

# SHIPPING ORDINANCES, 1936. <sup>(1)</sup>

## An Ordinance relating to Shipping.

**B**E it ordained by the Legislative Council for the Territory of Papua, in pursuance of the powers conferred by the *Papua Act, 1905-1934*, as follows:—

1. This Ordinance may be cited as the *Shipping Ordinances, 1936.* <sup>(1)</sup> Short title.  
Amended by  
No. 2 of 1936,  
s. 2.
2. This Ordinance shall commence on a date to be fixed by the Lieutenant-Governor by notice in the *Gazette.* <sup>(1)</sup> Commencement.
- 3.—(1.) In this Ordinance, unless the contrary intention 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 local trade; Definitions.  
Sub-section (1)  
amended by  
No. 14 of 1936,  
s. 3.
  - “overseas ship” means any ship not being a local ship;
  - “proclaimed port” means a port proclaimed under Section Four of this Ordinance;
  - “ship” includes every vessel used in navigation not ordinarily propelled by oars only.
- (2.) For the purposes of this Ordinance a ship shall be deemed to engage in local trade if the ship takes on board passengers or cargo at any port or place in the Territory to be carried to and landed or delivered at any other port or place in the Territory. Substituted by  
No. 14 of 1936,  
s. 3.
- Sub-section (2)  
added by  
No. 14 of 1936,  
s. 3.

(1) The *Shipping Ordinances, 1936*, comprise the *Shipping Ordinance, 1936*, as amended by the other Ordinances referred to in the following Table:—

### ORDINANCES OF THE LEGISLATIVE COUNCIL FOR THE TERRITORY OF PAPUA.

Short title, number and year.	Date of reservation by Lieut.-Gov.	Date on which assent of Gov.-Gen. in Council published in Papua Govt. Gaz.	Date on which came into operation.
<i>Shipping Ordinance, 1936</i> (No. 5 of 1936)	6.3.1936	3.6.1936	1.1.1937 (Papua Govt. Gaz. of 3.6.1936)
<i>Shipping Ordinance</i> (No. 2), 1936 (No. 14 of 1936)	30.7.1936	7.10.1936	1.1.1937 (Papua Govt. Gaz. of 2.12.1936)
<i>Shipping Ordinance</i> (No. 3), 1936 (No. 18 of 1936)	2.11.1936	2.12.1936	1.1.1937 (Papua Govt. Gaz. of 2.12.1936)

SHIPPING—

Proclaimed ports.

4. The Lieutenant-Governor<sup>(2)</sup> may by Proclamation<sup>(3)</sup> declare any port to be a port at which overseas ships may take on board, land, deliver or discharge passengers or cargo.

Overseas ship to call at proclaimed ports.

5. An overseas ship shall not—

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

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

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

Licensing of ships to engage in local trade.

Sub-section (1) substituted by No. 14 of 1936, s. 4.

Sub-section (2) substituted by No. 14 of 1936, s. 4.

6.—(1.) A ship shall not engage in local trade unless licensed to do so. Penalty (on master, owner or agent): Five hundred pounds.

(2.) The master, owner or agent of any ship may make application in writing to the Lieutenant-Governor<sup>(2)</sup> for a licence for the ship to engage in local trade.

(3.) The Lieutenant-Governor<sup>(2)</sup> may, in his absolute discretion—

(a) grant any such licence either unconditionally or subject to such conditions as he thinks fit; or

(b) withhold any such licence.

Sub-section (3) substituted by No. 14 of 1936, s. 4 and by No. 18 of 1936, s. 3.

(4.) Upon a change of ownership of the licensed ship or upon conviction of the master, owner or agent of the licensed ship of a breach of this Ordinance or upon any breach of the conditions of the licence the Lieutenant-Governor<sup>(2)</sup> may at any time in his absolute discretion cancel the licence.

Sub-section (4) substituted by No. 14 of 1936, s. 4.

Amended by No. 18 of 1936, s. 3.

Sub-section (5) substituted by No. 14 of 1936, s. 4.

(5.) Unless sooner determined in accordance with the provisions of this section a licence for a ship to engage in local trade shall be for a period of three years if the ship is to engage exclusively in local trade but if the ship is not to be so engaged the period of the licence shall be twelve months.

Sub-section (6) substituted by No. 14 of 1936, s. 4.

(6.) The fee for a licence to engage in local trade shall be One pound for every year or part of a year of the currency of the licence.

Fares and freights.

7. Where a Proclamation is issued under Section Four of this Ordinance a person shall not charge for the carriage of any passen-

(2) See Section 19(2) of the Ordinance Interpretation Ordinance, 1911-1940.

(3) The Lieutenant-Governor, by Proclamation dated 28.7.1936 and published in Papua Govt. Gaz. of 5.8.1936 declared the following ports "to be ports at which overseas ships may take on board, land deliver or discharge passengers or cargo: Port Moresby, Daru, Samarai, Yule Island, Misima, Woodlark Island."

ger 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.

8. 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.

9. No proceeding under this Ordinance shall be instituted except by the Lieutenant-Governor<sup>(2)</sup> or some person thereto authorized by the Lieutenant-Governor.<sup>(2)</sup>

Institution of proceedings.

10. If any 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 constituted under this Ordinance.

Disputes as to fares or freights.

11.—(1.) A Board of Reference for the purpose of determining any dispute referred to in the last preceding section shall consist of a Chairman appointed by the Lieutenant-Governor<sup>(2)</sup> and a representative of each party.

Boards of Reference.

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

12.—(1.) For the purpose of determining any 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.

Powers 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.) No person shall refuse or 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.) No person shall be excused from answering any questions or producing any document when required to do so under this section on the ground that the answer to the question or the pro-

Sub-section (4) omitted by No. 14 of 1936, s. 5.

Sub-section (5) renumbered (4) by No. 14 of 1936, s. 5.

(2) See Section 19(2) of the Ordinance Interpretation Ordinance, 1911-1940.

duction 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.

13.—(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. Section 13A inserted by No. 18 of 1936, s. 4.

13A.—(1.) Where the Lieutenant-Governor<sup>(2)</sup> 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<sup>(4)</sup> 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 Lieutenant-Governor<sup>(2)</sup> 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.

14. The Lieutenant-Governor in Council<sup>(2)</sup> may make regulations,<sup>(5)</sup> 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—

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Paragraph (a) omitted by No. 14 of 1936, s. 6.

Paragraph (b) renumbered (a) by No. 14 of 1936, s. 6.

Paragraph (c) renumbered (b) by No. 14 of 1936, s. 6.

- (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.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(4) The Lieutenant-Governor by Order in Council dated 26.11.1936 and published in *Papua Govt. Gaz.* of 2.12.1936 ordered:

“That the provisions of the above Ordinances be suspended from operation in respect of the under-mentioned class of ships not ordinarily used for the carriage of passengers or cargo for valuable consideration, and not being ships over 100 tons gross tonnage:—

Fishing Ships.  
Mission Ships.

Ships ordinarily engaged in carrying the goods of the ship owner only and/or his employees.”

(5) No regulations have been made.