

[AS REPORTED FROM THE LABOUR AND MINING COMMITTEE]

*House of Representatives, 4 August 1965*

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

*Hon. Mr Scott*

## SHIPPING AND SEAMEN AMENDMENT

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### ANALYSIS

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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,  
5 as follows:

\*1957 Reprint, Vol. 14, p. 1

Amendments: 1959, No. 102; 1961, No. 100; 1962, No. 101; 1963, No. 129; 1964, No. 127

No. 31—2

*Price 1s.*

**1. Short Title**—This Act may be cited as the Shipping and Seamen Amendment Act 1965, and shall be read together with and deemed part of the Shipping and Seamen Act 1952\* (hereinafter referred to as the principal Act).

## PART I

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## SAFETY

**2. Commencement of this Part**—This Part of this Act shall come into force on a date to be fixed for the commencement thereof by the Governor-General by Order in Council.

*Construction, Equipment, and Survey*

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**3. Interpretation**—Section 2 of the principal Act is hereby amended by repealing the definition of the term “Safety Convention” in subsection (1), and substituting the following definition:

“‘Safety Convention’ means the International Convention for the Safety of Life at Sea, signed in London on the seventeenth day of June, nineteen hundred and sixty; and includes the Regulations annexed thereto:”.

**4. Construction and survey rules**—(1) The principal Act is hereby further amended by repealing section 195, and substituting the following section:

“195. (1) Without limiting the general power to make rules conferred by section 504 of this Act, rules (in this Act referred to, in the case of rules applying to passenger ships, as passenger ship construction and survey rules and, in the case of rules applying to cargo ships, as cargo ship construction and survey rules) may be made under that section prescribing the requirements that the hull, equipments, and machinery of ships to which section 197 of this Act applies, or of any class of such ships, shall comply with.

“(2) The rules shall include such requirements as appear to the Governor-General to implement the provisions of the Safety Convention prescribing the requirements that the hull, equipments, and machinery of ships shall comply with, except so far as those provisions are implemented by any other rules or regulations made under this Act.

“(3) Passenger ship construction and survey rules may require the provision in passenger ships of—

5 “(a) Plans exhibited as provided by or under the rules, and other information, relating to the boundaries of watertight compartments, the openings therein, the means of closing such openings, and the arrangements for correcting any list due to flooding; and

10 “(b) Information necessary for the guidance of the master in maintaining sufficient stability to enable the ship to withstand damage.

“(4) The powers conferred on the Governor-General by this section shall be in addition to the powers conferred by any other provision of this Act enabling him to prescribe the requirements that ships shall comply with.

15 “(5) If the passenger ship construction and survey rules or, as the case may be, the cargo ship construction and survey rules are contravened in any respect in relation to a ship, the owner (if in fault) and the master (if in fault) each commits an offence against this Act, and is liable on conviction on indictment to a fine not exceeding five hundred pounds.

20 “(6) A Surveyor of Ships may inspect any ship for the purpose of seeing that she complies with the provisions of the passenger ship construction and survey rules or, as the case may be, the cargo ship construction and survey rules, and for the purpose of that inspection shall have all the powers of a Marine Inspector under this Act.

25 “(7) If the Surveyor finds that the ship fails to comply with those provisions, he shall give to the owner or master notice in writing stating in what respect there has been failure to comply and what, in his opinion, is requisite to remedy the failure.

30 “(8) Every notice so given shall be communicated to the Collector of Customs at any port at which the ship may seek a clearance, and a clearance shall not be granted to the ship, which shall be detained until a certificate under the hand of a Surveyor is produced to the effect that the failure has been remedied.”

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

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“‘Cargo ship construction and survey rules’ means rules made pursuant to section 195 of this Act and applying to cargo ships:

“‘Passenger ship construction and survey rules’ means rules made pursuant to section 195 of this Act and applying to passenger ships.” 5

(3) The principal Act is hereby further amended—

(a) By repealing the definition of the term “construction rules” in subsection (1) of section 2:

(b) By omitting from subsection (1) of section 214 and also from subsection (2) the words “construction rules”, and substituting in each case the words “passenger ship construction and survey rules”: 10

(c) By omitting from section 217 the words “construction rules”, and substituting the words “passenger ship construction and survey rules or, as the case may be, cargo ship construction and survey rules”: 15

(d) By omitting from subsection (1) of section 227 the words “construction rules”, and substituting the words “passenger ship construction and survey rules, the cargo ship construction and survey rules”. 20

(4) The First Schedule to the Summary Proceedings Act 1957 is hereby amended by inserting in the appropriate columns of Part II, after the provisions relating to section 181 (10) of the principal Act, the following words: 25

“	195	Contravention of passenger ship construction and survey rules or cargo ship construction and survey rules”.	30
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**5. Recognition of certificates of survey granted in other countries**—Section 202 of the principal Act is hereby amended—

(a) By omitting from paragraph (a) of subsection (1) (as substituted by section 11 (1) of the Shipping and Seamen Amendment Act 1957) and also from paragraph (b) the word “passenger”: 35

(b) By inserting in paragraph (c) of the said subsection (1), after the words “New Zealand ship”, the words “or a Safety Convention ship”. 40

**6. Rules for lifesaving appliances**—(1) Section 203 of the principal Act is hereby amended—

- (a) By omitting from paragraph (e) of subsection (1) the words “carrying passengers”;
- 5 (b) By inserting in paragraph (p) of subsection (1), after the word “rules”, the words “and the maintenance”.

(2) Section 203 of the principal Act is hereby further amended by inserting in subsection (1), after paragraph (l),  
10 the following paragraph:

“(ll) The provision in ships of plans or other information relating to the means of preventing, detecting, controlling, and extinguishing outbreaks of fire:”.

**7. Radio rules**—(1) Section 209 of the principal Act is  
15 hereby amended by adding to subsection (5) the following paragraph:

“(d) Prescribe the requirements for such portable radio apparatus as boats or life rafts may be required to carry by the rules for lifesaving appliances.”

20 (2) Section 209 of the principal Act is hereby further amended by adding the following subsection:

“(9) Subsections (7) and (8) of this section shall apply in relation to the portable radio apparatus required to be carried by the boats or life rafts on any ship as they apply in relation  
25 to the radio installation of the ship.”

**8. Issue for cargo ships of safety construction certificates and exemption certificates**—(1) The principal Act is hereby further amended by inserting, after section 214, the following section:

30 “214A. (1) If the Minister, on receipt of a declaration of survey in respect of a cargo ship registered in New Zealand, is satisfied that the ship complies with the cargo ship construction and survey rules applicable to the ship and to such international voyages as she is to be engaged on, he shall, on  
35 the application of the owner, issue in respect of the ship a certificate showing that the ship complies with such of the requirements of the Safety Convention relating to those matters as are applicable as aforesaid. Any certificate issued under this subsection is in this Act referred to as a cargo ship  
40 safety construction certificate.

“(2) If the Minister, on receipt of a declaration of survey in respect of any such ship as aforesaid, is satisfied that the ship is exempt, by virtue of any exercise by him of a power in that behalf conferred on him by this Act or conferred on him by the cargo ship construction and survey rules, from any of the requirements of those rules applicable to the ship and to such voyages as she is to be engaged on, and that she complies with the rest of those requirements, he shall, on the application of the owner, issue in respect of the ship— 5

“(a) An exemption certificate stating which of the requirements of the Safety Convention, being requirements the subject of the rules and applicable as aforesaid, the ship is exempt from and that the exemption is conditional on the ship’s plying only on the voyages and complying with the other conditions (if any) specified in the certificate; and 10 15

“(b) A certificate showing that the ship complies with the rest of those requirements.

“(3) Any certificate issued under paragraph (b) of subsection (2) of this section is in this Act referred to as a qualified cargo ship safety construction certificate.” 20

(2) Section 2 of the principal Act is hereby further amended by inserting in subsection (1), after the definition of the term “cargo ship construction and survey rules” (as inserted by section 4 (2) of this Act), the following definition: 25

“‘Cargo ship safety construction certificate’ and ‘qualified cargo ship safety construction certificate’ have the respective meanings assigned thereto by section 214A of this Act:” 30

(3) Section 222 of the principal Act is hereby amended by repealing paragraph (b) of subsection (1), and substituting the following paragraph:

“(b) If she is a cargo ship—

“(i) A cargo ship safety construction certificate or a qualified cargo ship safety construction certificate; and 35

“(ii) A safety equipment certificate or a qualified safety equipment certificate; and

“(iii) A radio certificate or a qualified radio certificate or a radio exemption certificate:” 40

- (4) The principal Act is hereby further amended—
- (a) By inserting in the definition of the term “Safety Convention certificate” in subsection (1) of section 2, after the words “a safety certificate”, the words “a cargo ship safety construction certificate”:
- 5 (b) By inserting in the same definition, after the words “a radio certificate”, the words “a qualified cargo ship safety construction certificate”:
- (c) By inserting in section 217, after the words “short voyage safety certificate”, the words “cargo ship safety construction certificate”:
- 10 (d) By inserting in subsection (1) of section 224 (which subsection was substituted by section 44 of the Shipping and Seamen Amendment Act 1959), after the words “safety certificate”, the words “a cargo ship safety construction certificate”:
- 15 (e) By inserting in subsection (2) of section 226, after the words “safety certificate”, the words “or any cargo ship safety construction certificate”:
- 20 (f) By omitting from subsection (1) of section 227 the words “regulation fourteen”, and substituting the words “regulation 15 of Chapter I”:
- (g) By inserting in subsection (2) of section 227, after the words “safety certificate”, the words “any cargo ship safety and construction certificate”.
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**9. Issue of certificates by one Government at request of another**—Section 228 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

- 30 “(1A) Where the Minister under subsection (1) of this section requests the Government of a country to which the Safety Convention applies to issue in respect of a New Zealand ship such certificates as he is authorised to issue under subsection (2) of section 214, or subsection (2) of section 214A, or subsection (2) of section 215, or subsection (2) of section 216 of this Act, and that Government is willing to issue, in pursuance of that request, a qualified certificate thereunder but is not willing to issue the corresponding exemption certificate, the Minister may issue the exemption certificate in respect of the ship.”
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40 **10. Privileges of ships holding Convention certificates**—Section 233 of the principal Act is hereby amended by adding the following subsection:

“(3) Where there is produced in respect of a Safety Convention cargo ship, not being a New Zealand ship,—

- “(a) An accepted Safety Convention certificate equivalent to a cargo ship safety construction certificate; or  
 “(b) Accepted Safety Convention certificates equivalent respectively to a qualified cargo ship safety construction certificate and to a corresponding exemption certificate,— 5

the ship shall be exempt from the cargo ship construction and survey rules.”

**11. Information about ship’s stability**—Section 235 of the principal Act is hereby amended by repealing subsection (2), 10 and substituting the following subsections:

“(2) The said information shall be in such a form as may be approved by the Minister (who may approve the provision of the information in the form of a diagram or drawing only).

“(2A) Except as provided in subsection (2B) of this section, 15 the said information shall, when first supplied, be based upon the determination of the ship’s stability by means of an inclining test, and shall be replaced by fresh information whenever its accuracy is materially affected by alterations made to the ship; and in any such case the Minister may require a fresh 20 inclining test.

“(2B) The Minister may—

“(a) In the case of any ship, allow the said information to be based on the determination, by means of an inclining test, of the stability of a sister ship: 25

“(b) In the case of a ship specially designed for the carriage of liquids or ore in bulk, or of any class of such ships, dispense with an inclining test if he is satisfied, from the information available in respect of similar ships, that the ship’s proportions and 30 arrangements are such as to ensure more than sufficient stability in all probable loading conditions.”

*Miscellaneous Provisions*

**12. Report of dangers to navigation**—Section 296 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection: 35

“(1A) The matters of which information is to be sent by the master of a ship in accordance with rules made for the purposes of this section shall include— 40



“(a) Air temperatures below freezing point associated with gale force winds causing severe ice accretion on the superstructure of ships; and

5 “(b) Winds of force 10 or above on the Beaufort Scale for which no storm warning has been received.”

**13. Transitional provisions**—(1) Nothing in section 222 or section 234 of the principal Act shall prohibit a cargo ship from proceeding to sea without such a certificate as is required, or is equivalent to one required, under paragraph (b) of subsection (1) of section 222 of the principal Act (as substituted by section 8 (3) of this Act), until the expiry of two 10 years from the commencement of this Part of this Act.

(2) Without limiting the power to make regulations conferred by section 504 of the principal Act, regulations may be 15 made under that section providing that for such purposes, for such a period, and subject to such conditions as may be specified by or under the regulations,—

(a) Any country to which the International Convention for Safety of Life at Sea, signed in London on the tenth 20 day of June, nineteen hundred and forty-eight, applies shall be treated for the purposes of this Act as if it were a country to which the International Convention for the Safety of Life at Sea, signed in London on the seventeenth day of June, nineteen 25 hundred and sixty, applies; and

(b) Any certificate which immediately before the commencement of this Part of this Act was an accepted Safety Convention certificate within the meaning of Part IV of the principal Act as originally enacted 30 may be treated as if it were an accepted Safety Convention certificate within the meaning of the said Part IV as amended by this Part of this Act.

## PART II

### MISCELLANEOUS AMENDMENTS

**35 14. Manning of oil tankers**—(1) Section 17 of the principal Act is hereby amended by inserting, after subsection (1A) (as inserted by section 4 (1) of the Shipping and Seamen Amendment Act 1963), the following subsection:

40 “(1B) Every oil tanker (being a New Zealand ship) and every oil tanker engaged in the home trade (whether or not she is a Commonwealth ship), when plying or proceeding to

sea from any port in New Zealand or on any voyage or excursion on any river, lake, harbour, or other inland or coastal water of New Zealand, shall be provided with such duly certificated master and other duly certificated officers as the

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Minister, after consultation with organisations which appear to him to be representative of owners and officers concerned, prescribes from time to time by notice in the *Gazette*.”

*New*

Governor-General prescribes from time to time by Order in Council on the recommendation of the Minister, made after consultation by the Minister with organisations which appear to him to be representative of owners or charterers and officers concerned.”

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(2) Section 55 of the principal Act is hereby amended by inserting, after subsection (1A) (as inserted by section 4 (2) of the Shipping and Seamen Amendment Act 1963), the following subsection:

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“(1B) Every oil tanker (being a New Zealand ship) and every oil tanker engaged in the home trade (whether or not she is a Commonwealth ship) shall carry such numbers and categories of seamen as the

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*Struck Out*

Minister, after consultation with organisations which appear to him to be representative of owners and seamen concerned, prescribes from time to time by notice in the *Gazette*.”

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*New*

Governor-General prescribes from time to time by Order in Council on the recommendation of the Minister, made after consultation by the Minister with New Zealand maritime organisations which appear to him to be representative of seamen concerned and with organisations which appear to him to be representative of owners or charterers concerned.”

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

“‘In bulk’, in relation to oil, means carried in a hold or tank of a ship into which it is loaded and out of which it is discharged by a pipeline system:

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“ ‘Oil’ means oil of any description; and includes spirit produced from oil of any description:

“ ‘Oil tanker’ means a ship constructed or adapted for carrying a cargo of oil in bulk.”

5 (4) Section 17 of the principal Act (as amended by section 4 (3) of the Shipping and Seamen Amendment Act 1963) is hereby further amended—

(a) By inserting in subsection (1), after the words “not being a fishing boat”, the words “or an oil tanker”:

10 (b) By inserting in subsection (2), after the words “or subsection (1A)”, the words “or subsection (1B)”:

(c) By inserting in subsection (10), after the words “not being fishing boats”, the words “or oil tankers”.

15 4 (5) Section 55 of the principal Act (as amended by section 4 (3) of the Shipping and Seamen Amendment Act 1963) is hereby further amended—

(a) By inserting in subsection (1), after the words “not being a fishing boat”, the words “or an oil tanker”:

20 (b) By inserting in subsection (2), after the words “not being fishing boats”, the words “or oil tankers”:

(c) By inserting in subsection (4) and also in subsections (5), (7), and (8), after the words “subsection (1A)” wherever they occur, the words “or subsection (1B)”.

25 (6) This section shall come into force on a date to be appointed for the commencement thereof by the Governor-General, by Order in Council.

15. Certificates of competency—(1) Section 19 of the principal Act is hereby amended by inserting in subsection (1A) (as enacted by section 4 (1) of the Shipping and Seamen Amendment Act 1964), after paragraph (d), the following paragraph:

35 “(dd) Service certificates of like effect to the appropriate certificate of competency as first-class diesel trawler engineer or second-class diesel trawler engineer to persons who at the commencement of the Shipping and Seamen Amendment Act 1964 had served as engineer of a fishing boat for such period as is specified in the regulations.”

40 (2) Section 19 of the principal Act is hereby further amended—

(a) By inserting in paragraph (c) of the said subsection (1A), after the words “coastal fishing boat”, the words “or certificates of a higher grade”:

(b) By omitting from paragraph (d) of the said subsection (1A) the words "two years", and substituting the words "five years at sea of which at least two years were served".

(3) This section shall come into force on the date of the commencement of section 4 of the Shipping and Seamen Amendment Act 1964. 5

**16. Certification of fishing deck-hands**—(1) Section 50A of the principal Act (as inserted by section 5 of the Shipping and Seamen Amendment Act 1964) is hereby amended by adding to subsection (1) the following proviso: 10

"Provided that the regulations may authorise the grant of a certificate thereunder to any person, notwithstanding that he has not complied with the conditions as aforesaid, if he shows, in such manner as may be prescribed by the regulations, that he was serving on a fishing boat in a capacity equivalent to that of a qualified fishing deck-hand, or in an equivalent or superior deck rating, on a date specified in the regulations, or had so served at any time before that date." 15

(2) The said section 50A of the principal Act is hereby further amended by inserting, after subsection (1), the following subsection: 20

"(1A) For the purpose of granting certificates of competency as qualified fishing deck-hand to persons desirous of obtaining them, examinations may 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." 25

**17. Seamen engaged outside New Zealand and discharged in New Zealand for purposes of joining another ship**— Section 67B of the principal Act (as inserted by section 8 of the Shipping and Seamen Amendment Act 1963) is hereby amended by inserting, after subsection (5), the following subsection: 30

"(5A) Where any such seaman, having joined the ship of transfer pursuant to this section, deserts or absents himself without leave from that ship before she leaves her last port of call in New Zealand on that voyage, the provisions of section 158 of this Act shall apply as if he had been engaged on the ship of transfer elsewhere than in New Zealand." 35 40

**18. Safety Convention oil tankers may be exempted from certain provisions**—The principal Act is hereby further amended by inserting, after section 185, the following section:

5 “185A. (1) This section applies to oil tankers, being Safety Convention ships but not being New Zealand ships, when engaged in the home trade (*solely in*) for the sole purpose of carrying oil cargo in bulk or in proceeding in ballast from a port in New Zealand to another port in New Zealand.

10 “(2) The Minister may from time to time, upon such terms and conditions as he thinks fit, exempt any specified ship to which this section applies, or the owner or charterer, and the master, and crew thereof, from all or any of the provisions of this Part of this Act applying to home-trade ships.

15 “(3) Before first granting any exemption under this section, the Minister shall consult with such organisations as appear to him to be representative of owners or charterers of ships engaged in the home trade and of seamen employed in the home trade as to the (*general principles to be observed in granting such exemptions*) circumstances in which and the terms and conditions upon which such exemptions are to be granted.

20 “(4) Every exemption granted under this section shall continue in force for such period, not exceeding six months, as the Minister specifies:

25 “Provided that the Minister may, if he thinks fit, grant an extension of any such exemption for such period, not exceeding three months, as he thinks fit.

30 “(5) An extension of any exemption granted under this section may be granted, notwithstanding that the exemption has expired, provided application for the extension is received by the Secretary before the date when the exemption would expire. On any such extension being granted, the exemption shall be deemed always to have been in force:

35 “Provided that nothing in this subsection shall be deemed to authorise the granting of any extension beyond the period of three months after the date on which the exemption would expire.

40 “(6) Other than in exceptional circumstances no exemption shall be granted under this section in respect of the same ship more than once in any period of twelve consecutive months.

“ (7) The Minister may, by notice in writing to the master or owner or charterer of the ship or to the agent of the owner or charterer, modify or revoke any exemption granted under this section.

“(8) Where an exemption is granted under this section in respect of any ship, the owner or charterer of the ship shall, forthwith after the expiration of the period of exemption (including any extension of that period), notify the Secretary, in a form required by the Secretary, of the amount of oil carried by that ship in the home trade during that period.” 5  
*(and if he fails to do so he commits an offence against this Act.)*”)

**19. Extension of certificates**—Section 226 of the principal Act is hereby amended by inserting in subsection (1) (as substituted by section 45 (1) of the Shipping and Seamen Amendment Act 1959), after the words “The Secretary”, the words “or any Surveyor of Ships authorised by the Secretary, either by name or as the holder for the time being of any specified office in the Department,”. 15

**20. Survey of fishing boats**—Section 246 of the principal Act is hereby amended by adding the following subsections:

“(4) Where application is made for a first certificate of survey in respect of a fishing boat to which an Order in Council made pursuant to the first proviso to paragraph (a) of subsection (2) of this section applies, and a Surveyor of Ships is satisfied that survey facilities are not available to enable the fishing boat to be surveyed immediately, or for other sufficient cause, he may, by notice in writing to the owner, exempt the fishing boat from survey for such period, not exceeding twelve months from the date of the notice, as is specified therein. 20

“(5) Where any fishing boat is exempted from survey pursuant to subsection (4) of this section, the owner for the time being shall make the fishing boat available for survey on such date before the expiration of the period of exemption as is specified by notice in writing given to him by a Surveyor of Ships, and, if the owner fails to do so, a Surveyor of Ships, may, unless he is satisfied that the owner had reasonable cause for the failure, revoke the exemption by notice in writing to the owner.” 25 30 35

**21. Authority of Receiver of Wreck**—Section 342 of the principal Act is hereby amended by inserting in the proviso to subsection (5), before the words “the investigation of aircraft accidents”, the words “rescue operations involving aircraft or”. 40