



SOLOMON ISLANDS MARITIME AUTHORITY BILL 2018

(NO. 2 OF 2018)



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BILL

Entitled

**AN ACT TO ESTABLISH THE SOLOMON ISLANDS MARITIME AUTHORITY
AND FOR RELATED PURPOSES**

ENACTED BY THE NATIONAL PARLIAMENT OF SOLOMON ISLANDS.

SOLOMON ISLANDS MARITIME AUTHORITY BILL 2018

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SOLOMON ISLANDS MARITIME AUTHORITY BILL 2018

PART 1 PRELIMINARY MATTERS

1 Short title

This Act may be cited as the *Solomon Islands Maritime Authority Act 2018*.

2 Commencement

- (1) Parts 1, 2, 7 and 8 of this Act commence on the date of assent.
- (2) The remaining provisions of this Act commence on the day or days appointed by the Minister by notice in the *Gazette*.

3 Definitions

In this Act:

“Advisory Committee” means the Advisory Committee established under section 18;

“applicable maritime conventions and agreements” means the maritime conventions and agreements mentioned in section 36(1);

“applicable maritime law” means:

- (a) this Act, the *Shipping Act 1998* or any other maritime law SIMA is responsible or partly responsible for implementing; and
- (b) any subsidiary legislation made under a law mentioned in paragraph (a);

“appointed member”, of the Board, means a member of the Board mentioned in section 11(1)(c);

“authorised officer” means and of the following:

- (a) the Director;
- (b) a Deputy Director;

(c) an officer appointed under section 47;

“Board” means the governing body of SIMA mentioned in section 10(1);

“Board member” means a member of the Board mentioned in section 11(1);

“chairperson” means the chairperson of the Board appointed under the rules of the Board;

“corporate plan” means the plan adopted under section 33;

“Deputy Director” means a Deputy Director appointed under section 23;

“Director” means the Director of SIMA appointed under section 22;

“franchise operator” means a person operating a shipping service under a franchise shipping scheme;

“franchise shipping scheme” means a scheme under which the Government enters into contracts with operators to provide shipping services within Solomon Islands;

“item” includes a substance or document;

“maritime order” means a maritime order made under section 66;

“Ministry” means the Ministry responsible for the administration of this Act;

“rules of the Board” mean the rules mentioned in section 17;

“SIMA” means the Solomon Islands Maritime Authority established by section 6;

“Solomon Islands vessel” means a vessel deemed to be a Solomon Islands vessel under section 4 of the *Shipping Act 1998*;

“Solomon Islands waters” means the internal waters, archipelagic waters, territorial seas, exclusive economic zone and continental shelf of Solomon Islands within the meaning of the *Delimitation of Marine Waters Act* (Cap. 95);

“staff”, of SIMA, means the staff mentioned in section 20;

“vessel” means any craft used, or capable of being used, in marine transportation and includes hover craft, non-displacement vessels and mobile offshore units, but does not include seaplanes and vessels under construction but not yet launched.

4 Objects of this Act

The objects of this Act are to:

- (a) establish the Solomon Islands Maritime Authority as a financially self-sufficient organisation with sufficient resources to carry out its functions; and
- (b) facilitate the implementation of international and regional maritime agreements; and
- (c) facilitate the implementation of applicable maritime laws.

5 General principles of maritime administration

The general principles of maritime administration are as follows:

- (a) the polluter pays principle, which is that the costs of preventing, controlling, reducing and eliminating environmental harm should be borne by the persons who cause or knowingly permit it;
- (b) the precautionary principle, which is that, in the event of a risk of damage to the marine environment or to human health, a lack of complete certainty regarding the extent of the risk is not a reason for not acting to prevent or minimise the risk;
- (c) to the extent reasonably possible, countries in the region should harmonise the processes adopted in the implementation of maritime laws;
- (d) international and regional cooperation in the enforcement of maritime laws and the implementation of maritime agreements should be promoted.

PART 2 ESTABLISHMENT AND ADMINISTRATIVE MATTERS

Division 1 Status and functions

6 Establishment

- (1) The Solomon Islands Maritime Authority (also known as “SIMA”) is established.
- (2) SIMA is a body corporate with perpetual succession.

7 Powers and functions

- (1) SIMA has the following powers and functions:
 - (a) to implement and enforce applicable maritime laws and applicable maritime conventions and agreements;
 - (b) to ensure the efficient and effective administration of the Solomon Islands maritime sector;
 - (c) to inspect and control vessels, in port and at sea;
 - (d) to coordinate maritime search and rescue operations;
 - (e) to prevent marine pollution originating from vessels, and to coordinate the response to marine pollution incidents;
 - (f) to set and enforce standards of construction for vessels constructed in Solomon Islands and operating within Solomon Islands waters;
 - (g) to set and enforce standards applying to the repair or salvage of vessels;
 - (h) to prepare hydrographic charts and surveys for maritime use;
 - (i) to monitor and provide support and economic analysis for the management and administration of franchise shipping schemes;
 - (j) to monitor commercial matters concerning the maritime industry, including the implementation of the *Carriage of Goods*

by Sea Act (Cap. 158);

- (k) any other functions conferred on SIMA by this or any other Act.
- (2) In exercising its powers and performing its functions, SIMA must have regard to the general principles of maritime administration set out in section 5.

8 Jurisdiction of SIMA

- (1) SIMA and its authorised officers have authority to exercise powers and perform functions:
 - (a) in relation to all vessels in Solomon Islands waters, regardless of nationality; and
 - (b) in relation to Solomon Islands vessels on the high seas; and
 - (c) in relation to citizens of Solomon Islands, whether in Solomon Islands or elsewhere.
- (2) However, SIMA does not have authority to exercise its powers and functions in relation to a vessel belonging to the defence force or police force of any country.
- (3) SIMA must exercise its powers in a way that is consistent with applicable maritime conventions and agreements.

9 Role of Minister

- (1) The role of the Minister is as follows:
 - (a) to determine national maritime policy, in consultation with SIMA and with the approval of Cabinet;
 - (b) to appoint the appointed members of the Board;
 - (c) to review the corporate plan and annual report of SIMA;
 - (d) to give policy directions (of a general nature only) to the Board;
 - (e) any other functions conferred on the Minister by this or any other Act.
- (2) In performing his or her functions, the Minister must have regard to:

- (a) the general principles of maritime administration set out in section 5; and
- (b) advice given by the Board or the Director.

Division 2 Board

10 Powers and functions

- (1) The Board of SIMA is its governing body.
- (2) The Board has the following powers and functions:
 - (a) to determine the policies and strategies of SIMA, including by drafting the corporate plan;
 - (b) to appoint and monitor the performance of the Director;
 - (c) to approve and monitor the progress of major capital expenditure by SIMA, and to monitor capital management and financing initiatives;
 - (d) to ensure reporting obligations under this Act are met;
 - (e) to monitor SIMA's performance against its budget and corporate plan to ensure the integrity of its policies and systems;
 - (f) any other powers and functions specified in this or any other Act.

11 Membership

- (1) The Board consists of the following members:
 - (a) the Permanent Secretary of the Ministry responsible for shipping matters, or his or her delegate;
 - (b) the Permanent Secretary of the Ministry responsible for finance, or his or her delegate;
 - (c) 3 members appointed by the Minister by *Gazette* notice.
- (2) A person is eligible for appointment under subsection (1)(c) only if

the person:

- (a) is not public officer; and
 - (b) has sufficient experience, skills and knowledge to be a member of the governing body of a public body; and
 - (c) has skills or experience in one of the following areas:
 - (i) the shipping or maritime industry;
 - (ii) financial management or management generally;
 - (iii) law;
 - (iv) engaging in business and community relations in Solomon Islands; and
 - (d) is not insolvent or an undischarged bankrupt; and
 - (e) has not been convicted:
 - (i) in Solomon Islands, of an offence carrying a potential penalty of at least 6 months imprisonment; or
 - (ii) outside Solomon Islands, of an offence that would be an offence carrying a potential penalty of at least 6 months imprisonment if committed in Solomon Islands; and
 - (f) does not have any ongoing interests that would be incompatible with the person participating in the majority of the Board's deliberations; and
 - (g) has the physical and mental ability to perform his or her functions as a Board member.
- (3) The Minister must not appoint a person under subsection (2)(c) without first publishing an advertisement in a newspaper circulating throughout Solomon Islands (and in any other way considered desirable) calling for applications for the vacant office to be made within a reasonable period of not less than 14 days after the advertisement is published.

12 Term of office

- (1) An appointed member holds office for the period of up to 3 years specified in the instrument of appointment.
- (2) A person may be re-appointed as an appointed member for a further single term of up to 3 years, served either consecutively or after a break in service.

13 Vacation of office

- (1) A person who is an appointed member ceases to be a member if:
 - (a) the person resigns by giving written notice to the Minister; or
 - (b) the person's term of office comes to an end and the person is not reappointed; or
 - (c) the person ceases to be eligible for appointment under section 11(2); or
 - (d) the person's appointment is terminated under section 14.
- (2) The exercise of a power or the performance of a function by the Board is not affected only by a vacancy in its membership.

14 Termination of appointment

- (1) The Minister may terminate the appointment of a person who is an appointed member:
 - (a) on the ground of misbehaviour or misconduct; or
 - (b) on the ground of physical or mental inability to satisfactorily perform the duties of the office; or
 - (c) if the Minister is satisfied the person has failed to comply with section 16; or
 - (d) if the person is absent from 3 consecutive meetings of the Board without leave granted by the chairperson or the Board.
- (2) A termination of appointment must be made in writing.

15 Sitting allowance

A Board member is not entitled to remuneration but may receive an allowance determined by the Minister for attending meetings.

16 Disclosure of interest in matter being considered

- (1) A Board member has a personal interest in a matter if the member:
 - (a) has a direct or indirect financial interest in the matter; or
 - (b) has a personal, professional, commercial or other relationship with a person and the nature of the relationship is likely to, or may reasonably be regarded as likely to, inhibit or prevent the member from exercising independent judgment about the matter.
- (2) A Board member who has a personal interest in a matter being considered or about to be considered by the Board must disclose the following to the other members as soon as practicable after the relevant facts come to the member's knowledge:
 - (a) the nature and extent of the interest;
 - (b) how the interest relates to the matter being considered, or about to be considered, by the Board.
- (3) If the relevant facts come to the member's knowledge at a time when the Board is not meeting, the member must:
 - (a) make the disclosure by written notice to each other member; and
 - (b) table a copy of the notice at the next meeting of the Board.
- (4) The disclosure must be recorded in the minutes of the meeting at which, or before which, the disclosure is made.
- (5) The member need not disclose an interest if the interest is an interest shared with the public generally or a section of the public.
- (6) If a Board member has a personal interest in a matter that is required to be disclosed:
 - (a) the member must not take part in any deliberation or decision

of the Board about the matter; and

- (b) if the member fails to disclose the interest, the member's vote on the matter is invalid.

17 Rules of the Board

- (1) The rules of the Board are set out in the Schedule.
- (2) The rules may be amended with the approval of the Minister in accordance with the following procedure:
 - (a) the Board must agree to the proposed amendment by unanimous resolution;
 - (b) the Board must make the rules, showing the proposed amendment, available for inspection on SIMA's website and in any other way it considers appropriate;
 - (c) the Board must publish a notice in a newspaper circulating generally throughout Solomon Islands (and in any other way considered desirable) specifying the following:
 - (i) that the rules are proposed to be amended;
 - (ii) where a copy of the rules, showing the proposed amendment, are available for inspection;
 - (iii) that any person may make a written submission to the Minister about the proposed amendment within 21 days after the publication of the advertisement;
 - (d) not less than 42 days after the notice is published, the Minister must consider any submissions made and decide whether to approve the amendment;
 - (e) if the Minister approves the amendment, the rules as amended must be notified in the Gazette.

Division 3 Committees of the Board

18 Advisory Committee

- (1) The Board must establish an Advisory Committee.

- (2) The functions of the Advisory Committee are as follows:
- (a) to provide a regular forum for consultation and exchange of information between the Ministry responsible for shipping matters, SIMA, other government agencies and other maritime stakeholders;
 - (b) to review proposals for new or amended policies, procedures and legislation;
 - (c) to inform the Board of issues of interest or concern to the Solomon Islands maritime sector;
 - (d) any other functions specified by the Board.
- (3) The Board must issue a policy statement outlining the objectives and responsibilities of the Advisory Committee, and any functions in addition to those mentioned in subsection (2).
- (4) Subject to this section, the Board may determine the number of members of the Advisory Committee and appoint the members.
- (5) At least 50% of the members of the Advisory Committee must be appointed from the private sector.
- (6) The Advisory Committee must, at a minimum, consist of the following members:
- (a) at least one person nominated by the Solomon Islands Maritime Transport Association, or another body designated by the Minister, to represent vessel owners;
 - (b) one person nominated by the Solomon Islands Chamber of Commerce to represent shippers and shipping passengers;
 - (c) one person nominated by the union representing seafarers;
 - (d) one person nominated by the Board to represent passengers with special needs when travelling;
 - (e) the Permanent Secretary of the Ministry responsible for shipping matters, or his or her delegate;
 - (f) the Permanent Secretary of the Ministry responsible for

Provincial Government, or his or her delegate;

(g) the Director or a Deputy Director.

19 Other committees

- (1) In addition to the Advisory Committee, the Board may establish other committees to assist it to exercise its powers and perform its functions.
- (2) A committee may be established on an ongoing basis or for a fixed period.
- (3) The Board may determine the membership of committees, and members may be appointed from within or outside the Board.
- (4) The Board may determine the rules of procedure for a committee.
- (5) The Board must issue a policy statement outlining the objectives and responsibilities of each committee.

Division 4 Staff

20 Staff of SIMA

The staff of SIMA consists of:

- (a) the Director of SIMA; and
- (b) one or more Deputy Directors; and
- (c) the staff appointed under section 24.

21 Status of staff

The staff of SIMA are employees of SIMA and are not public officers.

22 Director of SIMA

- (1) The Director of SIMA has the following powers and functions:
 - (a) to manage SIMA on a day to day basis;
 - (b) the other powers and functions conferred on him or her by this or any other Act.

- (2) The Director is responsible to, and subject to the directions of, the Board.
- (3) The Board must appoint a person to be Director, acting in accordance with the recommendation of a selection panel.
- (4) The selection panel consists of:
 - (a) the chairperson of the Board, as chairperson of the selection panel; and
 - (b) 2 other people appointed by the Board.
- (5) The selection panel must recruit the Director by way of open competition and a transparent process.
- (6) A person is only qualified to be appointed as Director if the person has the qualifications and experience necessary to effectively manage SIMA, including sufficient qualifications and experience in international maritime regulation and the global and regional shipping industry.

23 Deputy Directors

- (1) A Deputy Director has the following powers and functions:
 - (a) to assist the Director in the day to day management of SIMA;
 - (b) the functions allocated to the Deputy Director by the Director;
 - (c) any powers and functions delegated to the Deputy Director under section 64;
 - (d) any other powers and functions conferred on him or her by this or any other Act.
- (2) The Director may appoint a person to be a Deputy Director, acting in accordance with the recommendation of a selection panel.
- (3) The selection panel consists of:
 - (a) the Director, as chairperson of the selection panel; and
 - (b) 2 other people appointed by the Board.

- (4) The selection panel must recruit the Deputy Director by way of open competition and a transparent process.
- (5) A person is only qualified to be appointed as Deputy Director if the person has the qualifications and experience necessary to effectively discharge his or her duties, including sufficient qualifications and experience in international maritime regulation and the global and regional shipping industry.

24 Other staff

- (1) The Director may appoint the staff the Director considers necessary for SIMA to effectively perform its functions.
- (2) The recruitment of staff must be by way of open competition and a transparent process, using a selection panel consisting of at least 3 people.

Division 5 Finances

25 Funds of SIMA

The funds of SIMA consist of the following:

- (a) amounts payable to SIMA by way of fees, charges and levies imposed under this or any other Act;
- (b) amounts payable to SIMA by way of fines under section 210(16) of the *Shipping Act 1998*;
- (c) proceeds from the disposal of SIMA's property;
- (d) proceeds of investments made by SIMA;
- (e) amounts appropriated by Parliament for SIMA;
- (f) amounts received by way of grant;
- (g) amounts received in satisfaction of any court order awarding costs, damages or compensation to SIMA.

26 Use of funds

- (1) SIMA may use its funds:

- (a) to meet its operating costs, including rent, remuneration of staff, allowances of Board members and committee members, and anything else related to the operations of SIMA; and
 - (b) to discharge its financial liabilities; and
 - (c) for such other purposes authorised by the Board that are consistent with the functions of SIMA.
- (2) SIMA is not responsible for the costs of:
- (a) aids to navigation on land, including the costs of renting the land and constructing and maintaining the aids; or
 - (b) maritime search and rescue operations, other than the cost of SIMA staff and SIMA equipment.
- (3) SIMA must enter into a written agreement with the Ministry responsible for infrastructure and the Ministry responsible for finance, outlining responsibility for the costs mentioned in subsection (2).

27 Fees, charges and levies

- (1) SIMA may, by maritime order:
- (a) prescribe fees, charges and levies:
 - (i) payable under this Act; or
 - (ii) payable for a service or facility provided by SIMA and not prescribed under any other law; or
 - (iii) payable in relation to the exercise of SIMA's regulatory functions under this or any other law, including levies to fund SIMA's operational costs; and
 - (b) prescribe interest payable on unpaid fees, charges and levies, which:
 - (i) must not exceed 1.5% of the unpaid amount for each month or part of a month during which it is unpaid; and
 - (ii) may be compounded; and

- (c) prescribe fines for non-payment of fees, charges and levies, in addition to any interest payable.
- (2) SIMA must exercise its power to prescribe fees, charges and levies in accordance with the following principles:
 - (a) the purpose of charging fees, charges and levies is to fund SIMA's operations, not to generate profit;
 - (b) the amount of a fee, charge or levy must be reasonable in relation to the matter for which it is charged.
- (3) Fees, charges and levies prescribed under this section may be recovered as debts due to SIMA.

28 Borrowing money

- (1) SIMA may borrow money from:
 - (a) a financial institution licensed under the *Financial Institutions Act 1998*; or
 - (b) the Government.
- (2) SIMA may use its assets as security when borrowing money.
- (3) Also, the Minister responsible for finance may, with the approval of Cabinet, enter into an agreement guaranteeing that SIMA will meet obligations it incurs in borrowing money.
- (4) The Minister must table full details of the agreement and all documents relating to the guarantee at the next sitting of Parliament after the guarantee is given.

29 Exemption from tax

SIMA is not liable to pay tax under any law of Solomon Islands.

30 Financial records

- (1) The Board must:
 - (a) keep proper accounts and records of the transactions and financial affairs of SIMA; and

- (b) prepare an annual financial statement in accordance with generally accepted accounting principles for each financial year.
- (2) The annual financial statement must be audited at the end of each financial year by a person who is a registered company auditor under the *Accountants Act 2010*.
- (3) The Board must submit the audited annual financial statement to the Minister and publish it on SIMA's website by 30 June following the end of the financial year.

Division 6 Planning and reporting

31 Preparation of draft corporate plan

- (1) The Board must prepare a draft corporate plan for SIMA and submit it to the Minister at least 6 months before the start of the period for which the plan will apply.
- (2) The draft corporate plan must include the following matters:
 - (a) the period for which the plan will apply, which must be at least 3 years;
 - (b) a plan for the management and governance of SIMA, by reference to specified administrative procedures if applicable;
 - (c) SIMA's technical, operational and administrative strategies, including human resource management and community engagement strategies;
 - (d) the fees, charges and levies to be imposed by SIMA during the period of the plan, including the following:
 - (i) for fees, charges and levies that are new or are proposed to be varied since the previous corporate plan – the date from which the fee, charge or levy will be imposed or varied;
 - (ii) for varied fees, charges and levies – the justification for the variation;
 - (iii) for new fees, charges and levies – the basis for the fee,

charge or levy and who will be required to pay it;

- (e) a detailed budget for the first year of the plan, and a draft budget for each remaining year of the plan, including the following:
 - (i) a projected income statement;
 - (ii) a projected balance sheet;
 - (iii) a projected cash flow statement;
 - (iv) a capital expenditure plan;
 - (f) assumptions about SIMA's operational environment for the period of the plan;
 - (g) the indicators against which SIMA's performance during the period of the plan will be measured;
 - (h) an analysis of the risk factors likely to affect maritime safety, environmental protection, marine pollution prevention and maritime search and rescue operations during the period of the plan;
 - (i) a review of SIMA's performance against the previous corporate plan;
 - (j) any other matters required by the Minister.
- (3) The draft plan may specify a margin of not more than 7.5% per year by which SIMA may vary a fee, charge or levy specified in the plan without seeking the approval of the Minister under section 34.

32 Submission of draft corporate plan

- (1) The Board must submit the draft corporate plan to the Minister for consideration.
- (2) The Minister may, within 60 days after receiving the draft plan, respond to the draft by:
 - (a) approving it; or
 - (b) directing the Board in writing to amend the draft plan in a specified way, including the reason for the amendment.

- (3) If the Minister directs the Board to amend the draft plan, the Board must return the amended draft plan to the Minister within 30 days after receiving the direction.
- (4) If the Minister does not respond to a draft plan within 60 days after receiving it (either in its original form or as amended), the Board may resolve to adopt the plan as submitted to the Minister.

33 Adoption of corporate plan

- (1) The corporate plan for SIMA is adopted:
 - (a) on the date the Minister approves the draft plan (either in its original form or as amended); or
 - (b) if the Minister does not respond to the draft plan within 60 days after receiving it, on the date the Board resolves to adopt the plan as submitted to the Minister.
- (2) The plan must be published on SIMA's website.

34 Review and amendment of corporate plan

- (1) The Board must review the corporate plan at least once each year.
- (2) If the Board proposes to amend the plan in any of the following ways, the Board must submit the proposed amendment to the Minister for consideration:
 - (a) by introducing a new fee, charge or levy;
 - (b) if the plan specifies a margin by which fee, charge or levy may be varied without the approval of the Minister – by varying a fee, charge or levy by more than that margin;
 - (c) if the plan does not authorise any variation to fee, charge or levy without the approval of the Minister – by varying a fee, charge or levy by any amount;
 - (d) by amending the indicators against which SIMA's performance is measured.
- (3) Sections 32 and 33 apply (with the necessary modifications) to a proposed variation to the plan under subsection (2).

- (4) The Board may make other amendments to the plan without the approval of the Minister, but the Board must report those amendments in the annual report.

35 Annual reporting

- (1) SIMA must, before 30 June each year, prepare and give to the Minister a report on the performance of SIMA's functions during the previous financial year.
- (2) The report must include the following:
 - (a) a summary of the activities of SIMA during the year, including SIMA's activities in relation to the implementation of applicable maritime conventions and agreements;
 - (b) details of any applicable maritime convention and agreement entered into by Solomon Islands during the year;
 - (c) a summary of any direction made by the Minister during the year, and the action taken by SIMA in response to the direction;
 - (d) details of any amendments made to the corporate plan during the year;
 - (e) copies of SIMA's audited financial statement (as required by section 30) for the year.
- (3) The Minister must table a copy of the report in Parliament within 12 sitting days after the Minister receives it.
- (4) The Minister may require SIMA to provide other reports in relation to the performance of SIMA's functions on request.

PART 3 MARITIME CONVENTIONS AND AGREEMENTS

36 Principal function of SIMA

- (1) The principal function of SIMA is to implement and enforce maritime conventions and agreements:
 - (a) to which Solomon Islands is a party; or
 - (b) that are adopted under, or incorporated into, the domestic law

of Solomon Islands.

(2) In carrying out this function, SIMA:

- (a) may take any action that may be taken by Solomon Islands as a State Party to a convention or agreement; and
- (b) must take the necessary measures to ensure the obligations of Solomon Islands under conventions and agreements are met.

37 Amendments to conventions and agreements

To ensure SIMA, the Government and other relevant stakeholders are able to respond to amendments to applicable maritime conventions and agreements, SIMA must:

- (a) monitor proposed amendments; and
- (b) notify the Advisory Committee and the Minister of proposed amendments; and
- (c) in consultation with the Minister and the Advisory Committee, consider whether a proposed amendment is in the interests of Solomon Islands and whether Solomon Islands has the capacity to implement the convention or agreement as amended; and
- (d) make recommendations to the Minister and the Minister responsible for foreign affairs as to whether Solomon Islands should support a proposed amendment; and
- (e) create awareness of amendments and their practical effect amongst relevant stakeholders.

38 Maritime orders

SIMA may make maritime orders for the purpose of implementing applicable maritime conventions and agreements.

PART 4 FRANCHISE SHIPPING SCHEMES

39 Purpose of franchise shipping scheme

The Ministry may implement a franchise shipping scheme in order to

ensure shipping services that may not otherwise be commercially viable are provided to remote areas of Solomon Islands.

40 Role of Ministry

The Ministry is responsible for administering franchise shipping schemes, including by:

- (a) preparing tender documents, managing the tender process, assessing tenders and negotiating with persons bidding to be franchise operators; and
- (b) awarding contracts to franchise operators; and
- (c) securing funds to finance franchise shipping schemes, including funds from the National Transport Fund established by the *National Transport Fund Act 2009*; and
- (d) reporting to the Minister on the operation of franchise shipping schemes on an annual basis and on request.

41 Role of SIMA

SIMA is responsible for monitoring the effectiveness of franchise shipping schemes and advising the Ministry accordingly, including by:

- (a) monitoring the economic performance of franchise operators; and
- (b) reviewing franchise shipping schemes and proposing modifications to improve efficiency and cost-effectiveness.

42 Finance and procurement procedures

In implementing franchise shipping schemes, the Ministry must comply with the following:

- (a) the *Public Finance Management 2013*;
- (b) the *National Transport Fund Act 2009*;
- (c) any other applicable finance and procurement procedures and requirements imposed by a written law or by the Ministry responsible for finance.

43 Conditions of franchise contract

A contract under a franchise shipping scheme may impose on the franchise operator the requirements necessary to ensure the safe, efficient and accountable operation of the shipping service, including requirements relating to the following:

- (a) the quality of shipping services to be provided under the contract;
- (b) minimum safety standards that must be met by the operator;
- (c) the minimum insurance cover the operator must maintain;
- (d) compliance with applicable laws.

44 Variation of franchise contract

- (1) Despite any provision of a franchise contract, the Ministry may vary the shipping services required to be provided under the contract by giving the franchise operator written notice of the proposed variation.
- (2) The franchise operator may:
 - (a) agree to the variation; or
 - (b) elect to terminate the contract.
- (3) If the franchise operator agrees to the variation, the variation takes effect no earlier than 60 days after the notice of variation was given, unless the franchise operator agrees to an earlier date.
- (4) If the franchise operator elects to terminate the contract, the contract continues in force without the variation until the later of the following:
 - (a) 60 days after notice of the variation was given; or
 - (b) the date another franchise operator begins providing alternative shipping services.
- (5) Subsection (4) does not apply if the contract would otherwise have terminated before that date.

PART 5 EMERGENCY AND DISASTER MANAGEMENT

45 Search and rescue services

SIMA is responsible for coordinating maritime search and rescue services.

46 Emergency planning

- (1) SIMA is responsible for leading the development of planning for maritime emergencies, including safety and environmental emergencies.
- (2) SIMA must assist the National Disaster Management Office in planning SIMA's role in responding to natural disasters.

PART 6 MONITORING AND INVESTIGATIONS

Division 1 Authorised officers

47 Appointment of authorised officers

- (1) The Director may appoint any staff member with the appropriate skills and qualifications to be an authorised officer of SIMA.
- (2) The Director and each Deputy Director are also authorised officers.

48 Powers and functions of authorised officers

An authorised officer has the powers and functions specified in this or any other Act.

49 Identity card

- (1) The Director must issue each authorised officer an identity card stating the officer's name and that they are an authorised officer.
- (2) The identity card must:
 - (a) show a recent photograph of the officer; and
 - (b) show the card's date of issue and expiry; and

- (c) be signed by the officer and the Director.
- (3) An authorised officer exercising a power or performing a function under this Act or any other Act in relation to a person must, if asked by the person, produce the officer's identity card for the person's inspection.
- (4) A person who ceases to be an authorised officer must return the person's identity card to SIMA within 21 days after the cessation.

Maximum penalty: 1000 penalty units.

Division 2 When and how powers may be exercised

50 Authorised officer subject to directions

An authorised officer is subject to the directions of the Director in the exercise of their powers and the performance of their functions.

51 Circumstances in which powers may be exercised

- (1) An authorised officer may only exercise his or her powers under this Part:
 - (a) to monitor compliance with an applicable maritime law; or
 - (b) if the officer suspects on reasonable grounds that a contravention of an applicable maritime law has occurred or will occur and the exercise of powers is necessary to investigate or prevent the suspected contravention.
- (2) An authorised officer may only exercise his or her powers subject to the limitations specified in section 8.

52 Assistance in exercising powers

- (1) An authorised officer may be accompanied by a police officer or any other person authorised by the Director or by an applicable maritime law to assist the authorised officer in exercising his or her powers under this Part.
- (2) An authorised officer may use any equipment authorised by the Director or by an applicable maritime law to assist the authorised officer in exercising his or her powers under this Part.

Division 3 Monitoring and investigation powers

53 Powers of entry, inspection and seizure

- (1) An authorised officer may board a vessel or enter any other premises (a ***“place”***):
 - (a) at any reasonable time; or
 - (b) with the consent of the person in charge of the place at the time of the entry; or
 - (c) if the authorised officer reasonably believes that it is necessary to enter the place urgently.
- (2) The authorised officer may require the person in charge of the place to take reasonable steps to facilitate entry to the place.
- (3) An authorised officer who enters a place under subsection (1) may do any of the following:
 - (a) search the place, including private living quarters;
 - (b) inspect anything found at the place;
 - (c) open any container, receptacle or package found at the place;
 - (d) require a person who is at the place to state the person's name and address;
 - (e) examine, mark, fasten, secure or take and remove samples of anything at the place;
 - (f) weigh, count, measure, gauge or test anything at the place;
 - (g) take readings from any equipment at the place;
 - (h) require a person at the place to produce any document or record;
 - (i) require a person at the place to answer questions or give any other assistance the officer requires to carry out the inspection;
 - (j) examine, copy or take extracts from a document produced or require a person to provide a copy of the document;

- (k) take photographs or audio, video or other recordings;
 - (l) make sketches or drawings or any other recording in any other way;
 - (m) subject to section 54, seize and remove anything found at the place.
- (4) To enable an authorised officer to exercise powers under this section, the officer may:
- (a) direct that the place, any part of the place, or any item in the place be left undisturbed; and
 - (b) in the case of a vessel – direct the crew of the vessel to gather in one area.
- (5) In inspecting an item, an authorised officer must not damage or destroy it unless it is reasonably necessary to do so in the circumstances.

54 Powers of detention

- (1) An authorised officer may detain an item seized under section 53 if the officer considers that:
- (a) it is reasonably necessary to do so to exercise any power under that section in relation to the item; or
 - (b) it is reasonably necessary to do so to ensure the item is not tampered with during the exercise of any power under that section; or
 - (c) the item will be required for use as evidence in any proceedings for an offence against an applicable maritime law.
- (2) As soon as practicable after the authorised officer detains the item, the authorised officer must give written notice of the detention to:
- (a) the owner of the item; or
 - (b) the person from whom it was seized.
- (3) If the officer cannot conveniently give the notice in person, the officer may fix the notice in a prominent area near to where the item was

seized.

- (4) The notice must include the following details:
- (a) a description of the item;
 - (b) the reason the item has been detained;
 - (c) the contact details of an officer who can provide further information;
 - (d) that the item will be returned within 90 days unless:
 - (i) the item is required for the purposes of proceedings that are instituted within that time; or
 - (ii) the period of 90 days is extended by a Magistrate under section 55(4); or
 - (iii) the item is disposed of under another written law; or
 - (iv) the item is seized under another written law.

55 Return of detained items

- (1) An item detained under section 54 must be returned within 90 days unless:
- (a) the item is required for the purposes of proceedings that are instituted within that time; or
 - (b) the period of 90 days is extended by a Magistrate under subsection (4); or
 - (c) the item is disposed of under another written law; or
 - (d) the item is seized under another written law.
- (2) The item must be returned to:
- (a) the owner of the item; or
 - (b) the person from whom it was seized.
- (3) The Director may apply to a Magistrate for an order extending, or

further extending, the period for which the item can be detained.

- (4) The Magistrate may make the order if the Magistrate is satisfied that:
 - (a) the item continues to be required for a purpose mentioned in section 54(1); or
 - (b) there are other compelling grounds for extending the period.
- (5) Before making the application, the Director must:
 - (a) take reasonable steps to discover who has an interest in the item; and
 - (b) if it is practicable to do so, notify each such person of the proposed application.

56 Request to provide information or attend interview

- (1) An authorised officer may in writing require a person to:
 - (a) provide specified information, reports or documents to the officer in writing before a specified date; or
 - (b) attend an interview on a specified date.
- (2) An interview may be conducted in person or remotely, using telephone, video link, Internet connection or any similar means of remote communication.

Division 4 Offences

57 Failure to comply with direction or requirement

A person commits an offence if the person fails to comply with a direction or requirement of an authorised officer under this Part.

Maximum penalty: 50,000 penalty units or imprisonment for 5 years, or both.

58 Obstructing or threatening an authorised officer

A person commits an offence if the person obstructs or threatens an authorised officer acting in an official capacity.

Maximum penalty: 50,000 penalty units or imprisonment for 5 years, or both.

59 Impersonating an authorised officer

A person commits an offence if the person falsely represents, by words or conduct, that the person is an authorised officer.

Maximum penalty: 20,000 penalty units or imprisonment for 2 years, or both.

PART 7 MISCELLANEOUS MATTERS

Division 1 General offences

60 Misleading information or document

(1) In this section:

“misleading information” means information that is misleading in a material particular or because of the omission of a material particular.

(2) A person commits an offence if:

- (a) the person gives information to SIMA or an authorised officer under this or another Act; and
- (b) the person knows the information is misleading.

Maximum penalty: 50,000 penalty units or imprisonment for 5 years, or both.

(3) A person commits an offence if:

- (a) the person gives a document to SIMA or an authorised officer under this or another Act; and
- (b) the person knows the document contains misleading information.

Maximum penalty: 50,000 penalty units or imprisonment for 5 years, or both.

- (4) Subsection (2) does not apply if the person, when giving the document:
 - (a) draws the misleading aspect of the document to the attention of SIMA or the authorised officer; and
 - (b) to the extent to which the person can reasonably do so – gives SIMA or the authorised officer the information necessary to remedy the misleading aspect of the document.

61 Confidentiality of information

- (1) A person commits an offence if the person:
 - (a) obtains information while exercising a power or performing a function as any of the following:
 - (i) a Board member;
 - (ii) the Director;
 - (iii) a Deputy Director;
 - (iii) an authorised officer;
 - (iv) a staff member of SIMA; and
 - (b) engages in conduct that results in the disclosure of the information to a person other than a person mentioned in paragraph (a).

Maximum penalty: 50,000 penalty units or imprisonment for 5 years, or both.

- (2) Subsection (1) does not apply if the person discloses the information:
 - (a) for the exercise of the person's powers or the performance of the person's functions; or
 - (b) for the administration of this Act; or
 - (c) for legal proceedings arising out of the operation of this Act; or
 - (d) with the consent of the person to whom the information relates.

Division 2 Other matters

62 Protection from liability

A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as:

- (a) a Board member; or
- (b) the Director; or
- (c) a Deputy Director; or
- (d) an authorised officer; or
- (e) a staff member of SIMA.

63 Review of Act

The operation of this Act must be reviewed:

- (a) in the 6th year after it commences, by a person or persons appointed jointly by the Minister and the Board; and
- (b) subsequently, at intervals agreed by the Minister and the Board.

64 Delegation

- (1) The Director may delegate any of his or her powers and functions under this or any other Act, except for this power of delegation.
- (2) The Board may delegate any of its powers and functions under this or any other Act, except for this power of delegation, to the Director.

65 Regulations

- (1) The Minister may make regulations:
 - (a) relating to matters required or permitted to be prescribed by the Minister under this Act; or
 - (b) otherwise relating to SIMA.
- (2) The Minister may not make regulations relating to matters for which

SIMA may make maritime orders.

66 Maritime orders

- (1) SIMA may make maritime orders relating to matters required or permitted to be prescribed by maritime order under this or any other Act.
- (2) Before making a maritime order, SIMA must:
 - (a) publish a notice in a newspaper circulating generally throughout Solomon Islands (and in any other way considered desirable) specifying the following:
 - (i) that SIMA proposes to make the order;
 - (ii) where a copy of the proposed order is available for inspection;
 - (iii) that any person may make a written submission to SIMA about the proposed order within 60 days after the publication of the advertisement; and
 - (b) consider any submissions made.

PART 8 TRANSITIONAL MATTERS

67 Re-appointment of existing staff

- (1) In this section:

“existing staff member” means person who is a staff member of the Solomon Islands Maritime Safety Administration:

 - (a) immediately before this section commences; or
 - (b) at any time between the date this section commences and the date section 70 commences.
- (2) Section 24(2) does not apply to the appointment of an existing staff member to be a staff member of SIMA if the appointment is made on or before the date section 70 commences.

68 Existing regulations

- (1) In this section:

“existing regulation” means a regulation in force under the *Shipping Act 1998* or the *Maritime Safety Administration Act 2009* immediately in before the commencement of Part 9.

- (2) Each existing regulation is taken, on and from the commencement of Part 9, to be a maritime order made by SIMA under section 66.
- (3) SIMA may, by maritime order:
- (a) prescribe modifications to an existing regulation for the purpose of its implementation by SIMA; and
 - (b) repeal an existing regulation.

69 Transitional regulations

- (1) A regulation may provide for a matter of a transitional nature:
- (a) because of the enactment of this Act; or
 - (b) to allow or facilitate the transition to the operation of this Act.
- (2) The regulation may have retrospective operation to a day not earlier than the date this section commences.
- (3) However, to the extent to which the regulation has retrospective operation, it does not operate to the disadvantage of a person by:
- (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.
- (4) The regulation must declare it is made under this section.
- (5) Each regulation made under this section expires 2 years after the date this section commences.

PART 9 REPEALS AND CONSEQUENTIAL AMENDMENTS

Division 1 Repeals

70 Repeal of Acts

The following Acts are repealed:

- (a) the *Maritime Safety Administration Act 2009*;
- (b) the *Shipping Act* (Cap. 163);
- (c) the *Merchant Shipping (Fees) Act* (Cap. 160);
- (d) the *Light Dues and Harbours Act* (Cap. 159);
- (e) the *Seamen Discipline (Admiralty Transport) Act* (Cap. 162).

Division 2 Consequential amendments

71 Shipping Act 1998 amended

This Division amends the *Shipping Act 1998* ("**the Act**").

72 Section 2 amended

- (1) Section 2 of the Act is amended by deleting the definitions of "**Certificate of Competency**", "**Code**", "**Collisions Convention**", "**dangerous goods**", "**Limitation of liability for Maritime Claims Convention**", "**Load Lines Convention**", "**Marine Navigation Aid**", "**MARPOL 73/78 Convention**", "**Register**", "**Registrar**", "**Safety Convention**", "**Safety Convention Ship**", "**Principal Shipping Officer**", "**Principal Surveyor**", "**Proper return port**" and "**STCW Convention**".

- (2) Section 2 of the Act is amended by inserting the following definitions in alphabetical order:

"approved surveyor" means a surveyor appointed under section 55;

"authorised officer" means an authorised officer within the meaning of the *Solomon Islands Maritime Authority Act 2018*;

"Certificate of Competency" means a certificate issued under section 96;

"Collisions Convention" means the Convention on the International Regulations for Preventing Collisions at Sea 1972, including the Rules for Preventing Collisions at Sea, as amended, unless an amendment has been objected to by Solomon Islands;

"dangerous goods" means any goods classified and dealt with as dangerous goods in the IMDG Code

"Director" means the Director of SIMA under the *Solomon Islands Maritime Authority Act 2018*;

"Limitation of Liability Convention" means the Convention on Limitation of Liability for Maritime Claims 1976, including Protocols, as amended, unless an amendment is objected to by Solomon Islands;

"Load Lines Convention" means the International Convention on Load Lines, 1966, including the Supplement of 1981 and the Protocol of 1988, in respect of the International Conference on the Harmonised System of Survey and Certification, as amended, unless an amendment has been objected to by Solomon Islands;

"London Convention" means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, as amended, unless an amendment has been objected to by Solomon Islands;

"marine aid to navigation" includes lights, fixed structures, illuminating and reflecting devices and any other apparatus the purpose of which is to assist in the navigation of vessels and small craft;

"Maritime Liens Convention" means the International Convention on Maritime Liens and Mortgages 1993;

"maritime order" means a maritime order made by SIMA under the *Solomon Islands Maritime Authority Act 2018*;

"MARPOL Convention" means the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 and as amended from time to time, unless that amendment

has been objected to by Solomon Islands;

"prescribed" means prescribed by maritime order;

"proper return port", in relation to a seaman, means the port agreed by the employer and seaman as the port to which the seaman is to be returned at the end of his or her employment;

"Register" means the Register of Vessels kept under section 17;

"Registrar" means the Registrar of Vessels, who is the Director;

"Safety Convention" means the International Convention for the Safety of Life at Sea, (SOLAS) 1974, and the Protocols of 1978 and 1988, including the IMDG CODE, the International Management Code for the Safe Operation of Ships and for Pollution Prevention and the International Ship and Port Facility Security Code, as amended, unless that amendment has been objected to by Solomon Islands;

"Safety Convention ship" means a ship of the size and type to which the Safety Convention applies;

"Salvage Convention" means the International Convention on Maritime Salvage 1989;

"SIMA" means the Solomon Islands Maritime Authority established by the *Solomon Islands Maritime Authority Act 2018*;

"STCW Convention" means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, as affected by any amendment, unless objected to by Solomon Islands;

"STCW Code" or **"the Code"** means the Code associated with the STCW Convention;

- (3) The definition of **"discharge"** in section 2 of the Act is amended by deleting "Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, done at London on 13th November, 1972" and substituting "London Convention".
- (4) The definition of **"vessel"** in section 2 of the Act is amended by deleting "fishing vessels,".

- (5) Section 2 of the Act is amended by re-ordering the remaining definitions into alphabetical order.

73 Amendment of section 5

- (1) Section 5(2)(a), (b), (c), (d), (e) and (f) of the Act are repealed and replaced with the following:

- “(a) the Collisions Convention;
- (b) the Limitation of Liability Convention
- (c) the Load Lines Convention;
- (d) the London Convention;
- (e) the Maritime Liens Convention;
- (f) the MARPOL Convention;
- (g) the Safety Convention;
- (h) the STCW Convention;
- (i) the Tonnage Measurement Convention;
- (j) the Salvage Convention.”

- (2) Section 5(3) of the Act is amended by deleting “the Convention and this Act or the Regulations” and substituting “a Convention mentioned in subsection (2), this Act or any subsidiary legislation made under it”.

74 Section 13 repealed

Section 13 of the Act is repealed.

75 Section 15 amended

Section 15(3) of the Act is repealed and replaced with the following:

- “(3) The Registrar must make a copy of every instrument of delegation available for inspection by the Minister and the Board of SIMA.”

76 Section 52 amended

(1) Section 52(1) is repealed and replaced with the following:

“(1) SIMA may make maritime orders for this Part.”

(2) Section 52(2)(a) is repealed.

77 Section 54 repealed

Section 54 of the Act is repealed.

78 Section 55 replaced

Section 55 of the Act is repealed and replaced with the following:

“55 Approved surveyors

(1) The Director may appoint an association or corporation to be a classification society for the purposes of this Part, under an agreement with the classification society governing the delegation of statutory certification services for Solomon Islands vessels to the classification society.

(2) The Director may appoint any person or classification society to be an approved surveyor for the purposes of this Act.

(3) A classification society must nominate one or more persons to carry out functions on its behalf.”

79 Section 56 amended

Section 56(1), (2), (6) and (7) are repealed.

80 Section 74 amended

Section 74(1) is repealed and replaced with the following:

“(1) The IMDG Code has the force of law in Solomon Islands and applies to this Part.”

81 Sections 92 and 108 amended

Section 92(1) and 108(1) are repealed and replaced with the following:

“(1) SIMA may make maritime orders for this Part.”

82 Sections 111 and 112 repealed

Sections 111 and 112 of the Act are repealed.

83 Section 147 replaced

Section 147 of the Act is repealed and replaced with the following:

“147 Register of seamen

- (1) The Director must keep a Register of Seamen containing the details the Director determines.
- (2) Any person may inspect the Register of Seamen at any time during business hours.”

84 Sections 168 and 169 repealed

Sections 168 and 169 of the Act are repealed.

85 Section 171 repealed

Section 171 of the Act is repealed.

86 Section 206 amended

Section 206(9) is repealed.

87 Section 210 amended

- (1) Section 210(7)(b) is repealed.
- (2) Section 210(10) is repealed.

88 New section 210A

The following is inserted after section 210 of the Act:

“210A Burden of proving authorisation

- (1) This section applies if an element of an offence against this Act is a failure to hold an authorisation, certificate, licence, registration or qualification.

- (2) The defendant bears the burden of proving that he or she held the authorisation, certificate, licence, registration or qualification.”

89 Section 214 amended

- (1) Section 214 of the Act is amended by deleting “by this Act” and substituting “by this Act as the Registrar or an approved surveyor”.
- (2) Section 214 of the Act is amended by inserting the following note at the foot of the section:

“Note: Under the Solomon Islands Maritime Authority Act 2018, it is also an offence to obstruct an authorised officer exercising a power under this Act.”

90 Section 220 amended

Section 220 of the Act is amended by inserting the following after subsection (1):

- “(1A) However, the Minister may not make regulations relating to matters for which SIMA may make maritime orders.”

91 Section 221 repealed

Section 221 of the Act is repealed

92 Miscellaneous amendments

The Act is amended as set out in the table below:

<i>Provision</i>	<i>Delete</i>	<i>Substitute</i>
Section 2, definitions of “ aid ”, “ radio installation ”, sections 83(2)(d)(iii), 162(1), (2), 163, 164, 166(1) (all references), (2), 167 (all references), 170(1), (3),	navigation aid	aid to navigation
Section 2, definition of “ disciplinary ”	effect	affect

offence"		
Section 2, definitions of "length", "list of suspended persons" , sections 56(8), 62(2), 63(1), (2), (3), 64(1), (2), (3), 65(1) (both references), (2) (both references), (3), 66, 73(1), 75(1), (3), 82(3), 83(2) (first reference), 92(2)(u), (ee),	Principal Surveyor	Director
Section 2, definition of "Tonnage Certificate"	as the Regulations prescribe	as is prescribed
Section 2, definition of "unsafe vessel" , sections 60(6), 61(1), 73(2), (4), 76(1), 91(2) (first reference), 166(2)	the Principal Surveyor	an authorised officer
Sections 9(2) (first and third references only), (3), 14	Minister	Registrar
Section 9(2)	direct the Registrar	
Section 10(4)	in the Regulations	
Sections 14(1)(b), 17(2), 23(3), (6), 52(2), 53(1), 68(1), 69, 79(2)(a), 86(3), 92(2), 96(3), 108(2), 172(3)(f), (g), 205(1) (both references),	Regulations	maritime orders

206(1), (3)		
Sections 17(1), 208(1), (4)	the Marine Division	SIMA
Sections 19(6), 21(1), 22, 34(1), 98(1), 148(1), 157(1)	in Regulations	
Section 20	a qualified Surveyor appointed by the Superintendent of Marine	an approved surveyor
Section 23(3)	regulations made hereunder	maritime orders
Sections 35(4), 36(4), 201(1), (4), (5), 202(6), 203(1), (2)	International Convention on Maritime Liens and Mortgages, 1993	Maritime Liens Convention
Section 35(6)	International Convention on Maritime Liens Mortgages 1993	Maritime Liens Convention
Section 47(1)	for be	be
Section 51 heading	Registration of fees	Registration fees
Sections 51(2), 59, 94(1)	by Regulations	
Sections 53(3), 109, 152, 172(1)	The Minister shall make Regulations	SIMA may make maritime orders
Sections 56(5), 95(3)	Regulations made under this Act	Maritime orders
Section 58(1)	The Principal Surveyor or a	An authorised officer or an

	surveyor of vessels	approved surveyor
Section 60(1), (2)	A Surveyor	An authorised officer or approved surveyor
Section 60(3), (4)	a Surveyor	an authorised officer or approved surveyor
Section 60(6)	to the Surveyor	to an authorised officer or approved surveyor
Section 60(6)	of the Surveyor	of the officer
Section 62 heading	the Principal Surveyor	
Section 63(2)	a surveyor or request a classification society appointed under section 55 to nominate a surveyor	an approved surveyor
Section 64(1)	A Surveyor nominated by a classification society	An approved surveyor
Sections 65(4), 70, 84, 85(1) (first reference), 86(11), 87(1), (3), 93(3), 94(1), 96(3), 97(1) (both references), (2)(a), (b), (3), 98 (1), (2), (3), (5), 99(1), (2), 100(1), (2) (both references), (3), (4) (both references), 148(1), 156(2), 163,	Superintendent of Marine	Director

164, 165(3), 205(2), (4), 206(3), (6), (7), 210(1)(b), 210(16) (all references), 217(4)(a)		
Section 65(4)	the Principal Surveyor may	
Sections 70, 92(2)(n)(i), (ii), 161, 209(2)(q)	navigation aids	aids to navigation
Section 73(3)	The Principal Surveyor	An authorised officer
Sections 73(5), 82(2), 91(2) (second reference), (3)	the Principal Surveyor	the authorised officer
Section 75 heading	of the Principal Surveyor	
Section 75(1)	unload	unloaded
Section 75(1)	International Maritime Dangerous Good (IMDG) Code or with	
Section 75(3)	under	until
Section 76(2)	International Maritime Dangerous Goods (IMDG) Code or by the	
Section 80(6)(b)	a Surveyor	an approved surveyor
Section 81(1)(e)	the Principal Surveyor	an authorised officer or approved surveyor

Section 82(1), 165(1), (2), 205(1) (first reference)	the Superintendent of Marine	an authorised officer
Section 83(2)	shall, if so requested by the Principal Surveyor,	
Section 83(2)	report	report to the Director
Section 85(1)(b)	Superintendent of Marine who shall advise the Minister	Director
Section 86(1), (8), (10), 95(5), 98(6), 150(1), 159(1), (3), 162, 201(7), (8)	Minister	Director
Section 86(8)	inquiry	inquiry, and the Director must report the outcome of the inquiry to the Minister
Sections 87(2), 89, 96(1), 115(1), (2), 118(1), (2), 120(2), 129(5) (both references), 130(1), 135(1), (2), (3), 136(1), (3), 142(1)(d), (2)(c), 143, 145(1), 146(1), (2) (both references), 149(3), 152(d), (f), (g), 154(1), 155(1), 160(g)	Principal Shipping Officer	Director
Section 87(3)	fit	unfit

Section 92(2)(e)	a surveyor	an approved surveyor
Section 92(2)(e)	of the Principal Surveyor	
Section 92(2)(s)	vessel to - (i) the Principal Surveyor; and (ii) the master of the vessel;	vessel;
Section 95(1)	and any Regulations relating thereto	
Section 95(7)	Principal Shipping Officer or his designees	Director
Section 97(4)(b), (5), 113(1)(c),	the Principal Shipping Officer or a Shipping Officer	an authorised officer
Section 99(1), 146(3), 157(2)	the Principal Shipping Officer	an authorised officer
Section 99(1)	the Principal Shipping Officer, after	the authorised officer, after
Section 101(2)	the Principal Shipping Officer or his designee	an authorised officer
Section 106	the Principal Shipping Officer, a Shipping Officer,	an authorised officer
Sections 92, 109, 160, 172 heading	Regulations	maritime orders

Section 130(3)	a Shipping Officer, the Shipping Officer	the Director, the Director
Section 149(1)	Principal Shipping Officer or a person or class of persons designated by the Superintendent of Marine	Director
Part VIII, heading	NAVIGATION AIDS	AIDS TO NAVIGATION
Section 160	The Minister may from time to time on the advice of Cabinet make such Regulations to provide	SIMA may make maritime orders
Section 163 heading	navigation aids	aids to navigation
Section 166	the Superintendent of Marine	SIMA
Section 167 heading, section 170 heading	navigation aid	aid to navigation
Section 172(3), (4)	Regulations	Maritime orders
Section 173	shall be the Superintendent of Marine	is the Director
Section 173	Minister	Board of SIMA
Sections 180(4), 201(3)	International Convention of Maritime Liens and Mortgages, 1993	Maritime Liens Convention
Section 199(1), (2)	for Maritime Claims	

Section 199(2)	set forth in Regulations	prescribed
Section 204(1)	or Regulation	
Section 205(1)	the Superintendent of Marine may	the authorised officer may
Section 206(5), (7), (8)	the Government	SIMA
Sections 93(2), 206(7), 210(16)(c)	the Minister	SIMA
Sections 208(1), 209(1)	Regulations	subsidiary legislation
Section 209(1)	Marine and Admiralty matters	maritime, marine and admiralty matters, including matters arising anywhere SIMA has jurisdiction,
Sections 210(1)(a) and (b), 218, 219(1)	Regulations	subsidiary legislation under this Act
Section 210(7)	a Principal Officer	an authorised officer
Section 210(9)	a Principal Shipping Officer who has reasonable grounds to believe that the defendant may not appear before the Court on the date set out in the summons	the Director
Section 217(4)(b)	a Principal Shipping Officer, a Shipping Officer, a Surveyor	an authorised officer

SOLOMON ISLANDS MARITIME AUTHORITY BILL 2018

OBJECTS AND REASONS

The purpose of the Bill is to complete the progression of change at the Ministry of Infrastructure Development from the former Marine Division, operating ships on behalf of the Government (former Government Fleet) as owners, to monitoring and controlling the registered private sector fleet as regulators (the Maritime Authority, or SIMA). This final organisational progression is to ensure the administration has sufficient resources; flexibility of staff and volume of assets to be able to fulfil its mandate to enforce compliance with the *Shipping Act 1998* and associated national maritime legislation. It will also enable the new Maritime Authority to monitor commercial aspects of shipping and engage more with the international shipping community.

The objective of SIMA, created by the Bill, is to monitor domestic shipping to improve the safety and comfort of passengers; develop a marine environmental protection section to minimise, mitigate and prosecute marine pollution incidents, especially by foreign-owned ships; and to advise on improvement of energy and economic efficiency of shipping services, especially to the Provinces. Fulfilment of the obligations of the maritime conventions to which Solomon Islands has acceded, and future accession to more recent international maritime conventions, together with greater involvement in the international shipping community, will help to ensure control in the escalation of freight rates to and from Solomon Islands (currently escalating at one of the highest percentage annual increase rates in the world).

HON. STANLEY FESTUS SOFU
MINISTER FOR INFRASTRUCTURE DEVELOPMENT

SOLOMON ISLANDS MARITIME AUTHORITY BILL 2018

EXPLANATORY MEMORANDUM

Part 1 provides for preliminary matters such as the short title, commencement and definitions. It also specified the objects of the Act and the general principles of maritime administration.

The parts of the Act establishing the Solomon Islands Maritime Authority (SIMA) and providing powers to make subsidiary legislation commence immediately, but the other parts of the Act commence on a date appointed by the Minister by Gazette notice. This is so everything necessary to ensure SIMA is ready for operation can be done before the existing Maritime Safety Administration is abolished. It is necessary to bring SIMA into existence so that it can enter into contracts before commencement of the rest of the Act.

Part 2 establishes SIMA. SIMA is a body corporate with a range of functions relating to maritime regulation. It has jurisdiction not only in relation to vessels inside Solomon Islands waters, but also in relation to Solomon Islands vessels on the high seas and Solomon Islands citizens elsewhere. The Minister continues to determine national maritime policy, but is unable to give directions of a specific nature to SIMA, in order to protect SIMA's independence.

SIMA is governed by a Board, and managed by a Director, who reports to the Board. The Board is partially appointed by the Minister (the remaining members being *ex officio* members). The Board is required to establish an Advisory Committee to represent various stakeholders. The staff of SIMA are appointed by the Director and are not public officers. The Bill sets out the requirements for transparent and accountable selection process in the engagement of the Director and other staff.

SIMA is entitled to receive and manage its own revenue. It is not intended to be a profit-making entity, but can charge fees to support its operations. The Bill sets out how SIMA can generate funds and what they can be used for. It also sets out SIMA's financial reporting obligations.

SIMA is required to operate in accordance with a detailed corporate plan that has been approved by the Minister. The plan covers governance matters, operational and administrative strategies, the fees that SIMA will charge and a detailed budget for at least a 3 year period. The plan must be reviewed at least once each year, and SIMA is required to make an annual report to the Minister.

Part 3 sets out SIMA's principal function, which is to implement maritime

conventions to which Solomon Islands is a party or has domesticated through national legislation. Part of this role is to ensure that Solomon Islands is able to respond to amendments to conventions. SIMA is empowered to make maritime orders for the purpose of implementing conventions.

Part 4 sets out SIMA's role in franchise shipping schemes under which shipping services are provided to areas of Solomon Islands that may not be able to support a commercially viable shipping service. Franchise shipping schemes are primarily administered by the Ministry, but SIMA is responsible for monitoring the schemes and advising the Ministry. Part 4 also establishes some requirements for franchise shipping schemes that the Ministry must adhere to.

Part 5 sets out SIMA's responsibilities in coordinating maritime search and rescue services and in emergency planning.

Part 6 provides for appointment and powers of authorised officers. The Director is empowered to appoint authorised officers, who have powers specified in the Bill and also in the Shipping Act 1998. Authorised officers are subject to the directions of the Director, and are only able to exercise their powers for the purpose of monitoring compliance with a maritime law or if they suspect that a contravention of a maritime law has occurred.

Authorised officers have wide powers of entry, inspection, seizure and detention. These general powers are supplemented by detailed and wide-ranging powers in the Shipping Act 1998. It is an offence to fail to comply with a requirement of an authorised officer or to obstruct an authorised officer.

Part 7 provides for miscellaneous matters such as general offences, administrative matters and powers to make subsidiary legislation. The Minister is given power to make regulations. However, regulations may not be made in relation to a matter for which SIMA is empowered to make maritime orders. SIMA may make maritime orders prescribing fees and also in relation to other matters specified in the Bill and in the Shipping Act 1998. These orders deal with matters of administrative detail that were previously within the regulation-making powers of the Minister.

Part 8 provides for the transition from the repealed Act to the new Act. It provides for the transfer of staff to SIMA and also allows for transitional regulations to be made in the first year after the Act commences.

Part 9 repeals obsolete maritime legislation and makes numerous consequential amendments to the Shipping Act 1998. The amendments fall into the following broad categories:

- transferring powers and functions to SIMA, the Director and authorised officers – mostly, these are powers and functions that were given to office holders that no longer exist, such as the Principal Surveyor, Superintendent of Marine and the Principal Shipping Officer
- replacing incorrect definitions
- correcting drafting errors and terminology
- repealing provisions that are obsolete as a result of new provisions in the SIMA Bill.

The Schedule prescribes the rules of the Board of SIMA, which can be amended by the Board with the approval of the Minister.

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