



ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p> <p>2. New sections substituted</p> <p style="padding-left: 40px;"><i>Marine Safety Charges</i></p> <p>375. Marine safety charges</p> <p>376. Exemptions from marine safety charges</p> <p>377. Power to appoint agents to collect marine safety charges</p> <p>378. Power of agent of ship, etc., to retain marine safety charges out of other money</p>	<p>378A. Recovery in certain cases where marine safety charges not paid</p> <p>378B. Obligation to issue receipt for marine safety charge</p> <p>378C. Detention of ship where marine safety charges not paid or receipt not produced</p> <p>3. Savings and transitional provisions</p> <p>4. Consequential repeals</p>
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1990, No. 121

An Act to amend the Shipping and Seamen Act 1952

[31 August 1990]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Shipping and Seamen Amendment Act 1990, and shall be read together with and deemed part of the Shipping and Seamen Act 1952 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 15th day of September 1990.

2. New sections substituted—The principal Act is hereby amended by repealing sections 375 to 378 and the heading above section 375, and substituting the following heading and sections:

“Marine Safety Charges

“375. Marine safety charges—(1) The Governor-General may from time to time, by Order in Council, make regulations providing for the payment of marine safety charges in respect

of ships entering any port in New Zealand or operating in New Zealand waters and prescribing the amounts of those charges.

“(2) The purpose of marine safety charges is to provide funding to enable the provision of—

“(a) Lighthouses and buoys, beacons, and other shore-based aids to marine navigation to which section 113 of the Harbours Act 1950 does not apply; and

“(b) Coastal distress radio; and

“(c) Other services related to the safety of shipping.

“(3) Any such regulations may—

“(a) Specify the persons by whom the marine safety charges are payable including (without limitation) all or any of the master, owner, charterer, person responsible for the management of the ship, or any agent of any of those persons who by law or by contract is liable to pay any other charge on account of the ship:

“(b) Prescribe different marine safety charges for different classes of ship based on length, tonnage, equipment available for use on board the ship, or such other criteria as may be specified in the regulations:

“(c) Provide for the refund or waiver of any marine safety charge in whole or in part, in any specified case or class of cases:

“(d) Provide that the marine safety charges are payable on an annual or other regular basis in advance or otherwise, or on a per voyage basis at the option of either the Secretary or the person liable to pay the marine safety charges; provide for the changing of those options, and for the making of adjustments where an option is changed.

“(4) Nothing in this section limits the provisions of section 504 of this Act.

“376. **Exemptions from marine safety charges**—(1) All pleasure yachts are totally exempt from liability in respect of marine safety charges.

“(2) Regulations made under this Act may—

“(a) Exempt any ship or class or description of ship or any ship used for a purpose specified in the regulations from liability in respect of marine safety charges, either totally or partially, and subject to such conditions as may be imposed in the regulations:

“(b) Specify circumstances in which any ship or class or description of ship is exempt from liability in respect of marine safety charges, either totally or partially.

“377. Power to appoint agents to collect marine safety charges—(1) The Secretary may appoint any person or the holder for the time being of any office (whether or not within the Public Service) to be the agent of the Secretary for the purpose of collecting marine safety charges or any class of marine safety charges.

“(2) Any appointment under subsection (1) of this section may—

“(a) Provide for the payment of a fee by the Secretary for the collection of marine safety charges; or

“(b) Permit the agent to retain a specified proportion of the marine safety charges as a collection fee; or

“(c) Both.

“378. Power of agent of ship, etc., to retain marine safety charges out of other money—Any agent who by any regulations made under this Act is liable for the payment of marine safety charges in respect of any ship may, out of the money received by the agent on account of that ship or belonging to the owner thereof, retain the amount of all such charges paid by the agent, together with any reasonable expenses incurred by reason of the payment of the charges or the agent’s liability to pay the charges.

Cf. 1952, No. 49, s. 376 (1), (2)

“378A. Recovery in certain cases where marine safety charges not paid—(1) This section shall apply only where a marine safety charge is payable to the Secretary or the Collector of Customs at any port, and not where the charge is payable to any other person or any agent of the Secretary.

“(2) If the person liable to pay any marine safety charge in respect of any ship fails to do so on demand, and the charge is not paid by any other person, the Secretary or the Collector may, in addition to any other remedy, enter on the ship and distrain the cargo and any other property belonging to or on board the ship, and may detain that distress until that charge is paid.

“(3) If payment of that charge is not made within the period of 3 days next following the distress, the Secretary or the Collector may at any time during the continuance of the non-payment sell the cargo and other property distrained, and apply the proceeds in payment of that charge, together with all reasonable expenses incurred by the Secretary or the Collector under this section, paying the surplus (if any), on demand, to

the owner or other person for the time being responsible for the management of the ship, or to the master of the ship.

Cf. 1952, No. 49, s. 377

“378B. Obligation to issue receipt for marine safety charge—Every person who receives any marine safety charge shall issue to the person paying the charge a receipt showing clearly the ship in respect of which the charge is paid and the period to which the charge relates.

Cf. 1952, No. 49, s. 378 (1); 1964, No. 127, s. 12

“378C. Detention of ship where marine safety charges not paid or receipt not produced—(1) Where, on demand being made by any person for the payment of any marine safety charge,—

“(a) The charge is not paid; or

“(b) A receipt for the earlier payment of the charge is not produced,—

the Secretary or any Collector of Customs may detain the ship concerned until the charge is paid or the receipt is produced.

“(2) Where a ship is detained under subsection (1) of this section, the Crown, the Secretary, and the Collector of Customs or any person acting under their direction or authority under this section shall not be liable for any loss or damage arising directly or indirectly from the detention of the ship unless it is proved to the satisfaction of a Court that the person acted in bad faith.”

Cf. 1952, No. 49, s. 378 (2); 1964, No. 127, s. 12

3. Savings and transitional provisions—(1) Notwithstanding the repeal of sections 375 to 378 of the principal Act by section 2 of this Act, the Coastal Light Dues Order 1988 (S.R. 1988/56) shall, subject to the exemptions specified in section 375 (2) of the principal Act, continue in force as if those sections had not been repealed; and may be revoked by regulations made under section 375 of the principal Act (as substituted by section 2 of this Act).

(2) Until the Coastal Light Dues Order 1988 is revoked, coastal light dues shall continue to be payable under that order and sections 375 to 378 of the principal Act as if this Act had not been passed.

(3) Any dues paid in advance under clause 5 of the Coastal Light Dues Order 1988 for any ship in respect of any period commencing on or after the 1st day of April 1990 shall be deemed to be marine safety charges paid under regulations made under section 375 of the principal Act (as substituted by

section 2 of this Act) and the liability to pay marine safety charges in respect of that ship shall be adjusted accordingly.

4. Consequential repeals—The following enactments are hereby consequentially repealed:

- (a) Section 64 of the Shipping and Seamen Amendment Act 1959;
- (b) Sections 9 to 12 of the Shipping and Seamen Amendment Act 1964;
- (c) Section 19 of the Shipping and Seamen Amendment Act 1968;
- (d) Section 19 of the Shipping and Seamen Amendment Act 1987.

This Act is administered in the Ministry of Transport.
