

**1975/69**

## THE SHIPPING (ENGAGEMENT OF SEAMEN) REGULATIONS 1975

DENIS BLUNDELL, Governor-General  
ORDER IN COUNCIL

At the Government Buildings at Wellington this 7th day of April 1975

Present:

THE RIGHT HON. W. E. ROWLING PRESIDING IN COUNCIL

PURSUANT to sections 41A and 504 of the Shipping and Seamen Act 1952, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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### REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Shipping (Engagement of Seamen) Regulations 1975.

(2) Regulations 13 to 19 and regulation 22 of these regulations shall come into force on the 12th day of May 1975.

(3) Except as provided in subclause (2) of this regulation, these regulations shall come into force on the 8th day of April 1975.

**2. Interpretation**—In these regulations, unless the context otherwise requires,—

“The Act” means the Shipping and Seamen Act 1952:

“Chief Superintendent” means the person holding appointment in the Ministry of Transport as Chief Superintendent of Mercantile Marine:

“Employer”, in relation to any ship, means the person who is responsible for engaging the crew of that ship, whether he is the owner or a charterer of the ship or the agent of the owner or charterer:

“Employers’ representative” means a representative appointed by one or more employers or by any organisation of employers to act on their behalf for the purposes of these regulations:

“Engagement centre” or “place of engagement”, in relation to any port, means that part of the mercantile marine office or other premises at that port designated as such by the Superintendent at that port:

“Master”, in relation to any ship, has the same meaning as in section 2 of the Act; and includes any officer of the ship authorised by the master to act on his behalf for the purposes of these regulations:

“Seaman” means a person employed or to be employed as a seaman in the deck or engine-room department of any ship; and includes a crew attendant; but does not include an officer:

“Secretary” means the Secretary for Transport:

“Superintendent” has the same meaning as in section 2 of the Act; and includes any person authorised by the Secretary to act as a Superintendent for the purposes of these regulations:

“The Union” means the New Zealand Seamen’s Union Industrial Union of Workers:

“Union member” or “member” means a person who is a member of the Union:

“Union representative” means a representative appointed by the National Council of the Union to act on its behalf for the purposes of these regulations:

Other expressions defined in the Act have the meanings so defined.

**3. Application**—Pursuant to section 41A (3) of the Act (as inserted by section 6 of the Shipping and Seamen Amendment Act 1971), these regulations apply to—

(a) The following classes of ships specified in subsection (3) of the said section 41A (not being New Zealand Government ships):

(i) Any New Zealand ship:

(ii) Any ship engaged in the home trade:

(iii) Any ship other than a New Zealand ship where the agreement with the crew for the time being in force has been entered into in New Zealand,—

not being a ship of any of the classes specified in the Shipping (Engagement of Seamen) Exemption Notice 1975\* which pursuant to subsection (4) of the said section 41A the Minister has exempted from the provisions of these regulations or any other specified ship that pursuant to the said subsection (4) the Minister may from time to time exempt from the provisions of these regulations:

- (b) The following New Zealand Government ships:
- (i) Any seagoing New Zealand Government Railways ship:
  - (ii) GMV "Tangaroa":
  - (iii) GMV "Wairua":
  - (iv) GMV "James Cook":
  - (v) GMV "W. J. Scott":
- (c) Persons engaged or to be engaged as seamen on such ships, the employers in relation to such ships, and the masters of such ships.

**4. Registration ports, and administration of regulations—**(1) These regulations shall be administered by the Secretary, acting through the Chief Superintendent and Superintendents at the registration ports of Auckland, Tauranga, Wellington, Lyttelton, and Dunedin.

(2) The Chief Superintendent may, after consultation with representatives of the Union and employers,—

- (a) Declare additional ports to be registration ports, and the Superintendents at those ports shall administer these regulations; or
- (b) Declare any port not to be a registration port for the purposes of these regulations.

(3) Suitable premises shall be provided by the Superintendent at each registration port for use as an engagement centre.

**5. Appeals—**(1) Any dispute or question arising from a decision of the Chief Superintendent or a Superintendent made pursuant to these regulations in which there is a right of appeal to the Minister pursuant to these regulations shall forthwith be referred to the Secretary by the Chief Superintendent or the Superintendent, as the case may be, and no such right of appeal shall be exercised unless the Secretary has first notified the parties that the dispute or question has been referred to him and he has been unable to settle it to the satisfaction of the parties:

Provided that the right of appeal may be exercised if the Secretary has not given that notice within 21 days after the date on which the Chief Superintendent or the Superintendent, as the case may be, has notified the parties of his decision.

(2) In any case to which subclause (1) of this regulation applies, the time fixed by these regulations within which an appeal may be made to the Minister shall not commence to run until the Secretary has given notice to the parties pursuant to that subclause or, in any case to which the proviso to that subclause applies, until after the expiration of the period of 21 days specified in that proviso.

(3) Where any appeal under any provision of these regulations is made to the Minister or to a Superintendent after the expiration of the time for appealing fixed by these regulations, the Minister or the Superintendent, as the case may be, may in his discretion hear and determine the appeal as if it had been made within the time fixed.

**6. Registers of seamen and employers—**(1) The Chief Superintendent shall establish and maintain a Register of Employers, and Superintendents at each registration port shall establish and maintain in relation to that port a Register of Seamen.

(2) The Register of Employers shall contain a list of the ships and the numbers of the different categories of seamen required for each ship.

(3) The Register of Seamen shall be in 2 sections:

(a) Persons registered under these regulations in Register A:

(b) Persons registered under these regulations in Register B.

(4) The registers shall be available for inspection by a representative of the Union or of a registered employer during normal office hours.

**7. Registration of seamen—**(1) The following members of the Union shall be entitled to be registered in Register A established pursuant to regulation 6 of these regulations, namely:

(a) Every member who on the 8th day of April 1975 is employed on a ship to which these regulations apply, or is a person holding office as a member of the National Council of the Union and is engaged in shore employment as an officer of the Union:

(b) Every member who on the 8th day of April 1975 is on annual leave or time-off immediately following service in a ship to which these regulations apply:

(c) Subject to subclause (2) of this regulation, every member whose last employment before the 8th day of April 1975 on a ship to which these regulations apply was terminated because of illness or injury or suspension under section 40A of the Act:

(d) Subject to subclause (2) of this regulation, every member not referred to in paragraphs (a) to (c) of this subclause who is a member of the Union on the 8th day of April 1975 and is qualified to be employed on a ship to which these regulations apply.

(2) The Chief Superintendent, after consultation with representatives of the Union and of employers, may, in his discretion, refuse to register a Union member referred to in paragraph (c) or paragraph (d) of subclause (1) of this regulation if on the 8th day of April 1975 a period of 1 month has elapsed from—

(a) The date of recovery after illness or injury; or

(b) The date of expiration of annual or accumulated leave; or

(c) The date of last termination of employment; or

(d) The date on which a suspension under section 40A of the Act ceased to have effect,—

whichever last occurred, and the member during that period has not been employed on a ship.

(3) In exercising his discretion under subclause (2) of this regulation, the Chief Superintendent shall have regard to the question whether the member has been substantially engaged in the shipping industry during the 12 months ending with the 7th day of April 1975, and shall also have regard to the number of seamen required at that time in the industry.

(4) Where the Chief Superintendent refuses to register a seaman pursuant to subclause (2) of this regulation, the seaman shall have a right of appeal to the Minister, whose decision shall be final.

(5) The following persons shall be entitled to be registered in Register B established pursuant to regulation 6 of these regulations:

(a) Any seaman who qualifies for registration in Register A pursuant to subclause (1) of this regulation but does not wish to register in Register A, or whose registration in Register A has been refused pursuant to subclause (2) of this regulation:

- (b) Any seaman who does not qualify for registration in Register A pursuant to subclause (1) of this regulation and who wishes to obtain registration in Register A.
- (6) A seaman registered in Register A in accordance with subclause (1) of this regulation shall be so registered in respect of one of the registration ports specified in regulation 4 of these regulations as follows:
- (a) In the case of a seaman employed on a ship to which these regulations apply, at the home port of that ship or the registration port nearest thereto:
  - (b) In the case of a seaman on leave or time off from a ship to which these regulations apply, at the home port of that ship or the registration port nearest thereto:
  - (c) In the case of a seaman holding office as a member of the National Council of the Union and engaged in shore employment as an officer of the Union, at the registration port of his choice:
  - (d) In the case of a seaman registered under the provisions of subclause (1) (c) or subclause (1) (d) of this regulation, at the home port or registration port nearest thereto of the ship on which he was last employed:
- Provided that a seaman may apply to the Chief Superintendent to be registered in Register A at some other registration port, and the Chief Superintendent may allow that request if he is satisfied that that other registration port has been the port at which that seaman has normally been previously engaged for employment.
- (7) A seaman registered in Register B in accordance with subclause (5) of this regulation shall be so registered at the registration port of his choice.
- (8) Upon registration, a seaman shall be categorised by the Superintendent after consultation with the Union, and the category or categories in which he may be employed shall be recorded in the Register after his name.
- (9) Where a seaman on Register A satisfies the Superintendent at his registration port that he is entitled to be placed in a different category, the Superintendent shall adjust Register A accordingly.
- (10) For the purposes of this regulation the term "home port" in relation to a ship to which these regulations apply on the 8th day of April 1975, means the port at which the articles of agreement of that ship were last opened, and, in relation to a ship becoming subject to these regulations after the 8th day of April 1975, means the port which the employer designates as the home port for that ship.

**8. Registration of employers—**(1) The following employers to whom these regulations apply shall be registered in the Register of Employers established pursuant to regulation 6 of these regulations:

- (a) Every employer who on the 8th day of April 1975 employs seamen to whom these regulations apply:
  - (b) Every employer who after that date becomes an employer of seamen to whom these regulations apply.
- (2) Every registered employer shall give immediate notice in writing to the Chief Superintendent of any changes or impending changes known to the employer which affect or will affect the information required under regulation 6 (2) of these regulations.

(3) An employer who is registered in the Register of Employers and who ceases to employ seamen may terminate his registration on due notification to the Chief Superintendent and after payment of all financial contributions required of him pursuant to these regulations.

**9. Application for registration—**(1) Every seaman referred to in paragraph (a) or paragraph (b) of regulation 7 (1) of these regulations shall be registered in Register A in accordance with subclause (6) of that regulation at the registration port referred to in that subclause, on receipt by the Superintendent of an application for registration received at any registration port in New Zealand before the 1st day of May 1975.

(2) Subject to the provisions of subclause (2) of regulation 7 of these regulations, every seaman referred to in paragraph (c) or paragraph (d) of subclause (1) of that regulation shall be registered in Register A in accordance with subclause (6) of that regulation at the registration port referred to in that subclause if he applies to the Superintendent at that port on or before the 1st day of May 1975.

(3) Every person referred to in regulation 7 (5) of these regulations who makes application to a Superintendent shall be registered in Register B in the order of time in which the application is received.

(4) Every employer referred to in regulation 8 (1) (a) or regulation 8 (1) (b) of these regulations shall apply to the Chief Superintendent for registration before attempting to engage a seaman to whom these regulations apply. Such an application shall not be refused except in exceptional circumstances, and the employer may appeal against any such refusal to the Minister, whose decision shall be final.

(5) An application to the Minister by any employer who wishes any ship or ships to be exempted from the requirements of these regulations pursuant to section 41A (4) of the Act shall be lodged with the Chief Superintendent, and shall state the grounds on which the employer applies for exemption. The Chief Superintendent shall notify the employer of the Minister's decision.

(6) Every application under this regulation to the Chief Superintendent or to a Superintendent shall be made in writing, and if he so requires shall be made on a form provided or approved by him for the purpose.

**10. Quota of seamen—**(1) The Chief Superintendent shall call a meeting of representatives of the Union and of registered employers for the purpose of fixing the total number of seamen of various categories that it is necessary to register in Register A in order to meet the needs of the shipping industry. This total number shall be known as the New Zealand quota.

(2) The New Zealand quota shall be reviewed by representatives of the Union and of employers at intervals of not more than 6 months at one or more meetings of those representatives called by the Chief Superintendent.

(3) The Chief Superintendent shall give to the Union and to such organisations as in his opinion represent the employers to whom these regulations apply not less than 7 clear days' notice in writing of the date, time, and place of every meeting called by him under subclause (1) or subclause (2) of this regulation.

(4) The Chief Superintendent shall preside at every meeting under subclause (1) or subclause (2) of this regulation, and shall determine the procedure of the meeting.

(5) Subject to subclause (2) of this regulation, if—

(a) The representatives of the Union and of registered employers agree on the New Zealand quota, that quota shall be deemed for the purposes of these regulations to be the New Zealand quota; or

(b) The Chief Superintendent is satisfied that the representatives of the Union and of registered employers are unable to agree on that quota, or a representative of the Union or of registered employers fails to attend any meeting of which due notice has been given, the Chief Superintendent shall fix the New Zealand quota.

(6) Where under subclause (5) of this regulation the Chief Superintendent fixes the New Zealand quota, he shall give notice in writing thereof to the Union and to such organisations as in his opinion represent the employers to whom these regulations apply.

(7) Within 14 clear days after receiving any notice given under subclause (6) of this regulation, the Union or, as the case may be, any employer or organisation of employers may appeal to the Minister against the decision of the Chief Superintendent. In the event of any such appeal, the Minister, after consultation by him with representatives of the Union and of employers to whom these regulations apply, shall fix the quota in respect of which the appeal is made, and his decision shall be final.

(8) The number of seamen registered in Register A in relation to the New Zealand quota may be less or greater than the quota fixed pursuant to the foregoing provisions of this regulation in accordance with the provisions of regulation 11 or, as the case may be, regulation 12 of these regulations.

(9) All negotiations between the Union and employers in regard to the New Zealand quota shall be carried out between authorised representatives of the National Council of the Union and of the employers concerned.

**11. Registered number of seamen below quota—**(1) If the total number of seamen in any category registered in Register A is below the New Zealand quota for seamen of that category, the Chief Superintendent, after consultation with the Union representatives and with such employers' representatives as he considers necessary, may bring the number of seamen of that category on Register A up to the New Zealand quota by the transfer of seamen of that category from Register B to Register A, or by the registration of additional persons in Register A in accordance with the procedure prescribed by subclause (2) (c) of this regulation, unless either the Union or the employer asks for a review under regulation 10 of these regulations.

(2) Where the Chief Superintendent requires the Superintendent at any registration port to increase the number of seamen of any category on Register A for that port by a specified number, the Superintendent at that port shall—

- (a) Submit to the Union representative and to the employers' representative at that port for consideration the names of the seamen of the required category who are registered in Register B at that port in the order in which they are registered:
  - (b) If the number of seamen of the required category available from that Register B at that port is insufficient, request the Superintendents at other registration ports to submit the names of seamen of the required category who are on Register B at those ports and are prepared to transfer to the registration port at which Register A is to be increased, or to submit the names of other seamen of the required category who are not on Register B but who wish to be registered on Register A for the port at which Register A is to be increased:
  - (c) If the number of seamen becoming available under paragraph (a) or paragraph (b) of this subclause is insufficient, by public advertisement or other means, seek seamen of the required category for the purpose of considering them for admission to Register A.
- (3) The following provisions shall apply with respect to the admission of any seaman to Register A in accordance with this regulation, namely:
- (a) Before any seaman may be admitted to Register A, he shall produce to the Superintendent satisfactory evidence as to character in respect of the previous 12 months, and shall be approved of by a panel consisting of the Superintendent, a Union representative, and an employers' representative. If he is approved by the panel, he shall be admitted to Register A, and, if he is not already a member of the Union, he shall be admitted to membership of the Union in accordance with Union rules:
  - (b) If the Union representative or the employers' representative objects to the admission of that seaman to Register A, the representative objecting shall state his objections to the Superintendent and to the other representative and the Superintendent shall decide whether or not that seaman shall be admitted to Register A:
  - (c) The Superintendent shall give notice in writing of the refusal to every seaman whose admission to Register A has been refused under paragraph (b) of this subclause, and that seaman may, within 7 clear days after the giving of the notice, appeal in writing to the Minister against that refusal, stating in full the grounds for the appeal. The Minister, whose decision shall be final, may disallow the appeal or may direct that the seaman be admitted to Register A.
- (4) The admission of any seaman to Register A under the provisions of this regulation shall be for a probationary period of 6 months. At the expiration of that period, his registration may be cancelled if the Superintendent is of the opinion, either by complaint or otherwise, that the conduct of the seaman or his health or physical condition during that probationary period has been unsatisfactory.
- (5) The Superintendent shall give notice in writing of the cancellation to every seaman whose registration has been cancelled under subclause (4) of this regulation, and that seaman may, within 14 clear days after the giving of the notice, appeal to the Minister against the



cancellation, stating in full the grounds of the appeal. On any such appeal, the Minister, whose decision shall be final, may confirm the cancellation or direct that that seaman's name shall be restored to the register.

**12. Registered number of seamen in excess of New Zealand quota—**

(1) A seaman of any category—

- (a) Who has been registered in Register A at any registration port in accordance with the provisions of regulation 7 of these regulations; and
- (b) Whose registration has not at any time been suspended under regulation 20 (3) (b) of these regulations; and
- (c) Who has remained registered in that Register A since the date of his registration—

shall not be removed from that register or be required to cancel his registration for the reason that the total number of seamen of that category on Register A is in excess of the New Zealand quota.

(2) Subject to the provisions of subclause (1) of this regulation, if the total number of seamen of any category registered in Register A is in excess of the New Zealand quota, the Chief Superintendent shall notify the Union and the employers, and, unless the representatives of the Union and the employers agree that notice of cancellation of registration shall not be given and notify the Chief Superintendent accordingly, the Chief Superintendent shall give not less than 3 months' notice in writing of cancellation of registration to the number of seamen who are registered in excess of the New Zealand quota. Any such notice shall, unless the Union and the employers agree and request to the contrary, be given on the basis that the seamen who last registered shall be the first to have their registration cancelled.

(3) Where any seaman has been registered in Register A more than once, then, for the purposes of subclause (2) of this regulation, he shall be deemed to have been registered on the date on which he was last registered.

(4) If any seaman's registration is cancelled under subclause (2) of this regulation and he elects to have his name placed on Register B, he shall be given the right to have his name placed on Register B at the port of his choice. The Superintendent at that port shall place the seaman's name above the names of seamen who have not previously been on Register A.

**13. Daily record of seamen available for employment—**The Superintendent at each registration port shall maintain the daily record of all seamen in Register A at that port who are available for employment. The order in which seamen appear in the daily record of seamen shall be the order of time in which they become available for employment in accordance with regulation 14 of these regulations.

**14. Seamen to report to Superintendent for employment—**(1) When a seaman registered in Register A serving on a ship is discharged from that ship at a New Zealand port, he shall forthwith report to the Superintendent at that port, or if there is no Superintendent available at that port, to either the Superintendent at the port nearest to that port or to the Superintendent at the seamen's registration port.

(2) When a seaman registered in Register A serving on a ship is discharged from that ship at any overseas port, he shall report to a Superintendent forthwith upon arrival at a New Zealand port.

(3) Where a seaman has reported to a Superintendent pursuant to subclause (1) or subclause (2) of this regulation,—

(a) His name, the name of his registration port, and the date when he will be available for further employment shall be recorded by the Superintendent who, if he is not the Superintendent at the seaman's registration port, shall notify the Superintendent at the seaman's registration port, who shall record the date on which the seaman is next required to make himself available for employment at that port; and

(b) Either—

(i) The Superintendent to whom the seaman has reported shall give to the seaman notice as to the date when he is next required to make himself available for employment at the port at which he is registered; or

(ii) Where in any case discharge has been for the purpose of taking leave and arrangements have been made for continuation of employment in that ship, the Superintendent shall notify the seaman when he is to resume employment.

(4) Where any seaman discharged for purposes of leave under subclause (3) (b) (ii) of this regulation decides not to resume employment in the ship from which he has been discharged or circumstances arise which would prevent him from rejoining that ship at the notified time, he shall forthwith notify the Superintendent at his registration port of that decision or those circumstances, and that Superintendent shall notify the seaman of the date on which he is next required to make himself available for employment at his registration port.

(5) If a seaman fails to report to a Superintendent upon his discharge or to supply any information required under subclause (4) of this regulation, the Superintendent shall—

(a) Record the required details on the basis of information extracted from the ship's articles of agreement and the account of wages or, failing this, as supplied by the employer or his representative; and

(b) Where he is not the Superintendent at the seaman's registration port, notify the details to the Superintendent at the seaman's registration port; and

(c) Give to the seaman notice as to the date when he is next required to make himself available for employment at his registration port.

(6) When a seaman has been granted release from his obligations for any period pursuant to regulation 15 of these regulations, the Superintendent at the seaman's registration port shall give to the seaman notice as to the date on which he is required to make himself available for employment.

(7) When a seaman registered in Register A is unfit for work through sickness or injury, he shall forthwith inform the Superintendent at the nearest port of the circumstances, and shall supply such medical certificates as may be required by the Superintendent, and the Superintendent shall give notice to the seaman as to the date on which he is required to make himself available for employment.

(8) When any seaman who is registered on Register A holding office as a member of the National Council of the Union ceases to be engaged in shore employment as an officer of the Union, he shall forthwith notify the Superintendent at his registration port, and the Superintendent shall give notice to the seaman as to the date on which he is next required to make himself available for employment.

(9) If on the 12th day of May 1975 a seaman registered in Register A is on annual or accumulated leave or is working by a ship or is not employed, he shall forthwith report to a Superintendent, who shall give the seaman notice as to the date on which he is required to make himself available for employment.

(10) If a seaman terminates service on a ship other than by being discharged, or if a seaman fails to report to or notify a Superintendent as required under this regulation, or fails to inform the Superintendent as to sickness or injury or fails to furnish medical certificates pursuant to subclause (7) of this regulation, the Superintendent shall on the basis of information from any other sources determine the date on which the seaman is required to make himself available for employment and notify the seaman as to that date.

**15. Leave of absence and release from obligations—**(1) The Superintendent at the seaman's registration port shall consent to the release for a specified period from obligations under these regulations of a seaman registered in Register A at that port, unless the Superintendent considers that the granting of such release may result in insufficient seamen being available for the manning of ships or require an increase in the registrations in Register A, having regard to the availability of seamen at that port or adjacent ports.

(2) Where a seaman seeks release and the Superintendent refuses to grant such release, the seaman may, within 7 clear days after notice of that refusal has been given to him, appeal in writing against the refusal to the Chief Superintendent. The Chief Superintendent may disallow the appeal, or may direct that the seaman be released from his obligations for the period applied for or for any shorter period.

**16. Allocated persons: right to claim discharge—**(1) Notwithstanding the provisions of any agreement with the crew, where a person has been allocated to a position on a ship, he shall, unless the agreement sooner expires, be entitled to claim discharge only after completing at least 4 weeks' continuous service in that ship or such lesser period as has been specified by the Superintendent at the time of allocation.

(2) A person becoming entitled to claim discharge under the provisions of subclause (1) of this regulation shall be discharged at a port in New Zealand upon giving not less than 24 hours' proper notice, and the provisions of the agreement which would apply at a closure of articles shall apply in respect of that discharge.

**17. Daily record of ships requiring seamen—**(1) The Superintendent at each registration port shall maintain a daily record of ships at that port requiring seamen in the order of their priority for requiring positions to be filled.

(2) The employers at the port shall notify the Superintendent daily of the ships at that port requiring seamen, together with the requirement for seamen for manning those ships and their requested priority for filling particular positions in those ships.

(3) The representative of any registered employer may on any day require that the Superintendent shall show to him the priority established by the Superintendent for that day. If he disagrees with that priority, he shall state his reasons, and the Superintendent may, after consulting such persons as he considers necessary, alter the priority for that day.

**18. Availability for employment, and attendance for engagement—**

(1) Every seaman registered on Register A at any registration port shall make himself immediately available for engagement at that port in employment in work of appropriate category, or such employment at other ports as may be determined by the Superintendent, on the date determined under regulation 14 of these regulations.

(2) Every seaman registered on Register A at any registration port who is suspended under any of the provisions of regulation 20 of these regulations shall make himself available for engagement in accordance with subclause (1) of this regulation immediately after the termination of his period of suspension.

(3) Every seaman registered on Register A who is required to make himself available for employment pursuant to subclause (1) or subclause (2) of this regulation shall, unless otherwise notified by the Superintendent, attend the engagement centre for engagement in employment on the day determined under regulation 14 of these regulations and on each succeeding day (excluding Saturdays, Sundays, and days declared holidays under the current industrial award or agreement) at the time required by the Superintendent. The Superintendent shall ensure that sufficient seamen in each category likely to be required on each day are informed of the need to attend the place of engagement, but no more than the number reasonably necessary shall be required to attend in person at the place of engagement. The means used by the Superintendent to inform the seamen who are required to attend shall be in his discretion.

(4) A seaman who is required to attend a place of engagement shall remain there until released by the Superintendent.

(5) The Superintendent at each registration port may, after consultation with representatives of the Union and of employers, require any seamen registered in Register A at that port to make themselves available for engagement if called upon on any specified Saturday, Sunday, or day declared a holiday under the current industrial award or agreement. Those seamen, if not engaged on a ship, shall be entitled to stand-by pay at the rate prescribed in the current award for each such day on which they are required to make themselves available. In every such case the appropriate money shall be payable by the employer who required them to be available.

**19. Choice of and allocation to employment—**(1) Subject to the provisions of subclauses (2) to (5) of this regulation, seamen registered in Register A at any port may, in the order in which they appear in the daily record of seamen for that port, choose the jobs in the daily record of ships for which they are qualified, and shall be engaged in accordance with their choice:

Provided that no seaman shall be entitled to choose a stand-by job while other jobs remain unfilled.

(2) If there is a sufficient number of seamen of a particular category in the daily record of seamen to fill all jobs for seamen of that category in the daily record of ships but all such jobs are not filled by choice from among the seamen available, the Superintendent shall allocate to the unfilled jobs those seamen registered in Register A who are qualified to be employed as seamen in that category and have not chosen a job. That allocation shall be made in the order in which the names of those seamen appear in the daily record of seamen and in the order in which the unfilled jobs appear in the daily record of ships.

(3) If there is not a sufficient number of seamen in the daily record of seamen at a port to fill all jobs for seamen of a particular category in the daily record of ships at that port, then, unless the representatives of the Union and of the employers agree otherwise,—

(a) Each of the available seamen in order of appearance in the daily record of seamen may make a choice from the limited number of the jobs for which he is qualified in the order in which those jobs appear in the daily record of ships. The number of jobs from which the choice may be made shall be limited by the Superintendent to a number equivalent to the number of seamen available for engagement:

(b) If all jobs available to be chosen under paragraph (a) of this subclause are not filled by choice, the remaining seamen in the order in which they appear in the daily record of seamen shall be allocated by the Superintendent to the unfilled jobs on the ships in the order in which those jobs appear in the daily record of ships.

(4) If an employer or master refuses to accept any seaman for engagement, he shall state his objection to the Superintendent in the presence of that seaman, and, if that seaman so requests, in the presence of a Union representative. If the objection is upheld by the Superintendent, another seaman shall be offered the job by choice or be allocated by the Superintendent to the employer or master. If the objection is not upheld by the Superintendent, the employer or master shall accept that seaman for engagement.

(5) If a seaman objects to the engagement for which he is allocated by the Superintendent, he shall state his objection to the Superintendent, and, if the objection is upheld by the Superintendent, another seaman shall be offered the job by choice or be allocated by the Superintendent to the job. If the objection is not upheld by the Superintendent, the seaman shall accept engagement on that ship for a period of not less than 4 weeks or such lesser period as the Superintendent specifies.

(6) Every seaman who pursuant to any of the provisions of subclauses (1) to (5) of this regulation has chosen a job on a ship or has been allocated to a job on a ship by a Superintendent commits an offence if without reasonable cause he refuses or fails to join that ship at the time he is required to be aboard.

(7) The employer and the master of any ship to which these regulations apply commits an offence if without reasonable cause he refuses or fails to employ or engage on his ship a seaman who has chosen or been allocated a job on that ship pursuant to any of the provisions of subclauses (1) to (5) of this regulation.

(8) The employer and the master of any ship to which these regulations apply commits an offence if he employs or engages in New Zealand any seaman otherwise than in accordance with the procedures prescribed in these regulations.

(9) If more than one seaman refuses allocation under this regulation to a job on a ship, the Superintendent may, after consultation with the representatives of the Union and of the employers, remove the ship on which the job is available from the daily record of ships requiring seamen, or may change the order of priority of that ship in the daily record.

**20. Suspensions and removals from register—**(1) The Superintendent, after consultation with the Union representatives and the employers' representatives, and where practicable after giving the seaman concerned an opportunity to be heard by the Superintendent and the representatives of the Union and of the employers, shall warn or suspend from Register A for not more than 14 days any seaman who—

(a) Refuses or fails, without reasonable cause, to attend the place of engagement and make himself available for employment in accordance with subclause (1) or, as the case may be, subclause (2) of regulation 18 of these regulations; or

(b) Having chosen a job on any ship or having been allocated to a job on any ship by a Superintendent, refuses or fails, without reasonable cause, to join that ship at the time he is required to be aboard.

(2) The Superintendent shall give to any seaman who is suspended pursuant to subclause (1) of this regulation notice in writing of the suspension, and the seaman may, within 14 clear days after the receipt of the notice, make application in writing to the Chief Superintendent for the cancellation or a reduction of the period of his suspension. The Chief Superintendent, whose decision shall be final, may disallow the appeal or direct that the suspension be cancelled or the period of suspension reduced.

(3) The Superintendent shall suspend from Register A any seaman—

(a) Whose discharge has been withheld pursuant to section 59 of the Act, for the period that the discharge is withheld:

(b) Who is a suspended person pursuant to the said section 40A of the Act, for the period of his suspension under that section:

(c) Who is released from his obligations in accordance with regulation 15 of these regulations, for a period of not more than 6 months:

(d) Who is for the time being medically unfit for engagement:

(e) Who is a member of the National Council of the Union and is engaged in shore employment as an officer of the Union.

(4) The Superintendent shall remove from Register A—

(a) The name of any seaman who is released from his obligations in accordance with regulation 15 of these regulations, if the release is of more than 6 months' duration:

(b) The name of any seaman who voluntarily terminates his registration in Register A, or who, not having been granted leave of absence or release from his obligations, fails to make himself available for engagement for employment in accordance with regulation 18 of these regulations for a period of not less than 30 days:

- (c) The name of any seaman who is declared by a registered medical practitioner to be permanently unfit for employment at sea;
  - (d) The name of any seaman who reaches the age of 65 years;
  - (e) The name of any seaman whose registration is cancelled under regulation 11 (4) or regulation 12 of these regulations;
  - (f) The name of any seaman who is deceased.
- (5) Where pursuant to subclause (3) of this regulation any seaman is suspended from Register A,—
- (a) He shall not be eligible for employment on any ship to which these regulations apply during the period of his suspension; and
  - (b) At the expiration of his period of suspension his name shall be restored to Register A in the order in which it would have appeared if he had been first registered in that register on the date of expiration of that period.

**21. Change of registration port**—A seaman who wishes to change his registration port shall apply to the Chief Superintendent, who shall arrange the transfer provided he is satisfied that there is adequate employment offering at the port to which the seaman wishes to be transferred.

**22. Attendance money**—(1) Every seaman shall be paid attendance money for each day on which he makes himself available for employment in accordance with regulation 18 of these regulations.

(2) Attendance money shall not be paid under this regulation—

- (a) For any day for which the seaman receives wages (including leave and time-off pay), or benefits or compensation while unfit for work through illness or injury; or
- (b) For any day for which a seaman receives stand-by pay under regulation 18 (5) of these regulations; or
- (c) For any day for which the seaman has been suspended under regulation 20 of these regulations; or
- (d) For any day on which a seaman does not accept engagement when a vacancy is available, and for any day on which he subsequently makes himself available for engagement up to the time when he joins a ship.

(3) Attendance money payable under subclause (1) of this regulation shall be paid out of the Seamen's Employment Fund established by regulation 23 of these regulations.

(4) The amount of attendance money to be paid in accordance with this regulation shall be prescribed from time to time by the Minister by notice in the *Gazette*, after consultation with the Union representatives and the employers' representatives.

(5) Payment of attendance money to seamen in Register A shall be made by the Superintendent at the registration port either weekly or on engagement of the seaman for employment on a ship to which these regulations apply. Payment may be made directly to the seaman or be sent by post to him, or may be made to any appointed agent of the seaman.

(6) From any attendance money payable under this regulation there shall be deducted before payment—

- (a) Any tax deductions required to be made under Part II of the Income Tax Assessment Act 1957:

- (b) Any deductions required to be made therefrom pursuant to any Act, or authorised by the seaman to be made, as contributions to any superannuation scheme:
- (c) Any amounts authorised by the seaman to be deducted as contributions to any welfare fund.

**23. Seamen's Employment Fund—**(1) There is hereby established a fund to be known as the "Seamen's Employment Fund" (hereinafter referred to as the Fund), which shall be under the control of the Secretary. The Secretary may authorise Superintendents or other officers of the Department to operate the Fund for the purposes of receipts and disbursements pursuant to the provisions of these regulations.

(2) The Minister shall, after consultation with registered employers, determine the amounts of money which are to be contributed to the Fund by registered employers at periods fixed by the Minister. The amount of such contributions shall be reviewed annually or at such shorter intervals as the Minister thinks fit, in order to maintain an adequate amount of money in the Fund.

(3) The amount of the contributions required under subclause (2) of this regulation shall be such as in the opinion of the Minister will provide for—

- (a) The payment of attendance money in accordance with regulation 22 of these regulations; and
- (b) Incidental expenses in administering these regulations; and
- (c) The payment of the employers' contribution in respect of any approved superannuation or welfare scheme for the days for which attendance money is paid.

(4) The Minister may from time to time authorise the Secretary to refund out of the Fund to registered employers or the owners of ships which have been exempted from the requirements of these regulations or to employers on the termination of their registration the whole or such part as the Minister thinks fit of any contributions made by them to the Fund.

(5) If a registered employer fails or refuses to make any financial contribution required of him pursuant to this regulation, the Minister may direct that that employer shall be removed from the Register of Registered Employers.

(6) The Minister shall cause to be published and distributed to registered employers at intervals of not more than 12 months a statement as to the receipts and payments of the Fund.

(7) Any registered employer may, by arrangement with the Secretary, inspect the books recording the financial transactions of the Fund.

**24. Accounts, audit, and banking of Fund—**(1) The Secretary shall keep in such manner as may be directed by the Audit Office full and proper accounts of all money received and expended for the purposes of the Fund, and the accounts shall be audited by the Audit Office, which shall for that purpose have the same powers as it has under the Public Revenues Act 1953 in respect of public money and stores.

(2) The Secretary to the Treasury shall establish an account, to be called the Seamen's Employment Fund Trust Account (hereinafter referred to as the Fund Account), at such bank as he from time to time decides.



(3) All money forming part of the Fund shall, as soon as practicable after it is received by the Secretary for Transport or any other officer of the Department, be paid into the Fund Account.

(4) The Fund Account may be operated on only by cheque or other instrument signed by the Secretary, or by any other officer of the Department who is authorised by the Secretary to sign such cheques or instruments.

**25. Notices**—Any notice required to be given to any person by a Superintendent under any provision of these regulations shall be in writing, and may be given either by delivering it to that person personally or by posting it addressed to him at his last-known address.

**26. Offences and penalty**—(1) As provided in section 41A (5) of the Act, every person commits an offence who does any act in contravention of or fails to comply with any provision of these regulations.

(2) Subject to section 41A (6) of the Act, any person who commits any such offence is liable on summary conviction to the penalty specified in section 480 (2) of the Act, namely a fine not exceeding \$1,000.

P. G. MILLEN,  
Clerk of the Executive Council.

#### EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations establish an engagement system for the engagement of seamen (other than officers) in the deck and engine-room departments of ships to which the provisions of section 41A of the Shipping and Seamen Act 1952 (inserted by section 6 of the Shipping and Seamen Amendment Act 1971) apply. That section applies to all New Zealand ships (including New Zealand Government ships specified in the regulations), home-trade ships, and ships other than New Zealand ships where the agreement with the crew has been entered into in New Zealand.

Pursuant to section 41A, these regulations are declared to apply to seagoing New Zealand Government Railways ships, and other specified Government ships.

The regulations include provision for the following matters:

- (a) The establishment of registers of owners and of seamen.
- (b) There are to be 2 registers of seamen, Register A and Register B. There is provision for seamen in Register B to transfer to Register A.
- (c) Fixing a New Zealand quota of seamen.
- (d) Providing that seamen registered in Register A are to make themselves available for engagement in work of appropriate category on ships requiring seamen. Seamen will have a choice of jobs in the order in which their names appear on a daily record, and, if all jobs are not filled by choice, the Superintendent is to allocate seamen to the jobs not filled.
- (e) The hearing of objections by seamen refused registration or objecting to being allocated to a particular ship, and of objections by the owner or master of a ship objecting to the engagement of a particular seaman on that ship.
- (f) The suspension of seamen from registration upon failure to attend an engagement centre or refusing to accept engagement or to join a ship, and the right of a seaman to appeal against that suspension.
- (g) The suspension or removal from registration of seamen who are suspended persons pursuant to section 40A of the Act or whose discharges have been withheld pursuant to section 59 of the Act.
- (h) The payment of attendance money to seamen registered in Register A.

- (i) The payment of financial contributions by registered employers to a Seamen's Employment Trust Fund to enable the payment of attendance money to seamen, to meet the cost of administering the engagement system, and to pay the employers' contributions in respect of any approved superannuation or welfare scheme for the days for which attendance money is paid.
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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 7 April 1975.

These regulations are administered in the Ministry of Transport.