

QUEENSLAND**MARINE SAFETY BILL 1994****EXPLANATORY NOTE**

The Marine Safety Bill has been drafted consistent with current legislative drafting practice and in modern language. As a consequence particular sections, clauses and sub-clauses require little or no specific further explanation and in these Explanatory Notes those sections, clauses and sub-clauses may be repeated or summarised in general terms only. There are several examples throughout the Act which are specifically referred to in the Explanatory Notes.

GENERAL OUTLINE**1. Objectives**

The objectives of the Bill are to establish a regime which will regulate the maritime industry to ensure marine safety while at the same time increase the effectiveness and efficiency of the maritime industry and its administration in Queensland.

The Bill differs significantly from the current legislation, which it will replace, in that it provides for greater self-regulation by the industry and its users and places the principal onus for safety on the designers, owners, operators and masters of ships, boats or other vessels. The Bill correspondingly places accountability provisions and obligations on the administration to ensure that the needs of the industry and its users are met within an appropriate balance between safety and cost.

The move to greater self-regulation in the maritime industry with the focus of responsibility for safety being primarily that of industry and users is one of the major innovations of the Bill. This change will be achieved through provisions which allow for the accreditation of commercial vessel

designers, builders and marine surveyors who will have a general safety obligation to ensure, in their respective areas, that commercial vessels are safe.

General safety obligations will also extend to the owners, operators, masters and crew of all ships, boats or other vessels. To assist them in meeting their general safety obligations the administration will be required to develop standards. In the short term, the Bill gives industry participants a choice about whether they adopt self-regulation or continue to be regulated by Government. For example, to establish compliance with ship construction requirements, participants can choose to rely on a certificate of compliance issued by an appropriately accredited person (the self regulated method) or instead continue to have a ship surveyed annually (the prescriptive method). The inclusion of this provision is justified on the basis that some industry participants envisage having difficulties adjusting quickly to self-regulation. It is anticipated, however, that in time almost all industry participants will have adopted the self-regulatory approach. Compliance with a standard will provide evidence of fulfilling the general safety obligation in relation to the matter covered by the standard.

The standards will deal with matters about ships, boats or other vessels including, for example, their design, construction, cargo handling, crewing and operation.

The present levels of detailed government supervision, through annual survey inspections of commercial vessels, will be replaced by a random compliance monitoring system, undertaken by shipping inspectors who have the appropriate qualifications and skills to perform the monitoring. This approach will encourage industry development and increased efficiency by allowing the industry freedom to exercise initiative and utilise technological change, putting Queensland's maritime industry in the forefront of vessel design and construction in Australia.

Another major innovation in the Bill is the establishment of a Maritime Industry Consultative Council to provide for a continuing formal consultative process and the provision of information and advice to the Minister on any matter concerning marine safety. The Council may give advice on its own initiative or after having considered a matter referred to it by the Minister.

The Bill also provides for the establishment of a board of inquiry to investigate and inquire into the circumstances and probable causes of

marine incidents and accidents, reporting its findings to the Minister.

The Bill will also provide for legislative compatibility with Commonwealth legislation which also affects the operation of certain types of ships and voyages in Queensland waters.

2. Reasons for the Bill

This Bill will replace the Queensland Marine Act 1958.

The existing legislation has a long history and its complex structure reflects a system of administration and a prescriptive regulatory policy which does not accord with current policy objectives.

The regulatory scheme of the Act relies on detailed inspection and licensing requirements, but administration of those requirements is clouded by significant doubts about the legality of much that has to be done to ensure the Act is workable in practice.

While overcoming the deficiencies of the current legislation, the Bill will provide Queensland with maritime safety legislation which will achieve an appropriate balance between regulating safety within the industry and encouraging the development of the effectiveness and efficiency of the Queensland maritime industry.

3. Estimated Cost of Government Implementation

In the short term, while implementation and monitoring systems are put into place, fees to industry and users will remain the same. In the medium to long term fees will reduce through greater industry independence and increased productivity within the administration. For those who choose to function under the increased self-regulation options the Act offers benefits from decreased government fees and charges. Those who prefer may continue under existing arrangements however they will face higher charges to offset the additional costs to government. There will be medium and long term benefits and savings to both the Department and industry/users progressively over a period following full implementation of the Act.

4. Consultation

Extensive consultation with all sections of the marine industry and boating public took place in the preparation of the report of the Review of the Marine Board and Maritime Safety Administration in Queensland.

Consultation has continued during drafting of the Bill, and the Bill proposes a Maritime Industry Consultative Council, to establish a continuing consultative process between Government, the Department and participants in the industry.

Marine authorities of the Commonwealth and other states will be informed through the Australian Transport Council of the proposals which may impact on uniformity.

The Maritime Law Association of Australia and New Zealand, Queensland Branch, has reviewed the Bill and offered comments.

5. NOTES ON PROVISIONS

PART 1—PRELIMINARY

This part sets out the short title of the Bill, and provides for its commencement date.

It also describes the objects of the Act and how this will be achieved by imposing general safety obligations to ensure marine safety. It provides for standards to be prepared and made by regulation against which the discharge of an obligation can be measured. The part also provides for a Maritime Industry Consultative Council to be established.

It also provides definitions and meanings for certain words and phrases used in the Bill.

Division 1—Introductory

Section 1 states the short title of the Act.

Section 2 provides for the commencement of the Act.

Division 2—Object of Act

Section 3 provides that the object of the Act is to achieve an appropriate balance between regulating the maritime industry for safety and enabling the development of effectiveness and efficiency of the industry in Queensland. The section informs that the objective is to be achieved mainly by imposing general safety obligations to ensure seaworthiness and other aspects of marine safety and allowing a general safety obligation to be discharged in different ways. It also provides ways of achieving objects and refers to the establishment of a Maritime Industry Consultative Council as a representative advisory body.

Division 3—Interpretation and basic concepts

Section 4 inserts the definitions terms used in the Act

Section 5 defines the meaning of “certificate of compliance”, how it is issued and what it may contain and deal with.

Section 6 under the heading of the meaning of ship “connected with Queensland” describes when a ship is “connected with Queensland”.

Section 7 defines the meaning of “master” and that the master of a ship is the person having command or charge of the ship. The section defines that a pilot of a ship is not the master.

Section 8 in giving a meaning of “operates” a ship the section defines when the “owner” of a ship “operates” it.

Section 9 defines the meaning of “owner” of a ship and sets out three examples which are:-

Example 1—

If a ship's owner lives outside Queensland, and the owner appoints an agent in Queensland to exercise the owner's powers and operate the ship, the agent is an owner of the ship.

Example 2 -

If, under charter, a person has exclusive possession of a ship and may operate the ship, the person is the owner of the ship.

Example 3 -

If a bank becomes a mortgagee in possession of a ship and operates it, the bank is an owner of the ship.

Section 10 defines, with examples, the meaning of “ship”. A ship includes a boat or other vessel and the particular expressions “ship”, “boat” and “vessel” are considered synonymous and may be used as appropriate to the aims and circumstances of a particular matter.

Division 4—Application of Act

Section 11 sets out the ships to which the Act applies.

Section 12 explains, with an example, that the Act does not apply to a ship to the extent that the Commonwealth Act applies to the ship and circumstances where this Act takes precedence over the Commonwealth Act.

Section 13 defines circumstances where the Act does not apply to an aid to navigation.

Section 14 excludes the application of the Act to a marine incident required to be reported under the Commonwealth Navigation Act without limiting the relationship between the two Acts.

Section 15 sets out the provisions of the Act to which the general application of the Act to ships is subject.

Section 16 excludes the application of the Act to a defence ship but provides for liability for pilotage fees where the services of a pilot are used.

Division 5—Operation of Act

Section 17 provides for the Act to bind the State and, so far as it is within the legislative powers of the Queensland Parliament, the Commonwealth, the other States and the Territories.

Section 18 provides that a regulation may exempt, conditionally or otherwise, a person or a ship from the Act.

Section 19 requires the reporting of the operation of the Act in the annual report of the department and defines what the report must include.

PART 2—HOW TO UNDERSTAND THIS ACT

This is an explanatory Part which provides answers to probable questions about the application of the Act. It describes the ships to which the Act applies; explains how a balance between safety and cost can be achieved; describes the system to be established of general safety obligations; explains what a standard is and the implications of not complying with a standard. It explains the validity of a certificate of survey and the mechanisms which will ensure compliance with the Act.

The Part also explains how safety is to be achieved in Queensland ports and harbours; how the chief executive, harbour masters and shipping inspectors are accountable and how some matters will be dealt with by regulation, including matters which are not referred to in detail in the Act.

Section 20 explains that the power to legislate for ships in Queensland is shared between the Commonwealth and the State and sets out in footnotes examples of the legislative relationship between the Commonwealth and Queensland.

Section 21 explains that the Act establishes a system to achieve a balance between safety and cost and affirms that the Act is about marine safety.

Section 22 explains that the system established by the Act is one which imposes general safety obligations on ship designers and builders, marine surveyors, ship owners and operators and ship masters and crew. The section explains that the general safety obligations are generally intended to be performance based to allow people to find more cost efficient ways of achieving safety. The section also explains that people may choose to rely on a certificate of compliance or choose to have a ship surveyed to satisfy the safety obligations.

Section 23 announces that a standard will assist people to understand the general safety obligations and explains what a standard under the Act may deal with and how a standard is prepared by the chief executive and approved by the Governor in Council by regulation. The section also outlines the consultative process which the chief executive must go through to ensure industry and user requirements and interests are satisfied before a standard may be approved.

Section 24 explains that non-compliance by a person with a standard may provide evidence that the person has not complied with a general safety obligation and gives a clear example.

Section 25 explains that a certificate of compliance or a certificate of survey may be used to establish compliance with a general safety obligation.

Section 26 explains that there are various mechanisms to ensure compliance with the Act. These include: the licensing or accreditation of certain key groups of people, facilitating their regulation; the need to register certain ships; the appointment of shipping inspectors with the power to monitor ships to see if they are safe and with other powers to ensure compliance with the Act; the investigation by a shipping inspector and possibly a board of inquiry into any serious marine incident; the power of the chief executive to suspend or cancel the licence or accreditation of a person and the provision of substantial maximum penalties for contravention of the Act.

Section 27 explains that some Queensland harbours and ports need to be controlled to ensure safety and the effectiveness and efficiency of the Queensland maritime industry and to protect structures near, in or over water. The section also points out that the Act allows harbours and ports to be declared as “pilotage areas” wherein certain ships, on entering, leaving or moving within the area must use a pilot licensed under the regulations. Control is also achieved by appointing harbour masters with powers to give directions about ships and their movements.

Section 28 discusses how harbour masters and shipping inspectors are accountable, pointing out that they are accountable to the chief executive under the Public Service Management and Employment Act 1988 and that they must comply with Part 6 and Part 12 of this Act respectively. Harbour masters and shipping inspectors are also subject to controls under other laws, including, for example, the Judicial Review Act 1991.

Section 29 explains the reporting accountability of the chief executive.

Section 30 explains that the Act allows for various matters to be provided for by regulation or standard, whether or not the matters are specifically referred to in the Act and an example is given.

Section 31 provides for this Part not to limit, but possibly to extend, the meaning of a provision of the Act and gives an example.

PART 3—GENERAL SAFETY OBLIGATIONS AND STANDARDS

This part sets out the general safety obligations of the designers and builders of vessels, marine surveyors and owners and masters of ships and obligations of owners and masters about the condition of ships. It explains the relationship of a standard to the general safety obligations, and also sets out the ways in which person can comply with a standard. It establishes the process for the making of appropriate standards by the chief executive, including the contents of standards, the process of consultation and the approval of standards by the Governor in Council.

Division 1—General safety obligation

Section 32 relates to one of the fundamental principles of the Act, namely the general safety obligation relating to commercial vessel design, construction and maintenance and places an obligation on accredited ship designers, builders and marine surveyors to ensure correctness in the details of a declaration issued by them relating to the issue of a certificate of compliance and prescribes penalties for a breach of this obligation.

Section 33 relates to another fundamental principle, namely the general safety obligation on all persons who operate vessels by providing an obligation on ship owners and masters in the safe operation of a ship. Penalty provisions are prescribed.

Section 34 defines the relationship of the section to a certificate of compliance, general safety provisions and regulatory provisions and the application of the section. The section also provides that a court may decide whether or not a general safety provision has been complied with.

Section 35 obliges the owner and master of a ship to operate the ship safely. Penalty provisions are prescribed for failure to comply. The section also provides qualified provisions that a ship is operated unsafely if its operation causes a marine incident and defines “lawful damage” with reference to section 469 of the Criminal Code.

Section 36 prohibits the operation of a ship by its owner or master if it is not provided with prescribed safety equipment.

Division 2—Standards

Section 37 empowers the chief executive to make a standard for the purposes of this Act and that the standard is not effective until it is approved by regulation.

Section 38 provides that a standard may provide for any matter about which a regulation may be made however a standard may not prescribe penalties offences, fees or charges.

Section 39 places obligations on the chief executive in a proposal to prepare a standard to ensure appropriate public notice and to inform the Maritime Industry Consultative Council of the draft standard and ask its advice.

Section 40 places obligations on the chief executive in the preparation of a draft standard and requires the chief executive to consider advice given by the Maritime Industry Consultative Council as well as public submissions properly made. This obligation is to ensure draft standards are both necessary to ensure marine safety and that they do not unnecessarily inhibit or restrict efficiency in the industry. The chief executive must also ensure that the draft standard sets out its purpose and takes into account national and international benchmarks and best practices.

Section 41 Places an obligation on the chief executive to prepare a notice of draft standard when a standard has been prepared and give public notice. This obligation is intended to ensure an opportunity for the widest industry and user input into the standard.

Section 42 places obligations on the chief executive in the making of a standard and requires the chief executive to consider advice given by the Maritime Industry Consultative Council as well as public submissions.

Section 43 allows the chief executive to make an interim standard in an emergent situation only but limits its validity to 6 months after its commencement.

Section 44 empowers the Governor in Council to approve, by regulation, a standard made by the chief executive.

Section 45 this section resolves the possibility of an inconsistency arising between a regulation and a standard. It provides for a regulation to prevail over a standard to any extent where there is inconsistency between them.

Section 46 requires the chief executive to review each standard not later than seven years after its approval and sets out the revision procedures to be followed.

PART 4—REGISTRATION, LICENSING, PERMITS AND ACCREDITATION

This Part describes the obligations of owners and masters of ships connected with Queensland to register ships; the requirements for persons to be licensed to operate a ship in Queensland waters; and the accreditation

requirements of ship designers, builders and marine surveyors. The Part also sets out the procedures for the variation, renewal, transfer, cancellation or suspension of registrations, licences permits or accreditations.

Division 1—Application of Part

Section 47 provides for this Part to apply only to ships which are prescribed by regulation for the purposes of this Part.

Division 2—Registration of ships

Section 48 establishes that a regulation may require the owner of a ship to register it.

Section 49 obliges an owner to ensure that a ship which requires registration does not operate while it is unregistered and it requires an owner to comply with any conditions of the registration.

Section 50 provides for the granting or refusal of registration only as prescribed by regulation.

Section 51 empowers the chief executive to cancel or suspend the registration of a ship without application by the owner only by fair procedures and as prescribed by regulation.

Division 3—Licensing of masters, crew members and pilots

Section 52 provides for a regulation to require a person to hold a licence to be the master or crew member of a ship or to have the conduct of a ship as its pilot.

Section 53 prohibits a person who is required by regulation to be licensed to be the master, a crew member or the pilot of a ship and who does not have such a licence from operating the ship in these capacities and prescribes penalties.

Section 54 provides that the grant, amendment or renewal of a licence may be applied for and granted or refused as prescribed by regulation. The section also provides that examinations and the granting of licences may be by the chief executive or another entity.

Section 55 provides for a regulation to enable the chief executive to cancel, suspend or vary a licence without application by the holder of the licence only by fair procedures as prescribed by regulation.

Division 4—Accreditation of ship designers, ship builders and marine surveyors

Section 56 explains that the purpose of the system of accreditation set out in this Division is to ensure that ships are designed, built and surveyed so that safety is maintained.

Section 57 provides that a regulation may provide for the accreditation of a person to endorse the design of a ship or to construct or survey a ship.

Section 58 provides that a certificate of compliance must not be issued by a person unless that person is an accredited person.

Section 59 prohibits a person from constructing a ship, or part of a ship, unless the design was endorsed by a ship designer accredited for that type of ship and the person is accredited as a ship builder for that type of ship or part of the ship. The section however also provides that a person who is not appropriately accredited may build a ship if the design was endorsed by a ship designer accredited for that type of ship and the ship is inspected by a marine surveyor accredited for that type of ship at stages of construction which may be prescribed by regulations.

Section 60 restricts the issue of a certificate of compliance relating to the survey of a ship to an accredited marine surveyor.

Section 61 provides for granting, amendment or renewal of an accreditation as prescribed by regulation.

Section 62 provides for cancellation or suspension of an accreditation without application only by fair procedures as prescribed by regulation.

PART 5—PILOTAGE AREAS

This Part provides for the declaration of areas of Queensland waters as pilotage areas, and the closure of all or part of pilotage areas, by regulation.

Pilotage areas are designated areas in which a harbour master controls navigation for safety purposes and in which the service of a pilot may be required for ships to which Part 7 of this Act applies.

The Part also sets out the liabilities of owners and masters of ships in pilotage areas; and the powers of harbour masters to authorise ship movement in part of a pilotage area which has been closed.

Section 63 provides that a regulation may declare a pilotage area or close all or part of a pilotage area.

Section 64 empowers a harbour master to permit operation of a ship in a pilotage area closed to navigation by regulation. This section is intended to facilitate marine safety in a pilotage area in emergent circumstances.

Section 65 prohibits a person from causing a ship to enter into, leave or move in a part of a pilotage area closed by regulation unless the person has reasonable excuse.

PART 6—HARBOUR MASTERS

This Part sets out the method of appointment of a harbour master, the requirements of the person to be so appointed, the limitation on the powers of a harbour master and the ending of the appointment.

The Part also details the requirement for harbour masters to be issued with and use identity cards and sets out penalties for the impersonation or obstruction of a harbour master.

Division 2 sets out the powers, including delegation powers, of a harbour master and the acceptance of liability by the State for certain acts by harbour masters. It also sets out the requirement of harbour masters to give notice of any damage they may cause during the exercise of a power as well as setting out the unusual powers of harbour masters, including their power to give directions to certain persons or to carry out these directions in certain circumstances.

Division 1—General

Section 66 empowers the chief executive to appoint an officer or employee of the department as a harbour master and provides that a person appointed is also a shipping inspector without further appointment.

Section 67 requires the chief executive to be satisfied that a person to be appointed as a harbour master has the necessary expertise or experience or has satisfactorily completed training approved by the chief executive.

Section 68 enables the powers of a harbour master to be limited by regulation or by a condition of employment or by notice of the chief executive given to the harbour master.

Section 69 places an obligation on a harbour master to consult within reasonable extent with port authorities on any power exercised by the harbour master that may affect the functions of a port authority.

Section 70 provides for the appointment of a harbour master to end if the person is no longer an officer of the department.

Section 71 provides for the delegation of a harbour masters powers under this Act.

Section 72 requires the chief executive to issue an identity card to each harbour master and sets out the particulars to be included in the card. The section also requires a delegate of the harbour masters powers to be issued with an identity card. The section also requires the return of the card upon ceasing to be a harbour master or a harbour master's delegate,

Section 73 requires a harbour master, or a delegate of a harbour master to display the identity card where possible when exercising a power.

Section 74 provides a protection from civil liability to a harbour master for a act or omission done honestly and without negligence.

Section 75 requires a harbour master to give written notice of any damage to anything which occurs in the exercise of a power and the manner in which notice must be given.

Section 76 provides an offence for impersonating a harbour master.

Section 77 provides an offence for obstructing a harbour master in the exercise of a power.

Division 2—Powers of harbour masters

Section 78 provides for a harbour master to give directions under this Division only if the harbour master considers it necessary to do so to ensure safety. The Section also sets out the procedures to be followed in the giving of directions.

Section 79 empowers the Minister to ask the chief executive to require a harbour master to give a particular direction about a matter where the Minister is satisfied that exceptional circumstances exist to justify intervention in the public interest. The section specifies actions to be taken by the Minister to notify directions given under this section.

Section 80 provides that a harbour master may make certain directions about the operation of a ship and sets out examples and includes penalty provisions which apply for contravention without reasonable excuse.

Section 81 empowers the harbour master to direct a person in charge of a place in or adjacent to a pilotage area to allow a ship to be berthed to or moved from the place and to allow access to and from the ship and provides a penalty for a person who does not comply without a reasonable excuse.

Section 82 empowers the harbour master to direct a person undertaking construction work in or near a pilotage area to light or mark the works in a way specified by the harbour master. The section further provides that the direction may specify when the action is to be taken and further provides a penalty for a person who fails to comply with the direction unless they have a reasonable excuse for not doing so.

Section 83 empowers the harbour master to direct a person to remove an obstruction to navigation or anything that may cause an obstruction to navigation in or near a pilotage area. A person who has been so directed must comply unless he or she has a reasonable excuse for not doing so.

Section 84 provides that a harbour master may direct a person to put out, remove or screen certain lights, signs, radio signals etc in or near a pilotage area if the harbour master believes on reasonable grounds that the light, sign or signal may be mistaken for an aid to navigation or otherwise affect the safe navigation of ships. The direction may specify how and when.

Section 85 empowers a harbour master, to the extent necessary to ensure safety to carry out a direction. The section empowers the harbour master to

board a ship and operate it (including moving it) and enter or remain on a place in or abutting the pilotage area in order to board a ship and berth or move it; and put out, remove or screen a light or sign, and remove any buoy, mooring or other thing that is causing or may cause an obstruction to navigation and allows certain persons to recover damages from the owner or master of the moved ship for any injury or loss sustained.

Section 86 applies when a harbour master incurs an expense as a result of exercising a power under Section 85, like boarding a ship, entering a wharf, etc. and enables the State to recover from the owner of the ship in an appropriate court any expense incurred.

Section 87 empowers a harbour master to close all or part of a pilotage area for a limited period if he or she is satisfied that the closure is urgently required for a limited period to ensure safety. The harbour master must revoke the closure when it is considered the urgency no longer exists.

Section 88 provides that a harbour master who has closed all or part of a pilotage area may permit a person to cause a ship to enter or leave from the part or to move it within the part or to anchor, moor or place the ship in the part.

Section 89 provides penalties for failing to comply with closure of a pilotage area.

PART 7—PILOTS

This Part provides for the use of the services of pilots in pilotage areas and enables regulations to be made setting out the responsibility of owners and masters in relation to pilot services. It also provides immunity for pilots and their employers from certain actions and renders owners or masters liable for certain matters when a ship is under pilotage. The Part also provides a penalty for impersonating a pilot.

Section 90 makes this Part applicable only to ships prescribed by regulation to be ships to which the Part applies.

Section 91 makes it an offence for a person to move a ship in a pilotage area without using the services of a pilot and prescribes a penalty formula.

Section 92 provides for regulations to be made about pilotage.

Section 93 provides protection from civil liability for a pilot and the pilot's general employer while not affecting the responsibility of the employer to ensure the quality and competence of the pilot or the civil liability of the ship's owner and master.

Section 94 provides that a ship's master retains authority over the ship and is not relieved of responsibility because the ship is under pilotage. The section provides for liability to remain with the owner and master of a ship.

Section 95 makes it an offence to pretend to be a pilot.

PART 8—AIDS TO NAVIGATION

This Part defines what an “aid to navigation” is and outlines the powers of the chief executive to set up an aid to navigation. The Part also provides penalties for unlawful interference with an aid to navigation and for trespassing on aids such as lighthouses.

Section 96 defines the meaning of an aid to navigation and gives a number of examples. An aid to navigation is a device or thing which is not on board a ship such as a satellite navigation system, ships radar or ship positioning equipment.

Section 97 empowers the chief executive to set up an aid to navigation or to enter into agreements to set such aids up.

Section 98 prohibits a person from unlawfully interfering with an aid to navigation and provides penalties. The section defines how a person unlawfully interferes with an aid to navigation.

Section 99 prohibits a person from mooring a ship to an aid to navigation, or climbing on an aid, unless the person has a reasonable excuse for so doing. If the aid is a lighthouse, the section prohibits a person from entering it or the enclosed area surrounding it unless the person has a reasonable excuse for doing so.

PART 9—MARITIME INDUSTRY CONSULTATIVE COUNCIL

A Maritime Industry Consultative Council, which is established under this Part, will include regional representation. The group will provide a formal mechanism for continuing industry input into the development of maritime safety policy.

The Part also sets out the functions of the Council, the method and term of appointment of its members, the requirements for meetings and disclosure of interests by members.

Division 1—Establishment of Council

Section 100 provides for the establishment of a Maritime Industry Consultative Council.

Section 101 provides that the functions of the Council are to give advice to the Minister about marine safety matters and to consider and advise on proposals to prepare draft standards and on the draft standards themselves. The section also provides for the Council to provide advice on its own initiative or after considering a matter referred to it at the request of the Minister.

Section 102 provides for the Minister to appoint the members of the Council and its chairperson. The chief executive or the nominee of the chief executive is a member of the Council without appointment.

Division 2—Meetings of Council

Section 103 provides for the times and places of meetings and for the calling of a meeting by the chairperson or the Minister.

Section 104 provides for the chairperson, or in his or her absence, a member to preside over meeting. The chief executive or nominee may not preside. This section is intended to ensure separation between industry and administration in advice on marine safety matters.

Section 105 sets out the requirements for a quorum.

Section 106 provides for the Council to hold meetings as it considers appropriate and allows members to participate in meetings by telephone, closed circuit television or other means of communication.

Section 107 makes it a requirement if a member of the Council has a direct or indirect financial interest in a matter to be considered by the Council and the interest could conflict with the proper performance of the member's duties to disclose the nature of the interest. The disclosure is to be recorded in the Council's minutes and in any advice to the Minister.

Division 3—Provisions about appointed members

Section 108 applies the Division to a member of the Council other than the chief executive or the nominee of the chief executive.

Section 109 provides for appointment of a member for a period not longer than 2 years. A person who has completed a 2 year term of appointment may be further appointed.

Section 110 provides that a member is entitled to be paid an allowance and that the member holds office as determined by the Minister.

Section 111 provides that a member must give written notice of resignation to the Minister.

Section 112 provides that the Minister may terminate a member's appointment by signed notice.

Division 4—Miscellaneous

Section 113 requires the chief executive to provide administrative support to the Council to enable it to perform its function.

Section 114 requires the Council to provide the Minister with a report on its operations each year and the Minister to table the report in the Legislative Assembly.

PART 10—MARINE INCIDENT

This Part provides a definition of a “marine incident” and establishes the duties of a master to assist in the event of a marine incident involving two or more ships. It establishes the requirements for reporting marine incidents and the investigation process which follows. The chief executive is required to report twice yearly to the Minister on all marine incidents, and the Minister is to table the reports.

The Part requires masters to report dangers to navigation of which they become aware, and outlines obligations to render assistance by a master who believes that persons are in distress on the sea.

Section 115 defines what constitutes a marine accident or incident and provides for an event declared by regulation not to be a “marine incident”.

Section 116 applies to a marine incident involving 2 or more ships and requires the master of each ship to do certain things. The section also provides penalties for contravention.

Section 117 requires the owner of a ship which is lost, presumed lost or abandoned to report the incident to a shipping inspector at the earliest opportunity but within 48 hours unless the owner has a reasonable excuse. The section provides that a master of a ship must report certain marine incidents unless the master has reasonable excuse for not doing so.

Section 118 requires a shipping inspector to investigate a marine incident if the chief executive directs and to report the results of the investigation to the chief executive. The section provides further that the chief executive may recommend to the Minister the establishment of a board of inquiry into the incident. The section also provides powers, under regulations, for the chief executive to cancel, suspend or amend an approval regarding a ship or a person involved in a marine incident.

Section 119 requires the chief executive to prepare a report about all marine incidents twice each year and requires that each report be given to the Minister within two months of the end of the period to which it relates. The section further provides that the Minister may appoint a person to review the report and provide any appropriate recommendations.

Section 120 requires the Minister to table in the Legislative Assembly within seven sitting days of its receipt a report given under section 119 and

also any recommendations made.

Section 121 requires the master of a ship who becomes aware of a possible danger to navigation to report the dangers. Examples of dangers to navigation include an abandoned ship; a damaged aid to navigation; a tropical storm; a cyclone or similar weather conditions. The section defines methods of reporting and provides penalties for failure to report.

Section 122 places obligations on the master of a ship to give help to persons on or from a ship or aircraft in distress at sea and provides penalties for failure to comply with the obligations.

PART 11—BOARDS OF INQUIRY

This Part provides for the establishment by the Minister of a board of inquiry about a marine incident. The Part establishes the purpose of a board of inquiry and the conditions of appointment of its members. It requires the chief executive to provide staff and arrange financial matters for a board. The Part also enables a shipping inspector whose services have been made available to a board of inquiry to exercise the powers of a shipping inspector. It also establishes the procedure of an inquiry, including the notices to be given to certain persons.

The Part also provides for an inquiry to be open to the public however under certain circumstances the inquiry may be held in private. The Part also establishes the degree of privilege for members of the board and those appearing before an inquiry. It also requires that records be kept of proceedings, and for procedural fairness and representation for owners and masters. The Part defines the powers and responsibilities of a board of inquiry; provides for allowances to witnesses, protection from self-incrimination and for contempt of the board. It also requires a board of inquiry to report the possible disclosure of any indictable offence which may occur in its sittings.

Division 1—General

Section 123 provides that the Minister may establish or re-establish a board of inquiry and the prescribes the manner in which the establishment

is to be done.

Section 124 requires a board of inquiry to inquire into the circumstances and possible causes of a marine incident and to provide a written report to the Minister on its findings and recommendations or other relevant matters. The section also requires the Minister to table the report in the Legislative Assembly. However, if the board considers certain matters should not be made public the board may report separately on the matter to the Minister who need not table a separate report.

Section 125 provides for members of the board to be paid fees and allowances that are decided by the Minister and for members to hold office on terms not provided for by this Act that may be decided by the Minister.

Section 126 requires the chief executive to consult with the chairperson of the board and arrange for the services of officers and employees of the department, shipping inspectors, and other persons to be made available to the board for the conduct of the inquiry and arrange for financial matters relevant to the board.

Section 127 applies to a shipping inspector where services have been made available to the inquiry and provides for him or her to exercise the shipping inspector's power under Part 10 of the Act

Division 2—Conduct of inquiry

Section 128 requires the board in the conduct of its inquiry to observe natural justice and to act quickly and with as little formality and technicality as is consistent with a fair and proper consideration of the issues. The section also sets out the procedures to be followed by the board in its inquiry.

Section 129 provides that the chairperson must give written notice of an inquiry, to the owner and master of the ship and to other interested persons.

Section 130 provides that an inquiry must be held in public other than in special circumstances.

Section 131 provides protection to members of a board of inquiry, legal representatives and to persons appearing before a board of inquiry.

Section 132 requires the board of inquiry to keep a record of its proceedings.

Section 133. provides for procedural fairness and representation in the conduct of a board of inquiry.

Section 134. provides powers for a board conducting an inquiry including powers to adjourn the inquiry.

Section 135. provides that the chairperson of a board of inquiry may by written notice require a person to attend an inquiry and the section also provides for a witness to receive witness fees as set by regulation.

Section 136. provides that a document or thing produced at an inquiry may be inspected and copied and photographs or extracts taken. The section places requirements on the board holding the inquiry to make documents or things available for inspection by the owner of the documents while the documents or things are being kept.

Section 137. provides that an inquiry may start or continue or make a report despite any proceedings before a court or tribunal unless a court or tribunal with the necessary jurisdiction orders otherwise.

Section 138. provides penalties for offences by witnesses.

Section 139. requires a person appearing as a witness to answer a question and protects the person from self incrimination.

Section 140. provides that a person must not knowingly give false or misleading information at an inquiry and contains a penalty provision.

Section 141. provides that a person must not knowingly give to the board of inquiry a false or misleading document and contains a penalty provision. However the penalty does not apply where the person, when giving the document, informs the board to the best of the person's knowledge how it is false, misleading or incomplete and gives the correct information.

Section 142. prohibits a person from insulting the board in an inquiry, deliberately interrupting an inquiry, creating a disturbance in or near the place where the board is conducting an inquiry or doing anything that would be a contempt of court if the board were a judge acting judicially. The section provides a penalty for breach of this section.

Section 143. provides for a board of inquiry which considers material before it discloses an indictable offence to report it and make all relevant material in the board's possession available to the appropriate authorities and the chief executive.

Section 144. provides that a change of membership of the board conducting an inquiry shall not affect the inquiry.

PART 12—SHIPPING INSPECTORS

This Part provides for the appointment of shipping inspectors who will have powers to monitor ships and marine operations and the holders of approvals and their operations to ensure compliance with the Act.

A shipping inspector may be delegated by a harbour master to act on his or her behalf. The functions of a shipping inspector will also include investigating and reporting marine incidents and carrying out any direction of a board of inquiry.

The inspector will be empowered to board a ship or boat at reasonable times for the purposes of monitoring its safe operation including stopping it while it is under way. In doing so the inspector may take possession of documents and other things and may require the owner or master to produce the ship or boat for inspection at a certain place and time.

The Part enables the inspector to enter a place in certain circumstances to monitor compliance with the Act or to apply to a Magistrate for a warrant to enter a place if there are reasonable grounds for suspecting that occupiers of the place are not complying with the Act.

Division 1—General

Section 145. defines the functions of shipping inspectors. These functions are-

- (a) to monitor ships to ensure compliance with the general safety obligations;
- (b) to monitor the holders of approvals and their business operations to ensure compliance with the Act;
- (c) investigation of marine incidents;
- (d) to assist harbour masters;

- (e) to carry out any direction of a board of inquiry;

Section 146. provides for shipping inspectors in the exercise of their powers to be subject to the direction of the chief executive.

Section 147. establishes that the powers given to a shipping inspector under this Part are additional to, and do not limit, powers conferred under other parts of this Act or as a condition of an approval. The section also establishes that the powers under this Part may be exercised in relation to ships and places specified in an approval and other premises and vehicles. Further the section provides that if a shipping inspector exercises a power provided under this Part and another provision of the Act or as a condition of approval, the power may be exercised under either or both provisions.

Section 148. provides that the powers of shipping inspectors may be limited by regulation, condition of appointment or by notice of the chief executive.

Division 2—Appointment of shipping inspectors and other matters

Section 149. provides that the chief executive may appoint as a shipping inspector an officer or employee of the public service, an officer or employee of a port authority, a police officer or other persons prescribed by regulation. The section places obligations on the chief executive to be satisfied that a person (other than a police officer) appointed is suitable.

Section 150. provides that a shipping inspector holds office on the conditions specified in the instrument of appointment.

Section 151. provides a requirement for the chief executive to issue to each shipping inspector (other than a police officer) an identity card containing a recent photograph and signature of the shipping inspector. It requires a person to return the identity card to the chief executive as soon as practicable after ceasing to be an inspector, unless the person has a reasonable excuse for not returning it. A penalty provision is included.

Section 152. requires an inspector, (other than a police officer in uniform) to display for inspection by a person his or her identity card before exercising a power in relation to a person. The section provides that an inspector may produce the identity card for inspection by the person at the first reasonable opportunity if for any reason it is not practical to produce it before exercising the power.

Section 153 provides protection from liability for a shipping inspector for an act or omission done honestly and without negligence. The section provides that if this section prevents a civil liability attaching to a shipping inspector the liability attaches instead to the State.

Division 3—Powers of shipping inspectors

*Section 154.*provides powers of entry to a place by a shipping inspector. These powers apply only with consent of the occupier of the place or when the place is open to the public or open for business or where entry is permitted by warrant.

*Section 155.*provides that a shipping inspector may apply to a Magistrate for a warrant for a place and sets out the requirements for the application. The section also sets out the information to be stated in the warrant.

*Section 156.*provides that warrant applications may be made other than in person in special or urgent circumstances. This Section defines procedural requirements to be followed both by the applicant and a Magistrate to comply with the provisions of the section.

*Section 157.*provides that a shipping inspector may board a ship, boat or other vessel at any reasonable time of day or night to find out if the Act is being complied with. The section further provides that a shipping inspector may board a vessel or enter a vehicle if the inspector suspects on reasonable grounds that the vessel or vehicle is involved in or contains evidence of the commission of an offence against the Act.

*Section 158.*provides that a shipping inspector intending to board a ship, boat or other vessel that is moving or about to move may signal a person in control of the vessel to stop or not move it. The section provides that the inspector may request help or exercise force and penalty provisions are provided.

Section 159 provides general powers of an inspector who boards a ship, boat or other vessel or enters a vehicle or place.

*Section 160.*empowers a shipping inspector who boards a ship, boat or other vessel or enters a vehicle under the provisions of this Part, to seize a thing in or on the vessel or vehicle, to seize the vessel or vehicle itself if the inspector believes on reasonable grounds that the thing, vessel or vehicle provides evidence of an offence against this Act.

Section 161 provides for the seizure of evidence believed on reasonable grounds to be evidence of the commission of an offence against the Act.

Section 162 provides that an inspector, as soon as practical after a thing is seized under this Part, must provide a receipt for it to the person from whom it was seized. The section also requires the inspector to allow a person who would be entitled to the seized thing to inspect it or, if it is a document, to take extracts from it or make copies of it. The section further provides that the seized thing may be retained by the inspector if the inspector believes on reasonable grounds that its continued retention is necessary to prevent its use in committing an offence under this Act.

Section 163 provides that a shipping inspector may by written direction direct a ship, boat or other vessel to the nearest safe anchorage or place if the inspector believes on reasonable grounds that the vessel is not safe or being operated safely and that its continued operation or use is life endangering. Penalty provisions are provided.

Section 164 applies to a ship, boat or other vessel that is subject to a direction under section 163 or that has been allowed to proceed to its next port of call before it is inspected. The section provides that a shipping inspector may board, inspect and direct that it be surveyed in a specified way. The section also provides that the inspector may order the master not to operate the vessel if the inspector is satisfied that because of the state of the ship life may be endangered. Penalty provisions are provided.

Section 165 provides for an inspector to require a person to identify themselves and give their address. The section provides penalties for a person who fails to comply unless the person has a reasonable excuse for not doing so. The section also provides that a police officer who is a shipping inspector may arrest a person without warrant in certain circumstances. The section sets out the procedures which must be followed by a police officer before exercising the power of arrest.

Section 166 provides for a shipping inspector who suspects that an offence against this Act has happened and a person may be able to give information about the offence to require a person to give information about the offence and for the inspector to warn the person that it is an offence not to comply with the requirement without reasonable excuse. Penalty provisions apply.

Section 167 provides powers for a shipping inspector to require a person to produce for inspection a document required to be kept by the person under this Act to decide if the Act is being complied with. The section provides also that the document may be copied or an extract taken and that it be returned. Penalty provisions are provided.

Division 5—Other enforcement matters

Section 168 provides an offence for a person to give false or misleading information to a shipping inspector.

Section 169 provides an offence for a person to give to a shipping inspector a document containing information which the person knows to be false, misleading or incomplete.

Section 170 provides that a person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under this Part.

Section 171 provides that a shipping inspector who in the exercise of a power under this Part damages anything must promptly give written notice of particulars of the damage.

Section 172 sets out the requirements of a shipping inspector in seeking the consent of the occupier of a place to enter the place. The section provides that a shipping inspector may ask for acknowledgment of consent and specifies what the acknowledgment must contain..

Section 173 provides direction to the Court on whether consent to enter has been given.

Section 174 makes an offence for a person to obstruct a shipping inspector in the exercise of a power without the person having a reasonable excuse for doing so and provides a penalty provision. The section also provides that the police officer who is also a shipping inspector may arrest a person without warrant and sets out the requirements to be observed by the police officer before an arrest may be made.

Section 175 makes an offence for a person to pretend to be a shipping inspector and provides a penalty provision.

PART 13—ORDERLY CONTROL OVER SHIPS

This part deals with illegally boarding, remaining alongside or failing to leave a ship. It also provides for a master to refuse admission to a person, various offences concerning passengers, unlawful interference with a ship's equipment and obstruction of a master or crew. It also provides for a master to arrest a person without warrant in certain circumstances.

Division 1—General

Section 176 provides an offence for a person to illegally board or remain alongside or hover near a ship in a pilotage area. The section provides a penalty provision.

Section 177 provides that a person must not remain on board a ship unless entitled to or authorised by the owner unless the person has reasonable excuse. An offence provision is provided.

Section 178 provides offences for a person to unlawfully interfere with a ship. The section defines how a person unlawfully interferes with a ship and gives an example of detrimental interference by a person as the person removing, altering or damaging the ships safety equipment.

Division 2—Passenger carrying ships

Section 179 provides for the application of the Division.

Section 180 provides that a ship's master, or a person authorised by a ship's master, may refuse to allow a person to board a ship under certain circumstances. The section also provides that a ship's master may require a person to leave a ship at a convenient port under certain circumstances.

Section 181 provides that a person must not board or attempt to board a ship after the ship's master, or a person authorised by the ship's master refuses to allow the person to board the ship. The section also provides that a person who is asked to leave a ship by the owner or master must leave the ship and prohibits a person from annoying or injuring, or continuing to annoy or injure, any other person on the ship after being warned not to do so by the master or a member of the crew. Penalty provisions are provided.

Section 182 provides that a person must not obstruct the master or crew of a ship in the operation of the ship or in carrying out any duty on the ship unless they have a reasonable excuse. A penalty is prescribed for non-compliance.

Section 183 empowers the master of a ship to arrest without warrant a person found committing an offence against this Part. The section provides further that a person arrested by a master be placed as soon as practicable into the custody of a police officer to be promptly brought before a Magistrates Court or released under the Bail Act 1980.

PART 14—PROCEEDINGS

This Part provides that jurisdiction under this Act does not affect jurisdiction given to a court under another Act, defines the jurisdiction for offences under this Act and its presumption; and provides for jurisdiction over ships lying off the coast. It also outlines the form of a charge against certain persons, and establishes that offences against this Act are summary unless they are expressly indictable. The processes for hearing indictable offences are outlined, as is the provision for service of documents and evidentiary provisions.

Section 184 provides that this Part does not affect the jurisdiction given to a court under another Act, and gives an example.

Section 185 provides that in proceedings for an offence under this Act, the court's jurisdiction includes the jurisdiction it would have if the offence were committed at the place where the charged person was arrested or served with a summons for the offence.

Section 186 provides that in proceedings for an offence under this Act, if a question arises whether a ship is or is not within the provision of this Act, it must be presumed that it is unless the contrary is proved.

Section 187 allows for the jurisdiction of a court to apply to a ship lying or passing off the coast abutting the district served by the court and to persons belonging to the ship.

Section 188 provides that an offence against this Act is a summary

offence unless it is expressly provided to be an indictable offence.

Section 189 sets out the proceedings for an indictable offence and that proceedings may be taken at the election of the prosecution.

Section 190 provides that a proceeding must be before a Magistrate if it is for summary conviction of a person who is on an indictable charge or for examination of a witness for a charge for an indictable offence. The section further provides however that if a proceeding for an indictable offence is brought before a justice who is not a Magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the Justices of the Peace and Commissioners for Declarations Act 1991.

Section 191 provides that a proceeding for an offence by way of summary proceedings under the Justice Act 1886 must start within one year after the commission of the offence or the time that the offence comes to the complainant's knowledge, but in any case not later than two years after the commission of the offence, whichever is the later.

Section 192 provides for the method of serving documents on the master and owner of a ship, boat or other vessel.

Section 193 provides that the section applies to a proceeding under this Act or another Act prescribed by regulation and sets out the evidentiary provisions.

Section 194 relates to conduct of company directors, employees or agents and provides ways of proceeding against corporations and individuals.

PART 15—APPEALS

The Part provides for appeals to be made about decisions on particular matters affecting a persons interests and sets out the time for making an appeal.

Section 195 provides for appeal to the District Court by a person whose interests are affected by a decision under this Act about the registration of a ship, a certificate of survey for a ship, the licensing of a person to be a master, a crew member or pilot of a ship or the accreditation of a person as a ship designer, ship builder or marine surveyor. A person whose interests

are affected by another decision under this Act may appeal to the Magistrates Court. The section identifies decisions that cannot be appealed against or a review sought. These include a decision of the Governor in Council; a decision of the Minister about the Maritime Industry Consultative Council or a board of inquiry; a decision of the chief executive about a standard; or a decision declared by regulation to be a decision that cannot be appealed against. Examples of a decision declared by regulation as a decision that cannot be appealed against are the recognition of a survey certificate issued or granted by a marine authority in another State or country or the conditions of such certificate, or conditions or requirements of a treaty, convention or international agreement or document which the State is signatory to or has adopted.

Section 196 provides that an appeal by a person against a decision must be made before the end of 28 days after a document setting out the decision was given to the person; or, if the document does not set out a statement of reasons for the decision and the person requests such a statement, within 28 days after receiving the document. The section provides further however, that the court to which the appeal against a decision lies may extend the period for making an appeal at any time.

PART 16—MISCELLANEOUS

This Part provides penalties for a person giving false or misleading documents or for a person to falsely use or display a prescribed signal of distress.

Section 197 provides that a person must not, for the purposes of this Act, give false or misleading documents to the chief executive and provides a penalty provision.

Section 198 provides that a person must not use or display a prescribed distress signal other than under a regulation and provides a penalty provision.

PART 17—REGULATIONS

This Part provides for regulations to be made for the purposes of this Act. It also sets a maximum penalty that may be prescribed by a regulation.

It provides for regulations to give effect to treaties, conventions and agreements and also provides for regulations giving effect to the Uniform Shipping Laws Code. The Part provides for regulations to be made about dangerous substances and about signals of distress. The Part also provides for regulations to be made in respect of pilotage fees, conservancy dues, etc, and for the detention of ships because money is owing. It also provides for regulations about the subject matter of standards, about aquatic events and about other specific matters.

Section 199 provides that the Governor in Council may make regulations under this Act.

Section 200 provides for the Governor in Council to make regulations about marine safety and issues affecting marine safety. Examples given include the establishment, registration and control of buoy moorings and the design, building, surveying, maintenance, equipment, crewing, and stability of vessels and handling of cargo on ships.

Section 201 provides that a regulation may be made about fees and charges payable under this Act.

Section 202 provides for a maximum penalty to be prescribed for an offence against a regulation.

Section 203 provides for a regulation to give effect to a treaty, convention or other agreement about ships. Examples of this are the Convention for the Prevention of Collisions at Sea 1972, exact resolutions and codes issued by the International Maritime Organisation. The section provides penalties.

Section 204 provides that a regulation may give effect to the Uniform Shipping Laws Code adopted from time to time by Commonwealth, State and Territory Ministers.

Section 205 provides that regulations may make provision about goods mentioned in the International Maritime Dangerous Goods Code issued by the International Maritime Organisation, including, for example, the marking and carriage of goods and the loading and unloading of goods to and from ships in a pilotage area. The section also provides that the

regulation may also make provision for the powers of harbour masters and provides penalty provisions for contravention of regulations made about dangerous substances. The section provides for a regulation about a dangerous substance that is an explosive within the meaning of the Explosives Act 1952 to be complementary to this Act.

Section 206 provides for a regulation to make provisions for the signals used by ships as distress signals, the circumstances and purposes in which the signal can be used and the circumstances in which it is to be revoked.

Section 207 provides that a regulation may make provisions for pilotage fees for the services of a pilot, conservancy dues for the provision and maintenance of aids to navigation and establish procedures for their payment and for their recovery.

Section 208 provides for the detention of ships for unpaid fees or other amounts payable for the ship. The section provides further that a regulation must provide for fair procedures for the detention of a ship, including, for example, the giving of a notice to the owner or master of the ship about the detention. The section prescribes a maximum penalty for causing a detained ship to leave the port or pilotage area where it has been detained and provides that the owner of the ship is liable for the costs, under a regulation, of detaining the ship.

Section 209 provides that a regulation may be made about the safety of vessels or persons in relation to aquatic events and activities.

Section 210 Provides that regulations may be made about other matters such as for the speed limit of ships, boats and other vessels; the use of devices to measure speed; the removal and disposal of an obstruction to navigation; the selling or disposing of a thing causing an obstruction and approving the establishment of buoy moorings.

PART 18—TRANSITIONAL PROVISIONS

This Part provides meanings and definitions of matters relating to the introduction of this Act and the repeal of previous legislation. It provides for the dissolution of the Marine Board of Queensland and the vesting of the assets of the Board, as well as the process for dealing with any pending

legal proceedings involving the Board. The Part also makes provisions for existing approvals, and the continuation of harbour masters and shipping inspectors.

It also empowers the chief executive to act on issuing approvals to holders of existing approvals and the matter of existing orders and regulations. Finally it provides for the making of transitional regulations.

Section 211 gives meanings to the terms “changeover day”, “commencement”, “former Act” and “former Board”.

Section 212 relates references to the former Act or former documents to this Act.

Section 213 provides for the dissolution of the former Marine Board of Queensland and for its members to go out of office.

Section 214 provides for the assets and liabilities of the former Marine Board of Queensland to vest in the State.

Section 215 provides that any unfinished legal proceedings by or against the former Marine Board of Queensland may be continued and finalised by or against the State.

Section 216 This section provides for approvals held under the former Act immediately prior to commencement of this Act.

Section 217 provides that a ship registered under the former Act at the time of commencement of this Act is taken to be registered under this Act.

Section 218 provides that a person who was a harbour master under the former Act at the commencement of this Act is taken as appointed as a harbour master under this Act.

Section 219 provides that a person who immediately before commencement was a shipping inspector appointed under section 14 of the former Act is to be taken as appointed as a shipping inspector under this Act.

Section 220 provides that the chief executive may issue an approval under this Act to a person who, under section 216 (existing approvals) is taken to be the holder of an approval. The section provides further that the approval need not be applied for formally, but may only authorise substantially the same matter as was previously authorised.

Section 221 provides that the chief executive may register a ship under

this Act if the ship is taken under section 217 (Registration of ship continues) to be registered under this Act. The registration need not be formally applied for and must be to the same effect as the registration under the former Act.

Section 222 applies to an order, direction, requirement or other decision of the former Board, a harbour master or shipping inspector under the former Act if its effect is not finished at the commencement and provides that the order, direction, requirement or other decision may be appealed against under this Act in the same way as if it had been made under this Act.

Section 223 provides for the regulations which were in force under the former Act immediately before the commencement to remain in force, subject to amendment or repeal by a regulation under this Act, for the purposes of this Act, and are to be read with the changes necessary to make them consistent with this Act and adapt their operations to the provisions of this Act. The section provides also that the regulations referred to in the section expire on the changeover day unless they are repealed before that.

Section 224 provides for a regulation made for the purposes of this Part, other than for the purpose of section 223 (Existing regulations) to be given retrospective effect to a day not earlier than the commencement. The section provides further that a regulation made under this section expires 6 months after the changeover day.

PART 19—REPEALS AND AMENDMENTS

Section 225 provides that the Acts mentioned in Schedule 1 are repealed. Schedule 1 lists the Acts.

Section 226 provides that an Act mentioned in Schedule 2 is amended as specified in the Schedule. Schedule 2 mentions various Acts and specifies amendments to the Acts mentioned.