over which he had no control,

be guilty of an offence against this Act, and liable to a penalty not exceeding one thousand dollars.

**Penalty for departing from or arriving at any port without hatches battened down**

**34.** Any person who—

- (a) sends or takes, or attempts to send or take any ship from any port or place in South Australia; or
- (b) departs from or arrives at any port or place in South Australia in charge of any ship,

without the hatches of the ship being properly battened down and secured, or in such a position and condition that they can be so battened down and secured without delay, shall be guilty of an offence against this Act, and liable to a penalty of not more than three hundred dollars.

**Power to detain unsafe ships and procedure for such detention**

**35.** (1) Whenever a ship being at any place within South Australia is an unsafe ship, that is to say, is by reason of the defective condition of her hull, equipments, or machinery, or by reason of undermanning, or by reason of overloading or improper loading, unfit to go to sea without serious danger to human life, having regard to the nature of the service for which she is intended, the ship may be provisionally detained for the purpose of being surveyed or for ascertaining the sufficiency of her crew and either finally detained or released as follows:—

- I. The Minister if he has reason to believe on complaint or otherwise that a ship is unsafe may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed:
- II. When a ship has been provisionally detained, there shall be forthwith served on the master of the ship a written statement of the grounds of her detention, and the Minister may if he thinks fit appoint some competent officer or officers of the department or any competent person or persons to survey the ship and report thereon to the board:

- III. The Minister on receiving the report may either order the ship to be released or if in his opinion the ship is unsafe may order her to be finally detained, either absolutely or until the performance of such conditions with respect to the execution of repairs or alteration or the unloading or reloading of cargo, or the manning of the ship, as the Minister thinks necessary for the protection of human life, and the Minister may from time to time vary or add to any such order:
- IV. Before the order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master of the ship may appeal to the court of survey:
- V. Where a ship has been provisionally detained, the owner or master of the ship at any time before the person appointed under this section to survey the ship makes such survey may require that he shall be accompanied by such qualified person as the owner or master may select, and, in that case if the surveyor and the said person agree, the Minister shall cause the ship to be detained or released accordingly, but if they differ, the Minister may act as if the requisition had not been made, and the owner and master shall have the like appeal touching the report of the surveyor as is before provided by this section:
- VI. Where a ship has been provisionally detained, the Minister may at any time if he thinks it expedient refer the matter to the court of survey:
- VII. The Minister may at any time, if satisfied that a ship detained under this Act is not unsafe, order her to be released either upon or without any conditions.

(2) Officers may be appointed by the Minister to be detaining officers, and such detaining officers shall have the same power as the Minister has under this section of ordering the provisional detention of a ship for the purpose of being surveyed and of appointing a person or persons to survey her; and if any such detaining officer thinks that a ship so detained by him is not unsafe, he may order her to be released.

(3) A detaining officer shall forthwith report to the Minister any order made by him for the detention or release of a ship.

(4) An order for the detention of a ship, provisional or final, shall be served as soon as may be on the master of the ship.

(5) A detaining officer and a person authorized to survey a ship under this section shall for that purpose have the same powers as a person appointed by a court of survey to survey a ship, and the provisions of this Act with respect to the person so appointed shall apply accordingly.

### **Enforcing detention**

**36.** (1) Where under this Act any ship is authorized or ordered to be detained, any officer of the department may detain the ship.

(2) If the ship after detention or after service on the master of any notice of or order for detention goes to sea before it is released by competent authority, the master of the ship and also the owner and any person who sends the ship to sea, if such owner or person is party or privy to the offence, shall be guilty of an offence against this Act and liable to a penalty of not more than five hundred dollars.

**Penalty on taking detaining officer to sea**

37. Where a ship so going to sea takes to sea when on board thereof in the execution of his duty any officer authorized to detain the ship, the owner and master of the ship shall each be guilty of an offence against this Act and liable to a penalty of not more than two hundred dollars and also to pay all expenses of and incidental to the officer being so taken to sea until the officer returns or until such time as would enable him after leaving the ship to return to the port from which he is taken. Any such expenses may be recovered in a summary way.

**Constitution of court of survey for appeals**

38. (1) Whenever the court of marine inquiry is to be summoned to sit as the court of survey the Minister shall determine whether assessors of nautical or engineering or other special skill and experience are required to sit on the court, and such persons shall be summoned in the same manner as is in this Act provided in the case of an investigation by the court of marine inquiry.

(2) The clerk of the court shall on receiving notice of an appeal or a reference from the Minister, immediately summon the court to meet as soon as conveniently may be.

**Power and procedure of court of survey**

39. With respect to the court of survey the following provisions shall have effect:—

- I. The case shall be heard in open court:
- II. The court may survey the ship and shall have all the powers of an inspector appointed by the Minister under this Act:
- III. The court may appoint any competent person or persons to survey the ship and report thereon to the court:
- IV. The court shall have the same power as the Minister has to order the ship to be released or finally detained:
- V. The owner and master of the ship and any person appointed by the owner or master and also any person appointed by the Minister may attend at an inspection or survey made in pursuance of this section:
- VI. The president of the court shall send to the Minister a report, and each of the other members of the court shall either express his concurrence in the report by signing the same or report to the Minister the reasons for his dissent.

**Rules of practice**

40. The Governor, on the recommendation of the Minister, may make general rules to carry into effect the provisions of this Act with respect to the court of survey, and in particular with respect to the summoning of and procedure before the court, the requiring on an appeal security for costs and damages, and the amount and application of fees.

**Liability of Minister and shipowner for costs and damages**

41. (1) If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of the ship under this Part as an unsafe ship, the Minister shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

(2) If a ship is finally detained under this Part or if it appears that a ship provisionally detained was at the time of the detention an unsafe ship within the meaning of this Part, the owner of the ship shall be liable to pay to the Minister the costs of and incidental to the detention and survey of the ship. The said costs shall without prejudice to any other remedy be recoverable summarily by the Minister.

(3) For the purposes of this Act, the costs of and incidental to any proceeding before the court of survey, and a reasonable amount in respect of the remuneration of the surveyor or officer of the Minister, shall be part of the costs of the detention and survey of the ship; and any dispute as to the amount of such costs may be referred to the Master of the Supreme Court, who on request made to him for that purpose by the Minister shall ascertain and certify the proper amount of the costs.

**Power to require from complainants security for costs**

**42.** (1) Where a complaint is made to the Minister or a detaining officer that a ship is unsafe, the Minister or officer may, if he thinks fit, require the complainant to give security to the satisfaction of the Minister for the costs and compensation which he may become liable to pay as hereinafter mentioned.

(2) Where the complaint is made by one-fourth, being not less than two, of the seamen belonging to the ship, and is not in the opinion of the Minister or detaining officer frivolous or vexatious, the security shall not be required; and the Minister or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

(3) Where a ship is detained in consequence of any complaint, and the circumstances are such that the Minister is liable under this Act to pay to the owner of the ship any costs or compensation, the Minister may by notice in writing given to the complainant require the complainant to pay to the Minister all such costs and compensation as the Minister incurs or is liable to pay in respect of the detention and survey of the ship. Any such notice may be given by post.

**DIVISION III—SCIENTIFIC REFEREES**

**Reference in difficult cases to scientific referees**

**43.** (1) If the Minister is of opinion that an appeal under this Part involves a question of construction or design or of scientific difficulty or important principle, he may refer the matter to such one or more scientific referees as may appear to the Minister to possess the special qualifications necessary for the particular case, and thereupon the appeal shall be determined by the referee or referees instead of by the court of survey.

(2) The Minister, if the appellant in any appeal so requires and gives security to his satisfaction to pay the costs of and incidental to the reference, shall refer that appeal to a referee or referees so to be appointed as aforesaid.

(3) The referee or referees shall have the same powers as the court of survey.

## DIVISION IV—CABLES AND ANCHORS

**No chain cable or anchor exceeding one hundred and sixty-eight pounds to be sold without being tested**

44. (1) A maker of or dealer in anchors and chain cables shall not sell or contract to sell nor shall any person purchase or contract to purchase for the use of any ship any chain cable or any anchor exceeding in weight one hundred and sixty-eight pounds which has not been previously tested and stamped in accordance with the Act of the United Kingdom, the *Anchors and Chain Cables Act, 1899*, or any Act amending or substituted for that Act.

(2) Any person who acts in contravention of this section shall be deemed to be guilty of a misdemeanour, and liable to imprisonment for not more than two years. The onus of proving that any chain cable was tested and stamped in accordance with the provisions of the said Act shall in all cases lie upon the person charged with an offence against this section.

**Contract for sale to imply a warranty**

45. Every contract for the sale of a chain cable or of an anchor exceeding in weight one hundred and sixty-eight pounds shall in the absence of an express stipulation to the contrary (proof whereof shall lie on the seller) be deemed to imply a warranty that the anchor or cable has been before delivery tested and stamped in accordance with the said Act. In case of dispute, the onus of proving that the chain cable or anchor was so tested and stamped shall be on the seller.

**Cables and anchors of alleged unseaworthy ships**

46. Whenever any ship is surveyed or detained under this Act on the ground of alleged unseaworthiness, the Minister may direct an inquiry into the condition of the cables and anchors, and if they have not been tested according to the said Act may make such further order as he thinks requisite previous to her release.

## DIVISION V—SHIP'S DRAUGHT AND FREEBOARD

**Ship's draught of water and clear side to be recorded**

47. (1) The Minister may, in any case or class of cases in which he thinks it expedient so to do, direct any officer of the department to record, in such manner and with such particulars as he directs, the draught of water of any sea-going ship as shown on the scale of feet on her stem and stern post and the extent of her clear side in feet and inches upon her leaving any wharf or port in South Australia for the purpose of going to sea. The officer shall thereupon keep the record, and shall from time to time forward the same or a copy thereof to the Minister.

(2) That record or any copy thereof if produced out of the custody of the Minister shall be admissible in evidence of the draught of water and extent of freeboard of the ship at the time specified in the record.

(3) The master of a sea-going ship shall, upon her leaving any wharf or port for the purpose of going to sea, record her draught of water and the extent of her freeboard in feet and inches in the official log book (if any) and shall produce the record to any officer of the department whenever required by him so to do, and if he fails without reasonable cause to produce the record, shall be guilty of an offence against this Act, and be liable to a penalty of not more than one hundred dollars.

(4) The master of a sea-going ship shall, upon the request of any officer of the department directed to record the ship's draught of water or freeboard, permit the officer to enter the ship and to make such inspections and take such measurements as may be requisite for the purpose of the record, and every master who fails so to do or impedes or suffers any one under his control to impede any such officer in the execution of his duty shall be guilty of an offence against this Act, and liable to a penalty of not more than one hundred dollars.

(5) In this section the expression "freeboard" means, in the case of any ship which is marked with a deck line, the height from the water to the upper edge of the deck line, and, in the case of any other ship, the height amidships from the water to the upper edge of the deck from which the depth of hold as stated in the register is measured.

#### DIVISION VI—DECK AND LOAD LINES

##### **Marking of deck lines**

**48.** (1) Every coast-trade ship and river ship (except coast-trade ships under fifteen tons gross registered tonnage employed solely in that trade, river ships employed solely in that trade, and ships employed solely in fishing or as pleasure yachts not engaged in trading or plying for hire) shall be permanently and conspicuously marked with lines (in this Act called deck lines) of not less than twelve inches in length and one inch in breadth, painted longitudinally on each side amidships or as near thereto as is practicable, and indicating the position of each deck which is above water.

(2) The upper edge of each of the deck lines must be level with the upper side of the deck plank next the waterway at the place of marking.

(3) The deck lines must be white or yellow on a dark ground or black on a light ground.

(4) In this Division the expression "amidships" means the middle of the length of the load water-line as measured from the foreside side of the stem to the aftside of the stern post.

##### **Marking of load line**

**49.** (1) With respect to the marking of a load line, the following provisions shall have effect:—

- I. The owner of every coast-trade ship (except ships under fifteen tons gross registered tonnage employed solely in that trade and ships employed solely in fishing or as pleasure yachts not engaged in trading or plying for hire) shall before going to sea from any port mark upon each of her sides amidships within the meaning of section 48, or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter with a horizontal line eighteen inches in length drawn through its centre:
- II. The centre of this disc shall be placed at such level below the deck line marked under the provisions of this Act as may be approved by the Minister, and shall indicate the maximum load line in salt water to which it shall be lawful to load the ship:
- III. When a ship has been marked as by this section required, she shall be kept so marked until notice is given of an alteration:

- IV. The said owner shall also once in every twelve months immediately before the ship goes to sea, send or deliver to the Minister, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the deck lines which is above that centre, and he shall also at the same time forward a copy of such statement to the Director of Marine and Harbors:
- V. The owner before the ship goes to sea after any renewal or alteration of the disc shall send or deliver to the Minister notice in writing of the renewal or alteration, together with such statement in writing as before mentioned, of the distance between the centre of the disc and the upper edge of each of the deck lines.

(2) If default is made in sending or delivering any statement or notice required by this section to be sent or delivered, the owner shall be guilty of an offence against this Act and liable to a penalty of not more than three hundred dollars.

#### **Method of marking load line**

50. The position of the disc in the last preceding section mentioned shall be in accordance with the appropriate tables adopted by the Board of Trade from time to time, subject to such allowance as may be made necessary by any difference between the position of the deck line marked under the provisions of this Act, and the position of the line from which freeboard is measured under the said tables.

#### **Appointment of officers, etc.**

51. The Governor may appoint any corporation or association for the survey or registry of shipping approved by the Minister or any other competent authority approved by the Minister or may appoint any officer specially selected by the Minister for that purpose to approve and certify on his behalf from time to time the position of any such disc as aforesaid and any alteration thereof, and may appoint fees to be taken in respect of any such approval or certificate.

#### **Regulations**

52. (1) The Governor may make regulations—

- (a) determining the lines or mark to be used in connection with the disc in order to indicate the maximum load line under different circumstances and at different seasons, and declaring that the provisions of this Division are to have effect as if any such line were drawn through the centre of the disc:
- (b) as to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship whether by painting, cutting or otherwise:
- (c) as to the mode of application for and form of certificates under this Division; and
- (d) requiring the entry of such certificates and other particulars as to the draught of water and freeboard of the ship in the official log book of the ship or other publication thereof on board the ship, and as to delivering copies of such entries.

(2) Any person who makes default in complying with any such regulation shall be guilty of an offence against this Act, and liable to a penalty of not more than five hundred dollars.

**Ship marked under Imperial Act to be taken as marked under this Act**

**53.** Any ship marked with a load line in accordance with the provisions of the Merchant Shipping Act or marked by any authority recognized as competent for the purpose by any Order in Council made under the power contained in the said Act shall be deemed to be marked in accordance with this Act.

**Ships with submerged load lines to be deemed to be unsafe**

**54.** If a ship is so loaded as to submerge in salt water the centre of the disc indicating the load line, the ship shall be deemed to be an unsafe ship within the meaning of this Part, and such submersion shall be a reasonable and probable cause for the detention of the ship.

**Penalty for offences in relation to marks on ships**

**55.** (1) If—

- (a) any owner or master of a ship fails without reasonable cause to cause his ship to be marked as by this Division required, or to keep her so marked, or allows the ship to be so loaded as to submerge in salt water the centre of the disc indicating the load line; or
- (b) any person conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy,

he shall be guilty of an offence against this Act, and liable to a penalty of not more than three hundred dollars.

(2) If any mark required by this Division is in any respect inaccurate so as to be likely to mislead, the owner of the ship shall be guilty of an offence against this Act, and liable to a penalty of not more than three hundred dollars.

**Load line certificates**

**56.** Every certificate or approval given under this Division, or under any Act repealed by this Act, shall continue in force for four years and no longer, or for such less period as the Minister in any case determines.

**DIVISION VII—EQUIPMENT****Ships to be properly equipped**

**57.** (1) It shall be the duty of the owner of every ship or, if there is no owner in South Australia, of his agent to see that the ship is properly equipped.

(2) No sea-going ship shall be deemed to be properly equipped unless—

- (a) she is provided with the necessary equipments; and
- (b) she is provided with compasses properly adjusted from time to time to the satisfaction of the Minister and in accordance with the regulations.

**Penalties on masters and owners, etc., neglecting to provide equipments**

**58.** In any of the following cases, that is to say—

- (a) if any ship goes to sea without being equipped as provided by this Act or if any of such equipments are lost or rendered unfit for service in the course of the voyage through the wilful fault or negligence of the owner or master; or
- (b) if in case of any such equipments being accidentally lost or injured in the course of the voyage, the master wilfully neglects to replace or repair the same on the first opportunity; or
- (c) if such equipments are not kept so as to be at all times fit and ready for use,

then every owner or, if there is no owner in South Australia, the agent who appears to be in fault shall be guilty of an offence against this Act, and liable to a penalty of not more than one thousand dollars, and every master who appears to be in fault shall be guilty of an offence against this Act, and liable to a penalty of not more than five hundred dollars.

DIVISION VIII—REGULATIONS FOR PREVENTING COLLISIONS,  
ETC., LIGHTS, SIGNALS, ETC.

**Regulations concerning lights, fog-signals and sailing rules**

**59.** (1) The regulations or rules contained in the first part of the second schedule shall be of the same force as if they were enacted in the body of this Act and shall apply in South Australian waters and in any port or place in South Australia.

(2) The Governor may from time to time make regulations or rules relating to the matters provided for in the first part of the said schedule and may annul or modify any of the said regulations or rules or make new regulations or rules in addition thereto or in substitution therefor.

(3) If any of the regulations or rules is not complied with by a vessel within South Australian waters, the owner, the agent of the owner (if there is such an agent) and the master of the vessel shall each be guilty of an offence and each liable to a penalty not exceeding five hundred dollars.

(4) If under the regulations or rules a duty or obligation is imposed upon any person and he fails diligently to discharge that duty or obligation he shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

**Enactment of regulations concerning lights, fog-signals and sailing rules**

**60.** (1) The regulations contained in the second part of the second schedule shall apply to all river ships in South Australia on the River Murray and to all ships on the South Australian tributaries of the said river.

(2) The Governor may make regulations to annul or modify any of the said regulations or may make new regulations in addition thereto or in substitution therefor.

(3) If any of the regulations is not complied with by a river ship in South Australia on the River Murray or on any South Australian tributary of that river, the owner, the agent of the owner (if there is such an agent) and the master of the ship shall each be guilty of an offence and each liable to a penalty not exceeding five hundred dollars.

(4) If under the regulations a duty or obligation is imposed upon any person and he fails diligently to discharge that duty or obligation, he shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

**Owners and masters bound to obey regulations or rules**

**61.** All owners and masters of coast-trade ships and river ships shall be bound to take notice of all regulations or rules for the time being in force for preventing collisions at sea or applying to ships belonging to South Australia on the River Murray, and shall so long as the same continue in force be bound to obey them and to carry and exhibit no other lights which may be mistaken for the lights prescribed by the said regulations or rules and to use no other fog-signals than such as are required by the said regulations or rules.

**Breach of regulations or rules to imply wilful default of person in charge**

**62.** If, by reason of the non-observance by any ship of any of such regulations or rules, any damage to person or property is caused or contributed to, the damage shall be deemed to have been occasioned by the default of the person in charge of the deck of the ship at the time, unless it is shown to the satisfaction of the court before which the case is tried that the circumstances of the case made a departure from the regulation or rule necessary.

**Duties of masters in case of collision**

**63.** (1) In every case of collision between two ships it shall be the duty of the master or person in charge of each ship if and so far as he can do so without danger to his own ship, crew, and passengers (if any)—

- (a) to stay by the other ship until he has ascertained that she has no need of further assistance, and to render to the other ship, her master, crew, and passengers (if any) such assistance as may be practicable and as may be necessary in order to save them from any danger caused by the collision; and
- (b) to give to the master or person in charge of the other ship the name of his own ship and of her port of registry or of the port or place to which she belongs and also the names of the ports or places from which she comes and to which she is bound.

(2) If the master or person in charge fails without reasonable cause to comply with this section, he shall be guilty of a misdemeanour, and liable to imprisonment for not more than two years.

(3) Notwithstanding anything contained in subsection (2) of section 422 of the Merchant Shipping Act, in case of a collision between two ships, the collision shall not be deemed to have been caused by the wrongful act, neglect, or default of the master or person in charge of the ship, who failed to comply with the provisions of that section, solely by reason of the fact that he has not complied with the provisions of that section.

**Signals of distress**

**64.** (1) Every ship shall be provided with the means for making such signals of distress as may from time to time be prescribed by the said regulations or rules, or by or under the Merchant Shipping Act.

(2) Any master of a ship who uses or displays or causes or permits any person under his authority to use or display any of the said signals of distress except in the case of a ship being in distress shall be liable to pay compensation for any labour undertaken, risk incurred, or loss sustained in consequence of such signal having been supposed to be a signal of distress. The said compensation may be recovered in any court of competent jurisdiction.

#### **Method of giving helm orders**

**65.** (1) No person on any ship shall when the ship is going ahead, give a helm or steering order containing the word "starboard" or "right" or any equivalent of "starboard" or "right", unless he intends that the head of the ship shall move to the right, or give a helm or steering order containing the word "port" or "left", or any equivalent of "port" or "left", unless he intends that the head of the ship shall move to the left.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence against this Act, and liable to a penalty of not more than three hundred dollars.

### **DIVISION IX—INSPECTION OF SHIPS**

#### **Inspection for enforcing regulations**

**66.** (1) The surveyors of the department or such other officers of the department as the Minister may appoint for the purpose, may go on board any ships at all reasonable times and inspect the same for the purpose of seeing that the same are properly provided with the necessary equipments and other articles on board thereof in accordance with the requirements of this Act and the regulations and that the same are in a fit state for use, and shall for that purpose have the powers given to inspectors appointed by the Minister under this Act.

(2) If any such surveyor or officer finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency and also what is in his opinion requisite in order to remedy the same.

### **DIVISION X—EQUIPMENT OF STEAMSHIPS**

#### **Equipment of steamships**

**67.** (1) Steamships shall in addition to the equipments by this Act prescribed for ships generally, be provided as follows, that is to say:—

- I. Every steamship of which a survey is hereby required shall be provided with a safety-valve on each boiler so constructed as to be out of the control of the engineer when the steam is up, and provided with the proper lifting gear; and if the valve is in addition to the ordinary valve, it shall be so constructed as to have an area not less, and a pressure not greater, than the area of and pressure on that valve:
- II. Every sea-going steamship shall be provided with a hose adapted for the purpose of extinguishing fire in any part of the ship and capable of being connected with a suitable engine which shall be carried by the steamship, and with such other fire-fighting appliances as are requisite:
- III. Any steering chains or blocks liable to interfere with or endanger the passengers or crew shall be protected by portable but properly secured guards.

(2) If any steamship to which this Part extends plies in or goes to sea from any port in South Australia without being so provided as hereinbefore required, then for each default in any of the above requisites the owner shall (if he appears to be in fault) be guilty of an offence against this Act, and liable to a penalty of not more than one thousand dollars and the master shall (if he appears to be in fault) be guilty of an offence against this Act and liable to a penalty of not more than five hundred dollars.

**Penalty for improper weight on safety-valve**

**67aa.** A person who places an undue weight upon the safety-valve of a steamship or, if the steamship has been surveyed under this Act, increases the weight upon the safety-valve beyond the limits fixed by the engineer surveyor, shall, in addition to any other liability that he may incur by so doing, be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

DIVISION XA—WIRELESS INSTALLATIONS

**Application of this Division**

**67a.** This Division shall apply to—

- (a) every coast-trade ship; and
- (b) every ship which carries passengers for hire on a voyage beginning and ending at the same port in South Australia,

not being a ship which is exempted from this Division, either by the Minister or by regulations.

**Duty to carry wireless**

**67b.** Every ship to which this Division applies shall be provided with wireless transmitting and receiving equipment complying with the regulations and kept in efficient working order.

**Wireless operator**

**67c.** Every ship to which the Division applies, shall while at sea carry a person who holds the prescribed qualifications as a wireless operator.

**Exemptions**

**67d.** (1) The regulations may provide for the exemption from this Division, or from any provision of this Division, or from any regulation made under this Division, of ships of any prescribed class or kind, or of ships trading or going between any prescribed ports or places.

(2) The Minister may at his discretion exempt any ship from all or any of the provisions of this Division.

(3) Any exemption prescribed or granted under this section may be temporary or permanent, and subject to conditions or otherwise.

**Penalty**

**67e.** If a ship to which this Division applies goes to sea without being provided with wireless equipment as required by this Division, or without carrying a person qualified as a wireless operator as required by this Division, the owner and the master of that ship shall each be guilty of an offence and liable to a fine of not more than one thousand dollars.

DIVISION XB—FISHING VESSELS

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**Fishing vessels**

**67g.** (1) The Governor may make regulations for or with respect to—

- (a) defining, by reference to tonnage or size, the fishing vessels to which any regulations made under this section shall apply;
- (b) the manning of fishing vessels;
- (c) the examinations to be passed and the qualifications to be possessed by skippers and other officers of fishing vessels;
- (ca) requiring any person who proposes to build a fishing vessel that will when built be subject to the requirements of this Act relating to survey, to submit plans, drawings and specifications of the fishing vessel to the Director of Marine and Harbors for approval and restricting or prohibiting the building of fishing vessels otherwise than in conformity with plans, drawings and specifications approved by the Director of Marine and Harbors;
- (d) the survey and inspection of fishing vessels;
- (e) the equipment of fishing vessels;
- (f) prohibiting fishing vessels from going to sea or being used while in an unseaworthy condition;
- (g) generally to ensure the safety of fishing vessels, and of the officers and crews thereof;
- (h) prescribing exemptions, absolute or conditional, from any regulations made under this section;
- (i) prescribing fines not exceeding five hundred dollars for breach of any regulation made under this section;
- (j) prescribing any matters necessary or convenient to be prescribed for the administration and enforcement of any regulations under this section.

(2) The regulations under this section may provide for the classification of fishing vessels, and different regulations may be made in respect to different classes of fishing vessels.

**Inquiries and investigations relating to fishing vessels**

**67h.** The provisions of Part V of this Act shall apply *mutatis mutandis* to, and in relation to, fishing vessels and the officers and crews of fishing vessels.

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## DIVISION XC—FLOATING ESTABLISHMENTS

**Floating establishments**

**67i.** The Governor may make regulations for or with respect to—

- (a) defining the floating establishments to which any regulations made under this section apply;
- (b) the manning of floating establishments;
- (c) the examinations to be passed and the qualifications to be possessed by the person in charge of and others working on any floating establishment;
- (ca) requiring any person who proposes to build a floating establishment that will, when built, be subject to the requirements of this Act relating to survey to submit plans, drawings and specifications of the floating establishment to the Director of Marine and Harbors for approval, and restricting or prohibiting the building of floating establishments otherwise than in conformity with plans, drawings and specifications approved by the Director of Marine and Harbors;
- (d) the survey and inspection of floating establishments;
- (e) the construction and equipment of floating establishments;
- (f) prohibiting floating establishments from being used while in an unseaworthy or defective condition;
- (g) generally to ensure the safety of floating establishments, and of the persons working or admitted on board them;
- (h) prescribing or empowering the grant of exemptions, absolute or conditional, from any regulations made under this section;
- (i) prescribing fines not exceeding \$2 000 for breach of any regulation made under this section;
- (j) prescribing any matters necessary or convenient to be prescribed for the administration and enforcement of any regulations relating to floating establishments.

**Inquiries and investigations relating to floating establishments**

**67j.** The provisions of Part V apply in relation to floating establishments and the persons working on them with such adaptations as are necessary for that purpose.

## DIVISION XI—SURVEY OF SHIPS

**Annual survey of ships**

**69.** (1) The following ships shall be surveyed at least once in every twelve months in the manner hereinafter mentioned:—

- I. Every ship that is used for the conveyance of passengers for hire or reward or any other direct or indirect consideration:

- II. Every coast-trade steamship and river trade steamship which is above fifteen tons gross registered tonnage and is engaged in trade for hire or plies for hire (other than for the conveyance of passengers):
- III. Every coast-trade ship and river ship (not being a steamship) which is above fifteen tons gross registered tonnage and is engaged in trade (whether for the conveyance of passengers or otherwise) for hire or plies for hire.

(2) In this Division "ship" means any steamship or other ship of any kind mentioned in subsection (1).

(3) If any ship required by this section to be surveyed traverses any waters within or adjacent to the State, whether with or without passengers, whilst there is no certificate of survey under this Part currently in force in respect of that ship, the owner and the master of that ship shall each be guilty of an offence against this Act and each liable to a penalty not exceeding two thousand dollars.

#### **Appointment of surveyors**

**70.** The Minister may—

- (a) appoint such number of fit and proper persons to be ship surveyors, engineer surveyors or shipwright surveyors or to hold any two or more of those offices in conjunction, for the purposes of this Act, at such ports and places as the Minister thinks fit; and
- (b) from time to time fix and alter the rates of remuneration to be received by such surveyors.

#### **Surveyors to have power to inspect**

**71.** (1) The engineer surveyors, ship surveyors and shipwright surveyors of the department may, in addition to the powers hereinbefore given to them in the execution of their duties, go on board any ship at all reasonable times and inspect the same or any part thereof or any of the equipments, safety-valves, or articles on board thereof, or any certificate of registry or any certificates of the master, mates, or engineers to which the provisions of this Act or any of the regulations apply, not unnecessarily detaining or delaying the ship from going on any voyage, and if in consequence of any accident to any such ship, or for any other reason they consider it necessary so to do, may require the ship to be taken into dock or placed on a slip for the purpose of surveying the hull thereof.

(2) Any person who hinders any such surveyor from going on board any such ship or otherwise impedes him in the execution of his duty under this Act shall be guilty of an offence against this Act and liable to a penalty of not more than two hundred dollars.

#### **Penalty on surveyors receiving fees unlawfully**

**72.** Every surveyor who demands or receives directly or indirectly from the owner or master of any ship surveyed by him under the provisions of this Act any fee or remuneration whatsoever for or in respect of the survey otherwise than as the officer and by the direction of the Minister shall be guilty of an offence against this Act and liable to a penalty of not more than three hundred dollars.

**Mode of survey and declaration of survey**

73. (1) The owner of every steamship to which this Division applies shall cause the same to be surveyed by a ship surveyor and an engineer surveyor, and the owner of any other ship to which this Division applies shall cause the same to be surveyed by a ship surveyor, the ship surveyor being, in the case of an iron ship, a person properly qualified in the opinion of the Minister to survey an iron ship.

(2) The surveyors, if satisfied on the survey that they can with propriety do so, shall deliver to the owner declarations of survey in a form approved by the Minister.

(3) The declaration of the ship surveyor shall contain statements of the following particulars:—

- I. That the hull of the ship is sufficient for the service intended and in good condition:
- II. That the boats, life-buoys, lights, signals, signalling apparatus, compasses, and shelter for deck passengers, are such, and in such condition, as are required by this Act:
- III. The time (if less than twelve months) for which the hull and equipments will be sufficient:
- IV. The limits (if any) beyond which, as regards the hull and equipments, the ship is in the surveyor's judgment not fit to ply:
- V. The number of passengers which the ship is in the judgment of the surveyor fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins; those numbers to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried, or other circumstances, as the case requires:
- VI. That the certificates of the master and mate or mates are such as are required by this Act.

(4) The declaration of the engineer surveyor shall contain statements of the following particulars, namely:—

- I. That the machinery of the ship is sufficient for the service intended, and in good condition:
- II. The time (if less than twelve months) for which the machinery will be sufficient:
- III. That the safety valves and fire hose are such and in such condition as are required by this Act:
- IV. The limit of the weight to be placed on the safety valves:
- V. The limits (if any) beyond which, as regards the machinery, the ship is in the surveyor's judgment not fit to ply:
- VI. That the certificates of the engineer or engineers of the ship are such as are required by this Act.

**Time for surveys**

**74.** (1) In all cases where it is possible the said yearly surveys shall be made while a certificate in respect of the ship is still current.

(2) If the owner of a ship is unable to have the same surveyed within the time hereinbefore prescribed either by reason of the ship being absent from South Australia or by reason of the ship or the machinery thereof being under construction or repair or of the ship being laid up on a slip or in dock or for any other reason satisfactory to the Minister, then he shall have the same surveyed as aforesaid as soon thereafter as possible.

**Issue of certificates**

**75.** (1) Upon the receipt of the said declarations the Minister shall, if satisfied that the provisions of this Act have been complied with, cause a certificate in duplicate to be prepared and issued to the effect that the provisions of the law with respect to the survey of the ship have been complied with.

(2) The certificate shall state the limits (if any) within which according to the declarations of the surveyors the ship is fit to ply, and shall also contain a statement of the number of passengers which according to the declaration of the surveyor the ship is fit to carry, distinguishing if necessary between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins, such number to be subject to such conditions and variations according to the time of year, the nature of the voyage, the cargo carried, and other circumstances as the case requires.

**Transmission of certificates**

**76.** The Director of Marine and Harbors shall deliver or send by post the certificate to the master or owner or the agent of the master or owner.

**Fees to be paid for certificates**

**77.** The owner of every ship requiring a certificate under this Part shall pay for every certificate granted by the Minister such fees (if any) as the Minister directs.

**Power to cancel certificates and require fresh declarations**

**78.** (1) The Minister may cancel the certificate in any case in which he has reason to believe—

- (a) that any declaration of survey has been fraudulently or erroneously made; or
- (b) that the certificate has been issued upon false or erroneous information; or
- (c) that since the making of the declarations the hull, equipments, or machinery of the ship have been materially altered or have sustained any injury or are otherwise insufficient.

(2) In every such case the Minister may require the owner to have the hull, equipments, or machinery of the ship again surveyed, and to transmit a further declaration or declarations of the sufficiency and good condition thereof before re-issuing any certificate or granting a fresh one in lieu thereof.

**Alterations to ship in respect of which a certificate has been issued**

**78a.** A person who, without the prior consent in writing of the Minister, makes or causes to be made any alteration to the equipment or machinery, or any structural alteration to the hull of a ship in respect of which a certificate of survey is in force, shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

**How long certificates to continue in force**

**79.** (1) Except as hereinafter provided, no certificate shall be in force beyond the date fixed for the expiration of the certificate; and no certificate shall be in force after notice is given by the Minister to the owner, agent, or master of the ship to which the same relates that the Minister has cancelled the same.

(2) The Minister may require any certificate which has expired or been cancelled to be delivered up as he directs. Any owner or master who without reasonable cause neglects or refuses to comply with any such requirement shall be guilty of an offence against this Act and liable to a penalty of not more than one hundred dollars.

**Certificate to be placed in conspicuous part of ship**

**80.** (1) The owner or master of every ship shall forthwith on the delivery of any such certificate as aforesaid to him or his agent cause it to be put up in some conspicuous part of the ship so as to be visible to all persons on board the same, and shall cause it to be so continued so put up so long as the certificate remains in force and the ship is in use.

(2) If the owner or master fails without reasonable excuse to comply with this section he shall be guilty of an offence against this Act and liable to a penalty of not more than one hundred dollars.

(3) If any ship goes to sea or goes upon any voyage or excursion or plies with or without any passengers on board without having such certificate as aforesaid (being a certificate then in force and applicable as aforesaid) so put up as aforesaid in some conspicuous part of the ship, the owner and the master of that ship shall each be guilty of an offence against this Act and each liable to a penalty not exceeding two hundred dollars.

**Power of board to extend certificates granted by them**

**81.** When a certificate of survey issued by the Minister in respect of any ship has expired or is about to expire, the Minister may, if he thinks fit, extend the term of the certificate for a period not exceeding three months from the day on which the certificate of survey expires on payment of the prescribed fee.

**Penalty where ship carries passengers in excess of number specified in certificate**

**82.** If the owner or master of any ship receives on board thereof or on or in any part thereof any number of passengers which, having regard to the time, occasion, and circumstances of the case, is greater than the number of passengers allowed by the certificate, the owner or master shall be guilty of an offence against this Act, and liable to a penalty of not more than three hundred dollars, and also an additional penalty of not more than two dollars for every passenger or person over and above the number allowed by the certificate, or, if the fare of any of the passengers on board exceeds two dollars, not exceeding double the amount of the fares of all the passengers or persons who are over and above the number so allowed as aforesaid, and such fares shall be estimated at the highest rate of fares payable by any passenger on board.

### **Surveyors to make returns of the build and other particulars of ships**

**83.** (1) The surveyors appointed by the Minister shall from time to time make such returns to the Minister as he requires with respect to the build, dimensions, draught, burden, rate of sailing, room for fuel, and the nature and particulars of machinery and equipments of the ships surveyed by them.

(2) Every owner, master, and engineer of any such ship shall on demand give to such surveyors all such information and assistance within his power as they require for the purpose of such returns.

(3) Any such owner, master, or engineer who on being applied to for that purpose wilfully refuses or neglects to give such information or assistance shall be guilty of an offence against this Act and liable to a penalty of not more than one hundred dollars.

### **Ships with Board of Trade certificates**

**84.** (1) In every case where a certificate has been granted to any ship by the Board of Trade or pursuant to the Navigation Act, which remains still in force, it shall not be requisite that the ship be again surveyed under this Act during such time as the certificate remains in force.

(2) In the case of a ship having a certificate issued by the properly constituted authority of any British possession or foreign country recognized by the Governor, if the Minister is satisfied that the certificate remains still in force and is to the like effect and is granted after a like survey and in such manner as to be equally efficient with a certificate granted under this Act, he may dispense with the survey required under this Act during such time as the certificate remains in force.

### **Permit exempting certain ships from survey**

**85.** (1) If the Minister is satisfied that a ship subject to this Division is not to be used for the carriage of passengers, he may, by writing under his hand, grant to the owner, the agent of the owner, or the master, of the ship a permit exempting the ship from the provisions of this Division.

(2) If a passenger is carried by a ship in respect of which a permit is in force under this section, the owner, the agent of the owner (if there is such an agent) and the master of the ship shall each be guilty of an offence and each liable to a fine not exceeding three hundred dollars.

(3) The Minister may grant a permit under this section subject to such limitations and conditions as he deems expedient, and may, in his discretion, revoke and cancel a permit at any time.

(4) A permit granted by the South Australian Harbors Board under section 85 of the *Marine Act, 1936-1962*, shall, for the purpose of this section, be deemed to be a permit granted by the Minister under this section.

### **Stability information to be supplied**

**85a.** (1) The master or owner of every coast-trade ship the keel of which is laid after the commencement of the *Marine Act Amendment Act, 1962*, shall not take or attempt to take that ship to sea or permit that ship to be taken to sea unless there is on board that ship such written or diagrammatic information as to the stability of that ship as is necessary for the guidance of the master in loading and ballasting that ship, being information complying with subsection (2) of this section.

Penalty: Three hundred dollars.

(2) The information specified in subsection (1) of this section shall be in such form as is approved by the Minister and shall be based on a determination of the stability of the ship made by means of an inclining test of the ship or with the approval of the Minister of a sister ship carried out by the builders of the ship or of the sister ship as the case may be.

(3) The owner shall send a copy of the said information to the Minister.

(4) Unless the Minister otherwise directs, this section shall not apply to any pleasure yacht or fishing vessel or to any coast-trade ship of less than one hundred gross tons.

DIVISION XII—APPEAL ON REFUSAL OF CERTIFICATE  
AS TO EQUIPMENT, ETC.

**Appeal to court of survey**

**86.** (1) If a shipowner feels aggrieved—

- (a) by a declaration of a ship surveyor or an engineer surveyor respecting a ship under this Part or by the refusal of a ship surveyor or an engineer surveyor to give the declaration hereinbefore required respecting a ship; or
- (b) by the refusal of a certificate as to equipments or safety-valves, under the provisions hereinbefore contained respecting ships,

he may appeal in the prescribed manner to the court of survey.

(2) On any such appeal the president of the court shall report to the Minister on the question raised by the appeal, and the Minister when satisfied that the requirements of the report and the other provisions of the said enactments have been complied with may—

- (a) in the case of a ship, give his certificate in lieu of the certificate hereinbefore required; and
- (b) in the case of a refusal of a certificate as to equipments or safety-valves, as aforesaid of any ship, give or direct the Director of Marine and Harbors or a surveyor or other person appointed by the Minister to give a certificate in lieu of the certificate hereinbefore required.

(3) Subject to any order made by the president of the court, the costs of and incidental to an appeal under this section shall follow the event.

(4) The provisions of this Act with respect to the court of survey and appeals thereto, so far as consistent with the tenor thereof, shall apply to the court of survey when acting under this section, and to appeals under this section.

(5) Where the survey of a ship is made for the purpose of a declaration or certificate under the before-mentioned provisions, the person appointed to make the survey shall, if so required by the owner, be accompanied on the survey by some person appointed by the owner, and in such case if the said two persons agree there shall be no appeal under this section to the court of survey.

## DIVISION XIII—CARRIAGE OF DANGEROUS GOODS

**Dangerous goods defined**

87. For the purposes of this Division the expression "dangerous goods" means aquafortis, vitriol, naphtha, benzine, explosives, lucifer matches, petroleum, and any goods prescribed by regulation made by the Governor.

**Restrictions on carriage of dangerous goods**

88. (1) A person shall not send or attempt to send by any ship, and a person not being the master or owner of the ship, shall not carry or attempt to carry in any ship from any port in South Australia any dangerous goods without distinctly marking their nature on the upper side of the outside of the package containing the same, and giving written notice of the nature of the goods and of the name and address of the sender or carrier thereof to the master or owner of the ship at or before the time of sending the same to be shipped or taking the same on board the ship.

(2) If any person fails without reasonable cause to comply with this section, he shall be guilty of an offence against this Act, and liable to a penalty of not more than five hundred dollars; or if he shows that he was merely an agent in the shipment of any such goods as aforesaid, and was not aware and did not suspect and had no reason to suspect that the goods shipped by him were of a dangerous nature, the penalty shall not be more than one hundred dollars.

**Penalty for misdescription of dangerous goods**

89. Any person who knowingly sends or attempts to send by or carries or attempts to carry in any ship from any port in South Australia any dangerous goods under a false description, or who falsely describes the sender or carrier thereof, shall be guilty of an offence against this Act, and liable to a penalty of not more than two thousand dollars.

**Power to refuse to carry goods suspected of being dangerous**

90. (1) The master or owner of any ship may refuse to take on board at any port in South Australia any package or parcel which he suspects to contain dangerous goods, and may require it to be opened to ascertain the fact.

(2) When any dangerous goods, or any goods, which, in the judgment of the master or owner of the ship are dangerous goods, have been sent or brought aboard any ship without being marked as aforesaid, or without such notice having been given as aforesaid, the master or owner of the ship may cause the goods to be thrown overboard, with any package or receptacle in which they are contained; and neither the master nor the owner of the ship shall be subject to any liability, civil or criminal, in any court for so throwing the goods overboard.

**Forfeiture of dangerous goods improperly sent**

91. (1) Where any dangerous goods have been sent or carried or attempted to be sent or carried on board any ship at any port in South Australia without being marked as aforesaid, or without such notice having been given as aforesaid, or under a false description, or with a false description of the sender or carrier thereof, any court having Admiralty jurisdiction may declare those goods and any package or receptacle in which they are contained, to be, and they shall thereupon be forfeited, and when forfeited shall be disposed of as the court directs.

(2) The court shall have, and may exercise, the aforesaid powers of forfeiture and disposal notwithstanding that the owner of the goods has not committed any offence under the provisions of this Act relating to dangerous goods, and is not before the court, and has not notice of the proceedings, and notwithstanding that there is no evidence to show to whom the goods belong; nevertheless the court may in its discretion require such notice as it may direct to be given to the owner or shipper of the goods before the same are forfeited.

#### **Power to prohibit carriage of any cargo**

**92.** (1) If, in the opinion of the Minister, the carriage of any particular cargo or goods in any ship would endanger her safety or interfere with the comfort of her passengers or crew, the Minister may notify the master or owner accordingly, and the carriage in the ship of the cargo or goods specified in the notice shall be prohibited, and, after receiving such notice, the master shall not take the ship to sea and the owner shall not permit the ship to go to sea with the prohibited cargo or goods therein or thereon.

(2) Any master who takes any ship to sea and any owner who permits any ship to go to sea contrary to the provisions of this section shall be guilty of an offence against this Act and liable to a penalty of not more than five hundred dollars.

#### **Regulations as to dangerous goods**

**93.** (1) The Governor may make regulations prescribing all matters necessary or convenient to be prescribed in regard to the carriage of dangerous goods in ships, and in particular in relation to—

- (a) the classes of ships in which dangerous goods may be carried:
- (b) the quantities of dangerous goods that may be carried from any port in South Australia in such ships:
- (c) the precautions to be observed in connection with the loading and unloading of dangerous goods at any port in South Australia; and
- (d) the conditions as to packing and stowage of dangerous goods, and the ventilation of holds containing dangerous goods, loaded at any port in South Australia.

(2) Any person who sends by, or carries in, any ship any dangerous goods which do not, or the packing, stowage or carriage of which does not, comply with such conditions as are prescribed, shall be guilty of an offence against this Act, and liable to a penalty of not more than two thousand dollars.

#### **Explosives on ships carrying passengers**

**94.** (1) If any ship carrying passengers carries any explosives, the explosives shall be protected in manner directed by the Minister.

(2) This section shall not apply—

- (a) to explosives required for the purpose of making signals; or
- (b) to explosives not exceeding five hundred pounds in weight which are kept in properly constructed magazines.

(3) The master or owner of any ship on which any explosives are carried contrary to this section shall be guilty of an offence against this Act and liable to a penalty of not more than five hundred dollars.

(4) The Minister may seize without warrant any explosives found on board any ship contrary to this section. All such explosives may be forfeited on the order of a court of summary jurisdiction and disposed of as such court directs.

#### DIVISION XIV—GRAIN CARGOES

##### **Stowage of grain cargo**

**95.** (1) Where a grain cargo is laden on board any ship all necessary and reasonable precautions shall be taken to prevent the grain cargo from shifting.

(2) If those precautions are not taken in the case of any ship, the master of the ship and any agent of the owner who was charged with the loading of the ship or the sending of her to sea, shall each be guilty of an offence against this Act, and liable to a penalty of not more than one thousand dollars, unless he shows that he took all reasonable means to enforce the observance of this section, and was not privy to the breach thereof.

(3) For the purpose of this section "grain" means any corn, rice, paddy, pulse, seeds, nuts, or nut kernels.

#### DIVISION XV—DECK CARGOES

##### **Description of deck cargo that may be carried**

**96.** (1) No horses, cattle, goats, sheep, pigs, or other animals shall be carried on the upper deck of any ship going to sea unless properly secured in stalls or pens properly constructed and erected for the purpose with the approval of a surveyor or other person appointed by the Minister, who may grant a general certificate for any such ship of the number of horses, cattle, goats, sheep, pigs, or other animals which in his opinion may be safely and conveniently carried on the deck thereof without encroaching on the deck space and accommodation required for the number of passengers specified in the certificate required under this Act.

(2) No part of the cargo shall be so placed as to impede light or ventilation or interfere with the comfort of the passengers.

(3) If a greater number of animals than is certified as aforesaid is carried on deck, or if any cargo be carried contrary to this Act, the master or owner of the ship carrying the same shall be guilty of an offence against this Act, and liable to a penalty of not more than three hundred dollars.

#### DIVISION XVI—MISCONDUCT BY PASSENGERS

##### **Power to refuse or remove passengers who are drunk or misconduct themselves**

**97.** The master of any ship may refuse to receive on board thereof any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause annoyance to other passengers on board, and if any such person is on board, may put him on shore at any convenient place. A person so refused admittance or put on shore shall not be entitled to the return of any fare he has paid.

**Penalties for certain offences on board ship**

**98.** Any person who—

- (a) being drunk or disorderly has been on that account refused admission into any ship by the owner or any person in his employ and nevertheless persists in attempting to enter the ship; or
- (b) after having been refused admission into any ship by the owner or any person in his employ on account of the ship being full and after having had the amount of his fare (if he has paid the same) returned or tendered to him nevertheless persists in attempting to enter the ship; or
- (c) being drunk or disorderly on board any ship upon being requested by the owner or any person in his employ to leave the same at any place in South Australia at which he can conveniently so do, and, after having the amount of his fare (if he has paid it) returned or tendered to him, refuses to comply with the request; or
- (d) being on board any ship after warning by the master or any other officer of the ship molests or continues to molest any passenger; or
- (e) having got on board any ship upon being requested by the owner or any person in his employ on account of the ship being full to leave the same before she has quitted the place at which the person got on board and upon having the full amount of his fare (if he has paid the same) returned or tendered to him refuses to comply with such request; or
- (f) travels or attempts to travel in any ship without having previously paid his fare and with intent to avoid payment thereof; or
- (g) having paid his fare for a certain distance knowingly and wilfully proceeds in any ship beyond that distance without previously paying the additional fare for the additional distance and with intent to avoid payment thereof; or
- (h) knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit any ship; or
- (i) being on board any ship does not when required by the master or other officer of such ship either pay his fare or exhibit such ticket or other receipt (if any) showing the payment of his fare as is usually given to persons travelling by and paying their fare for the ship,

shall be guilty of an offence against this Act, and liable to a penalty of not more than one hundred dollars; but that liability shall not affect the right to recover any fare payable by him.

**Penalty for injuring ship or molesting crew**

**99.** Any person who on board any ship wilfully does or causes to be done anything in such a manner as to obstruct, impede, or molest the crew or any of them in the navigation or management of the ship, or otherwise in the execution of their duty upon or about the ship, or to obstruct or injure any part of the machinery or tackle of the ship, shall be guilty of an offence against this Act, and liable to a penalty of not more than five hundred dollars.

**Manner of apprehending offenders**

**100.** The master or other officer of any ship and all persons called by him to his assistance may, without any warrant, detain any person who has committed any offence against any of the provisions of the two last preceding sections of this Act, and whose name or address is unknown to the master or officer, and may convey the offender with all convenient despatch before some justices without any warrant or other authority than this Act. The justices shall have jurisdiction to try the case, and shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

**Penalty on persons refusing to give their name and address**

**101.** Any person who, having committed any offence in this Division mentioned, refuses on the application of the master of any ship or of any other person in the employ of the owner of the ship to give his name and address, or who on such application gives a false name or address, shall be guilty of an offence against this Act, and liable to a penalty of not more than one hundred dollars.

## PART V

INVESTIGATIONS AND INQUIRIES INTO CASUALTIES,  
INCOMPETENCY, AND MISCONDUCT

## DIVISION I—APPLICATION

**This Part not to apply to foreign ships**

**102.** Nothing in this Act contained shall authorize the making of a preliminary inquiry or the holding of a formal investigation into the matter of any casualty occurring to any foreign ship (save so far the same affects any British coast-trade or river ship or any certificate of a master, mate, or engineer granted by the board or the Board of Trade or other authority within His Majesty's dominions), and save as aforesaid nothing in this Act contained shall authorize the making of a preliminary inquiry or the holding of a formal investigation into the matter of any incompetency or misconduct on the part of any master, mate, or engineer of any foreign ship.

## DIVISION II—NOTICE OF CASUALTIES, ETC.

**Collisions and casualties on voyages to be reported to Minister**

**103.** (1) In any of the cases following, that is to say—

- (a) whenever any casualty happens to any British coast-trade ship or river ship on or near the coasts or within any tidal water or on any navigable river of South Australia:
- (b) whenever any such ship sustains damage affecting her seaworthiness or her efficiency, either in her hull or (in the case of a steamship) in any part of her machinery on or near the coasts or within any tidal water or on any navigable river of South Australia:
- (c) whenever any such ship causes the loss of or damage to any other ship on or near the coasts or within any tidal water or on any navigable river of South Australia:
- (d) whenever by reason of any casualty happening to or on board of any such ship on or near the coasts or within any tidal water or any navigable river of South Australia, loss of life or any serious injury to any person ensues,

the master of the ship or the owner shall within twenty-four hours after the happening of any one of the above events, or as soon thereafter as possible, send to the Minister by letter signed by the master or owner a report containing full particulars of the event, and of the probable occasion thereof, stating the name and official number (if any) of the ship, the port to which she belongs, the names of the master and mates, and the numbers and other particulars of their certificates (if any), and, if practicable, the place where she is.

(2) Any such master or owner who neglects so to do shall be guilty of an offence against this Act, and liable to a penalty of not more than five hundred dollars.

### DIVISION III—PRELIMINARY INQUIRIES—INVESTIGATIONS

#### **Preliminary inquiries**

**104.** (1) Whenever the Minister has reason to believe—

- (a) that any casualty has occurred to any British coast-trade ship or river ship on or near the coasts or within any tidal water or on any navigable river of South Australia; or
- (b) that any incompetency or misconduct has occurred on the part of any certificated master, mate, or engineer, on any British coast-trade ship or river ship on or near the coasts or within any tidal water or on any navigable river of South Australia;

and that the court of marine inquiry has jurisdiction in the matter of the casualty, incompetency, or misconduct, and in the opinion of the Minister it is expedient so to do, the Minister or some person or persons appointed for the purpose by the Minister shall make a preliminary inquiry respecting the casualty, incompetency, or misconduct.

(2) The Minister or any such person or persons (as the case may be) shall for such purpose have all the powers and remedies given by this Act to inspectors appointed by the Minister.

#### **Formal investigations**

**105.** If it appears to the Minister that a formal investigation into any such casualty, incompetency, or misconduct is requisite or expedient, the Minister shall, either upon or without any preliminary inquiry as aforesaid, refer the matter of the casualty to the court of marine inquiry and, if the Minister thinks fit, prefer or cause or permit to be preferred a charge of incompetency or misconduct, or both, before the said court, which shall thereupon hold a formal investigation.

### DIVISION IV—COURT OF MARINE INQUIRY

#### **Constitution of court of marine inquiry**

**106.** (1) For the purposes of this Act there shall be a court to be called the "Court of Marine Inquiry".

(2) The court shall be a court of record and shall have and use as occasion may require a seal such as the Governor may order.

(3) All summonses and other process issuing out of the said court shall be sealed or stamped with the seal of the court.

(4) The court shall be held at such times and places as may be convenient.

#### **Constitution of court**

**107.** (1) The court of marine inquiry shall consist of the special magistrates of South Australia. The court shall be assisted by two assessors who shall advise the court but shall not adjudicate on any matter before the court.

(2) The assessors shall be persons of nautical, engineering, or other special skill or knowledge possessing the qualifications prescribed.

**List of assessors**

**108.** (1) The Governor may from time to time appoint as assessors a list of persons possessing qualifications as aforesaid.

(2) Every such list shall remain in force for three years only, but persons whose names are on any such list may be appointed by the Governor for any subsequent list.

(3) The Governor may at any time add or withdraw the name of any person to or from the list.

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**Summoning assessors**

**109.** (1) The list of assessors appointed as aforesaid shall be kept by the Director of Marine and Harbors as follows:—

- I. The list shall be arranged in alphabetical order according to the surnames of the persons included therein:
- II. Opposite the name of each such person the nature of the special skill possessed by him, whether nautical, engineering, or otherwise, shall be specified.

(2) Whenever a court of marine inquiry is to be constituted, the Director of Marine and Harbors by notice in writing shall summon a sufficient number of persons appearing from the list of assessors to possess skill of the particular nature likely to be required in the investigation and standing next in order for duty to attend for the purposes of the investigation.

(3) No person shall be summoned to attend as aforesaid or be eligible to act as assessor in any formal investigation if he is interested in the charge or matter to be inquired into.

(4) Any summons to any person to attend as aforesaid may be withdrawn by the Director of Marine and Harbors by notice in writing at any time up to the time fixed for the inquiry and the Director of Marine and Harbors shall summon another person to attend the investigation in manner provided by subsection (2).

(5) An assessor shall not attend the court of marine inquiry to assist the court save for the purpose of that investigation until he is again notified by the Director of Marine and Harbors to attend the said court for the purpose of another investigation.

(6) No assessor who has been granted leave of absence by the Director with the approval of the Minister on account of ill health or for any other reason shall be required to attend a meeting of the said court during such leave of absence.

**Powers and duties of court of marine inquiry**

**110.** (1) The court of marine inquiry, when requested by the Minister in writing so to do, is hereby authorized—

- (a) to hold formal investigations into casualties to British coast-trade ships and river ships occurring on or near the coasts or within any tidal water or on any navigable river of South Australia:

- (b) to hold formal investigations for the purpose of hearing and determining any charge of incompetency or misconduct on the part of masters, mates and engineers of British coast-trade ships and river ships holding certificates of competency or service in respect of incompetency or misconduct on any such ship on or near the coasts or within any tidal water or navigable river of South Australia.

(2) For the purposes of subsection (1), the court of marine inquiry is hereby invested with all the powers conferred by the Merchant Shipping Act or authorized by that Act to be conferred upon the court or tribunal authorized by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates, or engineers of ships or as to shipwrecks or other casualties affecting ships.

(3) The court of marine inquiry may suspend or cancel, or order to be suspended or cancelled, the certificate of any master, mate or engineer whom it finds to be incompetent or guilty of misconduct.

(3a) For the purposes of this section a person is guilty of misconduct if—

- (a) he is guilty of careless navigation, drunkenness, tyranny, or a failure of duty (other than a failure of duty for which there is a reasonable cause or excuse);
- (b) he has occasioned by his default or wrongful act the loss or abandonment of, or serious damage to, any ship, or loss of life.

(3b) The court of marine inquiry may exercise its powers in relation to misconduct whether or not the misconduct constitutes an offence against this or any other Act and, where it does constitute an offence, whether or not the person guilty of the misconduct has been prosecuted for, or convicted of, the offence constituted by his misconduct.

(4) The provisions of this section shall apply to casualties and incompetency and misconduct occurring before or after the commencement of this Act: Provided that any formal investigation commenced before the said commencement shall be continued as if the provisions of the Acts repealed by this Act were still in force and for that purpose the said provisions shall be deemed to continue in force.

(5) No formal investigation shall be held under this Act into any matter or charge in respect of which a formal investigation has once been made and which has been reported on by any competent court or tribunal in any other part of His Majesty's dominions or into any charge against any master, mate, or engineer in respect of which a formal investigation has been made in South Australia. But this provision shall not apply to cases in which the Minister is in this Act expressly authorized to direct a re-hearing.

(6) Where a formal investigation has been held into any casualty generally and not into a charge against any person, or where at a formal investigation there has been a charge against some person, the fact of such formal investigation having been held shall not prevent the holding of a formal investigation into any charge against any person not specifically charged in that investigation although the charge arises out of the matter in respect of which the formal investigation was held.

**Quorum of court of marine inquiry**

111. A court of marine inquiry shall be constituted by one or more special magistrates, the assessors assisting the court to be nautical or engineering or other specially skilled assessors, according as the investigation is into a charge against a master or mate, or engineer, or into some matter requiring other special skill or experience respectively.

**President of court of marine inquiry**

112. At any sitting of the court of marine inquiry the special magistrate if only one is present, or if more than one is present the special magistrate of longest standing present shall be the president of the court.

**Decision of court**

113. The decision of the court of marine inquiry shall be the decision of the majority of the court, and for the purpose of ascertaining such majority the president of the court shall have a casting as well as a deliberative vote.

**Report to Minister**

114. (1) The court of marine inquiry after hearing the case shall make a report to the Minister containing a full statement of the case and of the opinion of the court thereon, accompanied by such reports of, or extracts from, the evidence, and such observations as the court thinks fit.

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**Powers as to certificate**

115. (1) Where any case before the court of marine inquiry involves a question as to the cancelling or suspending of a certificate, the court shall, at the conclusion of the case or as soon afterwards as possible, state in open court the decision to which it has come with respect to the cancelling or suspending thereof.

(2) The court shall in all cases send a full report on the case with the evidence to the Minister, and shall also, if it determines to cancel or suspend any certificate, and the certificate is delivered to the court, send the certificate cancelled or suspended to the Minister with its report.

(3) A certificate shall not be cancelled or suspended by the court, unless a copy of the report, or a statement of the case, on which the investigation has been ordered, has been furnished before the commencement of the investigation to the holder of the certificate.

**Delivery of certificate**

116. (1) A master, mate, or engineer whose certificate is cancelled or suspended by any court or by the Minister, shall deliver his certificate—

- (a) if cancelled or suspended by the court of marine inquiry or the Supreme Court to that court on demand:
- (b) if not so demanded, or if it is cancelled or suspended by the Minister, to the Minister, or as the Minister directs.

(2) If a master, mate, or engineer fails to comply with this section, he shall be guilty of an offence against this Act, and liable to a penalty of not more than two hundred dollars.

### **Conduct of case**

**117.** (1) Where any formal investigation is held by the court of marine inquiry, it shall be the duty of the Director of Marine and Harbors to superintend the management of the case, and to render such assistance to the court as is in his power.

(2) Every formal investigation into a casualty shall be conducted in such manner that if a charge is made against any person, that person shall have an opportunity of making a defence.

### **Powers of court**

**118.** The court of marine inquiry shall, for the purposes of any investigation—

(a) have all the powers given by this Act to an inspector appointed by the Minister; and

(b) have all the powers of a court of summary jurisdiction under the *Justices Act, 1921*.

### **Costs**

**119.** (1) The court of marine inquiry may make such order as the court thinks fit respecting the costs of any formal investigation, or any part thereof.

(2) Upon production of any order for the payment of costs under the hand of the clerk of the court of marine inquiry and the seal of the said court any justice may issue any warrant or process for the recovery of the said costs or for the enforcement of the said order as if the order for the payment of costs had been made by a court of summary jurisdiction and the provisions of the *Justices Act, 1921, mutatis mutandis*, shall apply to every such warrant or process.

### **Payment of costs by Minister**

**120.** The Minister may, if in any case he thinks fit so to do, pay the costs of any formal investigation.

### **Clerk of court of marine inquiry**

**121.** (1) The Director of Marine and Harbors shall be the clerk of the court of marine inquiry, and shall have the custody of the common seal thereof.

(2) All summonses, whether to witnesses or parties, notices, and documents issued under the hand of the clerk of the court of marine inquiry and sealed with the seal thereof shall be deemed to be issued by and under the authority of the said court.

(3) The Director of Marine and Harbors may with the approval of the Minister from time to time or at any time depute some other person to act as his deputy as clerk of the said court, and such deputy shall have the same powers and the same effect shall be given to all documents signed by him as though he were the clerk.

### **Sitting to be in open court**

**122.** The place where the court of marine inquiry is sitting shall be an open court, but the said court may nevertheless at any time order witnesses out of court.

### **Re-hearing of inquiries and investigations**

**123.** (1) In any case where under this Part, a formal investigation as aforesaid into a casualty or into the conduct of a master, mate, or engineer has been held, the Minister may order the case to be re-heard either generally or as to any part thereof if new and important evidence which could not be produced at the investigation has been discovered.

(2) The Minister may in any such case order the case to be re-heard by the court of marine inquiry, and the case shall be so re-heard accordingly.

(3) Where on any such formal investigation a decision has been given with respect to the cancelling or suspension of the certificate of a master, mate, or engineer, and an application for a re-hearing under this section has not been made or has been refused, an appeal shall lie from the decision to the Supreme Court.

(4) Where on any such investigation the court of marine inquiry finds that a casualty has been caused or contributed to by the wrongful act or default of any person, and an application for re-hearing has not been made, or has been refused, the owner of the ship, or any other person who, having an interest in the investigation has appeared at the hearing and is affected by the decision of the court, may appeal from the decision to the Supreme Court.

(5) On the hearing of any appeal from any decision of a court of marine inquiry the Supreme Court may, should it so desire, call any expert witness to give evidence before it upon any relevant technical matter. The said witness may be cross-examined by any of the parties, and any of the parties shall be at liberty to call expert evidence in rebuttal of the evidence of such witness should he desire to do so.

(6) The court before which any re-hearing or appeal is heard shall, in addition to any other powers or duties vested in the court, have the same powers and duties as the court of marine inquiry by which the formal investigation was heard. Without limiting the preceding provisions of this subsection, the court shall have the same powers as the court of marine inquiry as to the suspension and cancellation of certificates of masters, mates and engineers, and shall have power to order the re-issue of any certificate suspended or cancelled by the court of marine inquiry and to shorten the time for which any certificate was suspended.

(7) Any re-hearing or appeal under this section shall be subject to and in accordance with such conditions and regulations as may be prescribed by rules in relation thereto.

### **Rules**

**124.** The Governor may make general rules for carrying into effect the enactments relating to formal investigations, and to the re-hearing of, and appeals from formal investigations held under this Part, and in particular with respect to the procedure, the parties, the persons allowed to appear, the notice to those parties or persons, or to persons affected, the constitution of the court for the purpose of such appeals, the appointment and summoning of assessors for the purpose of such appeals, and the amount and application of fees.

### **Remuneration of assessors**

**125.** Every assessor shall for every day or portion of a day during which he is engaged in assisting the court of marine inquiry, or is in attendance waiting to perform his duties in assisting the court be paid such sum as is fixed by the Minister from time to time.

## PART VI

## MISCELLANEOUS

**Superintendents of mercantile marine offices**

**126.** (1) The Minister may establish mercantile marine offices at such ports as he thinks fit, and appoint any person or persons to be superintendents of such offices with any necessary deputies, clerks, and other officers.

(2) The superintendents shall have and perform the same duties in all respects as are performed by superintendents of mercantile marine offices established under the Merchant Shipping Act.

**Application of certain portions of Navigation Act relating to seamen**

**127.** (1) Subject to this Act, the provisions of Divisions 4, 6, 7A, 8, 9, 10 (except sections 69 to 74 inclusive), 12, 13 (except section 121), 14 (except sections 127, 128, 132, and 133), 16, 17, 18, 20, and 21 of Part II of the Navigation Act and sections 215, 265, and 268 of the Navigation Act and all rules and regulations made under that Act with respect to any of the said provisions shall, so far as the same are applicable to limited coast-trade ships, river and bay ships, and ships engaged in the coasting trade within the meaning of the said Act, apply with such alterations, modifications, and substitutions as are necessary to all British coast-trade ships and river ships of more than fifteen tons gross registered tonnage in South Australian waters or in any port or place in South Australia, and the owners, masters, and crews thereof.

(2) For the purposes of subsection (1) of this section—

- (a) any reference in the provisions of the Navigation Act mentioned in subsection (1) to "a limited coast-trade ship" or to "a ship engaged in the coasting trade", shall be deemed a reference to a "coast-trade ship" within the meaning of this Act;
- (b) any reference in the said provisions to a "river and bay ship" shall be deemed a reference to a "river ship" within the meaning of this Act;
- (c) any reference in the said provisions to the "Minister" or the "Director" or the "Deputy-Director" shall be deemed a reference to the "Minister" within the meaning of this Act;
- (ca) the provisions of section 45B of the Navigation Act shall be read as if the words "Industrial Court" were inserted therein in lieu of the words "Commonwealth Conciliation and Arbitration Commission" and in lieu of the word "Commission" wherever occurring therein;
- (d) any reference in the said provisions to the "Consolidated Revenue Fund" shall be deemed a reference to the general revenue of South Australia;
- (e) the provisions of section 39 of the Navigation Act shall be read as if the words "fifteen tons" were inserted therein in lieu of "thirty tons";
- (f) the provisions of sections 46, 61 and 65 of the Navigation Act shall be read as if the words "one hundred tons" were inserted therein in lieu of "fifty tons"; and

- (g) the provisions of section 76 of the Navigation Act shall not apply to coast-trade ships or river ships of less than one hundred tons gross registered tonnage.

(3) Subject to this Act, the provisions of Part VII (except section 329) of the Navigation Act and all rules and regulations made under that Act with respect to the said provisions shall apply, with such alterations, modifications, and substitutions as are necessary to and in respect of all coast-trade ships, river ships and fishing vessels in South Australian waters or in any port or place in South Australia.

(4) For the purposes of subsection (3) of this section—

- (a) every reference in the provisions of the Navigation Act mentioned in subsection (3) to "the Minister" or to the "State Collector of Customs" shall, except in subsection (3) of section 301 thereof, be deemed a reference to the Minister within the meaning of this Act:
- (b) every reference in the said provisions to "the Commonwealth" shall be deemed a reference to the State of South Australia:
- (c) every reference in the said provisions to the "Governor-General" shall be deemed a reference to the Governor of South Australia:
- (d) every reference in the said provisions to the "Consolidated Revenue Fund" shall be deemed a reference to the general revenue of the State:
- (e) every reference in the said provisions to a "Customs-house" shall be deemed a reference to an office of the department.

(5) The Governor may by proclamation declare that any of the provisions, rules, or regulations mentioned in subsection (1) or subsection (3) shall not apply as aforesaid or shall apply with such alterations, modifications, or substitutions as are specified in the proclamation. Any such proclamation may be revoked by the Governor by proclamation.

(6) Where in the said provisions of the Navigation Act, any reference is made to any particular officer or class of officers, the Minister may from time to time designate the officer or officers who are in South Australia to perform the duties and stand in place of the officer or officers so referred to.

#### **Provision for seamen left behind**

**128.** If any master, seaman, or apprentice belonging to a coast-trade ship or river ship is injured or becomes ill and is left on shore at any port other than the port at which he is shipped, the expense of his conveyance from the first-mentioned port to the port at which he was shipped after he is cured or recovered shall be borne by the owner of the ship.

#### **Name of master in agreement**

**129.** In every agreement for the engagement of any seamen in any coast-trade ship or river ship the name of the master of the ship shall be stated.

**Engagement and discharge of seamen**

**130.** (1) The master of any coast-trade ship or river ship of over fifteen tons, but less than one hundred tons gross registered tonnage, who engages any seaman, shall enter into an agreement with him in the prescribed form.

(2) When a seaman is discharged from any such ship, the master shall sign and give to the seaman a discharge in the prescribed form.

(3) The master of any such ship shall as soon as conveniently may be after the engagement or discharge of any such seaman, give notice thereof in writing to the Minister. Any such notice may be given by post.

(4) Any master who fails to comply with any requirement of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred dollars.

**Repeal in part of certain provisions of Merchant Shipping Act**

**131.** Parts II and V of the Merchant Shipping Act shall be, and the same are hereby repealed so far as regards coast-trade ships and river ships in South Australian waters or in any port or place in South Australia, and the owners, masters, and crews thereof, where such ships are within the jurisdiction of the Government of South Australia.

**Private signals**

**132.** (1) Any shipowner who is desirous of using for the purposes of a private code any lights or other similar signals may register such signals with the Minister, and the Minister shall give public notice at the expense of the shipowner of the signals so registered in such manner as he thinks requisite for preventing the signals from being mistaken for signals of distress or signals for pilots.

(2) The Minister may refuse to register any signals which in his opinion cannot easily be distinguished from signals of distress or signals for pilots.

(3) When a signal has been so registered the use or display thereof by any person acting under the authority of the shipowner in whose name it is registered shall not subject any person to any of the penalties or liabilities by this Act imposed upon persons using or displaying signals improperly.

**Service to be good if made personally or at abode or on board ship, etc.**

**133.** Service of any summons or other process in any legal proceeding under this Act shall be deemed good service if made personally on the person to be served, or if made at his last-known place of abode or business, or if made on board any ship to which he belongs (accompanied with a statement of the purport thereof) to the person in command or charge, or appearing to be in command or charge of the ship.

**Burden of proof that a ship is exempted**

**134.** If in any legal proceeding under this Act any question arises whether any ship is or is not within the provisions of this Act or of some particular provision thereof, the ship shall be taken to be within such provisions unless proof to the contrary is adduced.

**Witnesses to be allowed expenses**

**135.** (1) Every person duly summoned by any inspector, tribunal, court, body, or person under the authority of this Act to attend as a witness upon any examination, investigation, or inquiry whatsoever under this Act shall be allowed such expenses as would be allowed to any witness attending on subpoena to give evidence before the Supreme Court.

(2) In case of any dispute as to the amount of such expenses the same shall be referred by the inspector, tribunal, court, body, or person to a taxing officer of the said court, who on a request made to him for that purpose under the hand of such inspector, tribunal, court, body, or person shall ascertain and certify the proper amount of the expenses.

(3) Any person who—

- (a) refuses or neglects to attend as a witness for examination or upon any investigation or inquiry after having been lawfully required so to do and after having had a tender made to him of the expenses (if any) to which he is entitled as aforesaid; or
- (b) refuses or neglects to make any answer or to give any return or to produce any book, paper, or document in his possession or under his control or to make or subscribe any declarations which any such inspector, tribunal, court, body, or person is by this Act empowered to require,

shall be guilty of an offence against this Act, and liable to a penalty of not more than two hundred dollars.

**Power to enforce attendance of witnesses**

**136.** If it is established upon oath to the satisfaction of any justice that any person who has been duly summoned by any inspector, tribunal, court, body, or person to attend as a witness as aforesaid upon any examination, investigation, or inquiry is about to quit South Australia or neglects or refuses to attend for examination or upon such investigation or inquiry or that any person believed to be a material witness upon any examination, investigation, or inquiry is evading service of any summons, the justice may issue his warrant for the apprehension of that person, and afterwards on being satisfied that the ends of justice would be otherwise defeated may commit that person to gaol there to be kept pending the completion of the examination, investigation, or inquiry or the taking of his evidence therein unless he in the meantime enters into a recognizance with sureties sufficient in the opinion of the justice to secure his appearance thereat.

**Forgery and fraudulent alteration to documents and false representation, etc.**

**137.** Any person who with a view to evading the provisions of this Act or any of the regulations made or in force hereunder—

- (a) forges, assists in forging, or procures to be forged the common seal or other distinguishing mark of the Minister or any certificate or any official copy of a certificate or any document issued by the Minister; or
- (b) fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered any certificate or any official copy of a certificate or any document issued by the Minister or any declaration or any form; or

- (c) fraudulently makes use of any such certificate, official copy of a certificate, document, or form, which is forged, altered, cancelled, or suspended, or to which he is not justly entitled; or
- (d) fraudulently lends his certificate of competency or of service or allows the same to be used by any other person; or
- (e) makes or procures to be made, or assists in making, any false representation for the purpose of obtaining for himself or any other person a certificate of competency or of service; or
- (f) knowingly or wilfully makes or assists in making or procures to be made a false or fraudulent declaration,

shall be guilty of a misdemeanour and liable to imprisonment for any term not exceeding two years.

#### **Sums ordered to be paid leviable by distress on ship**

**138.** When a conviction, order, judgment, or adjudication of any court or justices has been made directing the payment of any penalties, costs, or other sums of money recoverable summarily under this Act and the party so directed to pay the same is the master, owner, or charterer of a ship, and if the same is not paid at the time and in the manner prescribed in the conviction, order, judgment, or adjudication, the court or justices who made the same may, in addition to any other powers it or they may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture, and apparel.

#### **Recovery by Minister of expenses**

**139.** Whenever the Minister does anything under this Act which he is hereby authorized to do at the expense of any person, or any expenses are under this Act payable to the Minister by any person, the amount of the expense shall be recoverable by the Minister by action in any court of competent jurisdiction.

#### **Costs to be payable by the Minister**

**140.** In any legal proceeding under this Act to which the Minister is a party, any court may make in the case of the Minister any order as to the payment of the costs, charges, and expenses of and incidental to the proceeding which the court could have made in the case of a private person.

#### **Provision for costs and expenses of Minister**

**141.** All costs and expenses incurred by the Minister or any of his inspectors, surveyors, or other officers in carrying out the provisions of this Act shall be paid out of the moneys voted by Parliament for the purposes of this Act or for the purposes of the Minister under any other Act.

#### **Tonnage of British ships**

**142.** Where any ship has been registered at a port in the United Kingdom, the amount of tonnage contained in the certificate of registry shall for the purposes of this Act be considered to be the tonnage of the ship.

**Tonnage of any ship how to be calculated**

**143.** To ascertain the tonnage of any ship as to which any question arises, any person appointed, whether generally or specially by the Minister may measure the ship, and the officer or person so appointed in measuring the ship shall follow the regulations contained in the Merchant Shipping Act.

**Summary proceedings**

**144.** All proceedings for offences against this Act (not being felonies or misdemeanours) shall be disposed of summarily.

**Immunity of Minister and persons acting in the administration of this Act**

**145.** No civil liability attaches to the Minister, or any other person acting in the administration of this Act, in respect of any certificate, permit or other instrument issued under this Act.

PART VII

COMMONWEALTH NAVIGATION ACT AND POSSIBLE TRANSFER OF POWERS

**Effect of Navigation Act**

**146.** It is hereby declared notwithstanding anything in this Act that as on, from, and after the commencement (whether before or after the commencement of this Act) of any Part, Division, or section of, or any schedule to the Navigation Act, any provisions of this Act or any corresponding previous enactment or of any regulations under this Act or any such enactment (so far only as such provisions are inconsistent with the law of the Commonwealth and relate to matters within the powers of the Commonwealth) shall to the extent of the inconsistency be and be deemed to have been invalid, and shall cease and be deemed to have ceased to be in operation.

**Power to agree with Commonwealth as to discharge of duties, etc.**

**147.** (1) Subject to this Part the Governor may arrange with the Governor-General of the Commonwealth for the exercise and discharge by the Government of the Commonwealth on behalf of the Government of South Australia of any powers, duties, or authorities under this Act remaining within the powers of the State of South Australia and exercisable by the Government of South Australia or any authority constituted under any law of South Australia.

(2) Any agreement relating to such an arrangement may make provision for all or any matters necessary or convenient to be provided for or incidental to carrying out the arrangement, including the transfer of officers from the service of the Government of South Australia to the service of the Commonwealth, and their re-transfer from the service of the Commonwealth to the service of the Government of South Australia, and the rights and obligations of such officers.

(3) Any agreement under this section shall be valid and effectual for all purposes.

**Power of Minister to designate officers, etc.**

**148.** Where in any of the provisions of this Act a reference is made to any particular officer or class of officers the Minister whenever it becomes necessary to do so may designate the officer or officers who are to exercise the powers and perform the duties and stand in the place of the officer or officers so referred to.

## SCHEDULES

## THE FIRST SCHEDULE

## SCHEDULE OF ACTS REPEALED

Number and Year of Act	Title or Short Title
No. 8 of 1852 .....	An Act to extend the Provisions of the Passengers Act, 1849
No. 237 of 1881 .....	Marine Board and Navigation Act, 1881
No. 563 of 1893 .....	An Act to amend the Marine Board and Navigation Act, 1881
No. 614 of 1894 .....	Marine Board and Navigation Act Amendment Act, 1894
No. 681 of 1897 .....	An Act to amend the law relating to Courts of Marine Inquiry
No. 691 of 1897 .....	The Marine Board and Navigation Act Amendment Act, 1897
No. 814 of 1902 .....	The Marine Board and Navigation Act Amendment Act, 1902
No. 917 of 1906 .....	The Marine Board and Navigation Act Further Amendment Act, 1906
No. 1416 of 1919 .....	Marine Board and Navigation Act Further Amendment Act, 1919
No. 1661 of 1924 .....	Marine Board and Navigation Act Amendment Act, 1924
No. 2142 of 1933 .....	Marine Board and Navigation Act Amendment Act, 1933

## THE SECOND SCHEDULE

## FIRST PART

## RULES FOR PREVENTING COLLISIONS AT SEA

## PRELIMINARY AND DEFINITIONS

*Rule 1*

(a) These Rules shall be followed by all vessels and seaplanes upon the high seas and in all waters connected therewith navigable by seagoing vessels, except as provided in Rule 30. Where, as a result of their special construction it is not possible for seaplanes to comply fully with the provisions of Rules specifying the carrying of lights and shapes, these provisions shall be followed as closely as circumstances permit.

(b) The Rules concerning lights shall be complied with in all weathers from sunset to sunrise, and during such times no other lights shall be exhibited, except such lights as cannot be mistaken for the prescribed lights or do not impair their visibility or distinctive character, or interfere with the keeping of a proper look-out. The lights prescribed by these Rules may also be exhibited from sunrise to sunset in restricted visibility and in all other circumstances when it is deemed necessary.

(c) In the following Rules, except where the context otherwise requires—

- (i) the word "vessel" includes every description of water craft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;
- (ii) the word "seaplane" includes a flying boat and any other aircraft designed to manoeuvre on the water;
- (iii) the term "power-driven vessel" means any vessel propelled by machinery;
- (iv) every power-driven vessel which is under sail and not under power is to be considered a sailing vessel, and every vessel under power, whether under sail or not, is to be considered a power-driven vessel;
- (v) a vessel or seaplane on the water is "under way" when she is not at anchor, or made fast to the shore, or aground;
- (vi) the term "height above the hull" means height above the uppermost continuous deck;
- (vii) the length and breadth of a vessel shall be her length overall and largest breadth;
- (viii) the length and span of a seaplane shall be its maximum length and span as shown in its certificate of airworthiness, or as determined by measurement in the absence of such certificate;
- (ix) vessels shall be deemed to be in sight of one another only when one can be observed visually from the other;
- (x) the word "visible", when applied to lights, means visible on a dark night with a clear atmosphere;
- (xi) the term "short blast" means a blast of about one second's duration;
- (xii) the term "prolonged blast" means a blast of from four to six seconds' duration;
- (xiii) the word "whistle" means any appliance capable of producing the prescribed short and prolonged blasts;
- (xiv) the term "engaged in fishing" means fishing with nets, lines or trawls but does not include fishing with trolling lines.

## LIGHTS AND SHAPES

*Rule 2*

(a) A power-driven vessel when under way shall carry:—

- (i) On or in front of the foremast, or if a vessel without a foremast then in the forepart of the vessel, a white light so constructed as to show an unbroken light over an arc of the horizon of 225 degrees (20 points of the compass), so fixed as to show the light 112½ degrees (10 points) on each side of the vessel, that is, from right ahead to 221 degrees (2 points) abaft the beam on either side, and of such a character as to be visible at a distance of at least 5 miles.
- (ii) Either forward or abaft the white light prescribed in subsection (1) a second white light similar in construction and character to that light. Vessels of less than 150 feet in length shall not be required to carry this second white light but may do so.
- (iii) These two white lights shall be so placed in a line with and over the keel that one shall be at least 15 feet higher than the other and in such a position that the forward light shall always be shown lower than the after one. The horizontal distance between the two white lights shall be at least three times the vertical distance. The lower of these two white lights or, if only one is carried, then that light, shall be placed at a height above the hull of not less than 20 feet, and, if the breadth of the vessel exceeds 20 feet, then at a height above the hull not less than such breadth, so however that the light need not be placed at a greater height above the hull than 40 feet. In all circumstances the light or lights, as the case may be, shall be so placed as to be clear of and above all other lights and obstructing superstructures.
- (iv) On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of 112½ degrees (10 points of the compass), so fixed as to show the light from right ahead to 22½ degrees (2 points) abaft the beam on the starboard side, and of such a character as to be visible at a distance of at least 2 miles.
- (v) On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of 112½ degrees (10 points of the compass), so fixed as to show the light from right ahead to 22½ degrees (2 points) abaft the beam on the port side, and of such a character as to be visible at a distance of at least 2 miles.
- (vi) The said green and red sidelights shall be fitted with inboard screens projecting at least 3 feet forward from the light, so as to prevent these lights from being seen across the bows.

(b) A seaplane under way on the water shall carry:—

- (i) In the forepart amidships where it can best be seen a white light, so constructed as to show an unbroken light over an arc of the horizon of 220 degrees of the compass, so fixed as to show the light 110 degrees on each side of the seaplane, namely, from right ahead to 20 degrees abaft the beam on either side, and of such a character as to be visible at a distance of at least 3 miles.
- (ii) On the right or starboard wing tip a green light, so constructed as to show an unbroken light over an arc of the horizon of 110 degrees of the compass, so fixed as to show the light from right ahead to 20 degrees abaft the beam on the starboard side, and of such a character as to be visible at a distance of at least 2 miles.
- (iii) On the left or port wing tip a red light, so constructed as to show an unbroken light over an arc of the horizon of 110 degrees of the compass, so fixed as to show the light from right ahead to 20 degrees abaft the beam on the port side, and of such a character as to be visible at a distance of at least 2 miles.

*Rule 3*

(a) A power-driven vessel when towing or pushing another vessel or seaplane shall, in addition to her sidelights, carry two white lights in a vertical line one over the other, not less than 6 feet apart, and when towing and the length of the tow, measuring from the stern of the towing vessel to the stern of the last vessel towed, exceeds 600 feet, shall carry three white lights in a vertical line one over the other, so that the upper and lower lights shall be the same distance from, and not less than 6 feet above or below, the middle light. Each of these lights shall be of the same construction and character and one of them shall be carried in the same position as the white light prescribed in Rule 2(a)(i). None of these lights shall be carried at a height of less than 14 feet above the hull. In a vessel with a single mast, such lights may be carried on the mast.

(b) The towing vessel shall also show either the stern light prescribed in Rule 10 or in lieu of that light a small white light abaft the funnel or aftermast for the tow to steer by, but such light shall not be visible forward of the beam.

(c) Between sunrise and sunset, a power-driven vessel engaged in towing, if the length of tow exceeds 600 feet, shall carry, where it can best be seen, a black diamond shape at least 2 feet in diameter.

(d) A seaplane on the water, when towing one or more seaplanes or vessels, shall carry the lights prescribed in Rule 2(b)(i), (ii) and (iii); and, in addition, she shall carry a second white light of the same construction and character as the white light prescribed in Rule 2(b)(i), and in a vertical line at least 6 feet above or below such light.

*Rule 4*

(a) A vessel which is not under command shall carry, where they can best be seen, and, if a power-driven vessel, in lieu of the lights prescribed in Rule 2(a)(i) and (ii), two red lights in a vertical line one over the other not less than 6 feet apart, and of such a character as to be visible all round the horizon at a distance of at least 2 miles. By day, she shall carry in a vertical line one over the other not less than 6 feet apart, where they can best be seen, two black balls or shapes each not less than 2 feet in diameter

(b) A seaplane on the water which is not under command may carry where they can best be seen, and in lieu of the light prescribed in Rule 2(b)(i), two red lights in a vertical line, one over the other, not less than 3 feet apart, and of such a character as to be visible all round the horizon at a distance of at least 2 miles, and may by day carry in a vertical line one over the other not less than 3 feet apart, where they can best be seen, two black balls or shapes, each not less than 2 feet in diameter.

(c) A vessel engaged in laying or in picking up a submarine cable or navigation mark, or a vessel engaged in surveying or underwater operations, or a vessel engaged in replenishment at sea, or in the launching or recovery of aircraft when from the nature of her work she is unable to get out of the way of approaching vessels, shall carry, in lieu of the lights prescribed in Rule 2(a)(i) and (ii), or Rule 7(a)(i), three lights in a vertical line one over the other so that the upper and lower lights shall be the same distance from, and not less than 6 feet above or below the middle light. The highest and lowest of these lights shall be red, and the middle lights shall be white, and they shall be of such a character as to be visible all round the horizon at a distance of at least 2 miles. By day, she shall carry in a vertical line one over the other not less than 6 feet apart, where they can best be seen, three shapes each not less than 2 feet in diameter, of which the highest and lowest shall be globular in shape and red in colour, and the middle one diamond in shape and white.

(d) (i) A vessel engaged in minesweeping operations shall carry at the foretruck a green light, and at the end or ends of the foreyard on the side or sides on which danger exists, another such light or lights. These lights shall be carried in addition to the light prescribed in Rule 2(a)(i) or Rule 7(a)(i) as appropriate, and shall be of such a character as to be visible all round the horizon at a distance of at least 2 miles. By day she shall carry black balls, not less than 2 feet in diameter, in the same position as the green lights.

(ii) The showing of these lights or balls indicates that it is dangerous for other vessels to approach closer than 3 000 feet astern of the minesweeper or 1 500 feet on the side or sides of which danger exists.

(e) The vessels and seaplanes referred to in this Rule, when not making way through the water, shall show neither the coloured sidelights nor the stern light, but when making way they shall show them.

(f) The lights and shapes prescribed in this Rule are to be taken by other vessels and seaplanes as signals that the vessel or seaplane showing them is not under command and cannot therefore get out of the way.

(g) These signals are not signals of vessels in distress and requiring assistance. Such signals are contained in Rule 31.

65.

*Rule 5*

(a) A sailing vessel under way and any vessel or seaplane being towed shall carry the same lights as are prescribed in Rule 2 for a power-driven vessel or a seaplane under way, respectively, with the exception of the white lights prescribed therein, which they shall never carry. They shall also carry stern lights as prescribed in Rule 10, provided that vessels towed, except the last vessel of a tow, may carry, in lieu of such stern light, a small white light as prescribed in Rule 3(b).

(b) In addition to the lights prescribed in section (a), a sailing vessel may carry on the top of the foremast two lights in a vertical line one over the other, sufficiently separated so as to be clearly distinguished. The upper light shall be red and the lower light shall be green. Both lights shall be constructed and fixed as prescribed in Rule 2(a)(i) and shall be visible at a distance of at least 2 miles.

(c) A vessel being pushed ahead shall carry, at the forward end, on the starboard side a green light and on the port side a red light, which shall have the same characteristics as the lights prescribed in Rule 2(a)(iv) and (v) and shall be screened as provided in Rule 2(a)(vi), provided that any number of vessels pushed ahead in a group shall be lighted as one vessel.

(d) Between sunrise and sunset a vessel being towed, if the length of the tow exceeds 600 feet, shall carry where it can best be seen a black diamond shape at least 2 feet in diameter.

*Rule 6*

(a) When it is not possible on account of bad weather or other sufficient cause to fix the green and red sidelights, these lights shall be kept at hand lighted and ready for immediate use, and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side nor the red light on the starboard side, nor, if practicable, more than 22½ degrees (2 points) abaft the beam on their respective sides.

(b) To make the use of these portable lights more certain and easy, the lanterns containing them shall each be painted outside with the colour of the lights they respectively contain, and shall be provided with proper screens.

*Rule 7*

Power-driven vessels of less than 65 feet in length, vessels under oars or sails of less than 40 feet in length, and rowing boats, when under way shall not be required to carry the lights prescribed in Rules 2, 3 and 5, but if they do not carry them they shall be provided with the following lights:—

(a) Power-driven vessels of less than 65 feet in length except as provided in sections (b) and (c), shall carry:—

- (i) In the forepart of the vessel, where it can best be seen, and at a height above the gunwale of not less than 9 feet, a white light constructed and fixed as prescribed in Rule 2(a)(i) and of such a character as to be visible at a distance of at least 3 miles.
- (ii) Green and red sidelights constructed and fixed as prescribed in Rule 2(a)(iv) and (v), and of such a character as to be visible at a distance of at least 1 mile, or a combined lantern showing a green light and a red light from right ahead to 22½ degrees (2 points) abaft the beam on their respective sides. Such lantern shall be carried not less than 3 feet below the white light.

(b) Power-driven vessels of less than 65 feet in length when towing or pushing another vessel shall carry:—

- (i) In addition to the sidelights or the combined lantern prescribed in section (a)(ii) two white lights in a vertical line, one over the other not less than 4 feet apart. Each of these lights shall be of the same construction and character as the white light prescribed in section (a)(i) and one of them shall be carried in the same position. In a vessel with a single mast such lights may be carried on the mast.
- (ii) Either a stern light as prescribed in Rule 10 or in lieu of that light a small white light abaft the funnel or aftermast for the tow to steer by, but such light shall not be visible forward of the beam.

(c) Power-driven vessels of less than 40 feet in length may carry the white light at a less height than 9 feet above the gunwale but it shall be carried not less than 3 feet above the sidelights or the combined lantern prescribed in section (a)(ii)

(d) Vessels of less than 40 feet in length, under oars or sails, except as provided in section (f), shall, if they do not carry the sidelights, carry, where it can best be seen, a lantern showing a green light on one side and a red light on the other, of such a character as to be visible at a distance of at least 1 mile, and so fixed that the green light shall not be seen on the port side, nor the red light on the starboard side. Where it is not possible to fix this light, it shall be kept ready for immediate use and shall be exhibited in sufficient time to prevent collision and so that the green light shall not be seen on the port side nor the red light on the starboard side.

(e) The vessels referred to in this Rule when being towed shall carry the sidelights or the combined lantern prescribed in sections (a) or (d) of this Rule, as appropriate, and a stern light as prescribed in Rule 10, or, except the last vessel of the tow, a small white light as prescribed in section (b)(ii). When being pushed ahead they shall carry at the forward end the sidelights or combined lantern prescribed in sections (a) or (d) of this Rule, as appropriate, provided that any number of vessels referred to in this Rule when pushed ahead in a group shall be lighted as one vessel under this Rule unless the overall length of the group exceeds 65 feet when the provisions of Rule 5(c) shall apply.

(f) Small rowing boats, whether under oars or sail, shall only be required to have ready at hand an electric torch or a lighted lantern showing a white light, which shall be exhibited in sufficient time to prevent collision.

(g) The vessels and boats referred to in this Rule shall not be required to carry the lights or shapes prescribed in Rules 4(a) and 11(e) and the size of their day signals may be less than is prescribed in Rules 4(c) and 11(c).

#### Rule 8

(a) A power-driven pilot-vessel when engaged on pilotage duty and under way:—

- (i) Shall carry a white light at the masthead at a height of not less than 20 feet above the hull, visible all round the horizon at a distance of at least 3 miles and at a distance of 8 feet below it a red light similar in construction and character. If such a vessel is of less than 65 feet in length she may carry the white light at a height of not less than 9 feet above the gunwale and the red light at a distance of 4 feet below the white light.
- (ii) Shall carry the sidelights or lanterns prescribed in Rule 2(a)(iv) and (v) or Rule 7(a)(ii) or (d) as appropriate, and the stern light prescribed in Rule 10.
- (iii) Shall show one or more flare-up lights at intervals not exceeding 10 minutes. An intermittent white light visible all round the horizon may be used in lieu of flare-up lights.

(b) A sailing pilot-vessel when engaged on pilotage duty and under way:—

- (i) Shall carry a white light at the masthead visible all round the horizon at a distance of at least 3 miles.
- (ii) Shall be provided with the sidelights or lantern prescribed in Rules 5(a) or 7(d), as appropriate, and shall, on the near approach of or to other vessels, have such lights ready for use, and shall show them at short intervals to indicate the direction in which she is heading, but the green light shall not be shown on the port side nor the red light on the starboard side. She shall also carry the stern light prescribed in Rule 10.
- (iii) Shall show one or more flare-up lights at intervals not exceeding 10 minutes.

(c) A pilot-vessel when engaged on pilotage duty and not under way shall carry the lights and show the flares prescribed in sections (a)(i) and (iii) or (b)(i) and (iii), as appropriate, and if at anchor shall also carry the anchor lights prescribed in Rule 11.

(d) A pilot-vessel when not engaged on pilotage duty shall show the lights or shapes for a similar vessel of her length.

#### Rule 9

(a) Fishing vessels when not engaged in fishing shall show the lights or shapes for similar vessels of their length.

(b) Vessels engaged in fishing, when under way or at anchor, shall show only the lights and shapes prescribed in this Rule, which lights and shapes shall be visible at a distance of at least 2 miles.

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- (c) (i) Vessels when engaged in trawling, by which is meant the dragging of a dredge net or other apparatus through the water, shall carry two lights in a vertical line, one over the other, not less than 4 feet nor more than 12 feet apart. The upper of these lights shall be green and the lower light white and each shall be visible all round the horizon. The lower of these two lights shall be carried at a height above the sidelights not less than twice the distance between the two vertical lights.
- (ii) Such vessels may in addition carry a white light similar in construction to the white light prescribed in Rule 2(a)(i) but such light shall be carried lower than and abaft the all-round green and white lights.

(d) Vessels when engaged in fishing, except vessels engaged in trawling, shall carry the lights prescribed in section (c)(i) except that the upper of the two vertical lights shall be red. Such vessels if of less than 40 feet in length may carry the red light at a height of not less than 9 feet above the gunwale and the white light not less than 3 feet below the red light.

(e) Vessels referred to in sections (c) and (d), when making way through the water, shall carry the sidelights or lanterns prescribed in Rule 2(a)(iv) and (v) or Rule 7(a)(ii) or (d) as appropriate, and the stern light prescribed in Rule 10. When not making way through the water they shall show neither the sidelights nor the stern light.

(f) Vessels referred to in section (d) with outlying gear extending more than 500 feet horizontally into the seaway shall carry an additional all-round white light at a horizontal distance of not less than 6 feet nor more than 20 feet away from the vertical lights in the directions of the outlying gear. This additional white light shall be placed at a height not exceeding that of the white light prescribed in section (c)(i) and not lower than the sidelights.

(g) In addition to the lights which they are required by this Rule to carry, vessels engaged in fishing may, if necessary in order to attract the attention of an approaching vessel, use a flare-up light, or may direct the beam of their searchlight in the direction of a danger threatening the approaching vessel, in such a way as not to embarrass other vessels. They may also use working lights but fishermen shall take into account that specially bright or insufficiently screened working lights may impair the visibility and distinctive character of the lights prescribed in this Rule.

(h) By day vessels when engaged in fishing shall indicate their occupation by displaying where it can best be seen a black shape consisting of two cones each not less than 2 feet in diameter with their points together one above the other. Such vessels if of less than 65 feet in length may substitute a basket for such black shape. If their outlying gear extends more than 500 feet horizontally into the seaway vessels engaged in fishing shall display in addition one black conical shape, point upwards, in the direction of the outlying gear.

*Rule 10*

(a) Except where otherwise provided in these Rules, a vessel when under way shall carry at her stern a white light, so constructed that it shall show an unbroken light over an arc of the horizon of 135 degrees (12 points of the compass), so fixed as to show the light  $67\frac{1}{2}$  degrees (6 points) from the right aft on each side of the vessel, and of such a character as to be visible at a distance of at least 2 miles.

(b) In a small vessel, if it is not possible on account of bad weather or other sufficient cause for this light to be fixed an electric torch or a lighted lantern showing a white light shall be kept at hand ready for use and shall on the approach of an overtaking vessel, be shown in sufficient time to prevent collision.

(c) A seaplane on the water when under way shall carry on her tail a white light, so constructed as to show an unbroken light over an arc of the horizon of 140 degrees of the compass, so fixed as to show the light 70 degrees from right aft on each side of the seaplane, and of such a character as to be visible at a distance of at least 2 miles.

*Rule 11*

(a) A vessel of less than 150 feet in length, when at anchor, shall carry in the forepart of the vessel, where it can best be seen, a white light visible all round the horizon at a distance of at least 2 miles. Such a vessel may also carry a second white light in the position prescribed in section (b) of this Rule but shall not be required to do so. The second white light, if carried, shall be visible at a distance of at least 2 miles and so placed as to be as far as possible visible all round the horizon.

(b) A vessel of 150 feet or more in length, when at anchor, shall carry near the stem of the vessel, at a height of not less than 20 feet above the hull, one such light, and at or near the stern of the vessel and at such a height that it shall be not less than 15 feet lower than the forward light, another such light. Both these lights shall be visible at a distance of at least 3 miles and so placed as to be as far as possible visible all round the horizon.

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(c) Between sunrise and sunset every vessel when at anchor shall carry in the forepart of the vessel, where it can best be seen, one black ball not less than 2 feet in diameter.

(d) A vessel engaged in laying or in picking up a submarine cable or navigation mark, or a vessel engaged in surveying or underwater operations, when at anchor, shall carry the lights or shapes prescribed in Rule 4(c) in addition to those prescribed in the appropriate preceding sections of this Rule.

(e) A vessel aground shall carry the light or lights prescribed in sections (a) or (b) and the two red lights prescribed in Rule 4(a). By day she shall carry, where they can best be seen, three black balls, each not less than 2 feet in diameter, placed in a vertical line one over the other, not less than 6 feet apart.

(f) A seaplane on the water under 150 feet in length, when at anchor, shall carry, where it can best be seen, a white light, visible all round the horizon at a distance of at least 2 miles.

(g) A seaplane on the water 150 feet or upwards in length when at anchor, shall carry, where they can best be seen, a white light forward and a white light aft, both lights visible all round the horizon at a distance of at least 3 miles; and, in addition, if the seaplane is more than 150 feet in span, a white light on each side to indicate the maximum span, and visible, so far as practicable, all round the horizon at a distance of 1 mile.

(h) A seaplane aground shall carry an anchor light or lights as prescribed in sections (f) and (g), and in addition may carry two red lights in a vertical line, at least 3 feet apart, so placed as to be visible all round the horizon

*Rule 12*

Every vessel or seaplane on the water may, if necessary in order to attract attention, in addition to the lights which she is by these Rules required to carry, show a flare-up light or use a detonating or other efficient sound signal that cannot be mistaken for any signal authorized elsewhere under these Rules.

*Rule 13*

(a) Nothing in these Rules shall interfere with the operation of any special rules made by the Government of any nation with respect to additional station and signal lights for ships of war, for vessels sailing under convoy, for fishing vessels engaged in fishing as a fleet or for seaplanes on the water.

(b) Whenever the Government concerned shall have determined that a naval or other military vessel or waterborne seaplane of special construction or purpose cannot comply fully with the provisions of any of these Rules with respect to the number, position, range or arc of visibility of lights or shapes, without interfering with the military function of the vessel or seaplane, such vessel or seaplane shall comply with such other provisions in regard to the number, position, range or arc of visibility of lights or shapes as her Government shall have determined to be the closest possible compliance with these Rules in respect of that vessel or seaplane.

*Rule 14*

A vessel proceeding under sail, when also being propelled by machinery, shall carry in the daytime forward, where it can best be seen, one black conical shape, point downwards, not less than 2 feet in diameter at its base

SOUND SIGNALS AND CONDUCT IN RESTRICTED VISIBILITY

*Preliminary*

1. The possession of information obtained from radar does not relieve any vessel of the obligation of conforming strictly with the Rules and, in particular, the obligations contained in Rules 15 and 16.

2. The Annex to the Rules contains recommendations intended to assist in the use of radar as an aid to avoiding collision in restricted visibility.

*Rule 15*

(a) A power-driven vessel of 40 feet or more in length shall be provided with an efficient whistle, sounded by steam or by some substitute for steam, so placed that the sound may not be intercepted by any obstruction, and with an efficient fog horn to be sounded by mechanical means, and also with an efficient bell. A sailing vessel of 40 feet or more in length shall be provided with a similar fog horn and bell.

(b) All signals prescribed in this Rule for vessels under way shall be given—

- (i) by power-driven vessels on the whistle;
- (ii) by sailing vessels on the fog horn;
- (iii) by vessels towed on the whistle or fog horn.

(c) In fog, mist, falling snow, heavy rainstorms, or any other condition similarly restricting visibility, whether by day or night, the signals prescribed in this Rule shall be used as follows:—

- (i) A power-driven vessel making way through the water shall sound at intervals of not more than 2 minutes a prolonged blast.
- (ii) A power-driven vessel under way, but stopped and making no way through the water, shall sound at intervals of not more than 2 minutes two prolonged blasts, with an interval of about 1 second between them.
- (iii) A sailing vessel under way shall sound, at intervals of not more than 1 minute, when on the starboard tack one blast, when on the port tack two blasts in succession, and when with the wind abaft the beam three blasts in succession.
- (iv) A vessel when at anchor shall at intervals of not more than 1 minute ring the bell rapidly for about 5 seconds. In vessels of more than 350 feet in length the bell shall be sounded in the forepart of the vessel, and in addition there shall be sounded in the after part of the vessel, at intervals of not more than 1 minute for about 5 seconds, a gong or other instrument the tone and sounding of which cannot be confused with that of the bell. Every vessel at anchor may in addition, in accordance with Rule 12, sound three blasts in succession, namely, one short, one prolonged, and one short blast, to give warning of her position and of the possibility of collision to an approaching vessel.
- (v) A vessel when towing, a vessel engaged in laying or in picking up a submarine cable or navigation mark, and a vessel under way which is unable to get out of the way of an approaching vessel through being not under command or unable to manoeuvre as required by these Rules shall, instead of the signals prescribed in subsections (i), (ii) and (iii) sound, at intervals of not more than 1 minute, three blasts in succession, namely, one prolonged blast followed by two short blasts.
- (vi) A vessel towed, or, if more than one vessel is towed, only the last vessel of the tow, if manned, shall, at intervals of not more than 1 minute, sound four blasts in succession, namely, one prolonged blast followed by three short blasts. When practicable, this signal shall be made immediately after the signal made by the towing vessel.
- (vii) A vessel aground shall give the bell signal and, if required, the gong signal, prescribed in subsection (iv) and shall, in addition, give 3 separate and distinct strokes on the bell immediately before and after such rapid ringing of the bell.
- (viii) A vessel engaged in fishing when under way or at anchor shall at intervals of not more than 1 minute sound the signal prescribed in subsection (v). A vessel when fishing with trolling lines and under way shall sound the signals prescribed in subsections (i), (ii) or (iii) as may be appropriate.
- (ix) A vessel of less than 40 feet in length, a rowing boat, or a seaplane on the water, shall not be obliged to give the abovementioned signals but if she does not, she shall make some other efficient sound signal at intervals of not more than 1 minute.
- (x) A power-driven pilot vessel when engaged on pilotage duty may, in addition to the signals prescribed in subsections (i), (ii) and (iv), sound an identity signal consisting of 4 short blasts.

*Rule 16*

(a) Every vessel, or seaplane, when taxi-ing on the water, shall, in fog, mist, falling snow, heavy rainstorms or any other conditions similarly restricting visibility, go at a moderate speed, having careful regard to the existing circumstances and conditions.

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(b) A power-driven vessel hearing, apparently forward of her beam, the fog signal of a vessel the position of which is not ascertained, shall, so far as the circumstances of the case admit, stop her engines, and then navigate with caution until danger of collision is over.

(c) A power-driven vessel which detects the presence of another vessel forward of her beam before hearing her fog signal or sighting her visually may take early and substantial action to avoid a close quarters situation but, if this cannot be avoided, she shall, so far as the circumstances of the case admit, stop her engines in proper time to avoid collision and then navigate with caution until danger of collision is over.

STEERING AND SAILING RULES

*Preliminary*

1. In obeying and construing these Rules, any action taken should be positive, in ample time, and with due regard to the observance of good seamanship.

2. Risk of collision can, when circumstances permit be ascertained by carefully watching the compass bearing of an approaching vessel. If the bearing does not appreciably change, such risk should be deemed to exist.

3. Mariners should bear in mind that seaplanes in the act of landing or taking off, or operating under adverse weather conditions, may be unable to change their intended action at the last moment.

4. Rules 17 to 24 apply only to vessels in sight of one another.

*Rule 17*

(a) When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows:—

- (i) When each has the wind on a different side, the vessel which has the wind on the port side shall keep out of the way of the other.
- (ii) When both have the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward.

(b) For the purposes of this Rule the windward side shall be deemed to be the side opposite to that on which the mainsail is carried or, in the case of a square-rigged vessel, the side opposite to that on which the largest fore-and-aft sail is carried.

*Rule 18*

(a) When two power-driven vessels are meeting end on, or nearly end on, so as to involve risk of collision, each shall alter her course to starboard, so that each may pass on the port side of the other. This Rule only applies to cases where vessels are meeting end on, or nearly end on, in such a manner as to involve risk of collision, and does not apply to two vessels which must, if both keep on their respective course, pass clear of each other. The only cases to which it does apply are when each of two vessels is end on, or nearly end on, to the other; in other words, to cases in which, by day, each vessel sees the masts of the other in a line, or nearly in a line, with her own, and by night to cases in which each vessel is in such a position as to see both the sidelights of the other. It does not apply, by day, to cases in which a vessel sees another ahead crossing her own course; or by night, to cases where the red light of one vessel is opposed to the red light of the other or where the green light of one vessel is opposed to the green light of the other or where a red light without a green light or a green light without a red light is seen ahead, or where both green and red lights are seen anywhere but ahead.

(b) For the purposes of this Rule and Rules 19 to 29 inclusive, except Rule 20(c) and Rule 28, a seaplane on the water shall be deemed to be a vessel, and the expression "power-driven vessel" shall be construed accordingly.

*Rule 19*

When two power-driven vessels are crossing, so as to involve risk of collision, the vessel which has the other on her own starboard side shall keep out of the way of the other.

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*Rule 20*

(a) When a power-driven vessel and a sailing vessel are proceeding in such directions as to involve risk of collision, except as provided for in Rules 24 and 26, the power-driven vessel shall keep out of the way of the sailing vessel.

(b) This Rule shall not give to a sailing vessel the right to hamper, in a narrow channel, the safe passage of a power-driven vessel which can navigate only inside such channel.

(c) A seaplane on the water shall, in general, keep well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, she shall comply with these Rules.

*Rule 21*

Where by any of these Rules one or two vessels is to keep out of the way, the other shall keep her course and speed. When, from any cause, the latter vessel finds herself so close that collision cannot be avoided by the action of the giving-away vessel alone, she also shall take such action as will best aid to avert collision (see Rules 27 and 29).

*Rule 22*

Every vessel which is directed by these Rules to keep out of the way of another vessel shall, so far as possible, take positive early action to comply with this obligation, and shall, if the circumstances of the case admit, avoid crossing ahead of the other.

*Rule 23*

Every power-driven vessel which is directed by these Rules to keep out of the way of another vessel shall, on approaching her, if necessary, slacken her speed or stop or reverse.

*Rule 24*

(a) Notwithstanding anything contained in these Rules, every vessel overtaking any other shall keep out of the way of the overtaken vessel.

(b) Every vessel coming up with another vessel from any direction more than 22½ degrees (2 points) abaft her beam, *i.e.*, in such a position, with reference to the vessel which she is overtaking, that at night she would be unable to see either of that vessel's sidelights, shall be deemed to be an overtaking vessel; and no subsequent alteration of the bearing between the two vessels shall make the overtaking vessel a crossing vessel within the meaning of these Rules, or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

(c) If the overtaking vessel cannot determine with certainty whether she is forward of or abaft this direction from the other vessel, she shall assume that she is an overtaking vessel and keep out of the way.

*Rule 25*

(a) In a narrow channel every power-driven vessel when proceeding along the course of the channel shall, when it is safe and practicable, keep to that side of the fairway or mid-channel which lies on the starboard side of such vessel.

(b) Whenever a power-driven vessel is nearing a bend in a channel where a vessel approaching from the other direction cannot be seen, such power-driven vessel, when she shall have arrived within one-half (½) mile of the bend, shall give a signal by one prolonged blast on her whistle which signal shall be answered by a similar blast given by any approaching power-driven vessel that may be within hearing around the bend. Regardless of whether an approaching vessel on the farther side of the bend is heard such bend shall be rounded with alertness and caution.

(c) In a narrow channel a power-driven vessel of less than 65 feet in length shall not hamper the safe passage of a vessel which can navigate only inside such channel.

*Rule 26*

All vessels not engaged in fishing, except vessels to which the provisions of Rule 4 apply, shall, when under way, keep out of the way of vessels engaged in fishing. This Rule shall not give to any vessel engaged in fishing the right of obstructing a fairway used by vessels other than fishing vessels.

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*Rule 27*

In obeying and construing these Rules due regard shall be had to all dangers of navigation and collision, and to any special circumstances, including the limitations of the craft involved, which may render a departure from the above Rules necessary in order to avoid immediate danger.

SOUND SIGNALS FOR VESSELS IN SIGHT OF ONE ANOTHER

*Rule 28*

(a) When vessels are in sight of one another, a power-driven vessel under way, in taking any course authorized or required by these Rules, shall indicate that course by the following signals on her whistle, namely:—

One short blast to mean "I am altering my course to starboard".

Two short blasts to mean "I am altering my course to port".

Three short blasts to mean "My engines are going astern".

(b) Whenever a power-driven vessel which, under these Rules, is to keep her course and speed, is in sight of another vessel and is in doubt whether sufficient action is being taken by the other vessel to avert collision, she may indicate such doubt by giving at least five short and rapid blasts on the whistle. The giving of such a signal shall not relieve a vessel of her obligations under Rules 27 and 29 or any other Rule, or of her duty to indicate any action taken under these Rules by giving the appropriate sound signals laid down in this Rule.

(c) Any whistle signal mentioned in this Rule may be further indicated by a visual signal consisting of a white light visible all round the horizon at a distance of at least 5 miles, and so devised that it will operate simultaneously and in conjunction with the whistle-sounding mechanism and remain lighted and visible during the same period as the sound signal.

(d) Nothing in these Rules shall interfere with the operation of any special rules made by the Government of any nation with respect to the use of additional whistle signals between ships of war or vessels sailing under convoy.

MISCELLANEOUS

*Rule 29*

Nothing in these Rules shall exonerate any vessel, or the owner, master or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper look-out, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

*Rule 30*

*Reservation of Rules for Harbour and Inland Navigation*

Nothing in these Rules shall interfere with the operation of a special rule duly made by local authority relative to the navigation of any harbour, river, lake, or inland water, including a reserved seaplane area.

*Rule 31*

*Distress Signals*

(a) When a vessel or seaplane on the water is in distress and requires assistance from other vessels or from the shore, the following shall be the signals to be used or displayed by her, either together or separately, namely:—

- (i) A gun or other explosive signal fired at intervals of about a minute.
- (ii) A continuous sounding with any fog-signalling apparatus.
- (iii) Rockets or shells, throwing red stars fired one at a time at short intervals.

- (iv) A signal made by radiotelegraphy or by any other signalling method consisting of the group ... - - - ... in the Morse Code.
- (v) A signal sent by radiotelephony consisting of the spoken word "Mayday".
- (vi) The International Code Signal of distress indicated by N.C.
- (vii) A signal consisting of a square flag having above or below it a ball or anything resembling a ball.
- (viii) Flames on the vessel (as from a burning tar barrel, oil barrel, etc.).
- (ix) A rocket parachute flare or a hand flare showing a red light
- (x) A smoke signal giving off a volume of orange-coloured smoke.
- (xi) Slowly and repeatedly raising and lowering arms outstretched to each side.

NOTE.—Vessels in distress may use the radiotelegraph alarm signal or the radiotelephone alarm signal to secure attention to distress calls and messages. The radiotelegraph alarm signal, which is designed to actuate the radiotelegraph auto alarms of vessels so fitted, consists of a series of twelve dashes, sent in 1 minute, the duration of each dash being 4 seconds, and the duration of the interval between 2 consecutive dashes being 1 second. The radiotelephone alarm signal consists of 2 tones transmitted alternatively over periods of from 30 seconds to 1 minute.

(b) The use of any of the foregoing signals, except for the purpose of indicating that a vessel or seaplane is in distress, and the use of any signals which may be confused with any of the above signals, is prohibited.

NOTES RELATING TO BUT NOT FORMING PART OF RULES  
FOR PREVENTING COLLISIONS AT SEA

*Recommendations on the Use of Radar Information  
as an Aid to Avoiding Collisions at Sea*

- (1) Assumptions made on scanty information may be dangerous and should be avoided.
- (2) A vessel navigating with the aid of radar in restricted visibility must, in compliance with Rule 16(a), go at a moderate speed. Information obtained from the use of radar is one of the circumstances to be taken into account when determining moderate speed. In this regard it must be recognized that small vessels, small icebergs and similar floating objects may not be detected by radar. Radar indications of one or more vessels in the vicinity may mean that "moderate speed" should be slower than a mariner without radar might consider moderate in the circumstances.
- (3) When navigating in restricted visibility the radar range and bearing alone do not constitute ascertainment of the position of the other vessel under Rule 16(b) sufficiently to relieve a vessel of the duty to stop her engines and navigate with caution when a fog signal is heard forward of the beam.
- (4) When action has been taken under Rule 16(c) to avoid a close quarters situation, it is essential to make sure that such action is having the desired effect. Alterations of course or speed or both are matters as to which the mariner must be guided by the circumstances of the case.
- (5) Alteration of course alone may be the most effective action to avoid close quarters provided that:—
  - (a) There is sufficient sea room.
  - (b) It is made in good time.
  - (c) It is substantial. A succession of small alterations of course should be avoided.
  - (d) It does not result in a close quarters situation with other vessels.
- (6) The direction of an alteration of course is a matter in which the mariner must be guided by the circumstances of the case. An alteration to starboard, particularly when vessels are approaching apparently on opposite or nearly opposite courses, is generally preferable to an alteration to port.

(7) An alteration of speed, either alone or in conjunction with an alteration of course, should be substantial. A number of small alterations of speed should be avoided.

(8) If a close quarters situation is imminent, the most prudent action may be to take all way off the vessel.

## SECOND PART

### RIVER MURRAY NAVIGATION REGULATIONS

1. In the following regulations, except where the context otherwise requires—

"Vessel" includes every description of water craft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

"Power-driven vessel" means any vessel propelled by machinery. Every power-driven vessel which is under sail and not under power is to be considered a sailing vessel, and every vessel under power whether under sail or not, is to be considered a power-driven vessel.

"Defined channel" means any channel that is marked by buoys or beacons.

"Under way" means not at anchor, or made fast to the shore, or aground.

"Height above the hull" means height above the uppermost continuous deck, or gunwale in vessels without a continuous deck.

"Length" and "breadth" of a vessel mean her length overall and largest breadth.

Vessels shall be deemed to be in sight of one another only when one can be observed visually from the other.

"Visible", when applied to lights, means visible on a dark night with a clear atmosphere.

"Short blast" means a blast of about one second duration.

"Prolonged blast" means a blast of from four to six seconds duration

"Whistle" means any appliance including a Klaxon horn capable of producing the prescribed short and prolonged blasts.

"Bright white light" means a light at least twice as bright as any other navigation light on board a vessel.

"Under sail" means using sails for navigation.

"Under power" means using propelling machinery for navigation.

"Under oars" means using oars for navigation.

"Fairway" means the usual course followed by vessels when navigating a river or entering or leaving a harbor.

2. These regulations shall apply to all vessels used in navigation of and seaplanes used on the River Murray its tributaries and anabranches within the State of South Australia and to Lake Albert, Lake Alexandrina, the Coorong and all other navigable waterways and streams connected with the said River, Lakes and Coorong.

### *Lights and Shapes*

3. The regulations concerning lights shall be complied with in all weathers from sunset to sunrise and during such time no other lights shall be exhibited except such lights as cannot be mistaken for the prescribed lights or do not impair their visibility or distinctive character, or interfere with the keeping of a proper look-out. The lights prescribed by these regulations shall also be exhibited from sunrise to sunset at times of restricted visibility and in all other circumstances when it is deemed necessary.

4. Every power-driven vessel of 65 feet or more in length when under way, shall carry and exhibit—

- (a) on or in front of the foremast, or if a vessel is without a foremast, then in the forepart of the vessel at least 12 feet above the uppermost deck or gunwale, a bright white light, so constructed as to show an unbroken light over an arc of the horizon of 20 points ( $225^{\circ}$ ) of the compass, so fixed as to show the light 10 points ( $112\frac{1}{2}^{\circ}$ ) on each side of the vessel, namely, from right ahead to 2 points ( $22\frac{1}{2}^{\circ}$ ) abaft the beam on either side, and of such a character as to be visible at a distance of at least 3 miles. Provided that in cases where owing to limited clearances under bridges it is impracticable for the light to be carried 12 feet above the uppermost deck or gunwale of any vessel, the light may be carried at a lower height than 12 feet, but shall be carried in as high a position as is practicable and not less than 6 feet above the level of the green and red lights referred to in this regulation;
- (b) on the starboard (right) side a green light so constructed as to show an unbroken light over an arc of the horizon of 10 points ( $112\frac{1}{2}^{\circ}$ ) of the compass, so fixed as to show the light from right ahead to 2 points ( $22\frac{1}{2}^{\circ}$ ) abaft the beam on the starboard (right) side, and of such a character as to be visible at a distance of at least 2 miles;

and

- (c) on the port (left) side a red light so constructed as to show an unbroken light over an arc of the horizon of 10 points ( $112\frac{1}{2}^{\circ}$ ) of the compass, so fixed as to show the light from right ahead to 2 points ( $22\frac{1}{2}^{\circ}$ ) abaft the beam on the port (left) side and of such a character as to be visible at a distance of at least 2 miles.

5. The said green and red side lights referred to in Regulation 4(b) and (c) of these regulations shall

- (a) be fitted with inboard screens projecting at least 3 feet forward from the light so as to prevent the lights from being seen across the bow; and
- (b) be carried not less than 6 feet below the bright white light referred to in paragraph (a) of Regulation 4 of these regulations.

6. Every power-driven vessel of less than 65 feet in length when under way shall carry and exhibit either the lights referred to in Regulation 4 of these regulations or the following lights:—

- (a) On or in front of the foremast or in the case of a vessel without a foremast, then in the forepart of the vessel where it can best be seen, and at a height above the deck or gunwale of not less than 9 feet, a bright white light constructed and fixed as prescribed in paragraph (a) of Regulation 4 of these regulations, and of such a character as to be visible at a distance of at least 3 miles; and
- (b) green and red lights constructed and fixed as prescribed in paragraph (b) and (c) of Regulation 4, and of such a character as to be visible at a distance of at least 1 mile, or a combined lantern showing a green light and a red light from right ahead to 2 points ( $22\frac{1}{2}^{\circ}$ ) abaft the beam on their respective sides and carried not less than 3 feet below the white light.

7. In the case of power-driven vessels less than 25 feet in length the white light prescribed in Regulation 6(a) may be carried at a lesser height than 9 feet above the deck or gunwale, but it shall be carried above the side lights or combined lantern described in Regulation 6(b).

8. Except where otherwise provided in these Regulations, a vessel when under way shall carry at her stern a white light, so constructed that it shall show an unbroken light over an arc of the horizon of 135 degrees (12 points of the compass), so fixed as to show the light  $67\frac{1}{2}$  degrees (6 points) from directly astern on each side of the vessel, and of such a character as to be visible at a distance of at least 2 miles.

9. In the case of vessels less than 25 feet in length if it is not possible or practicable for the light described in Regulation 8 to be fitted, an electric torch or a lantern showing a white light shall be kept at hand ready for use and shall on the approach of an overtaking vessel, be shown in sufficient time to prevent collision.

10. When a power-driven vessel is under way, a searchlight may be used from a position where it will not obscure the side lights, but it shall be shut off, or screened off, on approaching or being approached by another vessel, in sufficient time to prevent inconvenience to that vessel.

11. A sailing vessel under way shall carry the same lights as are prescribed in Regulation 4 with the exception of the white light prescribed therein which she shall never carry. A sailing vessel shall also carry a stern light as prescribed in Regulations 8 and 9.

12. All small rowing boats, whether under oars or sail, shall have ready at hand an electric torch or a lighted lantern showing a white light, which on the approach of another vessel, shall be exhibited in sufficient time to prevent collision.

13. Every power-driven vessel, when towing a barge or barges, whether astern or alongside, or pushing a barge, shall, in addition to her side lights, carry and exhibit two bright white lights in a vertical line one over the other, not less than 3 feet apart. Each of these lights shall be of the same construction and character as the white light required in Regulation 4 of these regulations. The lower of the two lights shall be carried at a height of not less than 6 feet above the side lights, in the case of a towing or pushing vessel of 65 feet or over in length and not less than 3 feet above the side lights in the case of such a vessel under 65 feet in length.

14. The master of every power-driven vessel having a barge or barges in tow, or pushing a barge, shall cause a bright all round white light visible at a distance of not less than 1 mile to be carried and exhibited from a conspicuous place on the fore part of each barge.

15. All vessels when at anchor in a fairway, or when moored to a bank shall carry and exhibit in a position at least 10 feet above the deck, and so arranged as to be visible in all directions, a bright white light visible at a distance of not less than 1 mile.

16. A vessel aground shall carry an anchor light as prescribed in the preceding regulation and also exhibit a flashing white light on being approached by another vessel.

17. Every ferry or punt hauled across a river or fairway by means of cables shall when under way between the hours of sunset and sunrise, show an all round red light at each end of the ferry in a horizontal line at a height above the deck house of at least 9 feet, such lights to be visible for at least 1 mile. Such vessels may also use a flood light or search light provided it does not obscure the two red lights herein mentioned

18. A seaplane on the water, whether under way or at anchor, shall carry the lights prescribed in the Regulations under the *Marine Act 1936-1966* for Prevention of Collisions at Sea.

#### *Sound Signals and Conduct in Restricted Visibility*

19. In heavy rain, fog, dust-storm or any other condition similarly restricting visibility, whether by day or night, a vessel under way shall make some efficient sound signal at intervals of not more than one minute and proceed at reduced speed; a power-driven vessel under way shall, if the presence of another vessel is detected, stop her engines and navigate with caution until danger of collision is over.

#### *Steering and Sailing Regulations*

20. In obeying and construing these Regulations any action taken should be positive, in ample time, and with due regard to the observance of good seamanship.

21. When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows:—

- (a) When each has the wind on a different side, the vessel which has the wind on the port side shall keep out of the way of the other.
- (b) When both have the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward.

For the purposes of this Regulation the windward side shall be deemed to be the side opposite to that on which the mainsail is carried.

22. When two power-driven vessels are meeting end on, or nearly end on, so as to involve risk of collision, each shall alter her course to starboard, so that each may pass on the port side of the other. This Regulation only applies to cases where vessels are meeting end on, or nearly end on, in such a manner as to involve risk of collision, and does not apply to two vessels which must, if both keep to their respective course, pass clear of each other. The only cases to which it does apply are when each of two vessels is end on, or nearly end on, to the other; in other words, to cases in which by day, each vessel sees the masts of the other in a line, or nearly in a line, with her own or sees the other vessel end on directly over the stem when standing in a mid-ship position; and by night to cases in which each vessel is in such a position as to see both the side-lights of the other. It does not apply, by day, to cases in which a vessel sees another ahead crossing her own course, or by night, to cases where the red light of one vessel is opposed to the red light of the other or where the green light of one vessel is opposed to the green light of the other or where a red light without a green light or a green light without a red is seen ahead, or where both green and red lights are seen anywhere but ahead.

23. When two power-driven vessels are crossing, so as to involve risk of collision, the vessel which has the other on her own starboard side shall keep out of the way of the other

24. When a power-driven vessel and a sailing vessel are proceeding in such directions as to involve risk of collision, except as provided in Regulation 28, the power-driven vessel shall keep out of the way of the sailing vessel. This Regulation shall not give to a sailing vessel the right to hamper, in a narrow channel, the safe passage of a power-driven vessel which can navigate only inside such channel.

25. A seaplane on the water shall, in general, keep well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, she shall comply with these Regulations.

26. Where by any of these Regulations one of two vessels is to keep out the way, the other shall keep her course and speed. When, from any cause, the latter vessel finds herself so close that collision cannot be avoided by the action of the giving-way vessel alone, she also shall take such action as will be the best aid to avert collision.

27. Every vessel which is required by these Regulations to keep out of the way of another vessel shall, so far as possible, take positive early action to comply with this obligation, and shall, if the circumstances of the case admit, avoid crossing ahead of the other.

28. Every power-driven vessel which is directed by these Regulations to keep out of the way of another vessel, shall, on approaching her, if necessary, slacken her speed or stop or reverse.

29. Notwithstanding anything contained in these Regulations, every vessel overtaking any other shall keep out of the way of the overtaken vessel. Every vessel coming up with another vessel from any direction more than 22½ degrees (2 points) abaft her beam, *i.e.* in such a position with reference to the vessel which she is overtaking, that at night she would be unable to see either of that vessel's sidelights, shall be deemed to be an overtaking vessel, and no subsequent alteration of the bearing between the two vessels shall make the overtaking vessel a crossing vessel within the meaning of these Regulations, or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear. If the overtaking vessel cannot determine with certainty whether she is forward of or abaft this direction from the other vessel, she shall assume that she is an overtaking vessel and keep out of the way.

30. Every power-driven vessel when proceeding along the course of a channel or river shall when it is safe and practicable, keep to that side of the mid-channel or fairway which lies on the starboard side of such vessel.

31. Whenever a power-driven vessel is nearing a bend in the river where a vessel approaching from the other direction cannot be seen, such power-driven vessel, when she shall have arrived within one-half (½) mile of the bend, shall give a signal of one prolonged blast on her whistle which signal shall be answered by a similar blast given by any approaching power-driven vessel that may be within hearing around the bend. Regardless of whether any approaching vessels on the farther side of the bend are heard, such bend shall be rounded with alertness, caution and at a safe speed.

32. In a narrow channel, a vessel which can safely navigate outside such channel shall not hamper the safe passage of a vessel which can navigate only inside such channel.

33. All vessels shall keep out of the way of a ferry or punt which is in the process of crossing the river. This shall not give a ferry or punt the right to pull away from its berth, if by doing so, a danger of collision exists.

34. A power-driven vessel shall when approaching a ferry crossing give a prolonged blast when such vessel is more than ½ mile and not more than 1 mile away and then proceed with caution.

35. In obeying and construing these Regulations, due regard shall be had to all dangers of navigation and collision, and to any special circumstances, including the limitations of the craft involved, which may render a departure from these Regulations necessary in order to avoid immediate danger.

*Sound Signals for Vessels in Sight of One Another*

36. When vessels are in sight of one another, a power-driven vessel under way, in taking any course authorized or required by these Regulations shall indicate that course by the following signals on her whistle, namely:—

- (a) One short blast to mean "I am altering my course to starboard".
- (b) Two short blasts to mean "I am altering my course to port".
- (c) Three short blasts to mean "My engines are going astern".

37. Whenever a power-driven vessel which, under these Regulations is to keep her course and speed, is in sight of another vessel and is in doubt whether sufficient action is being taken by the other vessel to avert collision, she may indicate such doubt by giving at least five short and rapid blasts on the whistle.

38. Nothing in these Regulations shall exonerate any vessel, or the owner, master or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper look-out, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

39. Nothing in these Regulations shall interfere with the operation of any special rules, duly made by any competent authority, as to navigation in any lock, or in the immediate vicinity of any lock or bridge, on the River Murray or any of its tributaries.

*Distress Signals*

40. When a vessel or seaplane on the water is in distress and requires assistance from other vessels or from the shore, the following shall be the signals to be used or displayed by her, either together or separately namely:—

- (a) A gun or other explosive signal fired at intervals of about a minute.
- (b) A continuous sounding with any fog-signalling apparatus.
- (c) Rockets or shells, throwing red stars fired one at a time at short intervals.
- (d) A signal made by lamp or by any other signalling method consisting of the group S.O.S. *i.e.* ... - - - ... in Morse Code.
- (e) A signal sent by radiotelephony consisting of the word "MAYDAY" spoken three times.
- (f) Flames on the vessel (as from a burning tar barrel, oil barrel), etc.
- (g) A smoke signal giving off a volume of orange-coloured smoke.
- (h) Slowly and repeatedly raising and lowering arms outstretched to each side.

*Fishing Nets and Set Lines*

41. (1) Whenever nets, drum nets, yabbie pots or set lines are used in waters to which these regulations apply they shall be marked as follows:—

- (a) Every net and set line shall be marked at one extremity by two black buoys and at the other extremity by a buoy super-imposed by a staff not less than 46 centimetres in length carrying a triangular flag and the colour of such buoy and flag shall be yellow when the net or set line is placed at or close to the surface and green when the net or set line is placed at a clear depth beneath the surface as provided in sub-regulation (2) of this regulation.

- (b) When the net or set line referred to in this sub-regulation exceeds 91 metres in length, intermediate red buoys shall be placed at intervals of 46 metres along the top of the net or set line, except that when such net or set line is placed at a clear depth below the surface as provided in sub-regulation (2) of this regulation the intermediate buoys shall not be so placed.
- (c) Except as provided in sub-regulation (2) of this regulation drum nets and the lines of yabbie pots shall be marked by a single white buoy and in the case of a drum net such buoy shall be attached to that wing of the drum net which lies furthest from the river bank.

(2) Nets, drum nets, set lines or yabbie pots shall not be placed in channels that are marked by navigational aids or in positions where they may interfere with normal navigation except that:—

- (a) Yabbie pots may be placed in such channels or positions subject to the following conditions:—
  - (i) They shall be placed at a clear depth beneath the surface of not less than 3 metres upstream of Lake Alexandrina and otherwise at a clear depth beneath the surface of not less than 1.7 metres in Lakes Alexandrina and Albert and all streams and waterways contiguous thereto.
  - (ii) That when placed in groups they shall be attached to each other and one of the pots shall be attached by a line (kept at all times at a clear depth beneath the surface greater than that of the pots) to an anchor placed outside the marked channel or where it does not interfere with normal navigation, such anchor being marked by a white buoy carrying the owner's distinguishing marks.
  - (iii) In the case of a single pot, the requirement of a line and buoyed anchor will be the same as for pots under subparagraph (ii) of this sub-regulation.
- (b) Nets and set lines may be placed in such channels or positions in Lakes Alexandrina and Albert and all streams and waterways contiguous thereto provided they are placed at a clear depth beneath the surface of not less than 1.7 metres.

(3) Buoys referred to in this regulation shall be made of plastic, rubber, wood or other material approved by the Director of Marine and Harbors; they shall be of globular or similar shape and not less than 4 000 cubic centimetres each in volume.

**APPENDIX**

## Legislative History

Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 7 of The Public General Acts of South Australia 1837-1975 at page 1.

Section 4:	amended by 17, 1991, Sched.
Section 5:	definition of "floating establishment" inserted by 19, 1989, s. 3
Section 14:	redesignated as s. 14(1) by 19, 1989, s. 4
Section 14(2) - (6):	inserted by 19, 1989, s. 4
Heading preceding section 26a:	substituted by 17, 1991, Sched.
Section 26a(1):	substituted by 17, 1991, Sched.
Section 26a(2):	amended by 17, 1991, s. 3(a), Sched.
Section 26a(2a):	inserted by 17, 1991, s. 3(b)
Section 26a(5):	amended by 17, 1991, Sched.
Section 26c(1):	substituted by 17, 1991, s. 4
Section 26c(1a):	inserted by 17, 1991, s. 4
Section 26c(2):	amended by 17, 1991, Sched.
Section 26e(1):	amended by 17, 1991, Sched.
Section 63(2):	amended by 55, 1976, s. 3
Section 67f:	repealed by 55, 1976, s. 4
Section 67g(1):	amended by 55, 1976, s. 5
Section 67h:	amended by 55, 1976, s. 6
	Division XC of Part IV comprising ss. 67i and 67j and heading inserted by 19, 1989, s. 5
Section 110(3):	substituted by 55, 1976, s. 7
Section 110(3a) and (3b):	inserted by 55, 1976, s. 7
	Part VA comprising ss. 125a - 125n and headings inserted by 34, 1987, s. 4; repealed by 59, 1991, s. 25 (This Part was repealed before it was brought into operation)
Section 145:	inserted by 55, 1976, s. 8