



ANALYSIS

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1969, No. 4

An Act to amend the Shipping and Seamen Act 1952

[22 July 1969]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Shipping and Seamen Amendment Act 1969, and shall be read together with and deemed part of the Shipping and Seamen Act 1952 (hereinafter referred to as the principal Act).

(2) Section 14 of this Act shall come into force on a date to be fixed by the Governor-General by Order in Council.

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the date of its passing.

2. Certificated officers on ships of other Commonwealth countries—(1) Section 17 of the principal Act is hereby further amended by omitting from paragraph (a) of subsection (3) the words “(if any)”.

(2) Section 17 of the principal Act is hereby further amended by adding to subsection (3) the following proviso:

“Provided that where the law of that Commonwealth country does not require the ship to be provided with certificated officers when proceeding to sea from a port in that country to a port in another country, and the Minister considers that she is insufficiently manned for the safe navigation of the ship, he may require that the ship shall, when proceeding to sea from any port in New Zealand, be provided with such duly certificated officers as would by the last preceding subsection be required if the ship was a New Zealand ship or with such other duly certificated officers as he considers sufficient for the safe navigation of the ship.”

3. Accommodation for crew—(1) The principal Act is hereby further amended by repealing section 145, and substituting the following section:

“145. (1) Without prejudice to the provisions of section 148 of this Act, and in so far as regulations made pursuant to that section and applicable to the ship do not otherwise provide, the owner of every New Zealand ship and of every ship engaged in the home trade (whether or not she is a Commonwealth ship) shall make provision for the accommodation of the crew, and in particular shall—

“(a) Provide for every place in a ship occupied by the crew and appropriated for their use to be available for the proper accommodation of the persons who are to occupy it, and to be securely constructed, properly lighted and ventilated, properly protected from the weather and the sea, and as far as is practicable properly shut off and protected from engine-room exhaust gases and from effluvia caused by cargo or bilge water; and

“(b) Provide for the adequate ventilation of the engine room and stokehold; and

- “(c) Provide a separate room for the master and for each mate and engineer carried in compliance with the requirements of this Act, which rooms shall not open direct to the engine room or stokehold; and
- “(d) Provide that every place occupied by the crew and appropriated to their use shall have a space for each crew member of not less than one hundred and twenty cubic feet and of not less than fifteen superficial feet measured on the deck or floor of that place, as a Surveyor of Ships may require in each case. In estimating the space available for the proper accommodation of the crew, there may be taken into account the space occupied by any mess rooms, bathrooms, or washing places appropriated exclusively to the use of the crew, so, however, that the space in any place appropriated to the use of the crew in which they sleep is not less than seventy-two cubic feet and twelve superficial feet for each person; and
- “(e) Provide such sanitary, hospital, and lavatory accommodation (including bathrooms) as in the opinion of the Secretary is sufficient for the requirements of the crew. In the case of ships propelled by mechanical power of three hundred register tons or more, that provision shall include an adequate supply of hot water for the use of all members of the crew:

“Provided that in the case of any ship constructed before the commencement of this section the provisions of paragraphs (c), (d), and (e) of this section shall be complied with only to the extent considered by the Secretary to be reasonable and practicable in the case of that ship.

“(2) Every place occupied by the crew and appropriated for their use shall be kept free from goods and stores, not being the personal property of the crew and in use during the voyage or for use by the crew during the voyage. If any such place is not so kept free, or if any paint locker, urinal, water closet, or latrine is built in or around any such place so as to be detrimental to the health of the crew, the master commits an offence against this Act and, whether or not any penalty is imposed on him in respect of that offence, he shall forfeit and pay to each seaman lodged in that place a sum not exceeding two dollars for each day during which, after

complaint has been made to him by any two or more seamen so lodged, it is not so kept free, and that sum shall be recoverable as wages are recoverable.

“(3) Such fees as may be prescribed by regulations made pursuant to section 501 of this Act shall be paid in respect of an inspection by a Surveyor of Ships for the purpose of this section.

“(4) In this section the term ‘crew’ includes the master and every officer, seaman, and apprentice.

“(5) If default is made in compliance with this section, the owner commits an offence against this Act on every day on which the default continues, and is liable to a fine not exceeding two hundred dollars and to a further fine not exceeding one hundred dollars for every day after the first during which that default has continued.”

(2) The following enactments are hereby consequentially repealed:

(a) Sections 146 and 147 of the principal Act and the Third Schedule to that Act:

(b) Subsection (2) of section 37 of the Shipping and Seamen Amendment Act 1959.

4. Entry of offence in log—(1) Section 168 of the principal Act is hereby amended by repealing paragraph (b) of subsection (2), and substituting the following paragraph:

“(b) The offender—

“(i) If still in the ship, shall, within twenty-four hours after the entry of the offence in the log, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him:

“(ii) If not in the ship, shall, within twenty-four hours after he returns or is returned on board, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him;—

and, upon a copy of the entry being furnished to him or the entry being read over to him, he may make any such reply thereto as he thinks fit; and”.

(2) Section 168 of the principal Act is hereby further amended by inserting, after subsection (2), the following subsection:

“(2A) The entry of any such offence or act of misconduct shall be made in the official log book within twenty-four hours after the commission of the offence or act has come to the knowledge of the master.”

5. Ships not to proceed to sea without certificate of survey—Section 198 of the principal Act is hereby amended by adding to subsection (4) the words “and is liable to a fine not exceeding one thousand dollars and to a further fine not exceeding fifty dollars for every passenger carried on board the ship”.

6. Issue of certificates of survey—Section 213 of the principal Act (as amended by section 41 of the Shipping and Seamen Amendment Act 1959) is hereby further amended by adding the following subsections:

“(5) Where any ship in respect of which a certificate of survey as a fishing boat has or ought to have been issued ceases to be registered as a fishing boat under Part I of the Fisheries Amendment Act 1963 by reason of the cancellation of her registration under that Part, or her registration is suspended pursuant to section 8 of that Act, the ship shall not ply or go to sea from any port until she has been surveyed by a Surveyor of Ships and been issued with a certificate of survey appropriate to the intended service and intended plying limits of the ship:

“Provided that the Secretary may exempt any ship from the provisions of this subsection if he is satisfied that she is intended to be used bona fide as a pleasure yacht.

“(6) If any ship plies or proceeds to sea from any port in contravention of the provisions of subsection (5) of this section, the owner and the master each commits an offence, and is liable to a fine not exceeding one thousand dollars.”

7. Issue for cargo ships of radio certificates and exemption certificates—Section 216 of the principal Act is hereby amended by inserting in subsection (4), after the words “New Zealand ship”, the words “engaged on an international voyage”.

8. Proceeding to sea without appropriate certificates—Section 222 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Without prejudice to any other remedy or penalty under this Act, if any ship proceeds or attempts to proceed to sea in contravention of this section, the owner (if in fault) and the master (if in fault) each commits an offence, and is liable to a fine not exceeding one thousand dollars and to a further fine not exceeding fifty dollars for every passenger carried on board the ship.”

9. Cancellation of certificate of survey of fishing boat—The principal Act is hereby further amended by inserting, after section 224, the following section:

“224A. (1) Without limiting the provisions of section 224 of this Act, a certificate of survey issued under section 213 of this Act in respect of any ship registered as a fishing boat under Part I of the Fisheries Amendment Act 1963 shall be deemed to be cancelled if the registration of the ship as a fishing boat is cancelled under that Part or her registration is suspended under section 8 of that Act.

“(2) Where a certificate of survey is deemed to be cancelled under subsection (1) of this section, a further certificate of survey shall not be issued in respect of the ship until after a further survey by a Surveyor of Ships.

“(3) A ship whose certificate of survey is deemed to be cancelled under subsection (1) of this section shall not be issued with a new certificate of survey as a fishing boat before the expiration of a period of one month after the date on which her registration as a fishing boat is cancelled or suspended, notwithstanding that during that period the ship may have been re-registered as a fishing boat under Part I of the Fisheries Amendment Act 1963 or, as the case may be, that the suspension may have ceased:

“Provided that the Secretary may, in his discretion, issue in respect of that ship a new certificate of survey as a fishing boat before the expiration of the said period of one month, if—

“(a) The ownership of the ship has changed, and he is satisfied that the ship is to be employed by the new owner in an area of operation different from that in which she was formerly employed or in circumstances substantially different from those in which she was formerly employed; or

“(b) He is satisfied that the cancellation or re-registration of the ship as a fishing boat is not a device for the purposes of evading any of the provisions of this Act.”

10. Voyage permits for docking—(1) The principal Act is hereby further amended by repealing section 226A (as inserted by section 16 of the Shipping and Seamen Amendment Act 1963).

(2) Section 16 of the Shipping and Seamen Amendment Act 1963 is hereby consequentially repealed.

11. Submersion of subdivision load lines—Section 237 of the principal Act is hereby amended by omitting from subsection (2) (as amended by section 7 (1) of the Decimal Currency Act 1964) the words “two hundred dollars”, and substituting the words “one thousand dollars”.

12. Carrying passengers in excess of specified numbers—Section 240 of the principal Act is hereby further amended by omitting from subsection (4) (as amended by section 7 (1) of the Decimal Currency Act 1964) the words “two hundred dollars”, and substituting the words “one thousand dollars”.

13. Carriage of passengers or cargo on fishing boat—Section 246A of the principal Act (as inserted by section 13 of the Shipping and Seamen Amendment Act 1957) is hereby amended by adding the following subsection:

“(6) Where the owner or master of any fishing boat is convicted of an offence against subsection (5) of this section, any certificate of survey issued in respect of that fishing boat shall be deemed to be cancelled on the date of the conviction, and a further certificate of survey shall not be issued in respect of that fishing boat before the expiration of one month after that date.”

14. Control of foreign-going pleasure yachts—Section 246B of the principal Act (as inserted by section 50 (1) of the Shipping and Seamen Amendment Act 1959) is hereby amended by inserting, after subsection (8), the following subsections:

“(8A) The master of every yacht to which this section applies shall, before going to sea from any port in New Zealand on any voyage during the course of which the yacht will be more than fifty miles from the nearest part of the coast of New Zealand, obtain a clearance under the Customs Act 1966, and, if he fails to do so, he commits an offence against this Act:

“Provided that it shall be a good defence in any proceedings for an offence against this subsection if the defendant proves that the yacht would not have proceeded more than fifty miles from the nearest part of the coast of New Zealand except by reason of stress of weather, mishap, or other circumstance which the master could not have prevented or forestalled.

“(8B) Section 14 of the Summary Proceedings Act 1957 shall not apply with respect to a prosecution for an offence against subsection (8) of this section.”

15. Water and provisions for passengers—The principal Act is hereby further amended by repealing section 247.

16. Restricted limits—Section 250 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) For the purposes of this Act, all inland waters (including all lakes) shall be deemed to be river limits as if they had been declared to be such in respect of a port under subsection (1) of this section.”

17. Restricted-limit ships not to proceed beyond limits specified in certificate of survey—Section 251 of the principal Act is hereby amended by adding the following subsection:

“(3) Subject to subsection (2) of this section and to subsection (3) of section 213 of this Act, a ship in respect of which a restricted-limit certificate is for the time being in force shall not ply or proceed within the limits stated in its certificate of survey for any purpose other than the purpose stated in its certificate of survey:

“Provided that nothing in this subsection shall be deemed to prohibit the use of such a ship in an emergency for the purpose of saving life at sea or rendering assistance to any ship, other vessel, aircraft, or person in distress at sea.”

18. Manning of ships in restricted limits and inland waters—(1) Section 253 of the principal Act is hereby amended by repealing paragraph (e) of subsection (2A) (which paragraph was substituted by section 8 of the Shipping and Seamen Amendment Act 1964), and substituting the following paragraph:

“(e) The issue of local launchmen’s licences:”

(2) Section 253 of the principal Act is hereby further amended by inserting, after subsection (2A) (as inserted by section 52 (1) of the Shipping and Seamen Amendment Act 1959), the following subsection:

“(2B) The holder of a local launchman’s licence issued under regulations made pursuant to paragraph (e) of subsection (2A) of this section may act as master or as both

master and engineer of the motor launch or launches endorsed on his licence within the plying limits and subject to any conditions endorsed on his licence.”

(3) Section 8 of the Shipping and Seamen Amendment Act 1964 is hereby consequentially repealed.

19. Accidents to be reported to Superintendent—Section 297 of the principal Act is hereby amended—

- (a) By inserting in subsection (1), after the words “collision with another ship”, the words “or has been lost or abandoned or stranded”:
- (b) By inserting in subsection (1), after the words “accident or damage” wherever they occur, the words “or loss or abandonment or stranding”:
- (c) By inserting in subsection (2), after the words “last preceding subsection”, the words “or has been lost or abandoned or stranded”:
- (d) By inserting in subsection (2), after the words “accident or damage” wherever they occur, the words “or loss or abandonment or stranding”:
- (e) By inserting in paragraph (c) of subsection (3), after the words “accident or damage”, the words “or loss or abandonment or stranding”.

20. Carriage of explosives in ship carrying passengers—The principal Act is hereby further amended by repealing section 306.

21. Rules as to dangerous goods—Section 307 of the principal Act is hereby amended by adding the following subsections:

“(4) Any officer of Customs or any Surveyor who has reasonable cause to believe that any explosives are carried on any ship in breach of any rules made under this section may, without warrant, seize those explosives, which shall be retained by the Secretary pending the trial of the owner or the master for the offence in respect of which they were seized. If in those proceedings the owner or the master is convicted of the offence, the explosives shall be deemed to be forfeited to the Crown and shall be disposed of as the Minister directs.

“(5) In subsection (4) of this section, the term ‘explosives’ means any explosive within the meaning of the Explosives Act 1957; but does not include safety cartridges for small arms or cartridges for shotguns.”

22. Carriage of grain—Section 309 of the principal Act is hereby amended by omitting from subsection (5) the words “Collector of Customs”, and substituting the word “Superintendent”.

23. Penalty for offences—Section 480 of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended—

- (a) By omitting from subsection (2) the words “two hundred dollars”, and substituting the words “one thousand dollars”.
- (b) By omitting from subsection (3) the words “ten dollars”, and substituting the words “fifty dollars”.

This Act is administered in the Marine Department.
