

SHIPPING AND SEAMEN AMENDMENT BILL

EXPLANATORY NOTE

Clause 2: This clause provides for the deportation from New Zealand of every seaman or apprentice who is convicted of the offence of desertion or absence without leave from his ship. The provisions do not apply to seamen or apprentices engaged in New Zealand nor to seamen or apprentices from foreign ships. Provisions as to the deportation of foreign deserters are already contained in Part XIV of the principal Act and in the Immigration Restriction Act, 1908.

Where a seaman is convicted of desertion or absence without leave, he is to be kept in custody and deported by the first available ship. If he is not deported within one month he is again to be brought before the Court, which may order his detention for a further three months or release him on bail or on probation pending his deportation. The effect of the new provisions is that all convicted ship deserters are to be deported.

Clause 3: Section 178 of the Shipping and Seamen Act, 1908, provides that a certificate of survey shall be in force for a maximum period of one year, but the Secretary for Marine may, at any time before the expiration of the certificate, grant an extension of up to one month. The purpose of this clause is to authorize the Secretary to grant an extension of up to three months and to enable the extension to be granted after the certificate has expired.

Clause 4: The purpose of this clause is to enable the Minister to exempt from survey a ship that regularly plies in the foreign trade and carries a certificate of survey issued by a corporation, association, or body for the survey and registry of ships approved by the Minister.

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,

27th November, 1950

Hon. Mr. Goosman

SHIPPING AND SEAMEN AMENDMENT

ANALYSIS

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| Title. | 2. Deserting seamen to be deported. Repeal. |
| 1. Short Title. | 3. Extending duration of certificates of survey. Repeal. |
| | 4. Ships exempt from survey. |

A BILL INTITULED

AN ACT to Amend the Shipping and Seamen Act, 1908. Title.

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

1. This Act may be cited as the Shipping and Seamen Amendment Act, 1950, and shall be read together with and deemed part of the Shipping and Seamen Act, 1908 (hereinafter referred to as the principal Act). Short Title.

See Reprint
of Statutes,
Vol. VIII,
p. 249

10 2. (1) Section one hundred and thirty-two of the principal Act is hereby amended by repealing subsections two, three, and four (as enacted by section five of the Shipping and Seamen Amendment Act, 1948), and substituting the following subsections:—

Deserting
seamen to be
deported.
1948, No. 10

15 “(2) Where the master or the owner or the agent of the owner of any ship has reason to believe that a seaman from that ship (not being a seaman who was engaged in New Zealand) has committed an

offence against the last preceding subsection, the master, owner, or agent, as the case may be, shall report that fact at any police station, and shall, if required by the constable for the time being in charge of that police station, lay an information against the seaman in respect of the offence. 5

“(3) Where a constable has reason to believe that any person (not being a seaman who has been engaged in New Zealand) is a seaman who has been reported to the Police by any master or owner or by the agent of any owner as having committed an offence against subsection one of this section, he shall arrest that person with or without warrant and cause him to be conveyed as soon as practicable before a Magistrate or any two Justices to be dealt with for the offence. Notwithstanding anything to the contrary in section three hundred and seventy of the Justices of the Peace Act, 1927, any warrant for the arrest of a seaman against whom an information has been laid for an offence against subsection one of this section may be executed on a Sunday. 10 15 20

See Reprint
of Statutes,
Vol. II, p. 461

“(4) Whenever any seaman (not being a seaman who has been engaged in New Zealand) is convicted of an offence under subsection one of this section, the Court shall, in addition to or instead of any penalty it may impose for the offence, direct that the seaman be held in custody subject to the provisions of the *next succeeding* subsection. 25

“(5) Every seaman convicted of an offence under subsection *one* or subsection *seven* of this section shall be detained in any convenient prison or place of security, and shall at the first available opportunity be placed by any constable on the ship from which he deserted or absented himself or on any other ship which is about to leave New Zealand for the country in which the seaman was engaged and on which suitable accommodation for the seaman is available owned or chartered by the same owner or being in a New Zealand port under the control of the agent of the owner or belonging to or chartered by some other owner and nominated for the purpose (with the consent of the owner or agent of the owner thereof) by the owner or agent of the owner of the ship from which the seaman deserted or absented himself: 30 35 40

“ Provided that, where the seaman is not placed on any such ship within a period of one month after the date of his conviction, he shall at the expiration of the said period be again brought before a Magistrate or any
5 two Justices, who may—

“(a) Direct that the seaman be detained in custody for a further period not exceeding three months, in which event the foregoing provisions of the subsection shall continue to
10 apply to the seaman; or

“(b) Release the seaman on bail for a sum not exceeding two hundred pounds with, if the Court so orders, not more than two sureties for the like amount, and subject to such conditions as
15 to reporting to the police, as to joining a ship, or otherwise as the Court thinks fit to impose; or

“(c) Release him on probation under the Offenders
20 Probation Act, 1920, for a period of two years from the date of the conviction, subject to the condition that he join a ship as and when directed by the Probation Officer, and subject also to the conditions set out in section ten of that Act:

See Reprint
of Statutes,
Vol. II, p. 493

25 “ Provided also that, where any seaman who has been directed to be detained in custody for a further period under the foregoing provisions of this subsection is not placed on a ship before the expiration of that period, he shall at the expiration of that period be again brought
30 before a Magistrate or any two Justices, who shall direct that the seaman be released on bail for a sum not exceeding two hundred pounds on his own recognizance, subject to such conditions as to reporting to the police, as to joining a ship, and otherwise as the Court thinks fit to
35 impose, or that he be released on probation under the Offenders Probation Act, 1920, for a period of two years from the date of the conviction, subject to the condition that he join a ship as and when directed by the Probation Officer, and subject also to the conditions set out in
40 section ten of that Act.

“(6) Where any seaman has been released on probation under the provisions of subsection *five* of this section, the provisions of the Offenders Probation Act, 1920, shall, as far as they are applicable and with the necessary

modifications, apply to him as if he had been convicted of an offence within the meaning of that Act and had been released on probation under section seven of that Act.

“(7) Every seaman commits an offence who, having been released on bail or on probation under the provisions of subsection *five* of this section, fails to comply with any condition of his bail or probationary licence as to reporting to the police or joining a ship, and shall be liable on summary conviction to imprisonment for a term not exceeding three months. The Court by which the seaman is convicted for an offence under this subsection shall, instead of or in addition to any penalty it may impose for the offence, direct the seaman to be held in custody subject to the provisions of subsection *five* of this section.

“(8) Any seaman (not being a seaman who has been engaged in New Zealand) convicted of an offence under subsection *one* or subsection *seven* of this section, including a seaman released on bail or on probation under the provisions of subsection *five* of this section, may at any time within two years after the conviction be taken into custody by any constable without warrant and placed on board the ship from which he deserted or absented himself or on any ship which is about to leave New Zealand for the country in which the seaman was engaged and on which suitable accommodation for the seaman is available owned or chartered by the same owner or being in a New Zealand port under the control of the agent of the owner, or belonging to or chartered by some other owner and nominated for the purpose (with the consent of the owner or agent of the owner thereof) by the owner or agent of the owner of the ship from which the seaman deserted or absented himself, and for this purpose may be held in custody without warrant for a period not exceeding fourteen days. Where any seaman so released on bail or on probation joins or is placed on any ship and leaves New Zealand thereby at any time before a breach of any condition of the bail bond or probationary licence has been made, or where any seaman so released on bail or on probation has not left New Zealand within the time prescribed by this subsection and there has been no breach of any condition of his bail bond or probationary licence, the bail bond shall thereupon cease to have any effect, or, as the case may be, he shall be deemed to have been discharged from probation.

“(9) Where a seaman is placed on board a ship pursuant to the provisions of this section the master shall keep him on board and (if necessary) in confinement until the ship has sailed.

5 “(10) If the owner or master of any ship having knowledge of the conviction refuses to permit the seaman convicted to remain on board the ship when he is placed on board under the provisions of this section, or refuses to receive him on board when he is brought thereto in
10 accordance with this section, or connives at or is privy to the seaman leaving or escaping from the ship, that owner or master commits an offence against this Act, and shall be liable on summary conviction to a fine not exceeding one hundred pounds.

15 “(11) The provisions of section one hundred and forty-nine of this Act shall apply with respect to every seaman who is placed on board any ship under the provisions of this section.

20 “(12) The travelling and other expenses actually incurred by the Commissioner of Police in carrying out the provisions of subsections *five* and *eight* of this section shall in each instance be paid by the master or owner of the ship to which the seaman belonged.

25 “(13) Where a seaman convicted of an offence under subsection *one* or subsection *seven* of this section is convicted (whether before or after the first mentioned conviction) of any other offence and is sentenced to a term of imprisonment, the provisions of this section as to the deportation of seamen shall, notwithstanding any-
30 thing in subsection *eight* of this section, continue to apply to him during the period of six months following his discharge from serving his sentence for the last mentioned offence, or during the remainder of the period of two years from the date of his conviction for the
35 first mentioned offence, whichever period is the longer.

40 “(14) This section shall apply with respect to ships owned or chartered by His Majesty in right of his Government in New Zealand, not being ships of the New Zealand Naval Forces, and to seamen belonging to those ships and to the masters of those ships.

“(15) The provisions of this section as to the deportation of seamen shall not apply with respect to seamen of foreign ships within the meaning of Part XIV of this Act.

“(16) In this section—

“ ‘ Owner ’, in relation to any ship, includes any charterer to whom the ship is demised:

“ ‘ Seaman ’ includes an apprentice.”

(2) Any seaman who after the passing of this Act is dealt with for an offence under subsection one of section one hundred and thirty-two of the principal Act committed before the passing of this Act shall be dealt with as if this Act had not been passed.

Repeal.
1948, No. 10

Extending
duration of
certificates
of survey.

See Reprint
of Statutes,
Vol. VIII,
p. 438

(3) Section five of the Shipping and Seamen Amendment Act, 1948, is hereby repealed.

3. Section one hundred and seventy-eight of the principal Act (as amended by section twenty-eight of the Shipping and Seamen Amendment Act, 1909) is hereby further amended by repealing the proviso to subsection one, and substituting the following proviso:—

“ Provided that the Secretary may, in his discretion, if he is satisfied that, where survey facilities are not available, the condition of the hull, machinery, and equipments of the ship is such as to justify him in doing so, extend the term of any certificate for any period not exceeding three months.”

Repeal.

(2) Section twenty-eight of the Shipping and Seamen Amendment Act, 1909, is hereby repealed.

Ships exempt
from survey.

4. Section one hundred and eighty-five of the principal Act is hereby amended by inserting, after subsection two A (as inserted by section four of the Shipping and Seamen Amendment Act, 1922), the following subsection:—

“(2B) In the case of a steamship carrying not more than twelve passengers and plying regularly as a foreign going ship with a certificate of survey issued by any corporation or association or society for the survey and registry of ships approved by the Minister, if the Minister is satisfied that the certificate remains still in force and is to the like effect, and is granted after a like survey, and in such manner as to be equally efficient with a certificate granted under this Act, he may dispense with the survey required under this Act of the parts of the ship surveyed by the corporation or association or society for so long as the certificate remains in force.”