

**WESTERN SAMOA  
MARINE POLLUTION (PREVENTION AND CONTROL) ACT, 1992**

**A MARITIME LEGISLATION DRAFTING PROJECT SUBMITTED  
IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE  
AWARD OF A MASTER OF LAWS DEGREE (LL.M.)  
AT THE  
IMO INTERNATIONAL MARITIME LAW INSTITUTE (I.M.L.I.)  
M A L T A**

**APRIL 1992**

**SUPERVISOR: PROFESSOR P.K. MUKHERJEE**

**KOSIMIKI LATU**

**EXPLANATORY NOTE**

The aim of this Bill is to provide for a comprehensive and functional Act concerning the prevention and control of marine pollution in the independent state of Western Samoa. The Bill takes into account the development of marine pollution law through international and regional conventions and protocols. Given the inadequacies in the existing law, and the need to deal effectively with marine pollution, it was considered urgent by the Government to enact legislation in this respect. Conscious of the fact that Western Samoa is not a party to most international and regional conventions, it was deemed desirable by the Government to enact this legislation, thus signalling to the international community its acceptance of these conventions.

Although the Bill only covers some aspects of marine pollution, it is envisaged that further additions will be made in the foreseeable future as the situation warrants.

**PART I** of the Bill deals with preliminary matters. It includes the short title, commencement and a general interpretation section.

**PART II** creates a regulatory regime for the discharge of oil and other substances both within and outside the territorial waters of the independent state of Western Samoa. It also provides for criminal sanctions in the form of substantial monetary fines.

**PART III** The objective of this Part is to provide compensation to

those who suffer damage from pollution caused by the discharge of oil from ships. Ships carrying more than 2,000 tons of oil in bulk as cargo are required to carry a certificate attesting that they comply with the insurance or security requirements. Although shipowners are strictly liable (i.e. without proof of fault) for damage caused by oil escaping from their ships, they are allowed to limit their liability.

**PART IV** of the Bill creates a compensation fund for oil pollution victims. It incorporates the provisions of the Fund Convention. Part IV is supplementary to the compensation scheme provided in PART III. The burden of payment of compensation under PART IV falls on oil importers. It provides for contributions by persons who have received oil in excess of 150,000 tons of oil per annum to finance the Fund.

**PART V** deals with the measures to prevent pollution, caused by deliberate disposal at sea of wastes or other substances. It incorporates the provisions of the London Dumping Convention, 1972.

PART V prohibits the dumping of certain hazardous materials and endeavours to control the dumping of others by prescribing the requirement of permits.

**PART VI** incorporates the provisions of the International Convention on Oil Pollution, Preparedness, Response and Co-operation, 1990. It also takes into account the Protocol concerning co-operation in combatting pollution emergencies in the South Pacific, 1986. The purpose of PART VI is to provide for an effective regime concerning proper preparedness and response to pollution incidents or emergencies which pose or may pose a serious danger to the marine environment, surrounding coasts and related interests of Western Samoa. The scope of the Bill is extended to cover other harmful substances apart from oil. Part VI reflects a major concern of the Government of the serious threat posed by pollution incidents involving ships, seaports and oil terminals, and that only prompt and effective action can minimise environmental damage.

To ensure proper preparedness against the possibility of pollution incidents, Part VI requires that ships flying the Western Samoan flag must have and maintain on board a shipboard oil pollution emergency plan approved by the Authority. At the same time, seaports, terminals, and oil handling facilities are required to have similar emergency plans. Part VI also sets out specific pollution reporting procedures for ships flying the Western Samoan flag, and aircrafts operating within Western Samoan waters, as well as for seaports and oil terminals, regarding the discharge or probable discharge of oil or other harmful substances.

PART VI provides for a number of precautionary and preventive measures. The adoption and implementation of these measures are accorded to the Marine Pollution Authority which is the designated body to deal with pollution incidents.

Wide powers are conferred on the Authority to enable it to carry out its functions, the most important ones being the establishment of national capabilities consisting of a national contingency plan, response equipment and training programmes for relevant personnel.

The Minister is also given extensive powers to take whatever measures or action that he may think necessary for responding to a pollution incident, including the giving of instructions to any person regarding the appropriate action to be taken. Failure to comply with such instructions entails criminal sanctions in the form of substantial fines.

PART VI takes into account the Government's recent environmental strategy and policies to avert ecological damage to the fragile and sensitive marine ecosystem, and surrounding coasts of Western Samoa, which may result from a significant pollution incident. More importantly, it takes into consideration the economic reliance placed on the continuous utilisation of the coastal environment, its related interests such as traditional fishery activities, tourist and recreational activities. The Bill exempts Government ships, owned and operated for non-commercial purposes, although the Minister may, if he thinks fit, make regulations regarding such ships. Compensation is provided for those who suffer costs or damage as a result of any action taken in compliance with any instructions given by the Minister.

Those who incur costs or expenses as a result of any requested assistance are entitled to reimbursement from the Government.

**PART VII** incorporates the provisions of the 1969 Intervention Convention and the 1973 Protocol. It provides for a regime which will enable the Government to take such measures on the high seas as may be necessary to prevent, mitigate or eliminate grave and imminent danger, to the surrounding coastline from pollution or threat of pollution of the sea by oil or other harmful substances as a result of maritime casualties. Part VII exempts warships or other vessels owned or operated by the Government for non-commercial purposes.

Under PART VII, the Minister of Transport is empowered to give instructions to cope with maritime casualties, where an accident has occurred to or in a ship and he is of the opinion that oil (or any other harmful substances) from the ship will or may cause pollution on a large scale in the territorial waters of Western Samoa, and he considers that the use of his powers is urgently needed.

The Minister may give directions to those in charge of the ship for the purpose of preventing or reducing the threat of pollution from oil or other harmful substances so as to make them move the vessel or unload her to take certain salvage measures, but if he feels that these powers are inadequate to prevent pollution, he can take control of the ship or give orders for her destruction.

If the casualty is a foreign-registered vessel that is outside Western Samoan territorial waters, the Minister may only use his powers where

he is satisfied that there is a need to protect the coast or territorial waters of Western Samoa, against grave and imminent danger of pollution by oil or other harmful substances.

A person who fails to comply with any of the requirements of an instruction duly given to him, or who contravenes those requirements, will be guilty of an offence under PART VII, as will any person who wilfully obstructs anyone acting on behalf of the Minister in serving an instruction or anyone acting in compliance with an instruction under PART VII.

It is a defence for anyone to show that he exercised due diligence to ensure compliance with the instruction or that he had good cause to believe that compliance with the instruction would have involved a serious risk to human life. Compensation is provided for any person who suffers damage or incurs expense as a result of an action taken in compliance with an instruction or orders of the Minister.

**WESTERN SAMOA  
MARINE POLLUTION (PREVENTION AND CONTROL) ACT, 1992**

**Arrangement of Provisions**

**PART I**

**Preliminary**

1. Short title
2. Commencement
3. Interpretation

**PART II**

**CRIMINAL LIABILITY FOR  
POLLUTION**

(not included)

**PART III**

**CIVIL LIABILITY FOR POLLUTION**

(not included)

**PART IV**

**COMPENSATION FUND**

(not included)

**PART V**

**DUMPING AT SEA**

(not included)

**PART VI**

**RESPONSE TO POLLUTION INCIDENTS**

40. Interpretation
41. Application to Government ships
42. Establishment of Authority
43. Persons not liable for acts or omissions
44. Marine officers
45. Power of Minister to give instructions
46. Functions of Authority
47. Powers of Authority
48. Policy of Cabinet
49. Requirement for pollution emergency plan
50. Offences in relation to section 49
51. Duty to report pollution incidents
52. Communication of information concerning pollution incidents
53. Offences in relation to section 51

- 54. Action on receiving a pollution report
- 55. Instructions by the Minister
- 56. Ministers may take any action
- 57. Measures by Authority to facilitate arrival in and departure from Western Samoa of response equipment
- 58. Offences in relation to section 55
- 59. Right to receive compensation in respect of loss or damage
- 60. Rights and Powers under International Law

**PART VII  
INTERVENTION IN CASES OF POLLUTION CASUALTIES**

- 61. Powers in relation to pollution casualties
- 62. Rights to compensation
- 63. Offences in relation to section 61
- 64. Application to certain foreign and other ships
- 65. Protection of Minister and other persons
- 66. Saving and Transitional

**PART VIII  
GENERAL PROVISIONS**

(not included)

1992, No.  
A BILL INTITULED

AN ACT TO PREVENT AND CONTROL MARINE POLLUTION AND TO GIVE EFFECT TO THE PROVISIONS OF INTERNATIONAL AND REGIONAL CONVENTIONS AND PROTOCOLS RELATING TO THE PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT OF THE INDEPENDENT STATE OF WESTERN SAMOA; AND FOR MATTERS INCIDENTAL THERETO AND CONNECTED THEREWITH.

BE IT ENACTED by the legislative Assembly of Western Samoa in Parliament assembled as follows:-

PART I  
PRELIMINARY

1. **Short title** - This Act may be cited as the Marine Pollution (Prevention and Control) Act, 1992.
2. **Commencement** - This Act shall come into force on a date to be appointed by order of the Head of State, acting on the advice of Cabinet.
3. **Interpretation** - not included.

PART II  
CRIMINAL LIABILITY FOR POLLUTION  
(not included)

PART III  
CIVIL LIABILITY FOR POLLUTION  
(not included)

PART IV  
COMPENSATION FUND  
(not included)

PART V  
DUMPING AT SEA  
(not included)

PART VI  
RESPONSE TO POLLUTION INCIDENTS  
(schedule 1 not included)

40. **Interpretation** - In this Part and in any regulations made pursuant to this Act, unless the contrary intention appears:-

"air-cushioned vehicle" means a vehicle designed to be supported when in motion wholly or partly by air expelled from the vehicle and forming a cushion of which the boundaries include the water or surface below the vehicle while operating over marine waters;

"Authority" means the Marine Pollution Authority;

"maritime casualty" means a collision of ships, the stranding, the grounding or the abandonment of, or other incident of navigation, or other occurrence on board a ship or external to it resulting in loss of life, material damage or imminent threat of material damage to a ship or its cargo;

"Court" means the Supreme Court of Western Samoa;

"Director" means the Director of the Marine Pollution Authority;

"discharge", in relation to harmful substances means any release from a ship, seaport or handling facility howsoever caused, and includes any escaped, disposal, spilling, leaking pumping emitting or emptying;

"Government ship" has the meaning assigned to it by the Shipping Act, 1991;

"harmful substance" means any substance which, if introduced to the sea, may create hazards to human health, living resources or marine life, damage, amenities, or interfere with other legitimate uses of the sea, and includes any substance subject to control under MARPOL;

"marine officers" has the meaning assigned to it by section 44 of this Act;

"MARPOL" means the International Convention for the Prevention of Pollution from Ships 1973/78 as amended from time to time unless that amendment has been objected to by Western Samoa;

"master" in relation to a ship, means the person having lawful command or charge of the vessel but does not include a pilot;

"Minister" means the Minister of Transport;

"oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;

"pilot" has the meaning assigned to it by the Shipping Act, 1991;

"pollution incident" means a discharge or significant threat of a discharge of oil or other hazardous substance, however caused, resulting in pollution or an imminent threat of pollution to the marine

and coastal environment or which adversely affects the related interests of the independent state of Western Samoa, and of a magnitude that requires emergency action or other immediate response for the purpose of minimising its effects or eliminating its threat;

"related interests" means interests directly affected or threatened, including (but without limiting the generality of the foregoing):

- (a) maritime, coastal, port, or estuarine activities;
- (b) fishing activities and the management and conservation of living and non-living marine resources, including coastal ecosystems;
- (c) the cultural value of the area concerned and the exercise of traditional customary rights therein;
- (d) public health and welfare;
- (e) tourist and recreational activities.

"seaport and oil handling facilities" means those facilities which present a risk of pollution incident and includes, inter alia, sea ports, oil terminals, pipelines and oil handling facilities;

"ship" means any sea going vessel of any type whatsoever and includes hydrofoil boats, air cushion vehicles, submersed and floating craft of any type;

"structure" means a platform or other man-made structure-at-sea, other than a pipeline;

"vessel" includes every description of water craft used, as capable of being used as a means of transportation on water;

"Western Samoan ship" means a ship for the time being registered in Western Samoa;

"Western Samoan waters" means any part of the sea from the baselines from which the breadth of the territorial sea is measured to the outer limit of its EEZ as defined in section 3 of the Exclusive Economic Zone Act, 1977.

**41. Application to Government ships** - (1) Subject to sub-section (2), nothing in this Part shall apply to any warship, naval auxiliary or other ship owned or operated by the Government of Western Samoa and used, for the time being, only on Government non-commercial services.

(2) The Minister may make regulations prescribing the manner and extent to which the provisions of this Part apply to ships owned or operated by the Government of Western Samoa and used for the time being, only on Government non-commercial services.

**42. Establishment of Authority** - (1) There shall be established for the purposes of this Part an Authority to be called the Marine Pollution Authority which shall have the powers and functions

conferred upon it by this Part.

(2) For the purpose of administering the Authority, there shall be a Director appointed by the Minister.

(3) Subject to this Part, the Director may delegate the exercise of any powers or the performance of any duties conferred or imposed on him by or under this Part to such person or persons as he may think fit.

(4) Any act done by, or on behalf of the Director in the exercise or performance of any powers, right or duty conferred or imposed by this Part, shall have the same effect as if done by the Director.

**43. Persons not liable for acts or omissions** (1) The Director, or any other person to whom any or all of the functions of the Director are delegated, shall not be liable for any acts or omissions done by him for the purpose of administering this Part.

(2) The Authority may from time to time appoint and employ on such terms and conditions as the Authority may determine, any other persons as may be necessary for the effective performance of its functions.

**44. Marine officers** - (1) There may be appointed by the Minister for the purpose of this Part, such number of marine Officers as may be necessary.

(2) A marine officer shall exercise his powers and duties under the direction of the Director.

**45. Power of Minister to give instructions** - The Minister may from time to time give the Director such general instructions not inconsistent with the provisions of this Part or any regulations made thereunder, on the policy to be pursued in the administration of this Part, as he may consider necessary, and the Director shall forthwith take such steps as are necessary or expedient to give effect thereto.

**46. Functions of the Authority** - Under this Part, the functions of the Authority shall be as follows:

(a) to organise, co-ordinate and undertake emergency response activities to prevent, combat and minimise the effects of a pollution incident, which pose or may pose a threat to the marine environment or surrounding coasts of Western Samoa;

(b) to establish national capabilities and facilitate regional and international co-operation in respect of pollution preparedness and response;

(c) to prepare and establish a national response system for combatting pollution incidents, comprising a contingency plan, response equipment and training programmes for relevant personnel;

(d) to receive reports concerning pollution incidents and information and to disseminate any information concerning oil pollution preparedness and response;

(e) to establish and maintain an emergency response communications system;

(f) to initiate joint research and development programmes

relating to the enhancement of the state-of-the-art of oil pollution preparedness and response, and other matters connected therewith.

**47. Powers of Authority** - (1) Subject to this Part, and any regulations made hereunder the Authority shall have all the powers, necessary or expedient to enable it to exercise its functions.

(2) Notwithstanding sub-section (1), the Authority shall have the following powers:

- (a) to appoint and employ such persons as it may consider necessary for the efficient performance of its functions;
- (b) to enter into contract, covenant, bond or agreement of any kind whatsoever for the purpose of this Part;
- (c) to authorise any person to carry out work or perform any act in furtherance of its functions and powers;

(3) The powers conferred by sub-section (1) shall be in addition to and not in derogation from any other powers conferred upon the Authority by this Part or any other enactment.

**48. Policy of Cabinet** - (1) In the exercise of its functions and powers, the Authority shall have regard to the general policy of cabinet as communicated in writing by the Minister.

(2) The Authority shall comply with any written instructions by the Minister concerning any matter relating to the policy to be followed by the Authority in the performance of its functions.

**49. Requirement for pollution emergency plan** - (1) Subject to this Part, masters or other persons having charge of ships flying the Western Samoan flag, shall be required to have and maintain on board a shipboard pollution emergency plan approved by the Authority.

(2) Persons having charge of seaports or oil handling facilities shall also be required to have and maintain a pollution emergency plan approved by the Authority.

(3) Persons referred to in sub-sections (2) and (3) shall be required to produce in writing to the Authority, a pollution emergency plan in accordance with procedures established by the Authority as set out in schedule 1 of this Act.

(4) The Director may approve in writing a pollution emergency plan if he is of the opinion that the emergency pollution plan complies with the procedures established by the Authority.

(5) A pollution emergency plan required under sub-sections (2) and (3), shall be subject to a periodic review by the Authority every 12 months from the date of its first approval.

**50. Offences in relation to section 49** - Any person referred to in sub-sections (2) or (3) of section 49 who fails to comply with the requirements of that section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding \$ 10,000 tala.

**51. Duty to report discharges** - Masters or other persons having charge of ships flying the flag of Western Samoa and persons in charge of sea ports, or handling facilities shall, if practicable, report

without delay to the Authority any event on their ship, seaport, or oil handling facility as the case may be, involving a discharge or probable discharge of oil or other harmful substance.

52. **Communication of information concerning discharges** - Any event at sea involving a discharge of oil or other harmful substance or the presence of it, observed by:

- (a) masters or other persons in charge of ships flying the Western Samoan flag;
- (b) persons in charge of seaports or oil handling facility;
- (c) pilots of civil aircraft operating in Western Samoan waters,

shall forthwith report it without delay to the Authority.

53. **Offences in relation to Section 51** - Any person who fails to make a report as required under section 51 concerning a discharge or probable discharge, is guilty of an offence and shall be liable on summary conviction to a fine not exceeding \$ 10,000 tala.

54. **Action on receiving a pollution report** - (1) The Authority on receiving a report referred to in section 51 or information under section 52 shall:

- (a) make a preliminary assessment to determine whether it is a pollution incident, including the type, and extent of existing or likely pollution effects; and
- (b) communicate without delay the information concerning the situation to any person or persons whose interests are affected or likely to be effected by the pollution incident.

(2) The Authority upon assessing the nature, extent and possible consequences of the pollution incident, may determine the effective measures required to respond to the pollution incident.

(3) The Authority may request the assistance of, engage or authorise any person as it may deem fit to carry out the necessary measures to prevent, mitigate, or control the effects of the pollution incident.

55. **Instructions by the Minister** - For the purpose of preventing, mitigating or controlling a pollution incident, or the threat of a pollution incident, the Minister may give such instructions as may be necessary:

- (a) to masters or other persons in charge of a ship and its cargo;
- (b) to persons having charge of offshore units operating within Western Samoan waters;
- (c) to persons in charge of seaports, or oil handling facilities;
- (d) to any salvor in possession of the ship or to any person who is the servant or agent of any salvor in possession of the ship and who is in charge of the salvage operation.

56. **Ministers may take any action** - (1) If in the opinion of the

Minister, the powers conferred by section 55 are, or have proved to be inadequate for the purpose of preventing, mitigating or controlling a pollution incident or the threat of a pollution incident, then he may take any such action as may be deemed necessary.

(2) The powers of the Minister under sub-section (1) of this section shall also be exercisable by such persons as may be authorised in that behalf by the Minister.

(3) Every person concerned with compliance with instructions given under section 55 or with action taken under this section shall use his best endeavours to avoid any risk to human life.

**57. Measures by Authority to facilitate arrival in and departure from Western Samoa of response equipment** - The Authority shall take the necessary legal or administrative measures to facilitate:

(a) the arrival and utilization in the departure from Western Samoa of ships, aircraft or equipment and other modes of transport engaged in responding to a pollution incident or transporting personnel, cargoes, materials and equipment required to deal with such an incident; and

(b) the expeditious movement into, through, and out of Western Samoa of personnel, cargoes, materials and equipment referred to in sub-paragraph (a).

**58. Offences in relation to section 55** - (1) Every person commits an offence who -

(a) contravenes or fails to comply with any requirement of the instructions given under section 55; or

(b) any person who wilfully obstructs the Minister or any person acting on behalf of the Minister in connection with the giving of any instructions under section 55, or any person acting in compliance with instructions under that section.

(2) Every person who commits an offence against this section shall be liable on summary conviction to a fine not exceeding \$ 5,000 tala.

(3) It shall be a defence for the accused in respect of an offence under this section to show that he used all due diligence to comply with the instructions or that he had reasonable cause to believe that compliance with the instructions would have involved a series risk to human life.

**59. Right to receive compensation in respect of loss or damage** - (1) Any person who suffers loss or damage as a result of any action taken in pursuance to instructions given to him under section 55 shall be entitled to recover compensation from the Government.

(2) Any person who incurs expense or costs as a result of any action taken by him at the request of the Minister or the Authority in response to a pollution incident shall be entitled

to reimbursement of costs for the action taken from the Government.

**60. Rights and Powers under international law**

The provisions of this Part shall be without prejudice to any rights or powers of the Government of Western Samoa exercisable under international law or otherwise.

**PART VII**  
**INTERVENTION IN CASES OF POLLUTION CASUALTIES**

61. **Powers in relation to pollution casualties** - (1) Where an incident or a casualty resulting in an incident has occurred which constitutes a risk of pollution in or to Western Samoan waters, or to the coast of Western Samoa, or to any related interest, the Minister or any other person authorised by the Minister may take such action as he may deem necessary to prevent, reduce, eliminate, or remove any noxious or harmful substance causing such pollution.

(2) The powers provided for in sub-section (1) of this section may include but are not restricted to:

- (a) the issuing of instructions to the Master or to the owner of the vessel, or to any person in charge of a salvage operation or his servant or agent, requiring any specified action to be taken or that no specified action be taken with respect of the vessel or its cargo or both; or
- (b) the taking of any measures whatsoever with respect to the ship or the cargo or both, whether or not he has issued instructions under paragraph (a) of this sub-section.

(3) Notwithstanding anything in this section, the measures taken under paragraph (b) of sub-section (2) may include:

- (a) the removal to another place of the vessel or cargo or both;
- (b) the salvage of the vessel or cargo, or both;
- (c) the sinking or destruction of the vessel or the destruction of its cargo or both; or
- (d) the taking over of control of the vessel.

(4) In order to carry out any of the measures referred to in paragraph (b) of sub-section (2), the Minister or any person authorised by the Minister may, after consulting the owner of the ship to whose master instructions are to be given:

- (a) instruct the Master of any Western Samoan ship or other ship within Western Samoan waters, to render assistance to any vessel that is or is likely to be the cause of an incident;
- (b) instruct the Master of any Western Samoan ship to take on board any equipment, to sail to a place, to render assistance to any vessels engaged in any operations for the clearing up, removal, dispersal of any harmful substance, and to obey the instructions of any person for the time being authorised by the Minister to exercise control over an incident.

(5) The powers of the Minister under sub-section (4) shall also be exercisable by such persons as may be authorised in that behalf by the Minister.

(6) Every person concerned with compliance with instructions given, or with action taken, under this section shall use his best endeavours to avoid any risk to human life.

**62. Right to compensation** - (1) Where any action duly taken by any person pursuant to instructions issued under sub-section (1) or sub-section (4) of section 61, or any measures taken under paragraph (b) of sub-section (2) of section 61:

(a) was not reasonably necessary to eliminate, prevent, or reduce pollution or the risk of pollution; or

(b) was sure that the damage flowing from the action or measures taken, was, or was likely to be, disproportionately less than the expense incurred or the loss or damage suffered as a result of that action or those measures,

a person who has incurred expense or loss or damage as a result of the taking of that action or of those measures or as a result of taking those measures himself may recover compensation from the Government.

(2) Where a claim is brought against the Government for compensation under sub-section (1), the Court, in determining whether paragraph (b) of that sub-section applies shall take into account

(a) the extent and probability of imminent damage had the action or measures not been taken;

(b) the likelihood of the action or measures taken being effective having regard to the facts as they were or should have been known at the time the action or measures were taken;

(c) the extent of the damage which has been caused by the action or measures taken.

**63. Offences in relation to section 61** - (1) Every person commits an offence who:

(a) fails to comply with any instructions lawfully issued under section 61 of this Act; or

(b) wilfully obstructs a person acting in compliance with any instructions lawfully issued under section 61 of this Part; or

(c) wilfully obstructs the Minister or any person acting on behalf of the Minister in carrying out any of the powers conferred by section 61 of this Act.

(2) Every person who commits an offence against this section is liable upon conviction to a fine not exceeding \$ 5,000.

(3) In any proceedings for an offence against this section, it shall be a defence for the accused to prove that the failure to comply with any instructions issued under section 61 of this Act, or as the case may be, that the wilful obstruction of any person acting in compliance with any such instructions, resulted from the need to save life at sea; or (in the case of failure to comply with instructions) that the person charged used due diligence in attempting to comply with these instructions.

64. **Application to certain foreign and other ships** - (1) The Minister may, pursuant to regulations, provide that this Part shall apply to a ship:

(a) which is not a ship registered in Western Samoa; and

(b) which is for the time being outside the territorial seas of Western Samoa,

in such cases and circumstances as may be specified in the order, and subject to such exceptions, adaptations and modifications, if any, as may be so specified.

(2) Except as provided by a regulation under sub-section (1), no instructions under section 61 of this Act shall apply to a ship which is not registered in Western Samoa and which is for the time being outside the territorial seas of Western Samoa, and no action shall be taken under sub-section (3) or (4) of section 61 of this Act as respects any such ship.

(3) No instructions under section 61 of this Act shall apply to any vessel owned or operated by the Government of Western Samoa for the time being, on non-commercial service and no action shall be taken under sub-section (3) or (4) of that section in respect of any such vessel or ship.

65. **Protection of Minister and other persons** - Without prejudice to section 61:

(a) where the Minister or any person duly authorised by him has taken any measures under paragraph (b) of sub-section (1) of section 61 of this Part; or

(b) any person has taken any action or refrained from taking any action pursuant to instructions issued under paragraph (b) of sub-section (2) or under sub-section (4) of section 61 of this Part, that authorised person or any person to whom paragraph (b) of this section applies, shall not be under any civil liability therefor.

66. **Saving and Transitional** - (1) Nothing in this Part shall affect any rights or powers of the Government of Western Samoa exercisable under international law or otherwise.

(2) The regulations referred to in this Part, may contain transitional and other consequential provisions as may appear expedient to the Minister.

**PART VIII**  
**GENERAL PROVISIONS**  
**(not included)**

Passed in the Legislative Assembly on the ..... day of .....  
199....

.....  
Clerk of the Legislative Assembly