

SHIPPING ORDINANCE 1951.⁽¹⁾

No. 39 of 1951.

An Ordinance relating to Shipping.

BE it ordained by the Administrator of the Government of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Papua and New Guinea Act 1949-1950*, as follows:—

1. This Ordinance may be cited as the *Shipping Ordinance* Short title. 1951.⁽¹⁾

2. This Ordinance shall come into operation on a date to be Commencement. fixed by the Administrator by notice⁽¹⁾ in the *Gazette*.

3.—(1.) The Ordinances specified in the Schedule to this Repeal. Ordinance are repealed.

(2.) All proclamations and notices⁽²⁾ made or given under an Ordinance repealed by this Ordinance and in force immediately before the commencement of this Ordinance shall continue in force as if made or given under this Ordinance.

(3.) All licences granted under an Ordinance repealed by this Ordinance and in force immediately before the commencement of this Ordinance shall be deemed to have been granted under section seven of this Ordinance.

4.—(1.) In this Ordinance, unless the contrary intention Definitions. appears—

“Board of Reference” means a Board of Reference constituted under this Ordinance;

“local ship” means a ship licensed under this Ordinance to engage in the local trade;

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

“proclaimed port” means a port proclaimed under section five of this Ordinance;

“ship” includes every vessel used in navigation not ordinarily propelled by oars only.

(1) Particulars of this Ordinance are as follows:—

Date on which made by Cwth. Administrator in Council.	Date on which notified in <i>Cwth. Gaz.</i>	Date on which took effect.
24.10.1951	1.11.1951	19.11.1951 (<i>Papua and N.G. Govt. Gaz.</i> of 19.11.1951)

(2) Particulars of proclamations and notices which were continued in force y Section 3 (2) are contained in the relevant footnotes to this Ordinance.

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

Proclaimed
ports.

5. The Administrator may by proclamation⁽³⁾ declare a port to be a port at which overseas ships may take on board, land, deliver or discharge passengers or cargo.

Restrictions on
overseas ships.

6. An overseas ship shall not—

(a) take on board, land, deliver or discharge any passenger or cargo at a port or place other than a proclaimed port; or

(b) take on board any passenger or cargo at a proclaimed port to be landed or discharged at any other proclaimed port.

Penalty (on master, owner or agent) : Five hundred pounds.

Licensing of
ships to engage
in local trade.

7.—(1.) A ship shall not engage in the local trade unless licensed under this section to do so.

Penalty (on master, owner or agent) : Five hundred pounds.

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

(3.) The Administrator may in his absolute discretion—

(a) grant, unconditionally or on such conditions as he thinks fit; or

(b) refuse to grant,

any such licence.

(4.) The Administrator may at any time cancel a licence if the ownership of the ship to which the licence was granted is changed during the currency of the licence or if the master, owner or agent of the ship to which the licence was granted commits a breach of the provisions of this Ordinance or the regulations made thereunder or of the conditions on which the licence was granted.

(5.) Subject to the provisions of this section, a licence to a ship to engage in the local trade shall—

(a) in the case of a ship which carries passengers or cargo solely between ports or places in the Territory, be for a period of three years; and

(b) in the case of any other ship, be for a period of twelve months.

(3) By Proclamation (made under Section 4 of the repealed *Shipping Ordinances, 1936* and continued in force by the present Section 3 (2) dated 28.7.1936 and published in *Papua Govt. Gaz.* of 5.8.1936, the Lieutenant-Governor declared the Ports of Port Moresby, Daru, Samarai, Yule Island, Misima, and Woodlark Island to be "ports at which overseas ships may take on board, land, deliver or discharge passengers or cargo." By Proclamation (made under Section 4 of the repealed *Shipping Ordinance 1936-1939* and continued in force by the present Section 3 (2) dated 12.12.1936 and published in *N.G. Gaz.* of 15.12.1936 the Administrator declared "the ports of Rabaul, Salamaua, Lae, Kavieng, Madang, Kieta, Wewak, Boram and Lorengau to be ports at which overseas ships may take on board, land, deliver or discharge passengers or cargo."

(6.) The fee for a licence granted under this section shall be One pound for each year or part of a year the licence is in force.

8. A person shall not charge for the carriage of any passenger or cargo between ports or places in the Territory any fare or freight in excess of the prescribed fare or freight, as the case may be.

Fares and freights.

Penalty: One hundred pounds.

9. The master, owner or agent of a local ship shall not, without reasonable cause (proof whereof shall lie on him), refuse, either 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 Territory.

Local ship not to refuse to carry passengers or cargo.

Penalty (on master, owner or agent): One hundred pounds.

10. No proceeding under this Ordinance shall be instituted except by the Administrator or some person thereto authorized in writing by the Administrator.

Institution of proceedings.

11. If 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 carriage of the passenger or any cargo, the dispute shall on the application of either party be determined by a Board of Reference.

Disputes as to fares or freights.

12.—(1.) A Board of Reference for the purpose of determining a dispute referred to in the last preceding section shall consist of a Chairman appointed by the Administrator and a representative of each party.

Boards of Reference.

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

13.—(1.) For the purpose of determining a dispute, the Chairman of a Board of Reference may by notice in writing require any person to attend before the Board of Reference to answer, on oath, questions put to him by any member of the Board of Reference and to produce books and documents to the Board of Reference in relation to the dispute.

Power to require persons to answer questions and produce documents.

(2.) The Chairman shall for the purposes of this section have power to administer oaths.

(3.) A person shall not refuse nor fail to answer questions or produce documents when required to do so in pursuance of this section.

Penalty: Fifty pounds.

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(4.) A person shall not be 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 shall not be admissible in evidence against him in any civil or criminal proceeding other than a proceeding for an offence against this Ordinance.

Power of Board and effect of determination.

14.—(1.) A Board of Reference after considering such evidence as is given before it or produced to it and after 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 shall bind the parties to the dispute and shall be enforceable in any court of competent jurisdiction.

Exemption of certain ships.

15.—(1.) Where the Administrator 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⁽⁴⁾ in the *Gazette* suspend the operation of all or any of the provisions of this Ordinance in relation to that ship or class of ships, and thereupon the provisions of this Ordinance specified in the notice shall not, while the notice is in force, apply to that ship or class of ships.

(2.) The Administrator may, at any time, by notice in the *Gazette*, revoke or vary any such notice.

(3.) For the purposes of this section, "ship" means a ship not exceeding one hundred tons gross tonnage.

Regulations.

16. The Administrator in Council may make regulations⁽⁵⁾, not inconsistent with this Ordinance, prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, 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.

(4) By Order in Council (made under Section 13A of the repealed *Shipping Ordinances, 1936* and continued in force by the present Section 3 (2)) dated 26.11.1936, published in *Papua Govt. Gaz.* of 2.12.1936, particulars of which are printed in *The Laws of the Territory of Papua 1888-1945 (Annotated)*, Vol. IV., in footnote (4) on p. 4150, the Lieutenant-Governor suspended the operation of the Ordinance in respect of certain classes of ships. By notice (made under Section 13A of the repealed *Shipping Ordinance 1936-1939* and continued in force by the present Section 3 (2)) dated 5.1.1940, published in *N.G. Gaz.* of 15.1.1940, particulars of which are printed in *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. IV., in footnote (3) on p.4370, the Administrator suspended the operation of all the provisions of the Ordinance in respect of certain classes of ships.

(5) No regulations were made before 1.1.1953.

THE SCHEDULE.

ORDINANCES OF THE TERRITORY OF PAPUA.

Shipping Ordinance, 1936.(6)
Shipping Ordinance (No. 2), 1936.(6)
Shipping Ordinance (No. 3), 1936.(6)

ORDINANCES OF THE TERRITORY OF NEW GUINEA.

Shipping Ordinance 1936.(7)
Shipping Ordinance (No. 2) 1936.(7)
Shipping Ordinance 1939.(7)

(6) *The Laws of the Territory of Papua 1888-1945 (Annotated)*, Vol. IV., pp. 4147-4150.

(7) *The Laws of the Territory of New Guinea 1921-1945 (Annotated)*, Vol. IV., pp. 4367-4370.