

SHIPPING AND SEAMEN AMENDMENT BILL

EXPLANATORY NOTE

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

Clause 2 inserts some new definitions in section 2 of the principal Act and amends some of the existing definitions in that section.

Subclause (1) inserts the following new definitions in the section:

“Absence without leave” is defined in the same terms as in section 157 (3) of the Act, and applies that meaning for all the purposes of the Act instead of for the purposes of that section only.

“Radio officer” is defined as one who is qualified in accordance with rules made under section 209 of the Act.

“Register length” or “length”. The definition prescribes the manner in which this is to be measured.

“Sea-going ship” is defined so as to exclude a ship that plies in restricted limits only.

“Sea service” is defined so as to exclude service in restricted limits only.

Subclause (2) substitutes a new definition of “Pacific trading ship”, so as to make it clear that the definition does not include a ship that calls at a port within Pacific limits in the course of a voyage to New Zealand from a port outside Pacific limits or from New Zealand to a port outside Pacific limits.

Subclause (3) amends the following existing definitions:

“Load line ship”. The effect of the amendment is to extend the definition to ships that are not sea-going.

“Officer”. The existing definition is extended to radio officers.

“Safety Convention ship”. The effect of the amendment is that the definition will include only those ships registered in or belonging to a country to which the Safety Convention applies which by the law of that country are subject to the Convention.

“Ship”. The amendment extends the existing definition to make it clear that for the purpose of survey and casualty procedures any machinery or cable or hauling gear used in conjunction with any punt or ferry is included.

Clause 3: The principal Act does not generally apply to Her Majesty's ships or aircraft. The effect of this clause is to enable the Minister of Marine to direct that Part VIII (relating to shipping inquiries or courts) shall apply in any case where any ship or aircraft involved is one of Her Majesty's ships, other than a commissioned ship of the New Zealand Naval Forces, or is one of Her Majesty's civil aircraft.

Clause 4 removes from section 8 of the principal Act the existing requirement that the crown forming part of the seal of the Marine Department must be a Tudor crown.

Clause 5 provides that officers commanding naval vessels shall have in respect of fishing boats all the powers of Marine Inspectors, and full-time fishery officers under Part I of the Fisheries Act 1908 may be given certain restricted powers in relation to fishing boats.

Clause 6: Section 17 of the principal Act provides that a New Zealand ship or home-trade ship proceeding to sea from any port in New Zealand or on any river, harbour, lake, or other inland or coastal waters must be provided with a master and officers according to the scale set out in the First Schedule to that Act.

Subclause (1) of this clause enables the Minister in the case of any specified restricted-limit ship to prescribe a special scale, where he is satisfied that, having regard to the register tonnage of the ship in relation to her size or other registered particulars or to the intended use of the ship, the scale in that Schedule is insufficient for the safe and efficient manning of the ship.

Subclause (2) substitutes a new First Schedule to the principal Act prescribing the scale of deck officers and engineers to be carried in New Zealand ships and on other Commonwealth ships and foreign ships when plying in the home trade. The new Schedule is intended to remove anomalies and deficiencies that have become apparent since the principal Act came into force, and makes appropriate changes in consequence of the changes in the various kinds of certificates proposed to be made by *clause 7* of this Bill.

The new First Schedule is to come into force on a date to be fixed by Order in Council, and different dates may be fixed in respect of different kinds of certificates and different kinds of ships.

Clause 7 makes several changes in the existing provisions relating to the various grades of certificates of competency.

Subclause (1) abolishes the certificates as first mate of home-trade ship, second mate of home-trade ship, master of ship under 25 register tons carrying cargo only, master of fishing boat, and master of river ship, and substitutes the following certificates:

- (a) Mate of home-trade ship.
- (b) Master of small home-trade ship.
- (c) Master of foreign-going fishing boat.
- (d) Skipper of home-trade fishing boat.
- (e) Master of restricted limit launch.

Subclause (2) abolishes the certificates of river engineer and marine-engine driver.

Subclause (3) provides that nothing in section 19 of the principal Act (which specifies the kinds of certificates of competency that may be granted) is to prevent the granting, in accordance with regulations, of voluntary certificates as extra master or as extra first-class engineer or as compass

adjuster, endorsements to enable skippers of home-trade fishing boats to serve as mate of foreign-going fishing boat, service certificates to enable persons who at present are sufficiently experienced in the command of home-trade fishing boats to continue to command such a boat, certificates of competency inferior to that of skipper of home-trade fishing boat for mates of such boats or for masters of small home-trade fishing boats, continuous service record certificates as evidence of experience in fishing boats, and local launchmen's licences under regulations made pursuant to section 253 (2A) of the principal Act, as proposed to be amended by *clause 49* of this Bill.

The clause provides that regulations made under the principal Act prescribing the qualifications for the new certificates may provide for the continuing availability of the abolished certificates and for interim provision to be made in respect of crew requirements until sufficient holders of the new certificates become available.

The clause is to come into force on a date fixed by Order in Council. Different dates may be fixed in respect of different kinds of certificates and different kinds of ships.

Clause 8 provides that regulations made prescribing the qualifications for the grant of certificates of competency may provide that a certificate granted to a person who is not a British subject may be cancelled if the holder does not become naturalised within a specified time.

Clause 9 provides that the certificates of the master, mates, and engineers of every home-trade ship of 25 register tons or more or of a foreign-going Commonwealth ship must be produced before the agreement with the crew is signed and, in the case of a running agreement, before the commencement of the second and every subsequent voyage. They must also be produced to a Superintendent of Mercantile Marine whenever required. The existing provisions required the certificates, in the case of such a home-trade ship, to be produced at six-monthly intervals.

Clause 10: Section 32 (3) of the principal Act provides that, where the articles of agreement of a New Zealand ship are opened in a Commonwealth country other than New Zealand, they are to be in the form prescribed by the law of that country. The effect of this amendment is that those articles shall be either in New Zealand form or in the form prescribed by the law of that other country.

Clause 11 provides that the articles of agreement are to contain the particulars required by section 131 (6) of the principal Act, which provides that a short summary of that section relating to the hours of work of seamen is to be included in the agreement.

Clause 12 provides that every dispensation, exemption, or substitution in respect of the officers required for any New Zealand ship or home-trade ship for which an agreement is required or for any foreign-going Commonwealth ship is to be recorded in the articles of agreement of the ship.

Clause 13: Section 45 of the principal Act requires changes in the crews of foreign-going ships who have been engaged in New Zealand to be reported to a Superintendent. This clause limits this requirement to crews of foreign-going Commonwealth ships, and extends it to cases where the crew was engaged before a proper officer in another country. The report is to be made before the ship finally leaves New Zealand.

Clause 14 provides that where an officer (which by section 2 of the principal Act includes a master), a seaman, or an apprentice, being in each case a British subject, contracts in New Zealand to serve on any foreign ship, the contract is not binding on him unless it is approved by a Superintendent before the ship leaves New Zealand or within three days after it is made (whichever is the sooner), and the master or owner or agent of the ship must deposit with the Superintendent a sufficient sum of money or give adequate security for the return passage to New Zealand of the officer, seaman, or apprentice. This does not apply where the officer, seaman, or apprentice was serving on the ship when she arrived in New Zealand and the contract is in renewal of or substitution for a contract under which he was serving at the time of the arrival of the ship in New Zealand.

Clause 15 authorises the Minister to appoint times and places for examinations and the Examiners of candidates for certificates of competency as A.B.

Clause 16: Section 55 (1) of the principal Act provides that every New Zealand ship and every home-trade ship must carry the number of seamen and engine-room attendants specified in the Second Schedule to that Act. *Subclause (1)* of this clause provides that the scale in that Schedule is not to apply in the case of a fishing boat for which other provision is made by regulations under the principal Act.

Subclause (1) also adds another provision to section 55 (1) of the principal Act enabling the Minister to prescribe a special scale of seamen and engine-room attendants to be carried in a specified restricted-limit ship where he is satisfied that, having regard to the register tonnage of the ship in relation to her size or other registered particulars or to the intended use of the ship, the scale in the Second Schedule is insufficient for the safe and efficient manning of the ship.

Subclause (2) transfers to Part I of the Second Schedule provisions which relate only to Part I but appear after Part II along with other provisions relating to Part II. The transfer is for convenience only and to prevent those provisions being overlooked when Part I is being considered, and no change is made in those provisions. The subclause includes additional provisions allowing the substitution of ordinary seamen and efficient deck hands for able seamen in certain cases where duly-qualified able seamen are not available.

Clause 17 provides that the provisions of Part II of the principal Act as to the number and qualifications of the officers and crew required to be carried on any ship are not to apply to barges, lighters, hulks, and other like ships or to ships under tow (except by reason of distress). Where any such ship is under tow, any person carried in it is to be deemed part of the crew of the towing ship and is to be additional to the crew required for the towing ship.

The clause provides that the Minister may, by notice in the *Gazette*, prescribe the officers and crew to be carried in any class of home-trade ship engaged in towing barges, lighters, hulks, and other like ships, or on any class of restricted limit ship, and may fix the number and qualifications of the crew of the towed ship and the additional officers and crew to be carried in the towing ship, and may also fix the crew to be carried in a salvage tug which goes beyond restricted limits to assist a ship in distress. Where compliance with the provisions as to articles of agreement would unduly delay the tug, those requirements may be complied with within 24 hours after the tug's first arrival in port.

Clause 18 amends the provisions of section 58 (4) of the principal Act relating to the entry of reports of character on certificates of discharge. The new provisions make it obligatory for a seaman to allow a report of character to be endorsed on his certificate of discharge, and provide that the report of character must be consistent with the report in the official log book and, if adverse, must be justified by an appropriate log entry. The master may not decline to report on the character of a seaman unless an offence by the seaman is entered in the official log or he has been censured by the master for misconduct and that fact is entered in the official log.

Clause 19: Section 59 of the principal Act provides that the Secretary for Marine may direct that a seaman's certificate of discharge be withheld for a period not exceeding one month where the seaman has wilfully failed to join his ship after receiving travelling expenses or has been guilty of desertion or absence without leave. This clause provides that the period for which a certificate of discharge may be withheld is not to exceed 14 days in any case where by reason of the offence the seaman has forfeited 14 days' wages or more.

Clause 20 amends the existing provisions relating to the maintenance and repatriation of seamen engaged outside New Zealand who are discharged in New Zealand by reason of illness or accident, and requires the seaman to notify the Superintendent of his place of abode and of any changes in his place of abode.

Clause 21: Section 67 (1A) of the principal Act makes it an offence for any seaman discharged in New Zealand by reason of illness or accident to fail to attend for medical examination as required by the section or to fail to leave New Zealand on the ship arranged for his passage by a Superintendent. Section 67A (2) contains a similar provision in the case of a seaman discharged in New Zealand for other reasons who fails to apply to a Superintendent for a passage back to the port of his engagement or to leave New Zealand on the ship arranged for his passage.

The effect of this clause is that in each case the seaman may be arrested by any constable without warrant.

Clause 22: Section 59 of the principal Act provides that any seaman engaged in New Zealand for any foreign-going New Zealand ship and any seaman belonging to a home-trade ship is to be paid the current rate of wages ruling in New Zealand. This clause makes it clear that the current rate of wages is that prescribed by the appropriate award or industrial agreement and that the seaman is also entitled to all allowances, special rates, conditions of employment, holidays, conditions and hours of work, accommodation, and facilities provided for in the award or industrial agreement.

Clause 23: Section 96 of the principal Act provides that a seaman who is discharged before the voyage commences or before he has earned one month's wages, without his fault and without his consent, is entitled to compensation not exceeding one month's wages. This clause provides that the amount of compensation is to be the amount fixed in the appropriate award or industrial agreement. If no amount is so fixed and the seaman and master cannot agree on the amount, it is to be fixed by arbitration.

Clause 24 authorises the Minister to appoint times and places for examinations and the Examiners of candidates for certificates of competency as ship's cook.

Clause 25 is intended to prevent a seaman or apprentice belonging to a New Zealand ship from being punished twice for the offence of desertion or absence without leave. Where the articles of agreement provide for the imposition of a fine in such a case, and disciplinary proceedings have been taken and entered in the official log book, the seaman or apprentice may not be proceeded against in the Court for the offence.

Clause 26 extends the provisions of section 158 of the principal Act as to the deportation of deserting seamen to any seaman who deserts or absents himself without leave from a ship where the articles are first made elsewhere than in New Zealand, or who is lawfully left on shore in New Zealand from any such ship by reason of illness or accident, and subsequently engages in New Zealand on any Commonwealth ship where the agreement with the crew was first made elsewhere than in New Zealand. In such a case, if the seaman deserts from the second ship, he may be deported under section 158 as if he had engaged on the ship in the country in which the agreement was first made.

Section 158 (14) of the principal Act provides that the cost of the maintenance of a deserting seaman detained in a penal institution pending deportation is to be a debt owing to the Crown by the master or owner or agent of the ship. *Subclause (2)* of this clause provides that, if the seaman is admitted to hospital, the period spent in hospital is to count as time spent in a penal institution, but, if a passage becomes available for the deportation of the seaman while he is in hospital, the liability of the master or owner or agent for his maintenance is to cease as from the date on which the ship on which the passage was available left New Zealand.

Clause 27 amends the existing provisions relating to applications by deserting seamen for permission to remain in New Zealand, and provides that the decision of a Magistrate on any such application is not subject to appeal. Any order made permitting the seaman to remain in New Zealand may be revoked at any time within two years if it was obtained by misrepresentation or by non-disclosure of material facts.

Clause 28 provides that the master may not make an entry in the official log that he declines to report on the conduct, character, and qualifications of any seaman of his crew, unless there is recorded in the official log an offence committed by the seaman or the fact that the seaman has been censured by the master for misconduct.

Clause 29 provides that, in the case of a ship which is required to carry an official log but is not required to have an agreement with the crew, all engagements and discharges of the crew must be entered in the log. In the case of any such ship which is not a fishing boat, the log must be produced to a Superintendent, who must stamp the record of the change. In the case of fishing boats, the log must be produced to a Superintendent or to a fisheries officer on demand.

Clause 30: Section 185 (2) of the principal Act exempts fishing boats under 15 register tons which do not go to sea more than 50 miles from the coast from the requirements as to carrying certificated officers. The effect of this clause is to substitute a reference to length instead of tonnage so that the exemption is to apply in the case of fishing boats not exceeding 60 ft register length.

Clause 31: Section 196 of the principal Act requires plans and specifications for ships over 25 tons gross tonnage built in New Zealand to be submitted to the Minister for approval. This clause substitutes a requirement that plans and specifications must be submitted for approval in the case of ships over 45 ft register length or intended to carry more than 50 passengers. The clause also requires the plans and specifications to be submitted in duplicate.

Clause 32 removes the existing restriction in section 199 (1) of the principal Act that a ship may not be partially surveyed for the requirements of a certificate of survey where surveys for other certificates are not necessary.

Clause 33 substitutes the term "tonnage" for the term "burden" in section 201 (1) of the principal Act, which specifies the returns to be made to the Minister by Surveyors of Ships. The term "tonnage" is commonly used in practice in place of the term "burden", which is no longer used.

Clause 34 is a new provision, and authorises the making of rules applying to foreign-going New Zealand ships and home-trade ships and providing that the owners must make provision in those ships for warning devices, emergency illumination, doorways, passageways, stairways, companionways, ladderways, scuttles, and other means of egress for all persons on board, whether passengers or crew. The rules may make different provision for different classes of ships or for ships of different ages, and may fix a time within which ships must comply, and may provide for the granting of exemptions. A Surveyor of Ships may require other or additional provision to be made in the circumstances of a particular case where he considers that compliance with the rules would not in that particular case remove a hazard or undue risk to passengers or crew.

Clause 35 enables a Surveyor to require the master of a New Zealand ship to hold a boat drill or fire drill or both while the Surveyor is present.

Clause 36: The effect of this clause is that the radio rules are not restricted to sea-going ships. For instance, rules may be made applying to restricted-limit ships.

Clause 37 is intended to make it clear that the statement in the certificate of survey of a ship as to the number of persons in the crew of the ship is to be a statement as to the actual number for whom accommodation is provided and not the minimum number required by the manning scale.

Clause 38 enables more than one certificate of survey having effect in different circumstances to be issued in respect of home-trade passenger ships usually employed in night journeys but sometimes carrying additional deck passengers on daylight excursions, passenger ships usually plying within Pacific limits but sometimes carrying additional deck passengers between islands within those limits, cargo ships usually engaged in the home trade but sometimes voyaging to the Chatham Islands or other islands within Pacific limits, tugs and salvage ships usually plying within restricted limits but sometimes plying into or beyond home-trade limits, and other ships or classes of ships approved by the Minister. For example, this will enable the issue of a certificate of survey for a home-trade passenger ship available when she is employed on night journeys and a separate certificate of survey available only when she is employed on daylight excursions. Where separate certificates are issued, the certificate under which the ship is operating for the time being must be entered in the official log.

Clause 39: The effect of this clause is that an interim certificate of survey issued in cases where there is insufficient time to deliver a certificate of survey before the ship sails from the port of survey is to be in force for a period not exceeding two months. The existing provisions state that such an interim certificate will be in force for two months.

Clause 40 substitutes the expression "radiotelegraphy and radiotelephony" for the expression "wireless telegraphy" in section 219 of the principal Act, which includes a provision that no exemption under any former Act with respect to wireless telegraphy is to continue to apply to Safety Convention ships plying on international voyages.

Clause 41 re-enacts in an amended form the provisions of section 224 (1) of the principal Act relating to the duration of certificates. The clause re-enacts without change the existing provisions as to certificates of survey, safety certificates, radio certificates, and radio-exemption certificates, but changes the provisions as to safety-equipment certificates. Those certificates, in the case of New Zealand ships, are to have a duration not exceeding one year only (as in the case of the other certificates mentioned in the section), but in the case of other ships are to have a duration not exceeding two years.

Clause 42 alters the existing provisions as to extensions of certificates. Certificates of survey may be extended for a period of three months, and Safety Convention certificates for a period of one month. Provided the application for an extension is received before the date when the certificate is due to expire, the extension may be granted although the certificate has expired. The clause does not alter the existing provisions as to the extension of certificates where the ship is absent from New Zealand on the date of expiration of the certificate.

Clause 43 replaces the existing provisions requiring a steamship to be provided with a safety valve on each boiler with provisions requiring two safety valves on each boiler, each of which must comply with the requirements set out in the clause.

Clause 44 re-enacts in an amended form section 243 of the principal Act, which authorises the making of safety rules for small craft, and enables rules under that section to be made for the safety of barges, lighters, and like vessels under tow. The rules may prescribe not only the qualifications of the persons in charge of such vessels, as at present, but also the numbers and qualifications of the officers and seamen.

Clause 45 omits from section 244 (1) of the principal Act an unnecessary reference to section 206, which does not relate to the matters referred to in section 244.

Clause 46 amends section 246 (2) (e) of the principal Act, and is consequential on the provisions of *clause 2 (1)* of the Bill defining the term "register length". This clause substitutes the term "register length" for "overall length".

Clause 47 provides for a measure of control over ocean-going yachts. Any yacht which during the course of any voyage goes more than 50 miles from the nearest part of the coast of New Zealand (which includes the outlying islands) must before leaving New Zealand be inspected by at least three

honorary yacht inspectors appointed by the Secretary for Marine on the nomination of approved yacht clubs. Before leaving New Zealand the master must produce to the Collector of Customs a certificate issued by the inspectors, after examining the hull, equipments, stores, and any machinery of the yacht, and inquiring into the experience and qualifications of the proposed master and crew, that the yacht is reasonably suitable for the proposed voyage, and he must also deposit with the Collector a true statement of his proposed destination and course and of the names and nationality of the master and crew and the names and addresses of their next of kin.

If the provisions of the clause are not complied with, the master and each member of the crew commit an offence, and, if the Crown incurs any expenses in making inquiries for the yacht or in conducting search and rescue operations, those expenses will be recoverable from the master and members of the crew, limited in the case of the master to the value of the yacht and her equipment, stores, and machinery and his property on board, and limited in the case of a member of the crew to his property on board.

Clause 48: Various provisions of the principal Act require the master of a ship to produce to the Collector of Customs certain certificates before proceeding to sea. This clause provides that in those cases it will be a sufficient compliance with the requirement if the master produces to the Collector a certificate in writing by a Superintendent of Mercantile Marine that the certificates appropriate to the voyage are in force in respect of that ship.

Clause 49 re-enacts in an amended form the provisions of section 253 of the principal Act relating to restricted-limit motorships. The principal changes in the new provisions are—

- (a) The existing provisions requiring a ship to carry a certificated master when the ship does not exceed 10 register tons and carries passengers or cargo for hire or reward or engages in towing for hire or reward, and requiring one or more seamen to be carried when she carries more than 50 passengers within extended river limits, are now made to apply also where the ship carries more than 150 passengers for hire or reward within river limits or on any river or lake or other inland water.
- (b) The existing provisions relating to the power of the Secretary to extend the certificate of the master when the ship engages solely in towing for hire or reward are omitted.
- (c) The existing power to make regulations in respect of such ships has been modified. The regulations may provide for the issue of certificates of competency as master or engineer or as both master and engineer of such ships, the variation of the manning scale prescribed by the First and Second Schedules to the principal Act, and the issue of local launchmen's licences having a limited duration and permitting the holder to act as master or as both master and engineer of a specified motor launch not exceeding 45 ft register length when used in accordance with the terms of the licence and within the river limits or inland waters specified in the licence.

Clause 50 amends the definition of the term "open launch" for the purposes of section 254 of the principal Act relating to the carrying of cargo on open launches, and substitutes the words "not fully decked" for the words "having an open cockpit".

Clause 51: Section 264 (1) of the principal Act provides that no New Zealand ship may be taken to sea unless she carries a Load Line Convention certificate, in the case of an international load-line ship, or a New Zealand load-line certificate, in the case of any other ship. This clause provides that, in the case of an international load-line ship, a Load Line Convention certificate, which is the higher grade of certificate, may be carried instead of a New Zealand load-line certificate.

Clause 52: The effect of this clause is to extend the provisions of section 270 of the principal Act authorising a Surveyor of Ships to inspect New Zealand ships for compliance with the provisions as to load lines. The section as now amended authorises a Surveyor to inspect ships for compliance with section 284 relating to submersion lines also.

Clause 53: Section 284 of the principal Act requires certain ships to have a certificate of survey and be marked with submersion lines when going to sea or plying in tidal water. The effect of this amendment is to extend those provisions to those ships when plying in non-tidal waters, e.g., on inland lakes.

Clause 54 substitutes the expression "sound signals" for the expression "fog signals" in section 288 of the principal Act, which authorises a Surveyor of Ships to inspect any ship for the purpose of seeing that she is properly equipped with lights and shapes and the means of making fog signals as required by the collision regulations.

Clause 55 re-enacts in an amended form the provisions of section 297 (1) of the principal Act, which requires the master of any ship which has been involved in a shipping casualty to report the occurrence by letter to the Minister. This clause requires the report to be sent to a Superintendent of Mercantile Marine, and requires a preliminary report to be sent by radiotelegraphy or radiotelephony, followed by a full report in writing.

Clause 56: Section 300 of the principal Act requires all anchors and chain cables exceeding 168 lb in weight to be tested and stamped in accordance with the Anchors and Chain Cables Act 1899 (U.K.). The effect of this clause is to permit the use of anchors and chain cables that have been tested and stamped in accordance with the law of any other Commonwealth or foreign country the provisions of which are of like purpose and effect to the provisions of the United Kingdom Act. The clause also prohibits the use on any ship of any anchor or chain cable exceeding 168 lb in weight unless it has been duly proved.

Clause 57 consequentially amends section 301 of the principal Act relating to the unauthorised stamping of anchors and chain cables and the issue of unauthorised certificates as to testing.

Clause 58 amends section 323 of the principal Act, which defines the circumstances under which a shipping casualty is deemed to have occurred, and provides that a shipping casualty is also deemed to occur in any case where loss of life is caused by reason of any accident or mishap occurring to any ship or by the use or management of any ship on or near the coasts of New Zealand or by reason of any accident or mishap occurring to any New Zealand ship or by the use or management of any New Zealand ship, wherever she may be.

Clause 59: Section 325 (10) of the principal Act provides that where a formal investigation into a shipping casualty is likely to involve a question as to the cancellation or suspension of an engineer's certificate at least one of the Assessors must hold a first-class engineer's certificate. The effect of this clause is that in such a case at least one of the Assessors must hold a first-class engineer's certificate for foreign-going ships.

Clause 60: Section 353 of the principal Act provides for the removal of wrecked ships and aircraft from the coasts of New Zealand or from any tidal water. This clause extends that provision to provide for the removal of wrecks from any river or lake or other inland water.

Clause 61 exempts from coastal-light dues ships that are employed solely for scientific, marine surveying, or exploration purposes.

Clause 62: The effect of this clause is that where the tonnage of a ship to be registered in New Zealand has already been ascertained under the law of some other Commonwealth country or of a foreign country which is of like effect to the tonnage regulations of the principal Act, the tonnage so ascertained may be accepted as the tonnage of the ship for the purposes of her registration in New Zealand.

Clause 63 replaces the existing provisions as to the ascertainment of the tonnage of foreign ships, which provide for the acceptance of the tonnage shown in their certificates of registry only where the country concerned has adopted the tonnage regulations of the principal Act. The new provisions provide for the acceptance of the tonnage shown in the certificate of registry of a foreign ship where the law of the country in which she is registered is of like effect to the tonnage regulations of the principal Act.

Clause 64 re-enacts in an amended form section 454 (1) of the principal Act, which prescribes the mode in which declarations are to be made for the purposes of Part XII of that Act. The clause makes such consequential changes as are necessary in view of the provisions of the Oaths and Declarations Act 1957 prescribing the persons before whom declarations may be made within New Zealand and outside New Zealand, but makes no other changes.

Clause 65 places upon the agent as well as the master of a foreign ship the duty of reporting to the police any desertion or absence without leave of any member of the crew while the ship is in New Zealand.

Clause 66 allows the agent as well as the master of a foreign ship at a port in New Zealand to request police assistance to prevent desertions and absences without leave.

Clause 67 removes the requirement in section 502 (2) of the principal Act that the Minister must give public notice of all forms approved by him and of all alterations and revocations of approved forms.

Clause 68 repeals section 505 (2) of the principal Act, which requires the Minister to lay before Parliament annually a report of all dispensations granted by him during the preceding year. By *clause 12* all such dispensations are now to be recorded in the articles of agreement of the ship. It is also intended that these details will be shown in the annual report of the Marine Department.

Clause 69 provides that the Minister or the Secretary may correct mistakes in any certificate or document issued by him under the principal Act. No corrections may be made in survey certificates or other specified certificate except on the recommendation of a Surveyor of Ships, and no corrections may be made in radio certificates except on the recommendation of a Radio Surveyor.



Hon. Mr Fox

SHIPPING AND SEAMEN AMENDMENT

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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:

5

1. Short Title—This Act may be cited as the Shipping and Seamen Amendment Act 1959, and shall be read together with and deemed part of the Shipping and Seamen Act 1952 (hereinafter referred to as the principal Act).

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

“‘Absence without leave’, in relation to any seaman or apprentice, means his failure without reasonable cause to join or to proceed to sea in the ship to which he belongs, or his absence without leave at any time within twenty-four hours of the ship’s sailing from any port, either at the commencement or during the progress of a voyage, or his absence at any time without leave or sufficient cause from his ship or from his duty; and ‘absent without leave’ has a corresponding meaning:

“‘Radio officer’ means a radio officer qualified in accordance with rules made pursuant to section two hundred and nine of this Act:

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“ ‘Register length’ or ‘length’, in relation to any ship, means the length of the ship measured from the foreside of the head of the stem to the afterside of the head of the stern post, or to the foreside of the head
5 of the rudder stock if no stern post is provided:

“ ‘Sea-going ship’ means a ship which plies or proceeds to sea on any voyage or excursion beyond restricted limits:

10 “ ‘Sea service’ means service in a ship plying or proceeding to sea on any voyage or excursion beyond restricted limits:”.

(2) Section two of the principal Act is hereby further amended by repealing the definition of the term “Pacific trading ship” in subsection one, and substituting the following
15 definition:

“ ‘Pacific trading ship’ means a foreign-going ship plying or proceeding between any port in New Zealand and any other port within Pacific limits, not being
20 a ship that, in the course of or as a preliminary to any voyage to New Zealand from any port beyond Pacific limits or from New Zealand to any port beyond Pacific limits, calls at one or more ports within Pacific limits; and ‘engaged in the Pacific trade’ has a corresponding meaning:”.

25 (3) Subsection one of section two of the principal Act is hereby further amended as follows:

(a) By omitting from the definition of the expression “load line ship” the words “sea going”:

30 (b) By inserting in the definition of the term “officer”, after the words “a mate”, the words “a radio officer”:

(c) By inserting in the definition of the expression “Safety Convention ship”, after the words “Safety Convention applies”, the words “being a ship that is subject
35 to the provisions of the Safety Convention”:

(d) By adding to the definition of the term “ship” the words “and, in the case of any punt or ferry, includes for the purposes of Parts IV and VIII of this Act any machinery, cable, or hauling gear used
40 in conjunction with the punt or ferry”.

(4) Section one hundred and fifty-seven of the principal Act is hereby consequentially amended by repealing subsection three.

3. Application of casualty provisions to Her Majesty's ships and aircraft—Section three of the principal Act is hereby amended by inserting, after subsection one, the following subsection:

“(1A) Notwithstanding anything in subsection one of this section, the provisions of Part VIII of this Act (relating to shipping inquiries and courts) shall, if and to the extent that the Minister so directs, apply in any specified case where any ship concerned is one of Her Majesty's ships, not being a commissioned ship of the New Zealand Naval Forces, or where any aircraft concerned is one of Her Majesty's civil aircraft.”

4. Seal of Marine Department—Section eight of the principal Act is hereby amended by omitting from subsection two the word “Tudor”.

5. Powers of naval officers and fishery officers in respect of fishing boats—Section fourteen of the principal Act is hereby amended by inserting, after subsection one, the following subsections:

“(1A) Any officer for the time being in command of a ship of the New Zealand Naval Forces shall in respect of any fishing boat have all the powers of a Marine Inspector under this Act.

“(1B) Any fishery officer appointed under the Public Service Act 1912 for the purposes of Part I of the Fisheries Act 1908 shall, for the purposes of examining the official log book and checking the identity and qualifications of the crew of any fishing boat or for securing compliance by the owner or master of any fishing boat with rules made under this Act in respect of lifesaving appliances or fire appliances, have such of the powers of a Marine Inspector under this Act as the Secretary may from time to time approve and notify in writing to the fishery officer concerned.”

6. Carrying of certificated officers—(1) Section seventeen of the principal Act is hereby amended by adding to subsection one the following proviso:

“Provided that, where the Minister is satisfied that, having regard to the register tonnage of the ship in relation to her size or other registered particulars or to the intended use of the ship, the scale set out in the First Schedule to this Act is insufficient for the safe and efficient manning of any specified restricted-limit ship, he may, by notice in writing to the owner,

require that the ship shall carry such certificated master and certificated officers as are specified in the notice, and in that case the ship shall be provided with a master and officers as specified in the notice.”

5 (2) The principal Act is hereby further amended by repealing the First Schedule, and substituting the First Schedule set out in the Schedule to this Act.

(3) Section five of the Shipping and Seamen Amendment Act 1954 is hereby consequentially repealed.

10 (4) Subsections two and three of this section shall come into force on a date to be fixed for the commencement thereof by the Governor-General, by Order in Council, and different dates may be so fixed in respect of different kinds of certificates of competency and different kinds of ships.

15 **7. Amending provisions as to certificates of competency—**

(1) Section nineteen of the principal Act is hereby amended by repealing paragraphs (e) to (i) of subsection one, and substituting the following paragraphs:

- 20 “(e) Mate of home-trade ship:
“(f) Master of small home-trade ship:
“(g) Master of foreign-going fishing boat:
“(h) Skipper of home-trade fishing boat:
“(i) Master of restricted-limit launch:”.

25 (2) Section nineteen of the principal Act is hereby further amended by repealing paragraphs (n) and (o) of subsection one.

(3) Section nineteen of the principal Act is hereby further amended by inserting, after subsection one, the following subsections:

30 “(1A) Nothing in this section shall be deemed to prevent the granting, in accordance with regulations made under this Act, of—

- “(a) Voluntary certificates as extra master or as extra first-class engineer or as compass adjuster:
35 “(b) Endorsements to authorise holders of certificates of competency as skipper of home-trade fishing boat to serve as mate of foreign-going fishing boat:
“(c) Service certificates of like effect to the appropriate certificate of competency to persons who at the
40 date of commencement of this subsection are deemed sufficiently experienced in the command of home-trade fishing boats:

“(d) Certificates of competency of a grade inferior to the certificate of competency as skipper of home-trade fishing boat for mates of such boats or for masters of small fishing boats:

“(e) Continuous service record certificates as evidence of experience in fishing boats where the requirement of the regulations is sufficient experience therein: 5

“(f) Local launchmen’s licences issued under regulations made pursuant to subsection two A of section two hundred and fifty-three of this Act. 10

“(1B) For the purposes of this Part of this Act and of the First Schedule to this Act, every home-trade cargo ship not exceeding sixty register tons registered at the date of the commencement of this subsection shall be deemed to be a ship not exceeding ninety feet register length.” 15

(4) Section nineteen of the principal Act is hereby further amended by omitting from subsection three the word “first”.

(5) Section nineteen of the principal Act is hereby further amended by inserting, after subsection three, the following subsection: 20

“(3A) A certificate as first mate of home-trade ship granted before the date of the commencement of this subsection shall be deemed to be a certificate as mate of home-trade ship.”

(6) Regulations made under section twenty of the principal Act prescribing the qualifications for the grant of any of the certificates of competency referred to in subsection one of this section may provide for the continued availability of certificates of competency as second mate of home-trade ship or as master of ship under twenty-five register tons carrying cargo only or as master of fishing boat or as master of river ship, and the regulations may make such interim provision as may be considered necessary in respect of crew requirements until sufficient persons become qualified for the grant of the certificates specified in subsection one of this section. 25 30

(7) This section shall come into force on a date to be fixed for the commencement thereof by the Governor-General, by Order in Council, and different dates may be so fixed in respect of different kinds of certificates of competency and different kinds of ships. 35

8. Certificates granted to persons who are not British subjects—Section twenty of the principal Act is hereby amended by inserting in subsection five, after paragraph (a), the following paragraph:

- 5 “(aa) Provide that a certificate of competency granted to a person who is not a British subject shall be subject to cancellation if the holder does not become a naturalised British subject within a specified time; and”.

10 **9. Production of certificates**—The principal Act is hereby amended by repealing section twenty-five, and substituting the following section:

“25. The master of every home-trade ship of twenty-five register tons or more (whether or not she is a Commonwealth

15 ship) or of a foreign-going Commonwealth ship—

“(a) Before signing the agreement with the crew before a Superintendent, shall produce to him the certificates which the master and other officers of the ship are by this Act required to hold; and

20 “(b) In the case of a running agreement, shall also, before the second and every subsequent voyage, produce to the Superintendent the certificate of any officer then first engaged by him who is required by this Act or by regulations under this Act to hold a

25 certificate; and

“(c) On any other occasion shall, if so required by a Superintendent, produce to him the certificates which the master and other officers of the ship are by this Act or by regulations under this Act required to hold.”

30 **10. Articles of agreement opened overseas**—Section thirty-two of the principal Act is hereby amended by inserting in subsection three, after the words “the agreement shall be”, the words “either those prescribed in accordance with this Part of this Act or”.

35 **11. Contents of articles of agreement**—Section thirty-four of the principal Act is hereby amended by adding to paragraph (c) of subsection two the words “and by subsection six of section one hundred and thirty-one of this Act”.

12. Dispensations, exemptions, and substitutions to be recorded in articles of agreement—Section thirty-four of the principal Act is hereby further amended by adding the following subsection:

“(4) Where the Minister, in exercise of his powers under section five hundred and five of this Act, or any person in exercise of any powers delegated to him by the Minister, gives or makes any dispensation, exemption, or substitution in respect of any requirement prescribed in the First Schedule or Second Schedule to this Act, or in any regulations made pursuant to subsection ten of section seventeen or subsection two of section fifty-five of this Act, for a New Zealand ship or home trade ship for which an agreement is required, or in respect of any requirement pursuant to subsection three of section seventeen of this Act in the case of a Commonwealth ship (not being a New Zealand ship), an entry shall be made by a Superintendent in the articles of agreement of the ship in such manner as the Secretary directs, whether generally or in any particular case. Every such entry shall specify the nature of the dispensation, exemption, or substitution, the name and qualifications of any person who substitutes for a more highly-qualified officer or other member of the crew, and the nature of any limitations or conditions which apply, and the Superintendent shall cause the entry to be made in the articles of agreement of the ship.”

13. Reporting changes in crew of foreign-going ship—Section forty-five of the principal Act is hereby amended as follows:

- (a) By omitting from subsection one the words “foreign-going ship whose crew has been engaged before a Superintendent”, and substituting the words “foreign-going Commonwealth ship any of whose crew has been engaged before a Superintendent or proper officer”:
- (b) By inserting in subsection two and also in subsection three, after the words “foreign-going”, the word “Commonwealth”:
- (c) By omitting from subsection three the words “proceeding to sea”, and substituting the words “finally leaving New Zealand”.

14. Engagement of crew for foreign ship—The principal Act is hereby further amended by inserting, after section forty-six, the following section :

5 “46A. (1) Where any officer, seaman, or apprentice, being in each case a British subject, contracts in New Zealand to serve on any foreign ship, the following provisions shall apply :

10 “(a) The contract shall not be binding on the officer, seaman, or apprentice, unless it is in writing and unless, before the ship leaves New Zealand or before the expiration of three days from the making of the contract, whichever sooner occurs, it is approved in writing by a Superintendent ; and

15 “(b) The master or owner or agent of the ship shall deposit with the Superintendent such sum as the Superintendent requires as sufficient to defray the expenses of the return of the officer, seaman, or apprentice to New Zealand from such place as he may reach in the course of his service with the ship and his maintenance while on shore awaiting passage back to New Zealand ; and

20 “(c) The money so deposited may, without prejudice to any right of the master or owner or agent of the ship to recover under any contract the cost of return of the officer, seaman, or apprentice to New Zealand, be used to defray the expenses of the return of the officer, seaman, or apprentice to New Zealand and his maintenance while on shore awaiting passage back to New Zealand, notwithstanding that the occasion for the payment of those expenses arises at any time after he has been discharged from or has left the foreign ship or has not since his discharge or leaving the ship returned to New Zealand ; and

35 “(d) The Superintendent, instead of requiring a deposit in accordance with the provisions of paragraph (b) of this subsection, may enter into such arrangement as he deems sufficient to ensure the payment of any expenses of the return of the officer, seaman, or apprentice to New Zealand and his maintenance while on shore awaiting passage back to New Zealand, and every such arrangement shall take effect according to its terms ; and

40 “(e) A clearance shall not be granted to the ship until the provisions of this subsection are complied with.

“(2) The master and the owner and the agent of any foreign ship each commits an offence against this Act,—

“(a) If that ship sails from New Zealand with any officer, seaman, or apprentice serving under contract made in New Zealand, unless the contract has been approved by a Superintendent in accordance with the provisions of subsection one of this section; or

“(b) If a deposit in accordance with paragraph (b) of that subsection has not been made or a Superintendent has not approved in writing an arrangement in accordance with paragraph (d) of that subsection.

“(3) Nothing in the foregoing provisions of this section shall apply with respect to any contract entered into by the master or owner or agent of a foreign ship with any officer, seaman, or apprentice, if he was serving in any capacity in the ship on her arrival in New Zealand and the contract is in renewal of or in substitution for any contract under which the officer, seaman, or apprentice was serving in the ship at the time of her arrival in New Zealand.”

15. Appointment of Examiners for certificates of competency as A.B.—Section fifty of the principal Act is hereby amended by inserting, after subsection one, the following subsection:

“(1A) For the purpose of granting certificates of competency as A.B. to persons desirous of obtaining them, examinations shall be held by such Examiners as the Minister from time to time appoints; and the Examiners shall adhere strictly to the requirements of regulations made pursuant to this section.”

16. Number of seamen and engine-room attendants—

(1) Section fifty-five of the principal Act is hereby amended by adding to subsection one the following additional provisoes:

“Provided further that nothing in the Second Schedule hereto shall apply to any fishing boat in respect of which other provision has been made by regulations under this Act:

“Provided also that, where the Minister is satisfied that, having regard to the register tonnage of the ship in relation to her size or other registered particulars or to the intended use of the ship, the scale specified in the Second Schedule hereto is insufficient for the safe and efficient manning of any specified restricted-limit ship, he may, by notice in writing to the owner, require that the ship shall carry such numbers

of A.B.s, ordinary seamen, apprentices or boys, greasers, and motormen, and, if she is a coal-burning steamship, such numbers of firemen and trimmers as are specified in the notice, and in that case the ship shall be provided with the numbers specified in the notice.”

(2) Part I of the Second Schedule to the principal Act is hereby amended by adding the following words:

“In the case of ships propelled by mechanical power over 200 register tons not authorised to carry passengers, the number of able seamen required to be carried may be one less than as specified in this Part of this Schedule.

“For the purposes of this Part of this Schedule and for the purposes of subsection four of section fifty-five of this Act,—

“(a) Two first-year apprentices or one second-year apprentice shall be deemed to be equivalent to one ordinary seaman and may be carried in his stead:

“(b) Two ordinary seamen, each with less than two years’ experience, shall be deemed to be equivalent to one able seaman, and may be carried in his stead if the Superintendent first satisfies himself that no duly-qualified able seaman is immediately available; but no such substitutions shall be allowed in any case in respect of more than one able seaman for every three able seamen the ship is required to carry:

“(c) An efficient deck hand, being a seaman with two years’ sea service who has passed the examination for able seamen, shall be deemed equivalent to an able seaman, and may be carried in his stead in any fishing boat or on any home-trade ship which is not a passenger ship in any case where the Superintendent first satisfies himself that no duly-qualified able seaman is immediately available; but, in the case of a cargo ship, the permitted substitutions shall not exceed two where the number of able seamen required by this Part of this Schedule is five or less, and shall not exceed one for every three able seamen where the requirement of this Part is more than five able seamen:

“(d) The term of an engagement shall not be reduced by reason only that the seaman concerned is a duly permitted substitute.”

(3) Part II of the Second Schedule to the principal Act is hereby further amended—

(a) By omitting the words “In the case of ships propelled by mechanical power over 200 register tons not authorised to carry passengers the number of able seamen required to be carried may be one less than as specified in this Schedule”:

(b) By omitting the words “For the purposes of this Schedule two first-year apprentices or one second-year apprentice shall be deemed to be equivalent to one ordinary seaman, and may be carried in his stead”.

17. Crew of ships under tow—The principal Act is hereby further amended by inserting, after section fifty-five, the following section:

“55A. (1) Except as provided in this section, the requirements of this Part of this Act as to the number and qualifications of the officers and crew to be carried in any ship shall not apply with respect to— 5

“(a) Any barge, lighter, hulk, or other like ship that does not have its own means of propulsion; and

“(b) To any other ship that is for the time being towed or propelled by another ship, except by reason of the distress of the ship being towed or propelled. 10

“(2) Where, for the safe or efficient management or control of any ship while being towed or propelled by another ship, or of any lines, lights, or any other apparatus on any such first-mentioned ship, any person is employed in that ship, that person shall be deemed to form part of the crew of the ship which is towing or propelling the other. 15

“(3) Any person carried on board any ship which is being towed or propelled by another ship shall be additional to the officers and crew required under this Part of this Act to be carried in the ship which is towing or propelling the other. 20

“(4) The Minister may from time to time, by notice in the *Gazette*, specify the number and qualifications of the officers and crew to be carried by any class of home-trade ship engaged in towing or propelling lighters, barges, hulks, and other like ships or by any class of restricted-limit ship in addition to those otherwise required to be carried under this Part of this Act. 25

“(5) Notwithstanding anything in the foregoing provisions of this section, the Minister may, by notice in writing to the owner or master concerned, require that— 30

“(a) Any ship which is towed or propelled by another ship shall carry such officers and crew as the Minister specifies, not being in excess as regards number or qualifications of the officers and crew which would be required if the ship was not being so towed or propelled: 35

“(b) The officers and crew of any ship about to be used to tow or propel another ship shall be increased on that occasion to such extent as the Minister specifies: 40

- 5 “(c) On any occasion that a salvage tug goes beyond restricted limits to assist a ship in distress, the tug shall carry such officers and crew as the notice specifies, and, where compliance with the requirements of this Act as to articles of agreement with the crew would unduly delay the tug, it shall be a sufficient compliance with those requirements if the master and crew complete those articles before a Superintendent within twenty-four hours after the tug’s first arrival at a port after her departure.
- 10 “(6) This section applies to every New Zealand ship and to every home-trade ship (whether or not she is a Commonwealth ship).”

15 **18. Reports of character on certificates of discharge**—Section fifty-eight of the principal Act is hereby amended by repealing subsection four, and substituting the following subsections:

20 “(4) Where a seaman is discharged before a Superintendent, the master shall make and sign, in a form approved by the Minister, a report (in this Act referred to as the report of character) of the conduct, ability, and sobriety of the seaman discharged, or may state in that form that he declines to give any information on those particulars or upon any of them; and the Superintendent before whom the discharge is made shall enter on the certificate of discharge a copy of the report, and the seaman shall allow the entry to be made:

25 “Provided that the master shall not decline to give a report of character, unless there is entered in the official log book an offence committed by the seaman, or unless the seaman has been censured by the master for misconduct and that fact has been entered in the official log book.

30 “(4A) Any report of character entered on the certificate of discharge by the Superintendent shall be consistent with any statement of the conduct, ability, and sobriety of the seaman concerned entered in the official log book in accordance with the requirements of section one hundred and seventy-eight of this Act.

35 “(4B) In any case where an offence by the seaman is entered in the official log book, there shall be no obligation on the master to make an unfavourable report or to decline to report on the character of the seaman concerned, if the offence appears to the master to relate to an isolated incident rather than to general conduct, character, or qualifications.”

40

19. Withholding certificates of discharge—Section fifty-nine of the principal Act is hereby amended by adding the following subsection as subsection two thereof:

“(2) Notwithstanding anything in subsection one of this section, in any case where, pursuant to section one hundred and fifty-seven of this Act, not less than fourteen day’s wages have been forfeited by any seaman, the Secretary shall not direct the withholding of that seaman’s certificate of discharge for more than fourteen days from the date of the offence in respect of which the wages were forfeited.”

20. 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 further amended by repealing paragraph (c) of subsection one, as substituted by section two of the Shipping and Seamen Amendment Act 1957, and substituting the following paragraph:

“(c) Unless he is a New Zealand citizen, a seaman so left on shore shall—

“(i) As soon as practicable thereafter notify the Superintendent, either personally or in writing, of his place of abode; and

“(ii) Forthwith notify the Superintendent, either personally or in writing, of any changes from time to time in his place of abode; and

“(iii) Attend for medical examination by a medical practitioner at the times and places from time to time directed by the Superintendent; and

“(iv) Within seven days from the date on which the medical practitioner certifies that the seaman is fit to travel, 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:”.

21. Arrest of seaman failing to attend for medical examination or to leave New Zealand—(1) Section sixty-seven of the principal Act is hereby further amended by inserting in subsection one A, as enacted by section two of the Shipping and Seamen Amendment Act 1957, after the words “this Act”, the words “and may be arrested by any constable without warrant”.

(2) Section sixty-seven A of the principal Act, as enacted by section three of the Shipping and Seamen Amendment Act 1957, is hereby amended by inserting in subsection two, after the words "this Act", the words "and may be arrested by
5 any constable without warrant".

22. Seamen entitled to award rates of wages and conditions—Section eighty-nine of the principal Act is hereby amended by adding the following subsections:

10 "(5) For the purpose of this section, the current rate of wages payable to any seaman shall be not less than the wages for the time being prescribed by the award or industrial agreement that would be appropriate to the seaman if he were employed in a New Zealand ship.

15 "(6) In this section the term 'wages' includes any emoluments, allowances, special rates, conditions of employment, provisions relating to holidays, hours of work, conditions of work, accommodation, and facilities."

23. Compensation payable to seaman discharged before commencement of voyage—Section ninety-six of the principal
20 Act is hereby amended by adding the following subsection as subsection two thereof:

25 "(2) Subject to the provisions of this section, the amount of compensation to which a seaman is entitled under this section shall be such as the award or industrial agreement appropriate for the time being to the seaman provides, and, where there is no such provision, shall be such amount as may be agreed upon between the seaman and the master or owner. In any case where there is no provision in the appropriate award or industrial agreement and no agreement
30 between the seaman and the master or owner, the amount of compensation shall be determined by arbitration under the Arbitration Act 1908, and this subsection shall be deemed to be a submission within the meaning of that Act."

**24. Examiners for certificates of competency as ship's
35 cook**—Section one hundred and thirty-six of the principal Act is hereby amended by inserting, after subsection one, the following subsection:

“(1A) For the purpose of granting certificates of competency as ship’s cook to persons desirous of obtaining them, examinations shall be held at such times and places, and by such Examiners, as the Minister from time to time appoints; and the Examiners shall adhere strictly to the requirements of regulations made under this section.” 5

25. Deserter or absentee without leave from New Zealand ship—Section one hundred and fifty-seven of the principal Act, as amended by section four of the Shipping and Seamen Amendment Act 1957, is hereby further amended by adding 10 to paragraph (a) of subsection two the following proviso:

“Provided that the seaman or apprentice shall not be proceeded against for any offence under this paragraph if disciplinary proceedings for the imposition of a fine have been duly taken against him pursuant to the articles of agreement of the ship and entered in the official log book pursuant to section one hundred and sixty-eight of this Act:” 15

26. Deportation of deserting seamen—(1) Section one hundred and fifty-eight of the principal Act, as substituted by subsection one of section five of the Shipping and Seamen Amendment Act 1957, is hereby amended by inserting, after 20 subsection one, the following subsection:

“(1A) Subject to the provisions of subsection seventeen of this section, this section also applies to every seaman who, having been engaged elsewhere than in New Zealand on any Commonwealth ship where the agreement with the crew was first made elsewhere than in New Zealand,— 25

“(a) Deserts or absents himself without leave from that ship within the limits or territorial waters of New Zealand or is left on shore in New Zealand in any manner authorised by law by reason of illness or accident; and 30

“(b) Not being a person who is authorised by an order made under section one hundred and fifty-eight A of this Act to remain in New Zealand, engages in New Zealand on any Commonwealth ship where the agreement with the crew was first made elsewhere than in New Zealand,— 35

as if the seamen had been engaged in the country in which the agreement with the crew was first made.” 40

(2) Section one hundred and fifty-eight of the principal Act, as so substituted, is hereby further amended by inserting, after subsection fourteen, the following subsection:

“(14A) Where a seaman detained in a penal institution under the provisions of this section is admitted to hospital, he shall be deemed for the purposes of subsection fourteen of this section to be detained in a penal institution while he is
5 a patient in the hospital:

“Provided that, if the master or owner or agent of the ship satisfies the Superintendent that a passage for the deportation of the seaman under this section became available by a ship leaving New Zealand at any time while the seaman was a
10 patient in the hospital, the liability under that subsection of the master or owner or agent for the maintenance of the seaman shall be deemed to have ceased on the date on which the last-mentioned ship left New Zealand.”

27. Applications by deserting seamen for permission to remain in New Zealand—(1) Section one hundred and fifty-eight A of the principal Act, as enacted by section six of the Shipping and Seamen Amendment Act 1957, is hereby amended by inserting, after subsection four, the following subsections:

20 “(4A) Every order made by a Magistrate’s Court on any such application shall be final.

“ (4B) Any constable may at any time within two years after the making of an order granting an application under this section apply to any Magistrate’s Court presided over by
25 a Magistrate to have the order revoked on the ground that—

“(a) Material evidence which was false or misleading was given in connection with the application; or

“(b) A material fact in connection with the application was withheld from the Court,—

30 and the Registrar of the Court shall give notice in writing of every such application to the master or owner or agent of the ship from which the seaman deserted or absented himself, and the master or owner or agent of the ship shall be entitled to appear and be heard on the application.

35 “(4C) Where the Court is satisfied that one of the grounds mentioned in subsection four B of this section has been made out and that no special circumstances exist that would justify it in refusing the application, the Court may revoke the order, which as from the date of the revocation shall for the purposes
40 of this Act be deemed not to have been made, and section one hundred and fifty-eight of this Act shall thereupon apply to the seaman as if he had been convicted on the date of the revocation of an offence against subsection two of that section. Every decision by a Magistrate’s Court under this subsection
45 shall be final.”

28. Entry of report of character in official log—Section one hundred and seventy-eight of the principal Act is hereby amended by adding to paragraph (d) the following proviso:

“Provided that the master shall not enter a statement that he declines to give such an opinion, unless there is entered in the official log book an offence committed by the seaman, or unless the seaman has been censured by the master for misconduct and this fact has been entered in the official log book;”.

29. Additional matters to be entered in official log—The principal Act is hereby further amended by inserting, after section one hundred and seventy-eight, the following section:

“178A. (1) This section applies to ships which are required by this Act to carry an official log book but for which an agreement with the crew is not required.

“(2) The owner or master of every ship to which this section applies shall cause a record of every engagement or discharge of a master or seaman to be entered in the official log book promptly on the day of that happening.

“(3) Where a ship to which this section applies is not a fishing boat, the owner or master as soon as conveniently thereafter, and in any case before the ship departs a second time from the port where a change of master or crew has occurred, shall produce the official log book to a Superintendent, who shall stamp the record of the change.

“(4) Where a ship to which this section applies is a fishing boat, the owner or master shall produce the official log book for examination at any time if so required by a Superintendent or by a fisheries officer appointed under the Public Service Act 1912 for the purposes of Part I of the Fisheries Act 1908, and shall, as may from time to time be specified in writing to him by the Secretary, provide the Secretary with copies of log entries or other information concerning the service on board that ship of all persons.”

30. Fishing boats exempt from certain provisions—(1) Section one hundred and eighty-five of the principal Act is hereby amended by omitting from subsection two the words “fifteen register tons”, and substituting the words “sixty feet register length”.

(2) Any fishing boat which immediately before the passing of this Act was exempt, pursuant to the provisions of subsection two of section one hundred and eighty-five of the principal Act, from the provisions of Part II of that Act relating to the carrying of certificated officers shall, subject to any regulations made pursuant to section two hundred and forty-three of that Act, continue to be so exempt as if subsection one of this section had not been passed.

31. Plans and specifications for ships built in New Zealand—
10 Section one hundred and ninety-six of the principal Act is hereby amended as follows:

- (a) By omitting from subsection one the words “twenty-five tons gross tonnage”, and substituting the words “forty-five feet register length or intended to carry more than fifty passengers”:
15
(b) By inserting in paragraph (a) of subsection one, after the word “specifications” where it first occurs, the words “in duplicate”.

32. Amending provisions as to partial surveys—Section one hundred and ninety-nine of the principal Act is hereby amended by omitting from the first proviso to subsection one the words “the requirements for the issue of a particular certificate (not being a certificate of survey)”, and substituting the words “any of the requirements for the issue of a particular certificate”.
25

33. Amending provisions as to returns by Surveyors—Section two hundred and one of the principal Act is hereby amended by omitting from subsection one the word “burden”, and substituting the word “tonnage”.

30 **34. Warning devices and means of egress—**(1) The principal Act is hereby further amended by inserting, after section two hundred and two, the following heading and section:

“Warning Devices and Means of Egress

35 “202A. (1) This section applies to foreign-going New Zealand ships and to all home-trade ships (whether or not they are Commonwealth ships).

“ (2) Without limiting the general power to make rules conferred by section five hundred and four of this Act, rules may be made under that section providing that the owners of every ship to which this section applies shall make provision
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therein for warning devices, for emergency illumination, and for doorways, passageways, stairways, companionways, ladderways, scuttles, and other means of egress for all persons (whether crew or passengers) who may be carried to sea in the ship, and for means of indication, signs, or directions for the use of such devices, illumination, and egress. 5

“(3) Rules made pursuant to this section may prescribe different requirements for different classes of ships or for ships of different ages, and may prescribe a time after the date of the commencement of the rules within which owners of ships shall comply with them, and may provide for the granting of exemptions from any requirements of the rules and for conditions subject to which such exemptions may be granted. 10

“(4) Notwithstanding anything in any such rules, where in the circumstances of the case a Surveyor considers that the rules do not make appropriate or sufficient provision and that compliance with the rules would not remove a hazard or undue risk to passengers or crew, the Surveyor shall refuse to give a declaration of survey, and shall within seven days after making his survey notify the owner or his agent of his refusal and of his reasons therefor. 15 20

“(5) Where a Surveyor finds that, since the last date of survey of any ship, any warning devices, emergency illumination, means of egress, or directions for use of such devices, illumination, or egress have not in his opinion been reasonably maintained, or that egress has become impeded or directions obscured, or that the requirement of any rule made under this section has not been complied with, the provisions of subsections two and three of section two hundred and six of this Act, with the necessary modifications, shall apply in all respects as if the deficiencies found by the Surveyor were deficiencies in respect of lifesaving appliances. 25 30

“(6) If the ship proceeds to sea and the requirements of the Surveyor as so specified have not been complied with, the owner of the ship (if in fault) and the master of the ship (if in fault) each commits an offence against this Act.” 35

(2) Section one hundred and forty-five of the principal Act is hereby amended by omitting from paragraph (b) of subsection one the words “but has a separate entrance to the deck otherwise than through the engine room”. 40

35. Boat drill and fire drill—Section two hundred and seven of the principal Act is hereby amended by adding to subsection one the following paragraph:

5 “(d) Cause a boat drill or fire drill or both to be carried out in the presence of a Surveyor at such time while the ship is in port as the Surveyor requires.”

36. Radio rules—Section two hundred and nine of the principal Act is hereby amended by omitting from paragraph (a) of subsection two and also from paragraph (b) of the same subsection the words “sea going”.

37. Certificates of survey—Section two hundred and thirteen of the principal Act is hereby amended by inserting in paragraph (b) of subsection one, after the words “crew of the ship”, the words “for whom accommodation is provided”.

38. Additional certificates of survey—Section two hundred and thirteen of the principal Act is hereby further amended by adding the following subsections:

20 “(3) Notwithstanding anything in this Act, more than one certificate of survey having effect in different circumstances may be issued in respect of the following classes of ships:

 “(a) Passenger ships usually plying on night voyages in the home trade, but sometimes carrying additional deck passengers on daylight excursions:

25 “(b) Passenger ships usually plying between New Zealand ports and other ports within Pacific limits, but sometimes carrying additional deck passengers between islands within Pacific limits:

30 “(c) Cargo ships usually engaged in the home trade, but sometimes voyaging to the Chatham Islands or any other island within Pacific limits:

 “(d) Tugs and salvage ships usually plying within restricted limits, but sometimes plying into or beyond home-trade limits:

35 “(e) Any other ship or class of ship from time to time approved by the Minister.

 “(4) Where two or more certificates of survey are issued in respect of any ship, the master shall cause a statement as to the certificate of survey under which she is for the time being operating to be entered in the official log.”

39. Transmission of certificates—Section two hundred and eighteen of the principal Act is hereby amended by omitting from subsection five the words “the period of two months”, and substituting the words “the period specified therein not exceeding two months”.

5

40. Modification of provisions for exemption of certain ships—Section two hundred and nineteen of the principal Act is hereby amended by omitting from subsection two the words “wireless telegraphy”, and substituting the words “radiotelegraphy or radiotelephony”.

10

41. Duration of certificates—Section two hundred and twenty-four of the principal Act is hereby amended by repealing subsection one, and substituting the following subsections:

“(1) A certificate of survey, a safety certificate, a radio certificate, or a radio exemption certificate shall be in force for a period not exceeding one year from the date of its issue. A safety equipment certificate in respect of a New Zealand ship (whether issued in New Zealand or elsewhere) shall be in force for a period not exceeding one year from the date of its issue, and a safety equipment certificate in respect of any other ship shall be in force for a period not exceeding two years from the date of its issue.

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“(1A) Notwithstanding anything in subsection one of this section, no certificate referred to therein shall be in force for a longer period than that specified in the certificate or shall remain in force after notice is given by the Secretary to the owner or his agent or the master of the ship in respect of which it has been issued that the Minister has cancelled the certificate.”

25

42. Extension of certificates—(1) Section two hundred and twenty-six of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection:

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“(1) The Secretary may, in his discretion, if he is satisfied that survey facilities are not available or for other sufficient cause and that the condition of the hull, machinery, and equipments of the ship is such as to justify him doing so, grant an extension of any certificate issued under this Part of this Act—

35

“(a) In the case of any certificate of survey issued under section two hundred and thirteen of this Act, for a period not exceeding three months; and

40

“(b) In the case of a Safety Convention certificate issued in respect of any New Zealand ship, for a period not exceeding one month—
from the date when the certificate would, but for the extension,
5 expire.”

(2) Section two hundred and twenty-six of the principal Act is hereby further amended by omitting from subsection two the words “If any ship”, and substituting the words “If any New Zealand ship”.

10 (3) Section two hundred and twenty-six of the principal Act is hereby further amended by adding the following subsection:

“(4) Any extension of a certificate under the provisions of this section may be granted, notwithstanding that the
15 certificate has expired, provided application for the extension is received before the date the certificate would expire. On any such extension being granted, the certificate shall be deemed always to have been in force:

20 “Provided that nothing in this subsection shall be deemed to authorise the granting of any extension beyond the period specified in subsections one to three of this section.”

43. Safety valves—Section two hundred and forty-two of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection:

25 “(1) Every steamship shall be provided with not fewer than two safety valves on each boiler; and each such valve shall be provided with proper lifting gear, and be so constructed that it is out of the control of the engineer when the steam is up and
30 that the aggregate area of the valves on each boiler is not less than the aggregate area prescribed by the Surveyor for that boiler in association with the maximum working pressure approved for that boiler by the Surveyor.”

44. Safety rules for small craft and other vessels—(1) The principal Act is hereby further amended by repealing section
35 two hundred and forty-three, and substituting the following section:

“243. (1) Without limiting the general power to make rules conferred by section five hundred and four of this Act, rules
40 vessels to which this section applies.

“(2) Different rules may be made pursuant to this section in respect of different classes of such vessels or in respect of the same class of vessels in different circumstances.

“(3) Without prejudice to the generality of the preceding provisions of this section, rules made pursuant to this section may— 5

“(a) Prescribe the requirements that the hull, equipments, and machinery of any such vessels shall comply with:

“(b) Provide for the inspection and licensing of any such vessels: 10

“(c) Prescribe the requirements as to the master, officers, and seamen of any such vessels and the qualifications of those persons, and prohibit any such vessels from going to sea or plying or being otherwise used in any specified manner, unless manned in accordance with those requirements: 15

“(d) Prohibit the overloading or overcrowding with passengers of any such vessels (being vessels to which regulations made pursuant to section three hundred and twenty-two of this Act do not apply): 20

“(e) Require any such vessels to which the rules for life-saving appliances do not apply to have on board such equipment as may be prescribed:

“(f) Prescribe penalties not exceeding one hundred pounds for non-compliance with the provisions of the rules. 25

“(4) This section applies to—

“(a) Ships to which section two hundred and forty-six of this Act applies:

“(b) Barges, lighters, and like vessels under tow: 30

“(c) Surf boats:

“(d) Other vessels or boats, whether or not used in navigation, and however propelled.”

(2) Section one hundred and eighty-five of the principal Act is hereby consequentially amended by inserting in subsection three, before the words “A fishing boat”, the words “Except as may be provided in regulations made pursuant to section two hundred and forty-three of this Act”. 35

45. Exemption of certain ships—Section two hundred and forty-four of the principal Act is hereby amended by omitting from subsection one the words “except section two hundred and six”. 40

46. Survey of small ships—(1) Section two hundred and forty-six of the principal Act is hereby amended as follows:

- (a) By omitting from paragraph (a) of subsection two the words “fifteen tons register”, and substituting the words “sixty feet register length”:
 - (b) By omitting from paragraph (c) of subsection two, as enacted by section twelve of the Shipping and Seamen Amendment Act 1957, the words “in overall length”, and substituting the words “register length”.
- (2) Any fishing boat which immediately before the passing of this Act was exempt from survey pursuant to the provisions of section two hundred and forty-three of that Act, continue to be so exempt as if paragraph (a) of subsection one of this section had not been passed.

47. Control of foreign-going pleasure yachts—The principal Act is hereby further amended by inserting, after section two hundred and forty-six A, as inserted by section thirteen of the Shipping and Seamen Amendment Act 1957, the following section:

“246B. (1) This section applies to pleasure yachts which are New Zealand ships or which, being less than fifteen register tons, are employed solely or usually on the coasts or inland waters of New Zealand and are not registered in any other country.

“(2) The master of every yacht to which this section applies shall not go to sea from any port in New Zealand on any voyage during the course of which the yacht will be more than fifty miles from the nearest part of the coast of New Zealand, unless—

- “(a) There is in force in respect of that yacht and that voyage a certificate issued under this section; and
- “(b) The yacht complies with all the requirements arising from the inspection made for the purposes of that certificate; and
- “(c) The master has produced to the Collector of Customs at that port the certificate referred to in paragraph (a) of this subsection and deposited with him a true statement of the intended destination of the yacht and the proposed route and of the full names of the master and members of the crew, their nationality, and the names and addresses of their next of kin.

“(3) The inspection of any yacht for the purposes of this section shall be conducted by a group of not fewer than three honorary yacht inspectors, appointed as such by the Secretary on the nomination of a yacht club approved by the Secretary, and those inspectors shall report in writing to the Secretary and to the master or owner of the yacht on the hull, equipments, and stores of the yacht and any machinery therein and generally on the suitability of the yacht and crew for the proposed voyage, and any such report may specify any defects or deficiencies which should be remedied before the yacht will be considered suitable for the voyage.

“(4) Where the honorary yacht inspectors, after examining the hull, equipments, and stores of any yacht and any machinery therein and inquiring as to the experience and qualifications of the proposed master and crew, are satisfied that the yacht is reasonably suitable for the proposed voyage, they may issue a certificate to that effect, but no such inspector shall be under any liability whatsoever to any person by reason of having given that certificate.

“(5) The master of every yacht, before finally going to sea from any port in New Zealand on any voyage during the course of which the yacht will be more than fifty miles from the nearest part of the coast of New Zealand, shall comply with the provisions of paragraph (c) of subsection two of this section, and the yacht may be detained until those provisions are complied with.

“(6) The master of every yacht and every member of the crew thereof each commits an offence against this Act where—

“(a) The master fails to comply with any of the provisions of subsection two of this section; or

“(b) The yacht goes to sea from a port in New Zealand on a voyage in respect of which a certificate under this section has been issued, and after the issue of the certificate there has been any material alteration in the condition of the hull or in the equipments, stores, machinery, master, or crew; or

“(c) After leaving a port in New Zealand on a voyage in respect of which a statement of the intended destination and proposed route has been produced to a Collector of Customs, there is any material change in that destination or route, except by reason of stress of weather or mishap or other circumstances which the master could not have prevented or forestalled, proof of which shall lie on the defendant; or

“(d) During the course of any voyage from a port in New Zealand the yacht proceeds more than fifty miles from the nearest part of the coast of New Zealand, unless before leaving that port the provisions of subsection two of this section are complied with:

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

10 “(7) Where the master or any member of the crew of a yacht commits an offence against this section and any expenses are incurred by the Crown in making inquiries for or carrying out a search for the yacht or in rescuing the master or any member of the crew, the amount of those expenses, not exceeding in the case of the master the value of the yacht and the equipments and stores thereof and the property of the master aboard the yacht when she returns to New Zealand, and not exceeding in the case of a member of the crew the value of his property aboard the yacht when she returns to New Zealand, shall be recoverable by the Crown in any Court of competent jurisdiction as a debt owing by the master or member of the crew, as the case may be.

25 “(8) A certificate by the Secretary as to the amount of any such expenses shall in all proceedings be sufficient evidence thereof, unless the defendant proves to the contrary.

30 “(9) Without limiting any other mode of recovery, any amount payable to the Crown by the master or a member of the crew under subsection seven of this section may be assessed by the Court by which he is convicted, and shall be recoverable as a fine.”

35 **48. Evidence of compliance with requirements as to certificates**—The principal Act is hereby further amended by inserting in Part IV, after section two hundred and forty-nine, the following section:

40 “249A. Where this Act requires that in respect of any ship about to proceed to sea the owner or master shall produce to the Collector of Customs any survey certificate or any other certificate referred to in section one hundred and ninety-eight, section two hundred and two, section two hundred and

twenty-two, section two hundred and thirty-four, section two hundred and sixty-four, section two hundred and seventy-three, or section two hundred and eighty-four of this Act, the Collector of Customs may accept, as evidence that there is in force in respect of the ship all such certificates as may be appropriate to the voyage about to be commenced and that the certificates are current, a statement in writing to that effect signed by a Superintendent, and the acceptance by the Collector of such a statement shall on that occasion be deemed a compliance by the owner or master with any requirement of this Act to produce those certificates to the Collector.”

49. Manning of motor ships in restricted limits and inland waters—(1) Section two hundred and fifty-three of the principal Act is hereby amended by repealing subsections one and two, and substituting the following subsections:

“(1) Subsections two and two A of this section apply with respect to motor ships used only within restricted limits defined pursuant to section two hundred and fifty of this Act or on any river or lake or other inland water.

“(2) The following provisions shall apply in the case of ships to which this subsection applies, namely:

“(a) If the ship carries more than fifty passengers for hire or reward within extended river limits, or more than one hundred and fifty passengers for hire or reward within river limits or on any river or lake or other inland water, she shall carry, in addition to the master and officers specified in the First Schedule to this Act, one or more seamen or the number of seamen specified in regulations made pursuant to subsection two A of this section:

“(b) If the ship does not exceed forty-five feet register length and, being owned by a person engaged in some agricultural or pastoral pursuit, 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.

“(2A) Without limiting the general power to make regulations conferred by section five hundred and four of this Act, regulations under that section in respect of ships to which this subsection applies may make provision for the following matters:

- 5 “(a) The issue of certificates of competency as master or as engineer or as both master and engineer of ships to which this subsection applies, those certificates being either of one grade or of different grades, and either generally for all such ships or specifically for specific classes of such ships:
- 10 “(b) The examination of candidates for such certificates, the subject-matter of the examinations, and the appointment of examiners:
- 15 “(c) The qualifications to be possessed by candidates for such certificates, the fees to be paid for the certificates, and the mode in which and the events on the happening of which the certificates may be cancelled:
- 20 “(d) Varying, according to the nature of the trade in which the ships are employed, the requirements of the First and Second Schedules to this Act in respect of the numbers and grades of officers to be carried by different classes of such ships and the numbers of seamen to be carried therein :
- 25 “(e) The issue of local launchmen’s licences permitting the holder to act, according to specified circumstances, as master or as both master and engineer of a specified motor launch not exceeding forty-five feet register length when the launch is used in accordance with the terms of the licence and within the river limits or inland waters specified in the licence:
- 30 “(f) The examination, including practical tests, of candidates for local launchmen’s licences, the appointment of examiners, and the fees to be paid by candidates for such licences and renewals thereof:
- 35 “(g) Prescribing the currency of such licences, for the renewal thereof, and for the earlier cancellation of licences for misconduct of the holder or for poor maintenance or careless navigation of the launch to which the licence relates.”

(2) Section two hundred and fifty-three of the principal Act is hereby further amended by omitting from subsection 40 three the words “or paragraph (b)”.

(3) Section two hundred and forty-six of the principal Act is hereby consequentially amended by omitting from paragraph (d) of subsection two the words “paragraph (c) of subsection one”, and substituting the words “paragraph 45 (b) of subsection two”.

50. Cargo on open launches—Section two hundred and fifty-four of the principal Act is hereby amended by omitting from subsection three the words “having an open cockpit”, and substituting the words “not fully decked”.

51. Ships not to be taken to sea without load-line certificate 5
—Section two hundred and sixty-four of the principal Act is hereby amended by inserting in paragraph (b) of subsection one, after the words “load-line ship”, the words “a Load Line Convention certificate or”.

**52. Inspection of ships with respect to load lines and sub- 10
mersion lines**—Section two hundred and seventy of the principal Act is hereby amended by inserting, after the words “New Zealand”, the words “or any ship which is required by section two hundred and eighty-four of this Act to be marked with submersion lines”. 15

**53. Submersion lines on ships not subject to provisions as 20
to load lines**—Section two hundred and eighty-four of the principal Act is hereby amended as follows:

- (a) By omitting from subsection six the words “go to sea or ply or proceed in tidal water”, and substituting the 20 words “be used in navigation, however propelled or towed”:
- (b) By omitting from subsection nine the words “go to sea or ply or proceed in tidal water”, and substituting the words “be used in navigation, however propelled 25 or towed”.

54. Inspection for enforcing regulations—Section two hundred and eighty-eight of the principal Act is hereby amended by omitting from subsection one and also from subsections two, four, and five the words “fog signals”, and substituting 30 in each case the words “sound signals”.

55. Reporting of accidents—(1) Section two hundred and ninety-seven of the principal Act is hereby amended by re- 35 pealing subsection one, and substituting the following subsection:

“(1) When any ship to which this section applies has sustained or caused any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting her seaworthiness or her efficiency either
5 in her hull or (in the case of a ship propelled by mechanical power) in any part of her machinery, or has been in collision with another ship, the master shall transmit to a Superintendent—

10 “(a) Where possible, by radiotelegraph or radiotelephone in the first instance, a preliminary report; and

“(b) In all cases, if in port when the accident or damage occurs, within twenty-four hours of the happening, or otherwise within twenty-four hours of first
15 reaching a port (whether in New Zealand or elsewhere) a full report in writing signed by him— of the accident or damage, and of the probable cause thereof, stating the name of the ship, her official number (if any), the port at which she is registered or to which she belongs, and the place where she is.”

20 (2) Section two hundred and ninety-seven of the principal Act is hereby further amended by omitting from subsection two the words “the Minister” wherever they occur, and substituting in each case the words “a Superintendent”.

56. Testing of anchors and chain cables—(1) Section three
25 hundred of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection:

“(1) A maker of or dealer in anchors or chain cables shall not sell or contract to sell, nor shall any person purchase or contract to purchase, for the use on any ship, nor shall any
30 person use on any ship, any chain cable or any anchor exceeding in weight one hundred and sixty-eight pounds which has not been tested and, where appropriate, stamped or otherwise marked in accordance with the requirements of—

35 “(a) The Act of the United Kingdom Parliament intituled the Anchors and Chain Cables Act 1899; or

“(b) The provisions of the law of any other Commonwealth country or of any foreign country of like purpose and effect to the said Anchors and Chain Cables Act 1899.”

40 (2) Section three hundred of the principal Act is hereby further amended by omitting from subsection two the words “the said Anchors and Chain Cables Act 1899”, and substituting the words “the requirements of subsection one of this section”.

(3) Section three hundred of the principal Act is hereby further amended by repealing subsection four, and substituting the following subsection:

“(4) Any person delivering a certificate or other document of like character relating to the proof testing of any anchor or chain cable, or other chain or cable, shall place in some conspicuous part of the certificate or document in such manner as to be clearly legible a statement of the name of the person or organisation issuing the same, the nature of the proof testing, and the place and date of the proof testing.”

57. Offences in relation to anchors and chain cables—
 (1) Section three hundred and one of the principal Act is hereby amended by repealing paragraphs (b) and (c), and substituting the following paragraphs:

“(b) Places on any anchor or chain cable or on any chain or cable any distinctive mark appointed by the law of any Commonwealth country or of any foreign country to indicate that it has been proved in accordance with the law of that country, or any other mark so closely resembling any such distinctive mark as to be calculated to lead persons to believe that the anchor, chain cable, or other chain or cable has been proved in accordance with the law of that country when the anchor, chain cable, or other chain or cable has not been so proved; or

“(c) Delivers any certificate or other document of a like character relating or purporting to relate to the proof testing of any anchor, chain cable, or other chain or cable, that resembles a certificate or other document of proof testing delivered by any person authorised so to do by the law of any Commonwealth country or of any foreign country, or is otherwise calculated to lead persons to suppose that the anchor, chain cable, chain or cable in respect of which it is delivered has been proved by the law of any such country; or”.

(2) Section three hundred and one of the principal Act is hereby further amended by omitting from paragraph (d) the words “the said Anchors and Chain Cables Act 1899”, and substituting the words “the corresponding provisions of the law of any Commonwealth country (other than New Zealand) or of any foreign country”.

58. Where shipping casualty deemed to occur—(1) Section three hundred and twenty-three of the principal Act is hereby amended by adding the following paragraphs:

5 “(f) When any loss of life ensues by reason of any accident or mishap occurring to any ship or by the use or management of any ship on or near the coasts of New Zealand:

10 “(g) When in any place any such accident or mishap occurs to any New Zealand ship or by the use or management of any New Zealand ship.”

59. Formal investigation—Section three hundred and twenty-five of the principal Act is hereby amended by adding to subsection ten the words “for foreign-going ships”.

15 **60. Removal of wrecked ships and aircraft**—Section three hundred and fifty-three of the principal Act is hereby amended by inserting in subsection one, after the words “limits of New Zealand”, the words “or in any river or lake or other inland water”.

20 **61. Exempting from coastal-light dues ships engaged on scientific work**—Section three hundred and seventy-five of the principal Act is hereby amended by inserting in subsection two, after paragraph (g), the following paragraph:

“(gg) Ships employed solely for scientific, marine surveying, or exploration purposes:”.

25 **62. Measurement of ship**—Section three hundred and eighty-eight of the principal Act is hereby amended by inserting, after subsection one, the following subsection:

“(1A) Notwithstanding anything in subsection one of this section, where—

30 “(a) The Governor-General is satisfied that the provisions of the law of any Commonwealth country other than New Zealand or of any foreign country are of like effect to the tonnage regulations of this Act; and

35 “(b) The Governor-General has, by Order in Council, so declared,—

the Secretary, if he is satisfied that the tonnage of a ship has been ascertained by the Government of such a Commonwealth or foreign country or by an authority recognised by the
40 Government of such a Commonwealth or foreign country in

accordance with the provisions of the law of that country, may direct that the tonnage so ascertained shall be accepted as if it were the tonnage of the ship ascertained in accordance with the tonnage regulations of this Act, and in every such case the provisions of this Act as to the tonnage of the ship shall apply as if the tonnage of the ship had been ascertained in accordance with the tonnage regulations of this Act.” 5

63. Tonnage of ships of other countries—Section four hundred and fifty of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection: 10

“(1) Whenever the Governor-General is satisfied that the provisions of the law of any foreign country as to the measurement of tonnage are of like effect to the tonnage regulations of this Act, the Governor-General may, by Order in Council, direct that the ships of that country shall, without being remeasured in New Zealand, be deemed to be of the tonnage denoted in their certificates of registry or other national papers; and the Governor-General may, by any such Order in Council, limit the time during which that order is to remain in force, and may make that order subject to such conditions and qualifications (if any) as may be deemed expedient, and the operation of the order shall be limited and modified accordingly.” 20

64. Mode of making declarations—Section four hundred and fifty-four of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection: 25

“(1) Declarations required by this Part of this Act shall, when made in New Zealand, be made before any person before whom a declaration may be made under section nine of the Oaths and Declarations Act 1957 or before any Registrar of Ships, and, when made out of New Zealand, shall be made— 30

“(a) Before any person before whom a declaration may be made outside New Zealand under section eleven of the Oaths and Declarations Act 1957; or 35

“(b) If the declaration is made in any Commonwealth country, before any Registrar of Ships at a port of registry in that country, or, if the declaration is made in a foreign country, before a proper officer.” 40

5 **65. Apprehension of seamen from foreign ships**—Section four hundred and seventy-three of the principal Act is hereby amended by inserting in subsection one and also in subsections two, three, four, five, and seven, after the word “master” wherever it occurs, the words “or agent”.

66. Prevention of desertion from foreign ships—Section four hundred and seventy-five of the principal Act is hereby amended by inserting in subsection one, after the word “master”, the words “or agent”.

10 **67. Public notice of approved forms**—Section five hundred and two of the principal Act is hereby amended by omitting from subsection two the words “and, before finally issuing any such form or altering or revoking any such form which has been issued, he shall cause public notice thereof to be given
15 in such manner as he thinks requisite in order to prevent inconvenience”.

68. Dispensing powers of Minister—Section five hundred and five of the principal Act is hereby amended by repealing subsection two.

20 **69. Correction of errors in certificates, etc.**—The principal Act is hereby further amended by inserting, after section five hundred and seven, the following section:

“507A. Where the Minister, in the case of any certificate or document issued by the Minister, and the Secretary, in the
25 case of any document issued by the Secretary, is satisfied that any mistake in any certificate or other document issued under this Act exists by reason of any error or omission, he may correct the mistake, and for that purpose may require the production of the certificate or document or may cancel the
30 certificate or document and issue a correct one in its place:

“Provided that nothing in this section shall be deemed to authorise the correction of any mistake in any certificate of survey, load line certificate, safety certificate, radio certificate, or Safety Convention certificate, or an exemption certificate,
35 except on the recommendation of a Surveyor of Ships.”

SCHEDULE

Section 6 (2)

"FIRST SCHEDULE

SCALE OF OFFICERS FOR NEW ZEALAND SHIPS, AND FOR OTHER COMMONWEALTH SHIPS AND FOREIGN SHIPS WHEN PLYING AS HOME-TRADE SHIPS

Part I—Deck Officers

Class of Ship	Grade of Master	Mates Minimum Number of Deck Officers Holding Certificates Proper for the Ship and Voyage
1. Foreign-going ship (not being a fishing boat)	Master of foreign-going ship	Two (1)
2. Home-trade ship (not being a fishing boat)—		
(a) If 90 feet or more register length	Master of home-trade ship ..	Two (2)
(b) If less than 90 feet register length and carrying passengers	Master of home-trade ship ..	One (3)
(c) If less than 90 feet register length and not carrying passengers	Master of small home-trade ship	One (4)
(d) If less than 90 feet register length and engaged in towing	Master of small home-trade ship, or as provided in (5)	One, or as provided in (5)
3. Restricted-limit ship (not being a fishing boat)—		
(a) If 45 feet or more register length	Master of small home-trade ship or master of river ship or as provided in (5)	
(b) If less than 45 feet register length	Master of restricted-limit launch or as provided in (5)	
4. Fishing boat (6)—		
(a) Foreign-going boat ..	Master of foreign-going fishing boat	One (7)
(b) Home-trade boat exceeding 60 feet register length	Skipper of home-trade fishing boat	As provided in (5)
(c) Home-trade boat not exceeding 60 feet register length	As provided in (5) ..	As provided in (5)

REMARKS:

(1) One to hold certificate as first mate of foreign-going ship, and one as second mate of foreign-going ship.

(2) One to hold certificate as mate of home-trade ship, and one either as mate of home-trade ship or master of small home-trade ship.

A. If the ship is not running more than 300 miles between terminal ports, only one mate holding a certificate as mate of home-trade ship is required.

B. Provided that the Secretary or a Surveyor duly authorised by the Secretary may, if the ship is running more than 300 miles between terminal ports, and subject to such conditions as he thinks fit, exempt any such ship from carrying a second mate in respect of any particular voyage, if it is proved to his satisfaction that to comply with this requirement would unduly delay the ship.

(3) Holding certificate as mate of home-trade ship or master of small home-trade ship. If the ship is not running more than 100 miles between terminal ports, no mate is required.

(4) Holding certificate as master of small home-trade ship, master of river ship, or master of restricted-limit launch. If the ship is not running more than 100 miles between terminal ports, no mate is required.

(5) As prescribed by regulations made pursuant to section 243 or section 253, as the case may be.

(6) Subject to section 185 (2).

(7) Holding certificate as skipper of home-trade fishing boat.

Part II—Engine-Room Officers

Class of Ship	Minimum Number of Engineers Holding Certificates Proper for the Ship and Voyage	
	Chief or Only Engineer	Second Engineer
<i>Steamships</i>		
1. Foreign-going ship (not being a fishing boat)—		
(a) If 565 BHP or more ..	First-class steam ..	Second-class steam (1)
(b) If less than 565 BHP ..	Second-class steam ..	(2)
2. Home-trade ship (not being a fishing boat)—		
(a) If 565 BHP or more ..	First-class steam ..	Second-class steam (1)
(b) If less than 565 BHP ..	Second-class steam ..	(2)
3. Restricted-limit ship (not being a fishing boat)—		
(a) Steamship plying within extended river limits—		
(i) If 565 BHP or more	Second-class steam ..	(3)
(ii) If 200 BHP and less than 565 BHP	Third-class steam
(iii) If less than 200 BHP	River engineer (6) ..	(5) ..
(b) Steamship plying within river limits	Third-class steam or river engineer (4) ..	(5) ..
4. Fishing boat: Foreign going or home trade	Second-class steam (7)
<i>Motorships</i>		
5. Foreign-going ship (not being a fishing boat)—		
(a) If 565 BHP or more ..	First-class motor ..	Second-class motor (1)
(b) If less than 565 BHP ..	Second-class motor ..	(8)
6. Home-trade ship (not being a fishing boat)—		
(a) If 565 BHP or more ..	First-class coastal motor (9)	Second-class coastal motor
(b) If 300 BHP and less than 565 BHP	First-class coastal motor (10)	(9) (1)
(c) If 200 BHP and less than 300 BHP	Second-class coastal motor	..
(d) If less than 200 BHP ..	Local motorship (11)	..
7. Restricted-limit ship—		
(a) If 565 BHP or more ..	First-class coastal motor ..	Second-class coastal motor
(b) If 200 BHP and less than 565 BHP	Local motorship (11)
(c) If less than 200 BHP ..	Restricted-limit motorship (12) or (13)	..
8. Fishing boat (14)—		
(a) Foreign-going	Second-class motor (15)
(b) Home trade—		
(i) If 400 BHP or more	Second-class motor (15)
(ii) If 200 BHP and less than 400 BHP	Local motorship
(iii) If less than 200 BHP	(16)
(c) Restricted limits	(16)

REMARKS:

(1) If a passenger ship, add (as the case may require) one third-class steam engineer or one second-class motor engineer; and for each 3,000 BHP or part thereof after the first 1,125 BHP, add one additional engineer holding (as the case may require) a third-class steam or a second-class motor certificate, but where such an engineer is not available, an engineer with lower qualifications may be substituted.

(2) If a passenger ship, add one third-class steam.

Part II—Engine-Room Officers—continued

- (3) If carrying more than 150 passengers, or if the duration of the voyage exceeds four hours, add one third-class steam.
- (4) If carrying more than 150 passengers, substitute second-class steam.
- (5) If the duration of the voyage exceeds four hours, add one engineer holding a river engineer's certificate or steam certificate of higher grade.
- (6) If carrying more than 150 passengers, substitute third-class steam.
- (7) If less than 565 BHP, a suitably experienced holder of a recognised trawler engineer's certificate or third-class steam certificate may, at the discretion of the Secretary or of a Surveyor duly authorised by the Secretary, be substituted.
- (8) If a passenger ship, add one additional engineer holding (as the case may require) a second-class motor certificate or second-class coastal motor certificate, but, where such an engineer is not available, an engineer with lower qualifications may be substituted.
- (9) If a passenger ship, substitute, respectively, first-class motor and second-class motor.
- (10) Alternatively, a second-class motor.
- (11) If carrying more than 150 passengers, substitute second-class coastal motor.
- (12) If carrying more than 150 passengers, substitute local motorship.
- (13) As prescribed by regulations made pursuant to section 253.
- (14) Subject to section 185 (2).
- (15) Where such an engineer is not available, a suitably experienced holder of a recognised trawler engineer's certificate or other suitably experienced engineer with lower qualifications may, at the discretion of the Secretary or of a Surveyor duly authorised by the Secretary, be substituted.
- (16) As prescribed by regulations made pursuant to section 243 or section 253, as the case may be.

Part III—Radio Officers

As prescribed by radio rules made pursuant to section 209.

Part IV—Supplementary Provisions

For the purposes of this Schedule—

1. A reference in Part I or Part II to a number in brackets (thus, (1)) is a reference to the paragraph so numbered in the 'Remarks' following that Part.
2. Where the number or grade of officers required by this Schedule to be provided in any ship, not being a fishing boat or a ship engaged in towing, exceeds that required to be provided in the same circumstances immediately before the commencement of this Schedule, the Secretary may, on application by the owner made not later than twelve months after the commencement of this Schedule, grant a permit to the owner to continue to employ the former number or grade of officers for such period as is specified in the permit.
3. Where the number of officers required by this Schedule to be provided in any ship is less than the number required to be carried in the same circumstances immediately before the commencement of this Schedule, the Secretary may, on application by an organisation representing the officers concerned made not later than twelve months after the commencement of this Schedule, and after consulting the owner, require that for such period as the Secretary specifies the ship shall continue to be provided with the number and grade of officers which she usually carried immediately before the commencement of this Schedule.

4. The holder of a certificate of competency issued under this Act (not being a certificate as second mate of home-trade ship) who immediately before the commencement of this Schedule held a certificate entitling him to be employed in any capacity and was employed in that capacity may, notwithstanding anything in this Schedule, continue to engage in the same capacity or, where he makes application to the Secretary not later than three years after the commencement of this Schedule, with the consent in writing of the Secretary endorsed on the certificate of competency, in any equivalent or approximately equivalent capacity for which this Schedule provides.

5. Where the Secretary refuses to grant his consent to any application under clause 4 of this Part, the applicant may, within three months after the date on which notice of that refusal is given to him, appeal against the decision to the Minister, and the decision of the Minister thereon shall be final.

6. In Part I of this Schedule—

(a) The grade of certificate specified in the first column of this paragraph shall be deemed to have the same value as the grade of certificate specified in the second column of this paragraph, namely:

1st Column	2nd Column
Master of ship under 25 register tons carrying cargo only	Master of small home-trade ship
Master of fishing boat	Skipper of home-trade fishing boat.
Master of restricted-limit motor ship not exceeding 10 register tons	Master of restricted-limit launch:

(b) Any person who at the commencement of this Schedule was the holder of a certificate as second mate of home-trade ship may continue to serve as mate on a ship where there is also a mate holding a certificate as mate of home-trade ship issued after the commencement of this Schedule or holding a certificate as first-mate of home-trade ship issued before the commencement of this Schedule.

7. In Part I of this Schedule, the expression 'terminal ports' means the port from which the ship first takes her departure and the last port at which she calls before commencing her return voyage, or the port from which the ship first takes her departure and the port thereafter at which the ship first spends not less than 24 hours, whichever is the shorter in intervening distance.

8. A fishing boat shall be deemed to be a foreign-going ship if, in the ordinary course of a voyage or excursion, she goes to sea more than 50 miles from the coasts of the North Island or the South Island (including Stewart Island) or from the Chatham Islands.

9. The entry of a foreign-going ship into home-trade waters or of a foreign-going or home-trade ship into restricted limits, in the course of a voyage to or from any port in New Zealand, shall not entitle the ship to depart from the scale of deck officers and engineroom officers manning usually appropriate to the ship: Provided that the Secretary may, on a particular occasion, approve the substitution of one or more officers having qualifications appropriate to the home trade or restricted limits, as the case may be.

10. (1) In Part II of this Schedule the symbols BHP stand for brake horsepower.

(2) For the purposes of Part II of this Schedule, the relationship between brake horsepower (BHP), nominal horsepower (NHP), and indicated horsepower (IHP) shall be deemed to be as follows:

$$\begin{aligned} \text{NHP} &= \frac{\text{BHP}}{5.6} \\ \text{BHP} &= 0.9 \times \text{IHP} \end{aligned}$$

11. The brake horsepower of a ship shall be deemed to be the aggregate power developed by the propelling engines as shown on the ship's certificate of registry. If the ship is not a registered ship the brake horsepower of the ship shall be deemed to be the aggregate brake horsepower reported by a Surveyor of Ships.

12. Where an engineer with qualifications proper for the ship and voyage is not available and it is provided that an engineer with lower qualifications may be substituted, the qualifications referred to need not necessarily be evidenced by a certificate of competency.

13. A requirement that an officer should hold a particular certificate of competency shall be deemed to be satisfied where—

- (a) The officer has held such a certificate but has, pursuant to regulations, surrendered it and been issued with a certificate of competency of a higher grade which he still holds; or
- (b) If the officer had held the requisite certificate, he would have been required by regulations to surrender it on obtaining his existing certificate of competency."