

Chapter 395.
Shipping Act 1951.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 395.

Shipping Act 1951.

ARRANGEMENT OF SECTIONS.

1. Interpretation.
 - “Board of Reference”
 - “local ship”
 - “overseas ship”
 - “passenger”
 - “powered canoe”
 - “proclaimed port”
 - “ship”
2. Proclaimed ports.
3. Restrictions on overseas ships.
4. Licensing of ships to engage in local trade.
5. Fares and freights.
6. Refusal of local ship to carry passengers or cargo.
7. Institution of proceedings.
8. Disputes as to fares or freights.
9. Boards of Reference.
10. Failure to answer questions, etc.
11. Determination by Board.
12. Exemption of certain ships.
13. Certain transfers, etc., forbidden.
14. Removal of certain ships forbidden.
15. Regulations.

SCHEDULE 1 – Licence Fees.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Shipping Act 1951,

Being an Act relating to shipping.

1. INTERPRETATION.

(1) In this Act, unless the contrary intention appears—

“**Board of Reference**” means a Board of Reference constituted under Section 9;

“**local ship**” means a ship licensed under Section 4 to engage in the local trade;

“**overseas ship**” means a ship not being a local ship;

“**passenger**” means a passenger carried for hire or reward;

“**powered canoe**” means a traditional canoe ordinarily propelled otherwise than by sails or oars;

“**proclaimed port**” means a port proclaimed under Section 2;

“**ship**” includes every vessel used in navigation not ordinarily propelled by oars only, other than a traditional canoe.

(2) For the purposes of this Act, a ship is deemed to engage in the local trade, if the ship takes on board passengers or cargo at a port or place in the country, to be carried to, and landed or delivered at, any other port or place in the country.

(3) For the purposes of this Act, a powered canoe is deemed to engage in the local trade if it regularly takes on board passengers at a port or place in the country, to be carried to, and landed at, any other port or place in the country.

2. PROCLAIMED PORTS.

The Minister may by proclamation declare a port to be a port at which overseas ships may take on board, land, deliver or discharge passengers or cargo.

3. RESTRICTIONS ON OVERSEAS SHIPS.

A master, owner or agent of an overseas ship who—

- (a) takes on board, lands, delivers, or discharges any passenger or cargo at a port or place other than a proclaimed port; or
- (b) takes on board any passenger or cargo at a proclaimed port to be landed or discharged at any other proclaimed port,

is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

4. LICENSING OF SHIPS TO ENGAGE IN LOCAL TRADE.

(1) Unless licensed to do so under this section, the master, owner or agent of a ship or powered canoe who engages in the local trade is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

(2) The master, owner or agent of a ship or powered canoe may make written application to the Minister for the grant of a licence to the ship or powered canoe to engage in the local trade.

(3) The Minister may, in his absolute discretion—

- (a) grant, unconditionally or on such conditions as he thinks fit; or
- (b) refuse to grant,

a licence referred to in Subsection (2).

(4) The Minister may, at any time, cancel a licence if—

- (a) the ownership of the ship to which the licence was granted is changed during the currency of the licence; or
- (b) the master, owner or agent of the ship or powered canoe to which the licence was granted commits a breach of this Act or of the conditions on which the licence was granted.

(5) Subject to this section, a licence remains in force—

- (a) in the case of a ship described in the licence as being engaged solely in the coastal trade—for a period of 12 months; and
- (b) in the case of any other ship or a powered canoe—for the period specified in the licence or, where no period is specified, for a period of 12 months.

(6) Where a ship to which Subsection (5)(a) applies—

- (a) ceases to be engaged solely in the coastal trade; or
- (b) ceases to be in full survey for the purposes of navigation in Papua New Guinea waters as required by—
 - (i) the *Navigation Act* 1889 of the former Territory of Papua (Adopted); or
 - (ii) the *Coastal Shipping, Ports and Harbours Regulations* 1938 of the former Territory of New Guinea (Adopted); or
 - (iii) the *Navigation Act* 1912-1973 of Australia (Adopted); or

- (iv) the Act of the Parliament of the United Kingdom known as the *Merchant Shipping Act 1894* (Adopted),

the licence is deemed to have expired.

(7) For the purposes of Subsection (6)(a), where a ship, with the approval of the Minister, proceeds on an overseas voyage it is deemed in relation to that voyage to be engaged in the coastal trade.

(8) Subject to Subsection (9), the fees for licences are as set out in Schedule 1.

(9) Where the licence is granted, the fee is—

- (a) for a period of less than six months—50% of the fee prescribed in Schedule 1; or
(b) for a period of more than six months—the fee prescribed in Schedule 1; or
(c) for a single voyage—K15.00.

5. FARES AND FREIGHTS.

A person who charges any fare or freight in excess of the prescribed fare or freight, as the case may be, for the carriage of any passenger or cargo between ports or places in the country is guilty of an offence.

Penalty: A fine not exceeding K200.00.

6. REFUSAL OF LOCAL SHIP TO CARRY PASSENGERS OR CARGO.

The master, owner or agent of a local ship who, without reasonable cause (proof of which is on him), refuses absolutely or except on disadvantageous conditions, to take on board the ship at any port or place any passenger or cargo to be landed, delivered or discharged at any other port or place in the country, is guilty of an offence.

Penalty: A fine not exceeding K200.00.

7. INSTITUTION OF PROCEEDINGS.

Proceedings under this Act shall not be instituted except by the Minister or a person authorized in writing for the purpose by the Minister.

8. DISPUTES AS TO FARES OR FREIGHTS.

Where a dispute arises between a passenger or shipper and the master, owner or agent of a local ship as to the fare or freight payable in respect of the passenger or any cargo, the dispute shall, on the application of either party, be determined by a Board of Reference.

9. BOARDS OF REFERENCE.

(1) For the purpose of determining a dispute referred to in Section 8, a Board of Reference shall consist of a Chairman appointed by the Minister and a representative of each party.

(2) The representative of a party shall be nominated by that party.

10. FAILURE TO ANSWER QUESTIONS, ETC.

(1) For the purpose of determining a dispute referred to in Section 8, the Chairman of a Board of Reference may, by written notice, require any person to attend before the Board—

- (a) to answer, on oath, questions put to him by any member of the Board; and
- (b) to produce books and documents,

in relation to the dispute.

(2) For the purposes of this section the Chairman has power to administer oaths.

(3) A person who refuses or fails to answer questions or produce documents when required to do so under this section is guilty of an offence.

Penalty: A fine not exceeding K100.00.

(4) A person is not excused from answering any question or producing any document when required to do so under this section on the ground that the answer to the question or the production of the document might tend to criminate him or make him liable to a penalty, but his answer is not admissible in evidence against him in any civil or criminal proceeding other than a proceeding for an offence against this Act.

11. DETERMINATION BY BOARD.

(1) A Board of Reference after—

- (a) considering such evidence as is given before it or produced to it; and
- (b) making such other inquiries as it thinks necessary or desirable,

may determine the dispute submitted to it.

(2) The determination of a Board of Reference in relation to a dispute binds the parties to the dispute and is enforceable in any court of competent jurisdiction.

12. EXEMPTION OF CERTAIN SHIPS.

(1) For the purposes of this section, “ship” means a ship not exceeding 100 tons gross tonnage.

(2) Where the Minister is satisfied that any ship or class of ships is not ordinarily used for the carriage of passengers or cargo for valuable consideration, he may by notice in the National Gazette, suspend the operation of all or any of the provisions of this Act in relation to that ship or class of ships and while the notice is in force, the provisions of this Act specified in the notice do not apply to that ship or class of ships.

(3) The Minister may, at any time, by notice in the National Gazette, revoke or vary any notice made under Subsection (2).

13. CERTAIN TRANSFERS, ETC., FORBIDDEN.

(1) A person who, without the prior written consent of the Minister—

- (a) transfers a ship which is owned, managed or controlled by—
 - (i) a person resident in the country; or

- (ii) a corporation whose principal place of business is in the country,
or any share in any such ship, to–
- (iii) a person not resident in the country or Australia; or
- (iv) a corporation whose principal place of business is not in the country or Australia; or
- (b) mortgages any such ship or share, or transfers a mortgage of any such ship or share, to–
 - (i) a person not resident in the country or Australia; or
 - (ii) a corporation whose principal place of business is not in the country or Australia,

is guilty of an offence.

Penalty: A fine not exceeding K10,000.00.

(2) A transfer, mortgage or transfer of mortgage effected in breach of this section is void.

(3) The consent of the Minister under this section may be given–

- (a) generally or in relation to a particular case; and
- (b) subject to such terms and conditions (if any) as the Minister thinks fit.

(4) Where, under this section, the Minister has consented to a transfer, mortgage or other transaction subject to terms and conditions a person who fails to comply with any of the terms and conditions applicable to him is guilty of an offence.

Penalty: A fine not exceeding K10,000.00.

(5) In the event of any failure to comply with any of the terms or conditions referred to in Subsection (4), the transfer, mortgage or other transactions shall be deemed to have been affected without the consent of the Minister and the provisions of this section are applicable.

14. REMOVAL OF CERTAIN SHIPS FORBIDDEN.

(1) The Minister may, by written notice to the owner or master of any ship owned by a person resident in the country or by a corporation whose principal place of business is in the country, forbid the removal of the ship from the territorial waters.

(2) The owner of any ship forbidden to be removed from the territorial waters who–

- (a) removes or causes to be removed; or
- (b) attempts to remove or causes to be removed,

any such ship from the territorial waters is guilty of an offence.

Penalty: A fine not exceeding K10,000.00.

(3) Any person including the master of any ship specified in Subsection (1) who–

- (a) removes or attempts to remove; or
- (b) assists to remove; or
- (c) assists an attempt to remove,

any such ship from the territorial waters, is guilty of an offence.

Penalty: Imprisonment for a term not exceeding two years.

15. REGULATIONS.

The Head of State, acting on advice, may make regulations not inconsistent with this Act, prescribing all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular prescribing matters providing for and in relation to—

- (a) the regulation of the proceedings of any Board of Reference; and
- (b) the fares and freights to be charged in respect of the carriage of passengers and cargo by local ships; and
- (c) the fares to be charged in respect of the carriage of passengers in powered canoes.

SCHEDULE 1 – LICENCE FEES.

Sec.4(9).

Vessel size. (Gross registered tons.)	Fees for each 12 months or part of 12 months.
	K
0-19	3.00
20-49	10.00
50-99	20.00
100-149	25.00
150-199	30.00
200-249	35.00
250-299	40.00
300-349	45.00
350-399	50.00
400-449	55.00
450-499	60.00
500-999	65.00
1,000-1,999	70.00
2,000 and above	70.00 plus K5.00 for every 1,000 gross registered tons or part of 1,000 gross registered tons by which the vessel exceeds 2,000 tons.

Vessel size. (Gross registered tons.)	Fees for each 12 months or part of 12 months.
	K
0-19	3.00
20-49	10.00
50-99	20.00
100-149	25.00
150-199	30.00
200-249	35.00
250-299	40.00
300-349	45.00
350-399	50.00
400-449	55.00

Vessel size. (Gross registered tons.)	Fees for each 12 months or part of 12 months.
	K
450-499	60.00
500-999	65.00
1,000-1,999	70.00
2,000 and above	70.00 plus K5.00 for every 1,000 gross registered tons or part of 1,000 gross registered tons by which the vessel exceeds 2,000 tons.