

[AS REPORTED FROM THE LABOUR AND MINING COMMITTEE]

House of Representatives, 3 July 1969.

Words struck out by the Committee are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. Mr Scott

SHIPPING AND SEAMEN AMENDMENT (No. 2)

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A BILL INTITULED

An Act to amend the Shipping and Seamen Act 1952

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 (No. 2) 1969, and shall be read together with and deemed part of the Shipping and Seamen Act 1952* (hereinafter referred to as the principal Act).

*Reprinted, 1965, Vol. 3, p. 1631

Amendments: 1966, No. 84; 1967, No. 119; 1968, No. 55

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(2) Sections 2, 4 to 6, 8 to 11, and 13 of this Act shall come into force on a date to be fixed by the Governor-General, by Order in Council. Different dates may be fixed for the commencement of any of those sections.

(3) Section 7 and (sections 15 to 17) sections 15 and 17 of this Act shall come into force on the first day of January, nineteen hundred and seventy. 5

(4) Except as provided in subsections (2) and (3) of this section, this Act shall come into force on the date of its passing. 10

PART I

MISCELLANEOUS AMENDMENTS OF PRINCIPAL ACT

2. Ships to have certificated officers—(1) Section 17 of the principal Act is hereby amended by repealing subsection (1), subsection (1A) (as inserted by section 4 (1) of the Shipping and Seamen Amendment Act 1963), and subsection (1B) (as inserted by section 15 (1) of the Shipping and Seamen Amendment Act 1965), and substituting the following subsection: 15

“(1) Every New Zealand ship and every home-trade ship (whether or not she is a Commonwealth ship), not being a restricted-limit ship, shall when plying or proceeding to sea, be provided with a duly certificated master and other duly certificated officers according to the scale prescribed by regulations made pursuant to subsection (10) of this section.” 20 25

(2) Section 17 of the principal Act is hereby further amended by repealing subsection (10), and substituting the following subsection:

“(10) Without limiting the general power to make regulations conferred by section 504 of this Act, regulations may be made under that section prescribing the grades of master and the numbers and grades of certificated officers to be carried on ships to which subsection (1) of this section applies.” 30

(3) Section 17 of the principal Act is hereby further amended— 35

(a) By repealing subsections (2) and (5):

(b) By omitting from subsection (6) the words “or with any condition upon which an exemption under the last preceding subsection is granted”.

(4) The following enactments are hereby consequentially repealed:

- 5 (a) So much of the First Schedule to the principal Act (as originally enacted) as was not repealed by section 6 of the Shipping and Seamen Amendment Act 1959:
- (b) The First Schedule to the principal Act (as substituted by section 6 (2) of the Shipping and Seamen Amendment Act 1959):
- 10 (c) Section 6 of the Shipping and Seamen Amendment Act 1959 and the Schedule to that Act:
- (d) Subsection (1) of section 4 and section 30 of the Shipping and Seamen Amendment Act 1963 and so much of the First Schedule to that Act as relates to section 17 of the principal Act or to the First
- 15 Schedule to the principal Act:
- (e) Subsections (1) and (4) of section 15 of the Shipping and Seamen Amendment Act 1965.

3. Certificates of competency—Section 19 of the principal Act is hereby amended by repealing paragraph (b) of sub-
20 section (1A) (as substituted by section 4 (1) of the Shipping and Seamen Amendment Act 1964), and substituting the following paragraph:

“(b) Voluntary certificates of different kinds or grades as master of pleasure yacht or as boatmaster:”.

25 **4. Charts and nautical publications**—The principal Act is hereby further amended by repealing section 28 and the heading preceding it, and substituting the following heading and section:

“Charts and Nautical Publications

30 “28. (1) This section applies to New Zealand ships and to all home-trade ships (whether or not they are Commonwealth ships).

35 “(2) Without limiting the general power to make rules conferred by section 504 of this Act, rules may be made under that section providing that ships to which this section applies shall carry navigating instruments, adequate and up-to-date charts, sailing directions, lists of lights, notices to mariners, tide tables, and Marine Department notices, the International Code of Signals for the time being in force, and all other nautical
40 publications necessary for the voyages on which such ships are engaged.

“(3) Rules made pursuant to this section may—

“(a) Prescribe different requirements for different classes of ships:

“(b) Exempt certain classes of ships, or provide for the granting of exemptions, from all or any of the requirements of the rules, and may prescribe the conditions subject to which such ships are so exempt or, as the case may be, the conditions subject to which such exemptions may be granted. 5

“(4) All officers who take part in the navigation of any ship to which this section applies shall have access during the voyage to such instruments, charts, and other publications as are required to be carried by rules made pursuant to this section. 10

“(5) If any of the said rules is not complied with in relation to any ship, the owner (if in fault) and the master (if in fault) commit an offence against this Act.” 15

5. Ships to carry prescribed number of seamen—(1) The principal Act is hereby further amended by repealing section 55, and substituting the following section: 20

“55. (1) Every New Zealand ship and every home-trade ship (whether or not she is a Commonwealth ship), not being a restricted-limit ship, shall, when plying or proceeding to sea, carry the respective numbers of A.B.s, ordinary seamen, other categories of seamen, and apprentices or boys according to the scale prescribed by regulations made pursuant to subsection (2) of this section: 25

“Provided that the Superintendent before whom the crew of any sailing ship is engaged may exempt that ship from the operation of this provision so far as regards apprentices or boys to be carried. 30

“(2) Without limiting the power to make regulations conferred by section 504 of this Act, regulations may be made under that section prescribing the numbers and categories of A.B.s, ordinary seamen, other categories of seamen, and apprentices or boys to be carried in ships to which subsection (1) of this section applies. 35

“(3) Regulations may be made pursuant to this section with respect to certain classes or descriptions of ships only, or only with respect to ships in certain circumstances; and different regulations may be made with respect to— 40

“(a) Foreign-going ships and home-trade ships, respectively:

“(b) Steamships and motor ships, respectively:

“(c) Different classes or descriptions of ships or the same class or description of ships in different circumstances.

“(4) Notwithstanding anything in subsection (5) of this section, a ship to which this section applies shall in no case proceed to sea with less than four-fifths of the total number of persons in the deck department with whom the ship is by regulations made pursuant to this section required to be provided, or with less than four-fifths of the persons in the engine room with whom the ship is by those regulations required to be provided.

“(5) A ship to which this section applies shall not proceed to sea without any member of the crew with whom the ship is by regulations made pursuant to this section required to be provided, unless the occasion of his absence has arisen shortly before the time fixed for sailing, or for any reason the master has been unable to engage any such member.

“(6) If in the case of any ship there is failure to comply with subsection (4) or subsection (5) of this section, the owner and the master each commits an offence against this Act.

“(7) If any ship proceeds to sea without any member of the crew with whom the ship is, by regulations made pursuant to this section, required to be provided, the ship may be detained.

“(8) Subject to the provisions of any regulations made pursuant to this section, a member of the crew with whom the ship is, by regulations made pursuant to this section, required to be provided shall not, except in case of emergency, be employed in a capacity other than that in which he was entered on board; and when employed in another capacity in case of emergency, the master shall make an entry of that employment in the official log book, with a statement of the circumstances which constituted the emergency.

“(9) If in the case of any ship there is failure to comply with the provisions of subsection (8) of this section, the master commits an offence against this Act.”

(2) The principal Act is hereby further amended—

(a) By omitting from subsection (4) of section 34 (as added by section 12 of the Shipping and Seamen Amendment Act 1959) the words “in the First Schedule or Second Schedule to this Act, or”:

(b) By repealing the Second Schedule thereto.

(3) The following enactments are hereby consequentially repealed:

(a) Section 3 of the Shipping and Seamen Amendment Act 1954:

- (b) Section 16 of the Shipping and Seamen Amendment Act 1959:
- (c) Subsection (2) of section 4 of the Shipping and Seamen Amendment Act 1963 and so much of the First Schedule to that Act as relates to section 55 of the principal Act or to the Second Schedule to that Act: 5
- (d) Subsections (2) and (5) of section 15 of the Shipping and Seamen Amendment Act 1965.

6. Manning of fishing boats—Notwithstanding anything in section 2 or section 5 of this Act, the Shipping (Manning of Fishing Boats) Notice 1965 shall continue in force— 10

- (a) So far as it relates to officers, after the commencement of the said section 2 until regulations made pursuant to section 17 of the principal Act (as amended by the said section 2) and applying to fishing boats come into force: 15
- (b) So far as it relates to seamen, after the commencement of the said section 5 until regulations made pursuant to section 55 of the principal Act (as substituted by the said section 5) and applying to fishing boats come into force. 20

7. Certificate of discharge of seaman—(1) Section 58 of the principal Act is hereby amended by repealing subsections (4), (4A), and (4B) (as substituted by section 18 of the Shipping and Seamen Amendment Act 1959), and substituting the following subsection: 25

“(4) Where a seaman serving on any New Zealand ship or any home-trade ship (whether or not she is a Commonwealth ship) is discharged before a Superintendent, the Superintendent shall inform him of the statement entered in the official log in relation to that seaman pursuant to paragraph (d) of section 178 of this Act, and, if the seaman so requires, shall give him a copy of that statement.” 30

(2) The principal Act is hereby further amended—

- (a) By omitting from the proviso to subsection (2) of section 42 the words “conduct, character, and qualifications”, and substituting the word “rating”: 35
- (b) By omitting from paragraph (d) of section 178 (as substituted by section 31 of the Shipping and Seamen Amendment Act 1959) the words “ability, and sobriety”, and substituting the words “and ability”. 40

8. Ships to carry compasses—The principal Act is hereby further amended by inserting, after section 208, the following section:

- 5 “208A. (1) Without limiting the general power to make rules conferred by section 504 of this Act, rules may be made under that section requiring ships to which this section applies to be provided with compasses.
- “ (2) This section applies to—
- “ (a) New Zealand ships:
- 10 “ (b) Other ships while they are within any port in New Zealand.
- “ (3) Rules made under this section shall include such requirements as appear to the Governor-General to implement the provisions of the Safety Convention relating to compasses.
- 15 “ (4) Without prejudice to the generality of the preceding provisions of this section, rules made under this section—
- “ (a) Shall prescribe the number and type of compasses to be carried on different classes of ships:
- “ (b) May require gyro-compasses to be provided in addition
- 20 to any magnetic compasses required to be provided:
- “ (c) May provide for the positioning of compasses in ships:
- “ (d) May provide for such other matters relating to the efficiency of compasses as the Governor-General considers necessary.
- 25 “ (5) If any of the said rules is not complied with in relation to any ship, the owner (if in fault) and the master (if in fault) commit an offence against this Act.”

9. Ships to be provided with radar—The principal Act is hereby further amended by inserting, after section 210, the following section:

- 30 “210A. (1) Without limiting the general power to make rules conferred by section 504 of this Act, rules may be made under that section requiring ships to which this section applies to be provided with radar equipment of such a nature as may
- 35 be prescribed by the rules, and to carry such number of radar operators possessing such qualifications as may be so prescribed; and the rules may contain provisions for preventing, as far as practicable, electrical interference with the radar equipment by other apparatus on board.

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“(2) This section applies to—

“(a) New Zealand ships of three hundred tons gross tonnage or upwards:

“(b) Other ships of sixteen hundred tons gross tonnage or upwards while they are within any port in New Zealand. 5

“(3) The Minister may exempt any New Zealand ship constructed before the commencement of this section, either absolutely or for such period or subject to such conditions as he thinks fit, from compliance with the provisions of this section where he considers that, owing to the age of the ship, the voyages on which she is or is intended to be engaged, or on any other ground, it is unreasonable or impracticable that the ship should be required to comply with those provisions. 10

“(4) Rules made under this section shall include such requirements as appear to the Governor-General to implement the provisions of the Safety Convention relating to radar equipment. 15

“(5) Without prejudice to the generality of the preceding provisions of this section, the radar rules may— 20

“(a) Provide for the position of the radar equipment in the ship, for testing the radar equipment at intervals and as occasion may require, and for recording the results of the tests:

“(b) Require facilities for plotting radar readings to be provided on the bridge: 25

“(c) Prescribe the duties of operators of radar equipment:

“(d) Require the master of a ship to cause to be entered in the official log book such particulars relating to the operation of the radar equipment as may be specified in the rules. 30

“(6) If any of the said rules is not complied with in relation to any ship, the owner (if in fault) and the master (if in fault) commit an offence against this Act.”

10. Ships to carry echo-sounding device—The principal Act is hereby further amended by inserting, after section 210A (as inserted by section 9 of this Act), the following section: 35

“210B. (1) Without limiting the general power to make rules conferred by section 504 of this Act, rules may be made under that section requiring ships to which this section applies to be provided with an echo-sounding device of such a nature as may be prescribed by the rules. 40

“(2) This section applies to—

“(a) New Zealand ships of three hundred tons gross tonnage or upwards:

5 “(b) Other ships of five hundred tons gross tonnage or upwards while they are within any port in New Zealand.

“(3) The Minister may exempt any New Zealand ship constructed before the commencement of this section, either absolutely or for such period or subject to such conditions as
10 he thinks fit, from compliance with the provisions of this section where he considers that, owing to the age of the ship, the voyages on which she is or is intended to be engaged, or on any other ground, it is unreasonable or impracticable that the ship should be required to comply with those provisions.

15 “(4) The rules for echo-sounding devices shall include such requirements as appear to the Governor-General to implement the provisions of the Safety Convention relating to echo-sounding devices.

20 “(5) Without prejudice to the generality of the preceding provisions of this section, the rules for echo-sounding devices may provide for the position of the device in the ship, for testing the device at intervals and as occasion may require, and for recording the results of the tests.

25 “(6) If any of the said rules is not complied with in relation to any ship, the owner (if in fault) and the master (if in fault) commit an offence against this Act.”

11. Malfunction of radar, gyro-compass, or echo-sounding device—The principal Act is hereby further amended by inserting, after section 210B (as inserted by section 10 of this
30 Act), the following section:

“210c. Without limiting any obligation to take all reasonable steps to maintain the apparatus in efficient condition, malfunction of the radar equipment, the gyro-compass, or the echo-sounding device in any ship shall not be considered as
35 making the ship unseaworthy or as a reason for detaining the ship in any port where in the opinion of a Surveyor of Ships adequate repair facilities are not readily available.”

New

“Provided that where the Surveyor of Ships considers that
40 adequate repair facilities are available at some other port between the first-mentioned port and the ship’s next port of call, he may direct that if the ship leaves port before the necessary repairs are carried out she shall call at that other port to enable the repairs to be carried out, and the master
45 shall comply with that direction.”

12. Use of automatic pilot—The principal Act is hereby further amended by inserting, after section 238, the following section:

“238A. (1) In areas of high traffic-density, conditions of restricted visibility, or any other hazardous navigable situation, the automatic pilot shall not be used, unless— 5

“(a) It is possible to establish human control of the ship’s steering immediately; and

“(b) The officer of the watch has available without delay the services of a qualified helmsman who is ready at all times to take over control of the ship’s steering; and 10

“(c) Any changeover from automatic to manual steering or from manual steering to automatic steering is made by (or under the supervision of a) the officer of the watch or another responsible officer. 15

“(2) If any provision of subsection (1) of this section is not complied with in relation to any ship, the master commits an offence against this Act.”

13. Manning of restricted-limit ships—(1) The principal Act is hereby further amended by inserting, after section 252, the following section:

“252A. (1) Every restricted-limit ship shall, when plying or proceeding within restricted-limits, carry a duly certificated master, other duly certificated officers, and other seamen according to the scale prescribed by regulations made pursuant to subsection (3) of this section. 25

“(2) Notwithstanding anything in subsection (1) of this section,—

“(a) Where the Minister is satisfied that, having regard to the size, design, or intended use of the ship, the requirements of the scale prescribed by regulations made pursuant to subsection (3) of this section are insufficient for the safe and efficient management of any specified restricted-limit ship, he may, by notice in writing to the owner, require that the ship shall carry such certificated master, certificated officers, and other seamen as are specified in the notice, and in that case the ship shall carry a master, certificated officers, and other seamen as specified in the notice: 30 35 40

“(b) The Minister, on such conditions as he may prescribe, may, if he thinks fit, exempt any ship plying or proceeding within river limits or extended river limits from any obligation to carry a certificated master or a certificated engineer while so plying or proceeding, and may at any time cancel any exemption so granted: 45

- 5 “(c) If a ship does not exceed fifty feet register length and, being owned by a person engaged in some agricultural or pastoral pursuit or in fish or shellfish farming or in transporting game, is employed in carrying the produce or other goods of the owner and does not carry passengers or cargo for hire or reward, she shall not be subject to the provisions of this Act relating to survey and to carrying certificated officers.
- 10 “(3) Without limiting the general power to make regulations conferred by section 504 of this Act, regulations may be made under that section prescribing the grades of master, the numbers and grades of officers, and the numbers and categories of other seamen to be carried on restricted-limit ships.
- 15 “(4) If in the case of any ship there is failure to comply with the foregoing provisions of this section or with any condition on which exemption is granted under paragraph (b) of subsection (2) of this section, the owner and the master of the ship shall each be deemed to commit an offence against this
- 20 Act, and the ship may be detained.
“(6) The provisions of subsections (4), (7), (8), and (9) of section 17 of this Act shall apply with respect to restricted-limit ships.”
- 25 (2) The principal Act is hereby further consequentially amended—
- (a) By inserting in subsection (1) of section 55A (as inserted by section 17 of the Shipping and Seamen Amendment Act 1959), after the words “this Part of this Act”, the words “or of section 252A of this Act”:
- 30 (b) By inserting in subsection (3) of the said section 55A, after the words “this Part of this Act”, the words “or under section 252A of this Act”:
- (c) By adding to paragraph (a) of subsection (4) of the said section 55A and also to paragraph (b) of the
- 35 same subsection the words “or under section 252A of this Act”:
- (d) By repealing paragraph (d) of subsection (2A) of section 253 (as substituted by section 52 (1) of the Shipping and Seamen Amendment Act 1959).
- 40 (3) Section 253 of the principal Act is hereby further amended by repealing subsections (1) and (2) (as substituted by section 52 (1) of the Shipping and Seamen Amendment Act 1959), and substituting the following subsection:

“(1) Subsection (2A) of this section applies with respect to ships used only within restricted limits:

“Provided that regulations made pursuant to paragraph (e) of that subsection may apply with respect to ships used outside restricted limits.”

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(4) The following enactments are hereby consequentially repealed:

(a) The Shipping and Seamen Amendment Act 1966:

(b) Section 13 of the Shipping and Seamen Amendment Act 1968.

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14. Issue of load line certificates—(1) The principal Act is hereby further amended by repealing section 259, and substituting the following section:

“259. (1) Where a load line ship registered in New Zealand has been surveyed and marked in accordance with the provisions of section 258 of this Act and complies with the conditions of assignment to the extent required in her case by those provisions, the Minister, or an assigning authority appointed in that behalf by the Minister pursuant to subsection (8) of this section, shall issue in respect of that ship—

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“(a) In the case of an existing ship of not less than one hundred and fifty tons gross tonnage, and in the case of a new ship of not less than twenty-four metres in register length, a load line certificate (in this Act referred to as an international load line certificate):

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“(b) In the case of any other ship, a load line certificate (in this Act referred to as a New Zealand load line certificate).

“(2) Every such certificate shall be issued in such form and manner as may be prescribed by the load line rules, and those rules shall make such provision with respect to international load line certificates as appears to the Governor-General to be necessary for the purpose of giving effect to Article 18 of the Load Line Convention.

30

“(3) The load line rules shall make such provision with respect to international load line certificates as appears to the Governor-General to be necessary, having regard to the provisions of the Rules of the Load Line Convention that prescribe the maximum load lines and maximum timber load lines in different circumstances and different seasons for the purposes of that Convention.

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“(4) Any load line certificate issued by the Minister may be signed on behalf of the Minister by any person authorised by him for the purpose.

5 “(5) Any load line certificate purporting to be signed by any person on behalf of and with the authority of the Minister, or by or on behalf of an assigning authority appointed by the Minister pursuant to subsection (8) of this section, shall be admissible in evidence in like manner as if it had been signed by one of the persons mentioned in section 493 of this Act.

10 “(6) Any load line certificate issued by the Minister shall be transmitted by the Secretary in the manner provided in section 218 of this Act in the case of certificates issued under Part IV of this Act, and the provisions of that section shall, with the necessary modifications, apply with respect to any certificate
15 issued under this Part of this Act as if it were a certificate issued under Part IV of this Act.

“(7) Any load line certificate issued by an assigning authority appointed by the Minister pursuant to subsection (8) of this section shall be transmitted to the owner or agent
20 of the ship concerned in such manner as the Minister approves.

“(8) The Minister may from time to time, by notice in the *Gazette*, appoint as an assigning authority, for the assigning of freeboards and the marking of deck lines and load lines in accordance with the provisions of section 258 of this Act and
25 the issue of load line certificates pursuant to this section, any organisation which appears to him to provide a standard of inspection and survey not lower than would be provided by an inspection and survey carried out by a Surveyor of Ships. Any such appointment may be made subject to such conditions, if
30 any, as the Minister thinks fit, and those conditions may vary according to whether or not a ship is inspected and surveyed in New Zealand or outside New Zealand.”

(2) Section 7 of the Shipping and Seamen Amendment Act 1968 is hereby consequentially amended by repealing sub-
35 section (1) and paragraphs (a) and (b) of subsection (3).

PART II

(The Marine Council, Marine Advisory Committees, and Port Committees) THE MARINE COUNCIL, THE MARINE COUNCIL APPEAL COMMITTEE, AND MARINE ADVISORY COMMITTEES

40 **15. New sections inserted**—The principal Act is hereby further amended by inserting in Part I, after section 15, the following heading and sections:

(*The Marine Council and Marine Advisory Committees*)
The Marine Council, the Marine Council Appeal
Committee, and Marine Advisory Committees

“15A. **The Marine Council**—(1) There is hereby established a Council to be called the Marine Council. 5

“(2) The Council shall consist of—

“(a) One member, being an officer of the Department, who shall be the Chairman of the Council:

“(b) Two members, to represent The New Zealand Ship-owners’ Federation Incorporated: 10

“(c) One member, to represent The New Zealand Merchant Service Guild Industrial Union of Workers:

“(d) One member, to represent The New Zealand Institute of Marine and Power Engineers Incorporated:

“(e) One member, to represent The New Zealand Seamen’s Industrial Union of Workers: 15

“(f) One member, to represent Federated Cooks’ and Stewards’ Union of New Zealand Industrial Union of Workers.

“(3) The members of the Council shall be appointed by the Minister, and shall hold office during the pleasure of the Minister. 20

New

“(3A) The member or members of the Council representing any organisation and the deputy of any such member shall be appointed on the nomination of that organisation. 25

“(4) The functions and powers of the Council shall not be affected by any vacancy in its membership.

“(5) The Minister may appoint any person to be the deputy of any member of the Council to act in the event of the absence from any meeting of the Council of the member whose deputy he is. 30

“(6) The fact that any person appointed as the deputy of any member of the Council attends and acts at any meeting thereof shall be conclusive evidence of his authority to do so. 35

“(7) Any deputy appointed under this section shall, while he acts as such, be deemed to be a member of the Council, and the deputy of the Chairman shall have all the powers and functions of the Chairman.

“15B. **Functions of Council**—The functions of the Marine Council shall be— 40

“(a) To inquire into and report to the Minister upon any matter arising out of or relating to this Act which the Minister refers to the Council for advice:

Struck Out

“(b) To act as an appeal authority from the decisions of Port Committees pursuant to section 191E of this Act:

5 “(c) To consider and report to the Minister upon any proposed regulations referred to the Council pursuant to section 15D of this Act.

“15c. Meetings and procedure—(1) Meetings of the Marine Council shall be held at such times and places as the Council
10 or the Chairman from time to time appoints.

“(2) Any three members of the Council may at any time call a special meeting of the Council.

“(3) Four members of the Council shall form a quorum at any meeting.

15 “(4) The Chairman shall preside at all meetings of the Council at which he is present. In the absence of the Chairman and his deputy from any meeting, the members present shall appoint one of their number to preside as Chairman of that meeting.

20 “(5) All questions arising at any meeting shall be decided by a majority of the valid votes recorded thereon.

“(6) The Chairman or other member presiding at any meeting shall not have a deliberative vote, but in the case of an equality of votes shall have a casting vote.

25 *Struck Out*

“(7) The Council may receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal effectively with the matter being dealt with, whether or not such evidence would be otherwise admissible in a Court
30 of law.

“(8) Subject to this section (*and, in relation to an appeal from a Port Committee, to the provisions of subsection (4) of section 191E of this Act,*) the Council may regulate its procedure in such manner as it thinks fit.

35 “15D. Certain proposed regulations to be referred to Council for report—(1) Regulations shall not be made pursuant to the following provisions of this Act except on the recommendation of the Minister made after consideration by him of a report by the Marine Council on the proposed regulations, namely:

40 “(a) Regulations made pursuant to subsection (10) of section 17 of this Act (which relates to the carrying of certificated officers):

“(b) Regulations made pursuant to subsection (2) of section 55 of this Act (which relates to the carrying
45 of seamen and apprentices or boys).

“(2) Notwithstanding anything in subsection (1) of this section, where the Minister considers that any organisation that is concerned with the manning of any particular class or classes of ship is not represented on the Marine Council, he may refer any proposed regulations relating to the manning of that class or those classes of ship to a Marine Advisory Committee appointed under section 15E of this Act instead of to the Marine Council, and in that case the regulations shall not be made except on the recommendation of the Minister after consideration by him of a report of the committee on the proposed regulations.

New

“15DA. **The Marine Council Appeal Committee**—(1) There shall be a committee of the Council to be known as the Marine Council Appeal Committee (hereinafter referred to as the Appeal Committee).

“(2) The Appeal Committee shall comprise—

“(a) The Chairman of the Marine Council, who shall be the Chairman of the Appeal Committee;

“(b) Such one of the two members of the Marine Council representing The New Zealand Shipowners’ Federation Incorporated as is from time to time agreed upon between them;

“(c) In the case of an application to the Appeal Committee relating to a member of The New Zealand Merchant Service Guild Industrial Union of Workers, the member of the Marine Council representing that organisation;

“(d) In the case of an application to the Appeal Committee relating to a member of The New Zealand Institute of Marine and Power Engineers Incorporated, the member of the Marine Council representing that organisation;

“(e) In the case of an application to the Appeal Committee relating to a member of The New Zealand Seamen’s Industrial Union of Workers, the member of the Marine Council representing that organisation;

“(f) In the case of an application to the Appeal Committee relating to a member of Federated Cooks’ and Stewards’ Union of New Zealand Industrial Union of Workers, the member of the Marine Council representing that organisation.

New

“(3) In the absence of any member from any meeting of the Appeal Committee, his deputy appointed under subsection (5) of section 15A of this Act may attend the meeting
5 in his stead, and, while so attending, he shall be deemed to be a member of the Committee, and the deputy of the Chairman shall have all the powers and functions of the Chairman.

“15DB. Functions of Appeal Committee—The functions of the Appeal Committee shall be to consider and determine
10 applications made to the Committee pursuant to section 15DD of this Act.

“15DC. Meetings and procedure of Appeal Committee—
(1) Meetings of the Appeal Committee shall be held at such times and places as the Chairman from time to time appoints.
15 “(2) The Appeal Committee shall not hold a meeting unless the Chairman or his deputy, a member representing The New Zealand Shipowners’ Federation Incorporated or his deputy, and the member representing the organisation of which the person to whom the application relates is a member or the
20 deputy of that member of the Committee are present.

“(3) The Appeal Committee may, if it thinks fit, consider together two or more applications arising out of the same circumstances. If in any such case the persons to whom the applications relate are not all members of the same organisation,
25 the members of the Appeal Committee representing the several organisations of which those persons are members shall sit as members of the Committee, but each such member of the Committee shall be entitled to vote on matters relating to members of the organisation that he represents
30 and not otherwise.

“(4) At a meeting of the Appeal Committee every question shall be decided by a majority of the valid votes thereon. The Chairman shall not have a deliberative vote, but in the case of an equality of votes shall have a casting vote.

35 “(5) Subject to this section and to subsection (2) of section 15DE of this Act, the Appeal Committee may regulate its procedure in such manner as it thinks fit.

40 “(6) The Appeal Committee shall, within the scope of its jurisdiction, be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to the provisions of this Act, the provisions of that Act, except sections 2, 11, and 12, shall apply accordingly.”

New

“15DD. Applications to Appeal Committee—(1) Where—

“(a) The governing body of any organisation represented on the Marine Council considers that the conduct of any person who is a member of any other such organisation has been such that he is unsuitable for engagement as an officer or seaman, as the case may be; and 5

“(b) Either—

 “(i) No penalty in respect of that conduct has been imposed on that person in accordance with the rules of the organisation to which he belongs or those rules do not make provision for imposing any such penalty; or 10

 “(ii) The first-mentioned organisation considers that any penalty in respect of that conduct that has been imposed on that person in accordance with those rules is inadequate in the circumstances,— 15

the first-mentioned organisation may apply to the Appeal Committee for an order that that person be suspended from being engaged to be entered on board New Zealand ships (including New Zealand Government ships) and home-trade ships. 20

“(2) Every such application shall be in writing specifying the grounds thereof, and shall be forwarded to the Secretary for Marine, who shall refer it to the Chairman of the Appeal Committee. 25

“15DE. Appeal Committee may order suspension—(1) On any application to the Appeal Committee under section 15DD of this Act, the Committee may— 30

“(a) Order that the person in respect of whom the application is made be suspended, for such period as the Committee specifies, from being engaged to be entered on board New Zealand ships (including New Zealand Government ships) and home-trade ships; or 35

“(b) Dismiss the application.

New

“(2) In determining any such application, the Appeal Committee shall not be bound to follow any formal procedure, but shall follow the rules of natural justice and consider all written submissions made by or on behalf of the applicant for the order or the person proposed to be suspended. The Appeal Committee may, if it thinks fit, also hear oral representations made by or on behalf of the applicant or the person proposed to be suspended and may summon and hear witnesses if it believes the interests of justice will be furthered by so doing.

“(3) The Appeal Committee shall have power to suspend any person under subsection (1) of this section, notwithstanding that any penalty may have been imposed on him in respect of his conduct under any other provision of this Act or under the rules of the organisation of which he is a member, but, in deciding whether or not that person should be suspended and the period of his suspension, the Committee shall have regard to any penalty so imposed.

“(4) Where under subsection (1) of this section the Appeal Committee orders that any person be suspended, notice in writing of its decision shall be given to that person by or on behalf of the Chairman of the Committee.

“(5) While any person is suspended by an order under this section—

“(a) He shall not engage to be entered on board any New Zealand ship (including any New Zealand Government ship) or home-trade ship:

“(b) A Superintendent shall not allow him to sign an agreement with the crew of any such ship.

“(6) Every person commits an offence against this Act who engages to be entered on board any ship in breach of subsection (5) of this section.

“(7) Every decision of the Appeal Committee under subsection (1) of this section shall be final.

“15E. Marine Advisory Committees—(1) The Minister may from time to time, for the purpose of obtaining advice on any particular matter arising out of or in relation to this Act, appoint not less than three persons to constitute a Marine Advisory Committee, one of whom shall be appointed as the Chairman of the committee.

“(2) The members of a Marine Advisory Committee—

“(a) Shall, so far as practicable, include one or more representatives of persons interested in the matter in respect of which the committee is constituted:

“(b) If the Minister considers it necessary, may include 5
persons having special knowledge of the matter.

“(3) A Marine Advisory Committee consisting of three members shall not hold a meeting unless all the members are present.

“(4) At a meeting of a Marine Advisory Committee consisting of more than three members, the Chairman of the committee, together with half or a majority, as the case may be, of the other members shall form a quorum. 10

“(5) At a meeting of a Marine Advisory Committee every question shall be decided by a majority of the valid votes 15
thereon. The Chairman shall not have a deliberative vote, but in the case of an equality of votes shall have a casting vote.

“(6) Subject to this section, a Marine Advisory Committee may regulate its procedure in such manner as it thinks fit.

“15F. **Remuneration and travelling expenses**—(1) The 20
Marine Council, the Appeal Committee, and every Marine Advisory Committee are hereby declared to be statutory Boards within the meaning of the Fees and Travelling Allowances Act 1951.

“(2) There shall be paid to the members of the Council or 25
of the Appeal Committee and to members of any Marine Advisory Committee, out of money appropriated by Parliament, remuneration by way of fees or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of 30
that Act shall apply accordingly:

“Provided that any money received pursuant to this section by any member of the Council or of any such committee who is an employee of the Public Service shall be subject to the provisions of the State Services Act 1962.” 35

Struck Out

16. New Part IIa inserted in principal Act—The principal Act is hereby further amended by inserting, after section 191, the following new Part:

Struck Out

“PART IIA

PORT COMMITTEES

5 “191A. Port Committees—(1) The Minister may from time to time establish a committee for any port, to be known as ‘The [*Name of port*] Port Committee’. As soon as practicable after the establishment of a Port Committee, the Minister shall cause notice thereof to be published in the *Gazette*.

“ (2) Every Port Committee shall consist of—

10 “ (a) One member, being an officer of the Department, who shall be the Chairman of the committee:

“ (b) One member, to represent The New Zealand Ship-owners’ Federation Incorporated:

15 “ (c) One member, to represent The New Zealand Merchant Service Guild Industrial Union of Workers:

“ (d) One member, to represent The New Zealand Institute of Marine and Power Engineers Incorporated:

20 “ (e) One member, to represent The New Zealand Seamen’s Industrial Union of Workers:

“ (f) One member to represent Federated Cooks’ and Stewards’ Union of New Zealand Industrial Union of Workers.

25 “ (3) The members of a Port Committee shall be appointed by the Minister, and shall hold office during the pleasure of the Minister.

30 “ (4) Notwithstanding anything in subsection (2) of this section, a member of a committee representing an organisation referred to in paragraph (c), paragraph (d), paragraph (e), or paragraph (f) of that subsection shall sit as a member of the committee when the proceedings relate to a member of that organisation and not otherwise.

35 “ (5) The Minister may appoint any person to be the deputy of any member of a Port Committee, to act in the event of the absence from any meeting of the committee of the member whose deputy he is.

“ (6) The fact that any person appointed as the deputy of any member of a committee attends and acts at any meeting thereof shall be conclusive evidence of his authority to do so.

40 “ (7) Any deputy appointed under this section shall, while he acts as such, be deemed to be a member of the committee, and the deputy of the Chairman shall have all the powers and functions of the Chairman.

Struck Out

“191B. Meetings and procedure—(1) Meetings of a Port Committee shall be held at such times and places as the committee or the Chairman from time to time appoints.

“(2) A Port Committee shall not hold a meeting unless the Chairman, the member representing The New Zealand Shipowners’ Federation Incorporated, and the member representing the organisation of which the person to whom the proceedings relate is a member are present.

“(3) A Port Committee may, if it thinks fit, consider together two or more applications relating to two or more persons where the grounds of the several applications to the committee arise out of the same circumstances. If in any such case the persons concerned are not all members of the same organisation, the member of the committee representing the organisation to which any such person belongs shall sit as a member of the committee, but shall be entitled to vote on questions relating to that person and not otherwise.

“(4) At a meeting of a Port Committee every question shall be decided by a majority of the valid votes thereon. The Chairman shall not have a deliberative vote, but in the case of an equality of votes shall have a casting vote.

“(5) A Port Committee may receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal effectively with the matter being dealt with, whether or not such evidence would be otherwise admissible in a Court of law.

“(6) Subject to this section and to sections 191c and 191D of this Act, a Port Committee may regulate its procedure in such manner as it thinks fit.

“191c. Commencement of proceedings—Proceedings before a Port Committee in relation to any person may be commenced by application in writing made to the committee—

“(a) Where the application is made on the ground of the character of that person, by or on behalf of any organisation referred to in subsection (2) of section 191A of this Act:

“(b) Where the application is made on the ground of the conduct of that person, by or on behalf of any such organisation or by the master of the ship to which that person belonged at the time of the alleged conduct.

Struck Out

“191D. Committee may order suspension of seaman—(1) A Port Committee may order that any person be suspended, for such period as the committee specifies, from being engaged to be entered on board New Zealand ships (including New Zealand Government ships) or home-trade ships, upon the ground that his character is such or his conduct has been such that he is unsuitable for engagement.

“(2) In determining whether or not any person should be suspended under subsection (1) of this section, the committee shall not be bound to follow any formal procedure, but shall follow the rules of natural justice and consider all written submissions made by or on behalf of the applicant for the order or the person proposed to be suspended. The committee may, if it thinks fit, also hear oral representations made by or on behalf of the applicant or the person proposed to be suspended and may summon and hear witnesses if it believes the interests of justice will be furthered by so doing.

“(3) A Port Committee shall have power to suspend any person under subsection (1) of this section on the ground of his conduct, notwithstanding that any penalty may have been imposed on him in respect of that conduct under any other provision of this Act, but, in deciding whether or not that person should be suspended and the period of his suspension, the committee shall have regard to any penalty so imposed.

“(4) Where under subsection (1) of this section the committee orders that any person be suspended, notice in writing of its decision shall be given to that person by or on behalf of the Chairman of the committee.

“(5) While any person is suspended by an order under this section—

“(a) He shall not engage to be entered on board any New Zealand ship (including any New Zealand Government ship) or home-trade ship:

“(b) A Superintendent shall not allow him to sign an agreement with the crew of any such ship.

“(6) Every person commits an offence against this Act who engages to be entered on board any ship in breach of subsection (5) of this section.

“(7) Subject to the right of appeal conferred by section 191E of this Act, every decision of a Port Committee under subsection (1) of this section shall be final.

Struck Out

“191E. **Appeal against suspension ordered by Port Committee**—(1) Any person suspended by an order of a Port Committee may, within one month after notice of the decision of the committee is given to him, or within such further time as the Council, in its discretion, may allow, appeal against that decision to the Marine Council. 5

“(2) Every such appeal shall be in writing lodged with the Superintendent at the port in respect of which the Port Committee was appointed. 10

“(3) The operation of the order of suspension shall not, unless the committee otherwise directs, be deferred pending the decision on any appeal therefrom.

“(4) The provisions of subsection (2) of section 191D of this Act shall, with the necessary modifications, apply with respect to the hearing and determination of any such appeal as if references in that subsection to a committee were references to the Marine Council. 15

“(5) In determining any such appeal, the Council may confirm, modify, or reverse the decision of the committee. 20

“(6) The decision of the Council on any such appeal shall be final.

“191F. **Remuneration and travelling expenses**—(1) Every Port Committee is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951. 25

“(2) There shall be paid to the members of every such committee, out of money appropriated by Parliament, remuneration by way of fees or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly: 30

“Provided that any money received pursuant to this section by any member of such a committee who is an employee of the Public Service shall be subject to the provisions of the State Services Act 1962.” 35

17. Consequential amendments—
Struck Out

(1) Section 2 of the principal Act is hereby amended by inserting in subsection (1),
5 in their appropriate alphabetical order, the following definitions:

“ ‘Marine Council’ means the Marine Council established by section 15A of this Act:

10 “ ‘Port Committee’ means a Port Committee established pursuant to section 191A of this Act.”

New

(1) Section 2 of the principal Act is hereby amended by inserting in subsection (1), after the definition of the term “local load line ship”, the
15 following definition:

“ ‘Marine Council’ means the Marine Council established by section 15A of this Act.”

(2) Section 172 of the principal Act is hereby amended by adding to subsection (3) the following proviso:

20 “Provided that nothing in this subsection shall derogate from the provisions of **(PartIIA)** section 15DE of this Act.”