

SHIPPING AND SEAMEN AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to the Shipping and Seamen Act 1952.

Clause 2 re-enacts in an amended form the existing provisions relating to seamen and apprentices engaged outside New Zealand who are discharged in New Zealand by reason of illness or accident. The new provisions of this clause require the seaman or apprentice (unless he is a New Zealand citizen) to attend for medical examination at the times and places directed by a Superintendent of Mercantile Marine. Where the medical practitioner certifies that the seaman or apprentice is fit to travel, the seaman or apprentice must within seven days either apply to a Superintendent for a passage back to his proper return port or apply to a Magistrate's Court for permission to remain in New Zealand, which permission the Court may grant, if the Court is satisfied that the applicant is of good character, that the illness or accident was genuine, and that there are no circumstances (contractual or marital or otherwise) that make it expedient that he be returned to his country of engagement. Nothing in this clause or in any order made under this clause is to derogate from the provisions of the Immigration Restriction Act 1908.

If the seaman or apprentice fails to attend for medical examination or fails to apply to a Superintendent for a passage back to his proper return port or to a Magistrate's Court for permission to remain in New Zealand, or his application for permission is refused and he does not leave New Zealand on the ship arranged by the Superintendent, he must be deported.

Clause 3 makes similar provision for the deportation of seamen and apprentices who are not New Zealand citizens and are discharged in New Zealand for reasons other than illness or accident before the time contemplated in the agreement. In such a case the seaman or apprentice must within seven days after his discharge apply to a Superintendent for a passage back to the country of his engagement or apply to a Magistrate's Court for authority to remain in New Zealand. If the applicant satisfies the Court that he is of good

character, that he was discharged due to circumstances beyond his control, and that there are no circumstances (contractual or marital or otherwise) that render it expedient that he be returned to the country of his engagement, the Court may make an order authorising him to remain in New Zealand. Nothing in this clause or in any order made under this clause is to derogate from the provisions of the Immigration Restriction Act 1908.

Clause 4 amends the existing provisions as to the forfeiture of wages due to a seaman or apprentice engaged in New Zealand who deserts or is absent without leave from his ship. At present forfeiture must be ordered by the Court on conviction of the seaman or apprentice, but this clause provides for automatic forfeiture without Court proceedings, subject to the seaman or apprentice having a right of appeal to the Minister.

Clause 5 re-enacts in an amended form the existing provisions relating to the deportation of seamen and apprentices engaged elsewhere than in New Zealand who are convicted of desertion or absence without leave. The clause omits the existing provisions authorising the Court to impose a sentence of imprisonment, and now provides that on conviction the seaman or apprentice must be detained pending deportation for a period of up to two months, but in special circumstances the Court may release him on bail subject to a condition that he live where directed by the police and report to the police at least once a week and to such other conditions as the Court imposes.

Notice of the conviction must be given to the owner or agent of the ship, requiring him to take all reasonable steps to place the seaman or apprentice either on the ship to which he belonged or on some other ship.

If at the end of two months the seaman or apprentice has not been placed on a ship, he must again be brought before the Court and either ordered to be detained in custody for a further period or released on bail. If he has not been placed on a ship within three months after the conviction, the police may arrange for his passage on any ship, or, if a ship is not available, on any aircraft, at the expense of the owner or agent of the ship to which the seaman or apprentice belonged.

The clause includes a new provision that, where the seaman or apprentice is detained in a penal institution pending deportation, the cost of his maintenance at a rate fixed by the Minister of Justice is to be payable by the owner or agent of the ship to which he belonged.

Clause 6 is new, and provides that in special circumstances a seaman or apprentice convicted of desertion or absence without leave may be authorised by a Magistrate to remain in New Zealand. In considering whether special circumstances exist, the Magistrate may take into account the necessity of ensuring that ships leaving New Zealand have adequate crews, the number and frequency of desertions and absences without leave, the record and character of the seaman or apprentice, any hardship that deporting him may cause to his wife or children or other dependants, whether or not the seaman or apprentice is a New Zealand citizen, and any other relevant circumstances. Nothing in this clause or in any order made under this clause is to derogate from any of the provisions of the Immigration Restriction Act 1908.

Clause 7 authorises a Magistrate's Court to order the deportation of stow-aways landing or attempting to land in New Zealand. In such a case, unless they are New Zealand citizens, they will be deported in the same manner as deserting seamen.

Clause 8: Section 175 of the principal Act provides that a seaman or apprentice belonging to any foreign going ship who is undergoing a sentence of imprisonment for a term not exceeding three months may be placed on his ship if it is about to leave New Zealand. This clause extends this provision, and provides that, where a seaman or apprentice belonging to a foreign going ship (not being a New Zealand citizen) is sentenced to any term of detention, the Court may order that he be deported at the expiration of his period of detention. In such a case the owner or agent of the ship by which the seaman or apprentice was brought to New Zealand must arrange for his return, at the expiration of his period of detention, to the country in which he was engaged or to his proper return port. At the expiration of his period of detention, the seaman or apprentice may be detained in custody or released on bail pending deportation. If he has not left New Zealand within two months the police may arrange for his passage on any ship, or, if a ship is not available, on an aircraft, and recover all expenses incurred from the owner or agent of the ship by which the seaman or apprentice was brought to New Zealand.

Clause 9: The effect of this clause is that where a ship is a New Zealand ship which is surveyed on the continuous survey principle, a Surveyor of Ships may accept a report as to any part of the hull, machinery, or equipments made by officers employed exclusively by other Commonwealth Governments and having qualifications and responsibilities similar to those of a Surveyor of Ships in New Zealand.

Clause 10 provides that, if a Surveyor of Ships considers that a ship is fit to ply within certain limits subject to compliance with certain conditions, he may specify those conditions in his declaration of survey, having regard to the different intended uses of the ship.

Clause 11 amends the existing provisions as to the recognition in New Zealand of certificates of survey granted in other countries.

The existing provisions enable an overseas certificate to be recognised only where the Minister is satisfied that it was issued after a like survey and in such a manner as to be equally efficient with a certificate of survey issued in New Zealand. This clause varies this requirement, and enables a certificate to be recognised if the Minister is satisfied that it substantially meets the requirements of the principal Act, but the Minister may grant recognition subject to the owner complying with certain further requirements short of a full survey in New Zealand.

The clause includes new provisions relating to the recognition of surveys of New Zealand cargo ships made in other countries by surveyors employed by approved classification societies, and now provides for recognition of reports from such surveyors in respect of the hull and machinery of New Zealand cargo ships trading exclusively to ports in North America or in Asia, provided the surveyors are exclusively employed by the classification society, subject to the requirement that the hull and machinery of the ship must be fully surveyed at least once every year either by surveyors exclusively employed by approved classification societies or by Surveyors of Ships appointed under the principal Act.

Clause 12 exempts from survey ships not exceeding 16 ft. in overall length, unless they are propelled by mechanical power and are ferries that carry passengers for hire or reward.

Clause 13: The effect of this clause is that the exemptions as to survey enjoyed by fishing boats will not apply if they carry more than four passengers or carry any passenger for hire or reward or carry any cargo other than fish caught by the crew. The carriage as passengers of shipwrecked persons, medical practitioners, nurses, persons travelling to obtain urgent medical attention, or constables or officers of the Marine Department travelling on official duties will be permitted, and the Minister may issue a permit to the owner or master to carry more than four passengers or to carry passengers or cargo for hire subject to such conditions as the Minister thinks fit.

Clause 14 modifies the existing provisions relating to the marking of submersion lines on ships that are not required to be marked with load lines. Under the present legislation all ships, except load line ships or ships that do not ply in tidal water, are required to be marked with submersion lines, and there is no provision for exempting any classes of ships from this requirement. The principal changes effected by this clause remove the existing limitations which apply the present provisions only to home trade ships, and at the same time exempt certain classes of ships from those provisions, and modify the manner in which the submersion lines are to be determined and marked.

Hon. Mr Gerard

SHIPPING AND SEAMEN AMENDMENT

ANALYSIS

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2. Seamen engaged outside New Zealand and discharged in New Zealand by reason of illness or accident	8. Deportation of seamen sentenced to imprisonment
3. Seamen engaged outside New Zealand and discharged in New Zealand otherwise than by reason of illness or accident	9. Surveyor may accept reports of Surveyors in other Commonwealth countries
4. Desertion and absence without leave of seamen engaged in New Zealand	10. Surveyor may issue declaration of survey that ship fit to ply in certain limits subject to compliance with conditions
5. Desertion and absence without leave of seamen engaged elsewhere than in New Zealand	11. Recognition of certificates of survey granted and surveyors' reports made in other countries
6. Deserting seamen may be permitted to remain in New Zealand in special circumstances	12. Exemption from survey of small ships
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	14. Submersion lines on ships not subject to provisions as to load lines

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,
5 as follows:

1. **Short Title**—This Act may be cited as the Shipping and Seamen Amendment Act 1957, and shall be read together with and deemed part of the Shipping and Seamen Act 1952 (hereinafter referred to as the principal Act).

2. Seamen engaged outside New Zealand and discharged in New Zealand by reason of illness or accident—Section sixty-seven of the principal Act is hereby amended by repealing subsection one, and substituting the following subsections:

“(1) Where a seaman belonging to any foreign going Commonwealth ship where the agreement with the crew is first made in a country other than New Zealand is left on shore at any port in New Zealand in any manner authorised by law by reason of illness or accident, the following provisions shall apply: 5 10

“(a) The master or the owner or his agent shall deposit with the Superintendent the full amount of wages then due to the seaman, and in addition, where the illness or accident occurs in the service of the ship, such sum as the Superintendent may require as security for the due payment of all amounts for which the owner may be liable (whether under this Act or any other lawful authority) in respect of the maintenance of, and medical and other attendance on, the seaman so left on shore, and in payment of his passage back to the port of his engagement, or of his burial in the case of his death in New Zealand: 15 20

“(b) A clearance shall not be granted to any such ship which is not owned in New Zealand until this provision has been complied with: 25

“(c) Unless he is a New Zealand citizen, a seaman so left on shore shall attend for medical examination by a medical practitioner at the time and place from time to time directed by the Superintendent, and, within seven days from the date on which the medical practitioner certifies that the seaman is fit to travel, shall either apply to the Superintendent to be provided with a passage back to the proper return port of the seaman or apply to a Magistrate’s Court presided over by a Magistrate for an order authorising him to remain in New Zealand: 30 35

“(d) Where on any application to a Magistrate’s Court under paragraph (c) of this subsection the Court is satisfied that— 40

(i) The seaman is of good character;

“(ii) The illness or accident by reason of which the seaman was left on shore was genuine; and

“(iii) There are no circumstances (contractual or marital or otherwise) that make it expedient that the seaman be returned to the country of his engagement,—

5 the Court may make an order authorising the seaman to remain in New Zealand:

“Provided that nothing in this section or in any order made under this section shall derogate from any of the provisions of the Immigration Restriction Act 1908:

10 “(e) Where the Court refuses to grant any application under paragraph (c) of this subsection, the Registrar of the Court shall notify the Superintendent of the decision, and the Superintendent shall thereupon provide the seaman with a passage back to the proper return port of the seaman:

15 “(f) Any part of the money deposited with the Superintendent under paragraph (a) of this subsection (not being wages) and not expended as specified in this subsection shall be refunded to the master or owner or agent who paid the same.

20 “(1A) Every seaman (not being a New Zealand citizen) so left on shore commits an offence against this Act if he—

25 “(a) Fails without reasonable cause to comply with any of the requirements of paragraph (c) of subsection one of this section; or

30 “(b) Fails without reasonable cause to leave New Zealand on the ship arranged for his passage by the Superintendent under paragraph (c) or paragraph (e) of that subsection when the ship leaves her last port of call in New Zealand.

35 “(1B) The provisions of section one hundred and fifty-eight of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to every seaman who is convicted of an offence against subsection one A of this section, as if he had been convicted of the offence of desertion on the date on which he was convicted of an offence against that subsection.”

40 **3. Seamen engaged outside New Zealand and discharged in New Zealand otherwise than by reason of illness or accident**—The principal Act is hereby further amended by inserting, after section sixty-seven, the following section:

“67A. (1) Where a seaman (not being a New Zealand citizen) belonging to any foreign going Commonwealth ship where the agreement with the crew is first made in a country other than New Zealand is left on shore in any port in New Zealand in any manner authorised by law by reason of his discharge before the time contemplated in the agreement and not by reason of illness or accident, the following provisions shall apply: 5

“(a) The master or the owner or his agent shall deposit with the Superintendent such sum as the Superintendent may require in payment of the passage back of the seaman to the port of his engagement: 10

“(b) A clearance shall not be granted to any such ship which is not owned in New Zealand until this provision is complied with: 15

“(c) The seaman shall within seven days after his discharge either apply to the Superintendent to be provided with a passage back to the proper return port of the seaman or apply to a Magistrate’s Court presided over by a Magistrate for an order authorising him to remain in New Zealand: 20

“(d) Where on any application to a Magistrate’s Court under paragraph (c) of this subsection the Court is satisfied that—

“(i) The seaman is of good character; 25

“(ii) He was discharged in New Zealand due to circumstances beyond his control; and

“(iii) There are no circumstances (contractual or marital or otherwise) that make it expedient that the seaman be returned to the country of his engagement,— 30

the Court may make an order authorising the seaman to remain in New Zealand:

“Provided that nothing in this section or in any order made under this section shall derogate from any of the provisions of the Immigration Restriction Act 1908: 35

“(e) Where the Court refuses to grant any application under paragraph (c) of this subsection, the Registrar of the Court shall notify the Superintendent of the decision, and the Superintendent shall thereupon provide the seaman with a passage back to the proper return port of the seaman: 40

“(f) Any part of the money deposited with the Superintendent under paragraph (a) of this subsection and not expended as specified in this subsection shall be refunded to the master or owner or agent who paid the same.

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“(2) Every seaman so left on shore commits an offence against this Act, if he—

“(a) Fails without reasonable cause to comply with any of the requirements of paragraph (c) of subsection one of this section; or

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“(b) Fails without reasonable cause to leave New Zealand on the ship arranged for his passage by the Superintendent under paragraph (c) or paragraph (e) of that subsection when the ship leaves her last port of call in New Zealand.

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“(3) The provisions of section one hundred and fifty-eight of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to every seaman who is convicted of an offence against subsection two of this section, as if he had been convicted of the offence of desertion on the date on which he was convicted of an offence against that subsection.

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“(4) If the master of any ship leaves a seaman on shore at any port in New Zealand without complying with the provisions of this section, he commits an offence against this Act.

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“(5) In this section the term ‘seaman’ includes an apprentice.”

4. Desertion and absence without leave of seamen engaged in New Zealand—(1) Section one hundred and fifty-seven of the principal Act is hereby amended by repealing subsections one and two, and substituting the following subsections:

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“(1) Subject to the provisions of subsections five and six of this section, this section shall apply to seamen who have been engaged in New Zealand on any Commonwealth ship and to apprentices who have been indentured in New Zealand on any Commonwealth ship.

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“(2) Every such seaman or apprentice commits an offence against this Act who—

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“(a) Being a seaman or apprentice belonging to a New Zealand ship, deserts or absents himself without leave from that ship, wherever she may be:

“(b) Being a seaman or apprentice belonging to a Commonwealth ship (not being a New Zealand ship), deserts or absents himself without leave from that ship within the limits or territorial waters of New Zealand.

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“(2A) All wages which any seaman or apprentice who deserts in breach of this section has then earned shall be deemed to be forfeited.

“(2B) Two days’ pay, or any expenses reasonably incurred in hiring a substitute as determined by the Superintendent, shall be deemed forfeited from the wages of any seaman or apprentice who absents himself without leave in breach of this section.

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“(2C) Any seaman or apprentice whose wages are deemed to be forfeited under this section may at any time within one month of the date of the forfeiture apply to the Minister for the refund of those wages on the ground that circumstances beyond the reasonable control of the seaman or apprentice prevented him from rejoining the ship, and the Minister may in any such case approve the refund of the whole or any part of the wages concerned.”

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(2) Section one hundred and seventy-one of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection:

“(1) Where any wages are under this Act forfeited for desertion or absence without leave from a ship, those wages shall be paid to the Superintendent, who shall retain them for a period of one month from the date of the forfeiture or, where application for a refund of those wages is made to the Minister under subsection two c of section one hundred and fifty-seven of this Act, until the decision of the Minister has been given thereon, and shall then apply the wages towards reimbursing the expenses caused by the desertion or absence without leave to the master or owner of the ship as determined by the Superintendent, and, subject to the decision of the Minister on any such application, shall pay the balance into the Public Account to the credit of the Consolidated Fund.”

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5. Desertion and absence without leave of seamen engaged elsewhere than in New Zealand—(1) The principal Act is hereby amended by repealing section one hundred and fifty-eight, and substituting the following section:

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“158. (1) Subject to the provisions of subsection seventeen of this section, this section shall apply to seamen who have been engaged elsewhere than in New Zealand on any Commonwealth ship.

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“(2) Every such seaman commits an offence against this Act, and is liable to a fine not exceeding one hundred pounds, who, within the limits or territorial waters of New Zealand, deserts or absents himself without leave from any Commonwealth ship to which he belongs.

“(3) Where the master or the owner or the agent of the owner of any Commonwealth ship has reason to believe that a seaman from that ship has committed an offence against subsection two of this section, 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. Any master or owner or agent who fails to comply with this subsection commits an offence against this Act.

“(4) Where a constable has reason to believe that any person 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 two of this section, he shall arrest that person with or without warrant and cause him to be conveyed as soon as practicable before a Court to be dealt with for the offence.

“(5) 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 two or subsection seven of this section may be executed on a Sunday.

“(6) Where any seaman is convicted of an offence against subsection two of this section,—

“(a) The Registrar of the Court shall give notice thereof in writing to the master or owner or agent of the owner of the ship, requiring him to take all reasonable steps to cause the seaman to be placed on board a ship leaving from New Zealand in accordance with the provisions of this section:

“(b) The seaman shall be detained in any penal institution and shall at any available opportunity be placed by any constable on the ship from which he deserted or absented himself, or on any other ship which is leaving New Zealand, either from the port at which the seaman is placed on board or after calling at any other port, for the country in which he was engaged or for the proper return port of the seaman and on which accommodation for the seaman is reasonably available, being

a ship that is owned or chartered by the same owner or is in a New Zealand port under the control of the agent of the owner or that belongs to or is chartered by some other owner and is 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: 5

“Provided that the Court, if it thinks fit, may, unless the seaman is undergoing a sentence of detention in respect of some other offence, release him 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 a condition that he reside where directed by the police and report to the police at such intervals as the Court directs and to such other conditions as the Court thinks fit to impose: 10 15

“(c) If the seaman is not previously placed on any such ship, he shall at the expiration of two months after the date of his conviction or, if he is then serving any sentence of detention in respect of any other offence, on his discharge therefrom, again be brought before a Court, which may— 20

“(i) Direct that the seaman be detained in custody for a further period not exceeding two months, in which event the provisions of this subsection shall continue to apply to the seaman; or 25

“(ii) Direct that the seaman be released 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 the conditions specified in paragraph (b) of this subsection: 30

“(d) If the seaman is not previously placed on any ship, he shall, at the expiration of four months after the date of his conviction if he is then detained in custody or, if he is then serving any sentence of detention in respect of any other offence, on his discharge therefrom, again be brought before a Court, which shall direct that the seaman be released 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 the conditions specified in paragraph (b) of this subsection: 35 40 45

“(e) If the seaman is not previously placed on any such ship, he may, at any time after the expiration of three months after the date of his conviction, be placed by any constable on any ship or aircraft which is about to leave New Zealand for the country in which he was engaged or for the proper return port of the seaman and on which accommodation for the seaman is reasonably available.

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“(7) Every seaman commits an offence who, having been released on bail under the provisions of this section, fails to comply with any condition of his bail, 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 him to be held in custody subject to the provisions of subsection six of this section.

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“(8) Any seaman convicted of an offence under this section, including a seaman released on bail under the provisions 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 a ship or aircraft for deportation under the provisions of this section, and for that purpose the seaman may be held in custody without warrant for a period not exceeding fourteen days.

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“(9) Where any seaman so released on bail 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 has been made, or where any seaman so released on bail has not left New Zealand within the time prescribed by this section and there has been no breach of any condition of his bail bond, the bail bond shall thereupon cease to have any effect. For the purposes of this section, a seaman shall not be deemed to have left New Zealand by any ship unless he is on board the ship when she leaves her last port of call in New Zealand or, where the ship, after leaving her last port of call in New Zealand, returns to a port in New Zealand because of any emergency, when the ship finally leaves New Zealand on that voyage.

“(10) Where a seaman is placed on board a ship pursuant to the provisions of this section, the master or other officer for the time being on duty in charge of the ship shall keep him on board and (if necessary) in confinement until the ship has sailed from her last port of call in New Zealand. 5

“(11) If the owner or master or other officer for the time being on duty in charge of any ship, having knowledge of the conviction, refuses without reasonable cause (the proof of which shall be on him) to permit the seaman convicted to remain on board the ship when he is placed on board under the provisions of this section, or similarly refuses to receive him on board when he is brought thereto in accordance with this section, or connives at or is privy to the seaman leaving or escaping from the ship, that owner or master or other officer commits an offence against this Act. 10 15

(12) The provisions of section one hundred and seventy-four of this Act shall apply with respect to every seaman who is placed on board any ship under the provisions of this section.

“(13) The travelling and other expenses actually incurred by the Commissioner of Police in carrying out the provisions of subsections six and eight of this section (including the cost of any passage arranged for the seaman) shall in each instance be paid by the master or owner or agent of the ship to which the seaman belonged. 20 25

“(14) Where a seaman is detained in a penal institution under the provisions of this section, the cost of his maintenance therein at a rate determined from time to time by the Minister of Justice shall be a debt owing to the Crown by the master or owner or agent of the ship to which the seaman belonged. 30

“(15) Where a seaman convicted of an offence for which he is under this section liable to be deported is convicted (whether before or after the first-mentioned conviction) of any other offence against this Act or any other Act and is sentenced to detention, the provisions of this section shall, notwithstanding anything 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 first-mentioned offence, whichever period is the longer. 35 40

“(16) This section shall apply with respect to offences under paragraph (a) of subsection one of section one hundred and sixty-four of this Act as it applies with respect to offences under this section.

5 “(17) The provisions of subsections three to six of section one hundred and fifty-seven of this Act shall apply with respect to offences to which this section applies.

“(18) In this section—

10 “‘Court’ means a Magistrate’s Court presided over by a Magistrate:

“‘Seaman’ includes an apprentice, and any reference to a seaman engaged at any place shall be deemed to include a reference to an apprentice indentured at that place.”

15 (2) The principal Act is hereby amended as follows:

(a) By omitting from section one hundred and fifty-nine the words “one hundred and fifty-seven”, and substituting the words “one hundred and fifty-eight”:

20 (b) By omitting from subsection one of section one hundred and sixty the words “one hundred and fifty-seven”, and substituting the words “one hundred and fifty-eight”:

25 (c) By inserting in subsection one of section one hundred and sixty-one, after the words “one hundred and fifty-seven”, the words “or section one hundred and fifty-eight”:

(d) By omitting from the same subsection the word “relates”, and substituting the word “relate”:

30 (e) By inserting in section one hundred and sixty-six, after the words “one hundred and fifty-seven”, the words, “or section one hundred and fifty-eight”:

(f) By omitting from the same section the word “relates” where it first occurs, and substituting the word “relate”:

35 (g) By omitting from section one hundred and sixty-seven the words “sentenced to any term of imprisonment under section one hundred and fifty-seven of this Act (which relates to the offences of desertion and absence without leave) or”, and substituting the words “convicted of an offence under section one hundred and fifty-eight of this Act (which relates to the offences of desertion and absence without leave) or is sentenced to imprisonment”:

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- (h) By inserting in paragraph (a) of section one hundred and sixty-eight, after the words “one hundred and fifty-seven”, the words “or section one hundred and fifty-eight”:
- (i) By omitting from the same paragraph the word “relates”, and substituting the word “relate”.

6. Deserting seamen may be permitted to remain in New Zealand in special circumstances—The principal Act is hereby further amended by inserting, after section one hundred and fifty-eight (as substituted by section five of this Act), the following section:

“158A. (1) Notwithstanding anything in section one hundred and fifty-eight of this Act, where a seaman is convicted of an offence against subsection two of that section, he may, at the time of the conviction or at any time within seven days thereafter, apply to a Magistrate’s Court presided over by a Magistrate for an order authorising him to remain in New Zealand:

“Provided that nothing in this section or in any order made under this section shall derogate from any of the provisions of the Immigration Restriction Act 1908.

“(2) The Registrar of the Court shall give notice in writing of every such application to the commissioned officer of Police in the district in which the Court is situated and also to the master or owner or agent of the ship from which the seaman deserted or absented himself, and that officer of Police and the master or owner or agent of the ship shall be entitled to appear and be heard on the application.

“(3) On any such application the Court in its discretion, if it is satisfied that special circumstances exist, may make an order directing that the provisions of subsections six to sixteen of section one hundred and fifty-eight of this Act shall not apply with respect to that seaman.

“(4) Without limiting the power of the Court to take any other matters into account, the Court on any application under this section may in its discretion take into account any of the following matters in considering whether or not special circumstances exist, namely:

- “(a) The necessity of ensuring that ships leaving New Zealand have adequate crews:
- “(b) The number and frequency of desertions and absences without leave from foreign going ships:

“(c) The record and character of the seaman:

“(d) Any hardship that is likely to be caused to the wife or children of the seaman or to any other person dependent on him by granting the application or refusing it:

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“(e) Whether or not the seaman is a New Zealand citizen:

“(f) Any other circumstances that in the opinion of the Court make it desirable or undesirable that the seaman be allowed to remain in New Zealand.

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“(5) Nothing in this section shall affect the prerogative of mercy.

“(6) In this section the term ‘seaman’ includes an apprentice.”

15 **7. Stowaways may be deported**—(1) Section one hundred and seventy-three of the principal Act is hereby amended by inserting in subsection three, after the words “Every person who”, the words “whether in New Zealand or elsewhere”.

(2) Section one hundred and seventy-three of the principal Act is hereby amended by adding the following subsection:

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“(4) Where any person is convicted of an offence under subsection three of this section committed outside New Zealand, then, unless he satisfies the Court that he is a New Zealand citizen, the Court may in its discretion, in addition to any penalty for the offence, order that he be deported, and thereupon the provisions of section one hundred and fifty-eight of this Act, as far as they are applicable and with the necessary modifications, shall apply as if he were a seaman belonging to the ship who had been convicted under that section of deserting his ship.”

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30 **8. Deportation of seamen sentenced to imprisonment**—Section one hundred and seventy-five of the principal Act is hereby amended by adding the following subsections as subsections two to eight thereof:

“(2) Without limiting the provisions of subsection one of

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this section, where a seaman or an apprentice engaged elsewhere than in New Zealand in any foreign going ship (whether or not she is a Commonwealth ship) is sentenced for any offence to detention in a penal institution, the Court imposing sentence shall, unless he satisfies the Court that he is a New Zealand citizen, order him to be deported.

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“(3) Where under the provisions of this section the Court orders any seaman or apprentice to be deported then, as from the date on which he ceases to be liable to be detained under the sentence, the provisions of subsections six to twelve of section one hundred and fifty-eight of this Act, as far as they are applicable and with the necessary modifications, shall apply as if he had been convicted on that date of an offence under subsection two of that section. 5

“(4) Where a seaman or an apprentice has been ordered to be deported under the provisions of this section, the owner or agent of the ship by which the seaman or apprentice was brought to New Zealand shall arrange for his return, after the date on which the seaman or apprentice is entitled to his discharge from detention under the sentence, on the first available ship to the country where he was engaged or to the proper return port of the seaman or apprentice. 10 15

“(5) Where any seaman or apprentice ordered to be deported under this section has not left New Zealand within three months after the date on which the seaman or apprentice ceases to be liable to be detained under the sentence, the Minister of Police or any person authorised by him may arrange a passage from New Zealand for the seaman or apprentice on any ship or, if a ship is not readily available, on an aircraft. 20

“(6) Any seaman or apprentice for whom a passage is arranged under the provisions of subsection four or subsection five of this section may be taken into custody by any constable without warrant and placed on board a ship or aircraft for deportation under the provisions of this section, and for that purpose the seaman or apprentice may be held in custody without warrant for a period not exceeding fourteen days. 25 30

“(7) If the seaman or apprentice appears to be destitute, the person placing him on board the ship or aircraft may supply him with such money as the Minister of Police or any person authorised by that Minister certifies to be reasonable. 35

“(8) All expenses incurred by the Crown in carrying out the provisions of subsections two to seven of this section (including the cost of any passage arranged for the seaman or apprentice and any money paid to him under the provisions of subsection seven of this section) shall be recoverable from the owner or agent of the ship by which the seaman or apprentice was brought to New Zealand.” 40

9. Surveyor may accept reports of Surveyors in other Commonwealth countries—Section one hundred and ninety-nine of the principal Act is hereby amended by adding to subsection one the following additional proviso:

- 5 “Provided further that, where the ship is a New Zealand ship which is surveyed on the continuous survey principle and any part of the hull, machinery, or equipments of the ship is surveyed by an officer having qualifications and responsibilities similar to those of a Surveyor of Ships under this Act and
10 exclusively employed by the Government of a Commonwealth country other than New Zealand, the report of such an officer as to such matters as the report deals with may, at the request of the owner of the ship, be accepted by a Surveyor of Ships under this Act for the purpose of making a declaration of
15 survey in the same manner as if a Surveyor of Ships under this Act had made the report.”

10. Surveyor may issue declaration of survey that ship fit to ply in certain limits subject to compliance with conditions—Section one hundred and ninety-nine of the
20 principal Act is hereby further amended by inserting, after subsection five, the following subsection:

- “(5A) If, in the judgment of any Surveyor, a ship is fit to ply or proceed within certain limits subject to compliance with certain conditions, the Surveyor shall specify those
25 conditions in his declaration of survey, and, if those conditions should, in the judgment of the Surveyor, be varied according to different intended uses of the ship, the Surveyor shall in his declaration of survey specify the conditions appropriate in his judgment to each such use.”

30 11. Recognition of certificates of survey granted and surveyors’ reports made in other countries—(1) Section two hundred and two of the principal Act is hereby amended by repealing subsection one, and substituting the following subsections:

- 35 “(1) Where—
“(a) A Commonwealth ship, not being a New Zealand ship or a Safety Convention passenger ship, has a certificate of survey granted by or under the authority of the Government of the Commonwealth
40 country in which she is registered or to which she belongs; or

“(b) A foreign ship, not being a Safety Convention passenger ship, has a foreign certificate of survey attested by a proper officer at a port in a foreign country, and the Minister is, by the production of that certificate, satisfied that the ship has been officially surveyed at that port; or 5

“(c) A cargo ship engaged in the Pacific trade (not being a New Zealand ship) has a certificate of survey issued after a survey at a port in a Commonwealth country other than New Zealand, made by a surveyor exclusively employed by any corporation or association or society for the survey and registry of ships approved by the Minister for the purposes of this subsection,— 10

and, in any such case, the Minister is satisfied that the certificate remains in force and that, as to the matters covered by the survey made for the purposes of the certificate, it appears to meet substantially the requirements of this Act, then, subject to compliance by the owner with any conditions which the Minister may specify, the Minister may direct that for the purposes of this Act the certificate shall be deemed to be a certificate of survey pursuant to section two hundred and thirteen of this Act, and the certificate shall have effect accordingly: 15 20

“Provided that the Governor-General may, by Order in Council, declare that the provisions of this subsection shall not apply in the case of foreign ships whose certificates of survey comply with the requirements of paragraph (b) of this subsection, if it appears to the Governor-General that corresponding advantages are not extended to New Zealand ships at the port at which those foreign ships were surveyed. 25 30

“(1A) Without limiting the discretion of the Minister to require compliance with any conditions pursuant to subsection one of this section, those conditions may provide for any of the following matters: 35

“(a) The survey annually of the hull, machinery, and equipments, or any part thereof, of the ship by a Surveyor of Ships under this Act, and compliance with any requirements of the Surveyor: 35

“(b) The survey annually of the hull, machinery, or equipments, or any part thereof, of the ship by an officer exclusively employed by the Government of a Commonwealth country other than New Zea- 40

land and having qualifications and responsibilities similar to those of a Surveyor of Ships under this Act, and compliance with any requirements of such an officer:

5 “(c) The survey by a Surveyor of Ships under this Act in respect of any requirement of this Act or of any rules made thereunder in respect of any matter or matters which, in the judgment of the Surveyor of Ships, have not or may not have been surveyed in
10 the manner that would have been required had the ship been surveyed by a Surveyor of Ships under this Act.

“**(1B)** Where a New Zealand cargo ship exclusively employed in trading between New Zealand and any country in
15 North America or in Asia is surveyed on the continuous survey principle for the issue of a certificate of survey under section two hundred and thirteen of this Act, a report of a survey made at a port in any such country of any part of the hull or machinery of that ship by a surveyor exclusively employed
20 by any corporation or association or society for the survey and registry of ships approved by the Minister for the purposes of this subsection shall, at the request of the owner of the ship, be accepted by a Surveyor of Ships under this Act for the purpose of making a declaration of survey, in the
25 same manner as if a Surveyor of Ships under this Act had made the report:

“Provided that, where any such report is so accepted, the certificate of survey issued in respect of that ship shall cease to be in force, unless the hull and machinery of the ship have
30 been fully surveyed during the immediately preceding period of twelve months either in the manner provided in the foregoing provisions of this subsection or by a Surveyor of Ships under this Act in the manner provided in this Part of this Act.”

35 (2) Section two hundred and two of the principal Act is hereby further amended by inserting in subsection two, after the words “one hundred and ninety-seven of this Act”, the words “except as may be required by the Minister pursuant to the foregoing provisions of this section”.

40 **12. Exemption from survey of small ships**—Section two hundred and forty-six of the principal Act is hereby amended by adding to subsection two the following paragraph:

“(e) Ships not exceeding sixteen feet in overall length, not being ships propelled by mechanical power which are ferries and carry passengers for hire or reward.”

13. Fishing boats in certain circumstances deemed to be passenger or cargo ships—The principal Act is hereby amended by inserting, after section two hundred and forty-six, the following section: 5

“246A. (1) For the purposes of this section and the provisions of this Act as to survey, any fishing boat shall, except as provided in subsections two and three of this section,— 10

“(a) Be deemed a passenger ship on any occasion when the fishing boat carries more than four passengers or carries any passenger for hire or reward:

“(b) Be deemed a cargo ship on any occasion when the fishing boat carries any cargo other than the fish caught by the crew of the fishing boat. 15

“(2) No fishing boat shall be deemed to be a passenger ship by reason only of the carriage of any person rescued from the sea, or any registered medical practitioner or registered nurse travelling in the course of their professions, or any person necessarily travelling to obtain urgent medical attention, or any constable or officer of the Marine Department travelling on official duties. 20

“(3) The Minister may from time to time, and subject to such conditions as he thinks fit, issue a permit to the owner or master of any fishing boat to carry more than four passengers or to carry any passenger or cargo for hire: 25

“Provided that no such permit shall continue in force for more than twelve months from the date thereof, and any such permit may at any time be cancelled by notice in writing from any Surveyor of Ships to the owner of the fishing boat. 30

“(4) Except as provided in subsections two and three of this section, nothing in this section shall operate to make lawful the carriage of passengers in any fishing boat in any circumstances where, but for the provisions of this section, such carriage of passengers would be unlawful. 35

“(5) Where any fishing boat is used for the carriage of passengers or cargo contrary to the provisions of this section, the owner and the master of the boat each commits an offence against this Act, in addition to any offence committed against any other provision of this Act or any rules or regulations made thereunder by reason of the fishing boat being deemed a passenger ship or a cargo ship: 40

“Provided that no person shall be punished in respect of the same offence both under this subsection and under any other provision of this Act or of any rules or regulations thereunder.”

5 **14. Submersion lines on ships not subject to provisions as to load lines**—Section two hundred and eighty-four of the principal Act is hereby amended by repealing subsections one, two, and three, and substituting the following subsections:

10 “(1) This section shall not apply to—

“(a) A load line ship; or

“(b) A sailing ship of under one hundred tons gross tonnage; or

15 “(c) A ship engaged solely in fishing which does not carry any cargo other than the fish caught by the crew of the ship; or

“(d) A pleasure yacht; or

“(e) A ship not exceeding sixteen feet in overall length, unless it is propelled by mechanical power and is a ferry carrying passengers for hire or reward; or

20 “(f) A steamship or motor ship of one of the following classes which is of not more than one hundred tons gross tonnage, and does not carry cargo for hire or reward, namely:

25 “(i) Tugs and salvage vessels:

“(ii) Ships engaged in surveying harbours or the approaches thereto:

“(iii) Dredgers:

“(iv) Hopper barges:

30 “(v) Pilot vessels:

“(vi) Ships exclusively employed in the carriage of passengers within restricted limits specified in a valid certificate of survey while carrying passengers not exceeding the number specified in that certificate:

35 “Provided that the Minister may from time to time, if he thinks fit, direct by notice in writing to the owner of any ship of any of the kinds specified in this subsection, or by notice in the *Gazette* to the owners of any specified class of
40 any of those ships, that the ship or ships of that class, as the case may be, shall be surveyed for submersion line certificates in the manner provided by this section.

“(2) Ships to which this section applies shall be marked with lines (in this section referred to as submersion lines), and those lines shall show the minimum approved freeboard appropriate to the conditions in which the ship may trade, as described in a certificate issued under this section. Those lines shall be parallel to the deck at each side amidships and shall be not less than twelve inches long and one inch wide, and shall be clearly marked in such manner as to colour and otherwise as, in the opinion of a Surveyor of Ships, will make them sufficiently visible. 5 10

“(3) The position of the submersion lines shall be fixed by a Surveyor of Ships, who, in fixing their position, shall take into consideration the maximum depths to which the ship may safely be loaded in various circumstances having regard to the construction and strength of the hull and the super-structures, fittings, appliances, and equipments with which the ship is provided for the purposes of ensuring its seaworthiness and safety.” 15