

# NAVIGATION.

**No. 36 of 1958.**

**An Act to amend the *Navigation Act* 1912-1956, and for other purposes.**

[Assented to 27th May, 1958.]

**BE** it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

**Short title  
and citation.**

1.—(1.) This Act may be cited as the *Navigation Act* 1958.

(2.) The *Navigation Act* 1912-1956\* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Navigation Act* 1912-1958.

**Commence-  
ment.**

2.—(1.) Sections one and two of this Act shall come into operation on the day on which this Act receives the Royal Assent and the other sections of this Act shall come into operation on such dates as are respectively fixed by Proclamation.

(2.) Each Part, Division or section inserted in the Principal Act by a section of this Act shall come into operation on the date on which the last-mentioned section comes into operation.

**Application to  
British ships  
on round  
voyages.**

3. Section one A of the Principal Act is repealed.

**Application  
of Act.**

4. Section two of the Principal Act is amended by omitting sub-section (2.).

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\* Act No. 4, 1913, as amended by No. 32, 1919 ; No. 1, 1921 ; No. 8, 1925 ; No. 8, 1926 ; No. 49, 1934 ; No. 30, 1935 ; No. 1, 1943 ; No. 80, 1950 ; No. 109, 1952 ; No. 96, 1953 ; and No. 46, 1956.

5. Section three of the Principal Act is repealed and the following sections are inserted in its stead :—

“ 2A. This Act binds the Crown in right of the Commonwealth or of a State and any authority constituted by or under a law of the Commonwealth or of a State or Territory of the Commonwealth. Application of Act to Crown.

“ 3. Except where the contrary intention appears, this Act does not apply to or in relation to a vessel belonging to the Commonwealth Naval Forces or to the naval forces of any other country, including a foreign country.”. Act does not apply to naval ships.

6. Section five of the Principal Act is repealed and the following section inserted in its stead :—

“ 5. This Act is divided into Parts, as follows :— Parts.

Part I.—Introductory (Sections 1–9).

Part II.—Masters and Seamen.

Division 1.—General (Sections 10–12).

Division 2.—The Superintendent (Section 13).

Division 3.—Officers (Sections 14–26).

Division 4.—Supplying Seamen (Sections 28–32).

Division 5.—Apprentices (Sections 34–38).

Division 6.—Rating of Seamen (Sections 39–42).

Division 7.—The Crew (Sections 43–45).

Division 7A.—Approval of Engagements of Seamen (Sections 45A–45C).

Division 8.—The Agreement (Sections 46–60A).

Division 9.—Discharge of Seamen (Sections 61–68).

Division 10.—Seamen's Wages (Sections 69–94).

Division 12.—Discipline (Sections 99–115).

Division 13.—Provisions (Sections 116–122).

Division 14.—Health (Sections 123–133).

Division 15.—Accommodation (Sections 135–138B).

Division 16.—Protection of Seamen (Sections 139–148D).

Division 17.—Property of Deceased Seamen (Sections 149–160).

Division 18.—Relief to Seamen's Families (Sections 161–162).

Division 19.—Relief and Maintenance of Distressed Seamen (Sections 163–163A).

Division 20.—The Master (Sections 164–169).

Division 21.—The Log (Sections 170–175).

Part III.—Foreign Seamen (Sections 177–186).

Part IV.—Ships and Shipping.

Division 1.—General (Sections 187–192B).

Division 2.—Surveys of Steamships and Survey Certificates (Sections 193–206).

Division 2A.—Sailing Ships (Section 206B).

Division 2B.—Safety Convention Certificates (Sections 206C–206S).

- Division 3.—Unseaworthy Ships (Sections 207–214).
- Division 4.—Life-saving Appliances and Fire Protection (Sections 215–217).
- Division 5.—Deck and Load Lines (Sections 218–227).
- Division 6.—Signals of Distress (Sections 228–230).
- Division 6A.—Radio Equipment (Sections 231–231F).
- Division 7.—Compasses (Sections 232–234).
- Division 8.—Collision, Boat, and Fire Drills (Section 235).
- Division 9.—Anchors, Chain Cables, and Gear (Sections 236–247).
- Division 10.—Dangerous Goods, Livestock, Grain, Deck and other Cargoes (Sections 248–257).
- Division 11.—Lights, Signals, and Sailing Regulations (Sections 258–265A).
- Division 13.—Report of Accidents and of Dangers to Navigation (Sections 268–269A).
- Part V.—Passengers (Sections 270–283).
- Part VI.—The Coasting Trade (Sections 284–293A).
- Part VII.—Wrecks and Salvage.
  - Division 1.—Interpretation (Sections 294–295).
  - Division 2.—Wreck (Sections 296–314).
  - Division 3.—Salvage (Sections 315–317A).
  - Division 4.—Procedure in Salvage (Sections 318–327).
  - Division 5.—Jurisdiction in Salvage (Section 328).
  - Division 6.—Removal of Wreck (Section 329).
  - Division 7.—Salvage Claims by and against the Crown (Sections 329A–329C).
- Part VIII.—Limitation of Liability in respect of Government Ships (Sections 330–336).
- Part IX.—Courts of Marine Inquiry (Sections 356–377A).
- Part X.—Legal Proceedings.
  - Division 1.—Jurisdiction (Sections 378–385).
  - Division 2.—Offences (Sections 386–391).
  - Division 3.—Prosecution and Penalties (Sections 392–399).
  - Division 4.—Evidence and Service (Sections 400–405).
  - Division 5.—Proceedings against the Crown (Section 405A).
- Part XI.—Miscellaneous (Sections 406–425).".

7. Section six of the Principal Act is repealed and the following sections are inserted in its stead :—

**Interpretation.**

“ 6.—(1.) In this Act, unless the contrary intention appears—  
 ‘ agreement ’, in relation to a ship, means the agreement between the master of the ship and the crew of the ship and, in relation to a seaman belonging to a ship, means the agreement between the master of the ship and the seaman ;

- ‘apprentice’ means a person bound by indentures of apprenticeship to the sea service ;
- ‘articles of agreement’ has the same meaning as agreement ;
- ‘Australian-trade ship’ means a ship (other than a foreign-going ship, a limited coast-trade ship or a river and bay ship) employed in trading or going between places in Australia ;
- ‘British ship’ includes a ship registered in a Commonwealth country or a ship recognized by the law of a Commonwealth country as a ship belonging to that country ;
- ‘Collector’ means a Collector of Customs or other principal officer of Customs doing duty at a port under the *Customs Act 1901–1957* ;
- ‘Commonwealth country’ means—
  - (a) Australia, the United Kingdom, Canada, New Zealand, the Union of South Africa, India, Pakistan, Ceylon, Ghana and Malaya; and
  - (b) any other country declared by the regulations to be a Commonwealth country,and includes—
  - (c) a colony, overseas territory or protectorate of a country specified in paragraph (a) of this definition or of a country declared to be a Commonwealth country under paragraph (b) of this definition; and
  - (d) a territory for the international relations of which a country so specified or declared is responsible;
- ‘consul’ includes consul-general, vice-consul, pro-consul and consular agent ;
- ‘Deputy Director’ means a Deputy Director of Navigation and includes the Director ;
- ‘diplomatic or consular representative of Australia’ means a person appointed to hold, or to act in, any of the following offices (being an office of the Commonwealth) in a country or place outside Australia:—
  - (a) ambassador ;
  - (b) minister ;
  - (c) head of mission ;
  - (d) chargé d’affaires ; and
  - (e) consul ;
- ‘discharge’ means the certificate of discharge given to a seaman upon his discharge from a ship ;
- ‘effects’ includes documents ;
- ‘equipment’, in relation to a ship, includes every thing or article belonging to or to be used in connexion with, or necessary for the navigation and safety of, the ship and, in particular, includes boats, tackle, pumps, apparel,

furniture, life-saving appliances, spars, masts, rigging, sails, fog signals, lights, signals of distress, radio equipment, medicines, medical and surgical stores and appliances, apparatus for preventing or extinguishing fires, buckets, compasses, charts, axes, lanterns and gear and apparatus for loading and discharging cargo ;

‘ foreign-going ship ’ means a ship employed in trading or going between a place or places in Australia and a place or places outside Australia ;

‘ Government ship ’ means a ship—

(a) which belongs to the Commonwealth or a State ;

(b) the beneficial interest in which is vested in the Commonwealth or a State ;

(c) which is for the time being demised or sub-demised to or in the exclusive possession of the Commonwealth or a State ; or

(d) which is registered in Australia as a Government ship for the purposes of the Merchant Shipping Act,

and includes a ship which belongs to the Commonwealth Naval Forces, but does not include a ship which belongs to the Australian Coastal Shipping Commission constituted under the *Australian Coastal Shipping Commission Act 1956*;

‘ harbour ’ means a harbour properly so called, whether natural or artificial, and includes an estuary, navigable river, creek, channel, haven, roadstead, dock, pier, jetty or other work in or at which ships can obtain shelter or ship and unship goods or passengers ;

‘ justice ’ means Justice of the Peace ;

‘ limited coast-trade ship ’ means a sea-going ship engaged in making voyages from and to a port in Australia within such limits as are prescribed in relation to that port ;

‘ master ’ means a person having command or charge of a ship ;

‘ Medical Inspector of Seamen ’ means a person appointed under section one hundred and twenty-three of this Act to be a Medical Inspector of Seamen ;

‘ officer ’ means the master, a mate or an engineer of a ship ;

‘ officer of Customs ’ means a person who is an officer for the purposes of the *Customs Act 1901–1957* ;

‘ official ’ means a Deputy Director, a superintendent, a surveyor, a Medical Inspector of Seamen or any other person, including a Collector or other officer of Customs, required to perform functions or discharge duties for the purposes of this Act ;

- ‘ official log-book ’, in relation to a ship, means the official log-book kept by the master of the ship in pursuance of section one hundred and seventy-one of this Act or in pursuance of the law of a country other than Australia;
- ‘ passenger ’ means a person carried on board a ship with the knowledge or consent of the owner, charterer, agent or master of the ship, not being—
- (a) a person employed or engaged in any capacity on board the ship on the business of the ship;
  - (b) a person on board the ship in pursuance of an obligation imposed on the master by any law (including a law of a country other than Australia) to assist shipwrecked, distressed or other persons or by reason of circumstances that could not have been prevented or forestalled by the owner, charterer, agent or master of the ship ; or
  - (c) a child under the age of one year ;
- ‘ pilot ’ means a person who does not belong to, but has the conduct of, a ship ;
- ‘ port ’ includes place and harbour ;
- ‘ proper authority ’—
- (a) in relation to a port in Australia—means the superintendent at that port;
  - (b) in relation to a port in a Commonwealth country other than Australia—means a person who, under the law of that country, has, with respect to that port, powers, duties and functions similar to the powers, duties and functions of a superintendent under this Act; and
  - (c) in relation to a port in a country other than a Commonwealth country—means a diplomatic or consular representative of Australia or a consul of any other Commonwealth country;
- ‘ radio equipment ’ includes radio navigational aid equipment ;
- ‘ river and bay ship ’ means—
- (a) a ship which is employed exclusively in trading or going between places within the limits of a port, bay or river in Australia or within prescribed limits in a gulf or gulfs in Australia ; or
  - (b) a ship, or a ship included in a class of ships, specified by the Minister by notice in the *Gazette*, being a ship which trades exclusively within the limits of a port, bay or river in

Australia specified in the notice and within a radius of three nautical miles seaward from the entrance of that port, bay or river;

‘seaman’ means a person employed or engaged in any capacity on board a ship on the business of the ship, other than—

- (a) the master of the ship ;
- (b) a pilot ;
- (c) an apprentice ; or
- (d) a person temporarily employed on the ship in port ;

‘ship’ means a vessel not ordinarily propelled by oars only ;

‘superintendent’—

(a) in relation to a port in which a Mercantile Marine Office has been established under section thirteen of this Act—means the superintendent appointed at that office, and includes a deputy superintendent so appointed; and

(b) in relation to a port in which a Mercantile Marine Office has not been so established but at which there is a Collector—means that Collector;

‘surveyor’ means a person appointed to be a surveyor under section one hundred and ninety of this Act ;

‘the Court’, in relation to proceedings under this Act, means the court exercising jurisdiction in respect of those proceedings ;

‘the Director’ means the Director of Navigation;

‘the Marine Council’ means the Marine Council established under section four hundred and twenty-four of this Act ;

‘the Merchant Shipping Act’ means the Imperial Act known as the Merchant Shipping Act, 1894, as amended from time to time;

‘this Act’ includes the regulations ;

‘tidal water’ means a part of the sea, or a part of a river, within the ebb and flow of the tide at ordinary spring tides, but does not include a harbour ;

‘vessel’ means a vessel used in navigation, other than air navigation, and includes a barge, lighter or like vessel ;

‘wages’ includes emoluments.

“(2.) A reference in this Act to failure to do an act or thing shall be read as including a reference to refusal or neglect to do that act or thing.

“(3.) Strict compliance with a prescribed form is not necessary and substantial compliance with that form is sufficient.

“6A. A person who, by this Act, is required to answer a question asked under or for the purposes of this Act shall be deemed not to have complied with that requirement unless he answers the question truly to the best of his knowledge, information and belief.

Answering questions.

“6B. For the purposes of this Act, a seaman or apprentice has deserted from his ship—

Desertion.

(a) if he is absent from his ship with the intention of not returning to the ship; or

(b) if he is absent from his ship for a continuous period exceeding forty-eight hours without leave, lawful cause or reasonable excuse.

“6C. For the purposes of this Act—

Incompetency and misconduct of officers.

(a) an officer is incompetent if he is inefficient in the performance of any of his duties as an officer; and

(b) an officer is guilty of misconduct if he is guilty of careless navigation, drunkenness, tyranny, want of skill, improper conduct or, without reasonable cause or excuse, failure of duty.

“6D. For the purposes of this Act, a ship shall be deemed to have been taken or sent to sea, or to have gone or proceeded to sea, if the ship has been got under way for the purpose of—

Taking of ships to sea.

(a) going to sea ;

(b) plying or running ; or

(c) proceeding on a voyage.

“6E.—(1.) For the purposes of this Act, but subject to the next succeeding sub-section—

Proper return port.

(a) the proper return port of a master who has been engaged for service on a ship is—

(i) such port as is agreed upon between the owner of the ship and the master ; or

(ii) in the absence of agreement—the port at which the master shipped;



(b) the proper return port of a seaman who has been engaged for service on a ship is—

(i) such port as is agreed upon between the master of the ship and the seaman, either in the seaman's agreement or otherwise ; or

(ii) in the absence of agreement—the port at which the seaman shipped; and

(c) the proper return port of an apprentice is the port at which the indentures of apprenticeship of the apprentice were entered into.

“(2.) A master, seaman or apprentice and the owner of a ship may agree to refer a question which has arisen between them as to the proper return port of the master, seaman or apprentice to a proper authority for his decision.

“(3.) Section eighty-one of this Act applies to and in relation to such an agreement as if it were an agreement to which that section applies and the reference in that section to a superintendent were a reference to a proper authority.

Republic of Ireland.

“6F. A reference in this Act to a Commonwealth country shall be read as if it included a reference to the Republic of Ireland, and a reference in this Act to a British subject shall be read as if it included a reference to a citizen of the Republic of Ireland.”.

Definition of coasting trade.

8. Section seven of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(2.) In this section, ‘owner’, in relation to a ship, includes a person who is the manager or secretary of a body corporate which is the owner of the ship.”.

9.—(1.) Section nine of the Principal Act is repealed and the following section inserted in its stead:—

Delegation.

“9.—(1.) The Minister may, by instrument in writing, delegate, either generally or otherwise as provided in the instrument of delegation, all or any of his powers and functions under this Act (except this power of delegation) so that the delegated powers and functions may be exercised and performed by the delegate in accordance with the instrument of delegation.

“(2.) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Minister.”.

(2.) Where, immediately before the date of commencement of this section, a delegation issued under the section repealed by this section was in force, that delegation has effect on and after that date as if it had been issued under the section inserted in the Principal Act by this section.

10. Part II. of the Principal Act is amended by omitting the list of Division headings appearing before Division 1 of that Part. Part II.—  
Division  
headings.

11. Section eleven of the Principal Act is repealed. Power to  
exempt  
British ships.

12. Sections fourteen, fourteen A and fifteen of the Principal Act are repealed and the following sections inserted in their stead:—

- “ 14.—(1.) Subject to sub-section (9.) of this section— Complement  
of ships’  
officers.
- (a) the owner of a ship registered in Australia or engaged in the coasting trade shall not suffer the ship to go to sea unless the ship carries a duly certificated master and the prescribed complement of officers for the ship;
  - (b) the master of a ship registered in Australia or engaged in the coasting trade shall not take the ship to sea unless the ship carries the prescribed complement of officers for the ship; and
  - (c) the master of a British ship (not being a ship registered in Australia or engaged in the coasting trade) shall not take the ship to sea from a place in Australia unless he is a duly certificated master and the ship carries such duly certificated officers as are, by the law of the country in which the ship is registered, necessary for the ship when going to sea from a place in that country.

Penalty: One hundred pounds.

“(2.) Subject to the next succeeding sub-section, the prescribed complement of officers for a ship registered in Australia or engaged in the coasting trade is—

- (a) the complement of officers specified in Schedule I. to this Act for the class of ships in which that ship is included; or
- (b) if regulations prescribing the complement of officers for that ship, or the class of ships in which that ship is included, are in force—the complement of officers so prescribed.

“(3.) Upon application in that behalf being made as prescribed, the Minister may, by order published in the *Gazette*, direct that—

(a) from and including a date specified in the order, the prescribed complement of officers for a ship—

(i) be varied in the manner specified in the order;  
or

(ii) be the complement specified in the order; or

(b) the prescribed complement of officers for a ship to be constructed or in the course of construction shall, upon the completion of the ship, be the complement specified in the order.

“(4.) The Minister shall not make an order under the last preceding sub-section unless the application has been referred for advice to a committee of advice appointed under section four hundred and twenty-four of this Act and the committee has furnished advice to the Minister with respect to the application.

“(5.) An order made under sub-section (3.) of this section shall not be deemed to be a Statutory Rule within the meaning of the *Rules Publication Act* 1903–1939.

“(6.) Where, after an order has been made in relation to a ship (including a ship to be constructed or in the course of construction) under sub-section (3.) of this section, regulations prescribing the complement of officers for the ship, or the class of ships in which the ship is included, come into force, the order ceases to be in force.

“(7.) Subject to the next succeeding sub-section, if—

(a) a ship is at a port and the number of officers of a particular description required to be carried on the ship by virtue of sub-section (1.) of this section has not been obtained; and

(b) a Deputy Director, or a proper authority at the port, is satisfied that the owner or master of the ship has made all reasonable efforts to obtain that number of officers of that description, including, if the port is in Australia, the seeking of the assistance of the organization of employees of which officers of that description are members,

the Deputy Director or the proper authority, as the case may be, may, by writing under his hand, either unconditionally or subject to such conditions as he thinks fit, consent to the master taking the ship to sea from the port without the officer or officers of that description not obtained.

“(8.) Where the number of duly certificated officers required to be carried on a ship by virtue of sub-section (1.) of this section has not been obtained, a Deputy Director or a proper authority at a port shall not give his consent under the last preceding sub-section to the taking of the ship to sea unless he is satisfied that the officers who will be carried on the ship are able to perform all the duties of the duly certificated officers who, but for the consent, would be required to be carried on the ship.

“(9.) If a Deputy Director or a proper authority at a port gives his consent under sub-section (7.) of this section to the master of a ship taking the ship to sea from a port without an officer or officers of a particular description and the master complies with the conditions, if any, subject to which the consent is given—

- (a) the owner of the ship may suffer the ship to go to sea from that port; and
- (b) the master may take the ship to sea, and may lawfully command the officers and crew of the ship to take the ship to sea, from that port,

notwithstanding that the ship does not carry that officer or those officers of that description.

“ 14A.—(1.) If—

- (a) the number of officers of a particular description ordinarily carried on a ship registered in Australia or engaged in the coasting trade is greater than the number of officers of that description required to be carried on the ship by virtue of sub-section (1.) of the last preceding section;
- (b) the number of officers of that description ordinarily carried on the ship has not been obtained; and
- (c) an officer or other member of the crew of the ship lodges with the master of the ship an objection in writing to the ship being taken to sea from a port specified in the objection with less than the number of officers of that description ordinarily carried on the ship,

Authority to take ship to sea where ordinary complement of officers not obtained.

then, notwithstanding that the prescribed complement of officers for the ship is carried on the ship, the master shall not take the ship to sea from the port unless—

- (d) a Deputy Director or a proper authority at the port, by writing under his hand, consents to the master taking the ship to sea from the port without the officer or officers of that description not obtained; and

(e) the master, as soon as practicable after receiving the consent, posts up the consent, or a copy of the consent, in a prominent place on the ship, being a place to which all officers and other members of the crew of the ship have access, and keeps it so posted up until the ship is taken to sea.

“(2.) A Deputy Director or proper authority shall not give his consent under the last preceding sub-section to the master of a ship taking the ship to sea from a port unless the Deputy Director or proper authority is satisfied that the owner or master of the ship has made all reasonable efforts to obtain the number of officers of the particular description ordinarily carried on the ship, including, if the port is in Australia, the seeking of the assistance of the organization of employees of which officers of that description are members.

**Certificates of competency.**

“15.—(1.) Certificates of competency of each of the grades set out in the following table, of such sub-grades of those grades as are prescribed and of such other grades, and of such sub-grades of those other grades, as are prescribed may be granted in accordance with this Act:—

Masters and Mates.	Engineers.
Extra master	Extra first class engineer
Master of a foreign-going ship	First class engineer
First mate of a foreign-going ship	Second class engineer
Second mate of a foreign-going ship	First class coast engineer
Master of a limited coast-trade ship	Second class coast engineer
First mate of a limited coast-trade ship	Third class coast engineer
Second mate of a limited coast-trade ship	First class marine engine-driver
Master of a river and bay ship	Second class marine engine-driver.
Mate of a river and bay ship	

“(2.) The regulations may provide that the holder of a certificate of a grade or sub-grade specified in the regulations shall be deemed to be the holder of certificates of such other grades and sub-grades as are so specified.

“(3.) The regulations shall make provision whereby—

(a) the holder of a certificate as an engineer of any grade or sub-grade is permitted to serve in such ships, for such voyages and in such capacities as will enable him to qualify for a certificate of the grade next higher to that of which he is the holder; and

- (b) the holder of a certificate as second class coast engineer or as third class coast engineer is permitted to qualify for a certificate as coast engineer of the grade next higher to the grade of the certificate of which he is the holder by service in river and bay ships.”.

13. Section seventeen of the Principal Act is repealed and the following section inserted in its stead:—

“ 17. A person shall not be admitted to examination for a certificate unless— Eligibility for examination.

- (a) he is a British subject or, for a period of at least one year immediately before the date of the examination, he has been continuously resident in the Commonwealth;
- (b) he speaks and writes the English language intelligibly; and
- (c) he possesses such other qualifications as are prescribed.”.

14. Section eighteen of the Principal Act is amended by omitting from sub-section (1.) the words “ Subject to the condition in the next sub-section mentioned ” and inserting in their stead the words “ Subject to this and the next succeeding section ”. Issue of certificates.

15. Section nineteen of the Principal Act is repealed and the following sections are inserted in its stead:—

“ 18A.—(1.) A certificate as extra master, master of a foreign-going ship, first mate of a foreign-going ship, extra first class engineer or first class engineer shall not be delivered to a person who is not a British subject. Permits to serve.

“ (2.) Where, but for the last preceding sub-section, a person would be eligible for a certificate as extra master or master of a foreign-going ship, the Minister may grant to that person a permit to serve as master of a foreign-going ship registered in Australia and, for the purposes of this Act, the holder of such a permit shall, in relation to a ship so registered, be deemed to be the holder of a certificate as master of a foreign-going ship.

“ (3.) Where, but for sub-section (1.) of this section, a person would be eligible for a certificate as first mate of a foreign-going ship, the Minister may grant to that person a permit to serve as first mate of a foreign-going ship registered in Australia and, for the purposes of this Act, the holder of such a permit shall, in relation to a ship so registered, be deemed to be the holder of a certificate as first mate of a foreign-going ship.

“ (4.) Where, but for sub-section (1.) of this section, a person would be eligible for a certificate as extra first class engineer or first class engineer, the Minister may grant to that person a permit to serve as first class engineer of a ship registered in

Australia and, for the purposes of this Act, the holder of such a permit shall, in relation to a ship registered in Australia, be deemed to be the holder of a certificate as first class engineer.

“(5.) A permit granted under this section may be revoked by the Minister at any time.

Certificates of  
service.

“18B.—(1.) Upon application by a person who has attained the rank of lieutenant, as a seaman specialist, in the Commonwealth Naval Forces and has such other qualifications as are prescribed, the Minister may grant to that person, without examination, a certificate of service as master of a foreign-going ship.

“(2.) Upon application by a person who has attained the rank of lieutenant, as an engineer specialist, in the Commonwealth Naval Forces and has such other qualifications as are prescribed, the Minister may grant to that person, without examination, a certificate of service as first class engineer.

“(3.) Upon application by a person who has attained the rank of sub-lieutenant, as an engineer specialist, in the Commonwealth Naval Forces and has such other qualifications as are prescribed, the Minister may grant to that person, without examination, a certificate of service as second class engineer.

“(4.) A certificate of service granted under this section shall be in such form as is prescribed.

“(5.) For the purposes of this Act—

- (a) a certificate of service as master of a foreign-going ship granted under this section shall be deemed to be a certificate of competency as master of a foreign-going ship;
- (b) a certificate of service as first class engineer granted under this section shall be deemed to be a certificate of competency as first class engineer; and
- (c) a certificate of service as second class engineer granted under this section shall be deemed to be a certificate of competency as second class engineer.

Certificates and  
permits to be  
in duplicate.

“19.—(1.) A certificate or permit granted under this Division shall be in duplicate.

“(2.) One part shall be delivered to the person entitled to the certificate or permit and the other part shall be preserved and recorded in such manner as the Minister directs.”.

Incapacity of  
certificated  
person.

16. Section twenty of the Principal Act is amended—

- (a) by inserting in sub-section (1.), after the word “certificate” (first occurring), the words “granted under this Division”;

(b) by omitting sub-section (3.) and inserting in its stead the following sub-section:—

“(3.) Where a person is required to deliver up a certificate under this section, the Minister may, and, if the person so requests, shall, cause an inquiry to be held by a Court of Marine Inquiry into a charge that that person is incompetent by reason of his unfitness.”; and

(c) by inserting at the end thereof the following sub-section:—

“(6.) Where a person is required to deliver up a certificate under this section and an inquiry is not held under sub-section (3.) of this section, the Minister shall retain the certificate until he is satisfied that the grantee of the certificate is fit to perform the duties required of him.”.

17. Sections twenty-one and twenty-two of the Principal Act are repealed and the following sections inserted in their stead:—

“21. If the Minister is satisfied that a certificate or permit granted to a person under this Division has been lost or destroyed, he may issue to that person a certified copy of the certificate or permit and that copy is, for the purposes of this Act, of the same effect as the certificate or permit.

Lost certificates and permits.

“22. A certificate issued or recognized under a law in force in the United Kingdom which corresponds with a certificate of competency or a certificate of service under this Division shall be recognized for the purposes of this Act as if it were a certificate of competency or a certificate of service granted under this Division.”.

Imperial certificates.

18. Section twenty-three of the Principal Act is repealed.

Meaning of certificated.

19. Section twenty-six of the Principal Act is repealed and the following section inserted in its stead:—

“26. A person shall not engage or go to sea as an officer in a ship registered in Australia or engaged in the coasting trade unless he speaks and writes the English language intelligibly.”.

Officers to be able to speak and write the English language.

20. Section twenty-seven of the Principal Act is repealed.

Offences in connexion with certificates.

21. Division 4 of Part II. of the Principal Act is repealed and the following Division inserted in its stead:—

#### “DIVISION 4.—SUPPLYING SEAMEN.

“28. In this Division, ‘seaman’ includes a person who is seeking employment as a seaman or is engaged or supplied, or is offered for engagement or supply, as a seaman on board a ship.

Definition.



Supply, &c.,  
of seamen.

“ 29.—(1.) A person shall not supply a seaman to be entered on board a ship at a port in Australia unless that person is—

- (a) the superintendent for that port;
- (b) the owner, agent or charterer, or an officer, of the ship; or
- (c) an officer of an organization of employees of which seamen of the description of that seaman are members.

“ (2.) A person shall not employ, for the purpose of supplying a seaman to be entered on board a ship at a port in Australia, a person who is prohibited by the last preceding sub-section from supplying that seaman at that port.

“ (3.) A person shall not engage a seaman to be entered on board a ship at a port in Australia unless that person is—

- (a) the superintendent for that port; or
- (b) the owner, agent or charterer, or an officer, of the ship.

“ (4.) A person shall not employ, for the purpose of engaging a seaman to be entered on board a ship at a port in Australia, a person who is prohibited by the last preceding sub-section from engaging that seaman at that port.

Penalty: Fifty pounds or imprisonment for three months.

Register of  
seamen.

“ 30. The superintendent for a port shall—

- (a) keep a register of persons desiring to be entered as seamen on board ships at the port; and
- (b) supply seamen to be entered on board ships at the port.

Receiving  
seamen  
supplied in  
contravention  
of Act.

“ 31. A person shall not, at a port in Australia, receive or accept a seaman for service on board a ship unless that person is satisfied that the seaman has not been engaged or supplied in contravention of this Act.

Penalty: Fifty pounds or imprisonment for three months.

Penalty for  
receiving fees  
for supply of  
seamen.

“ 32. A person shall not, at a port in Australia, demand or receive, directly or indirectly, remuneration from a person for providing, or promising to provide, a seaman with employment on a ship, including a foreign ship.

Penalty: Fifty pounds.”.

Binding of  
apprentices.

22. Section thirty-five of the Principal Act is amended by omitting paragraphs (b) and (c) of sub-section (1.) and inserting in their stead the following paragraphs:—

- “ (b) has attained the age of fifteen years;
- “ (c) has passed a prescribed sight test and is otherwise physically fit for the sea service; and ”.

23. Section thirty-six of the Principal Act is repealed and the following section inserted in its stead:—

“ 36. If—

- (a) an apprentice who entered into indentures of apprenticeship in Australia dies or deserts from a ship; or
- (b) the indentures of such an apprentice are assigned, cancelled or otherwise cease,

Notice of death,  
&c., of  
apprentice.

the master of the apprentice shall, as soon as practicable, give notice in writing to a proper authority at a port of the death or desertion of the apprentice or of the assignment, cancellation or cessation of the indentures, as the case may be.”.

24. Section thirty-seven of the Principal Act is amended—

- (a) by omitting all the words before paragraph (a) and inserting in their stead the words “The master of a ship, other than a river and bay ship, shall, before taking an apprentice to sea from a port in Australia—”; and
- (b) by omitting the words “Penalty: Five pounds.”.

Taking  
apprentices  
to sea.

25. Section thirty-eight of the Principal Act is amended—

- (a) by inserting after the word “apprentice” (first occurring) the words “who entered into indentures of apprenticeship in Australia”;
- (b) by omitting the word “insolvent” and inserting in its stead the word “bankrupt”; and
- (c) by adding at the end thereof the following sub-section:—

Death,  
bankruptcy,  
&c., of owner.

“(2.) Where the owner of a ship is a company and a winding-up of the company is commenced, the owner shall, for the purposes of the last preceding sub-section, be deemed to have become bankrupt on the date of the commencement of the winding-up.”.

26. Sections thirty-nine and forty of the Principal Act are repealed and the following sections inserted in their stead:—

“ 39.—(1.) If the superintendent at a port is satisfied that—

Able seamen.

- (a) a person—
  - (i) has attained the prescribed age;
  - (ii) has performed the prescribed qualifying service at sea; and
  - (iii) has passed the prescribed examination; or
- (b) a person had, before the commencement of this section, served at sea in the capacity of able seaman or on deck in any equivalent or superior capacity,

the superintendent may issue to that person a certificate of qualification as an able seaman.

“(2.) A seaman is not entitled to be rated as an able seaman for the purposes of this Act unless he is the holder of—

- (a) a certificate issued under the last preceding sub-section; or
- (b) a certificate included in a class of certificates issued by a Commonwealth country other than Australia and declared by the regulations to be a class of certificates corresponding with certificates issued under this section.

“(3.) If a superintendent is satisfied that a certificate of qualification as an able seaman issued to a person under this section has been lost or destroyed, he may issue to that person a certified copy of the certificate and that copy is, for the purposes of this Act, of the same effect as the certificate.

Ordinary  
seamen.

“39A. A seaman is not entitled to be rated as an ordinary seaman for the purposes of this Act unless—

- (a) he has attained the prescribed age; and
- (b) he has performed the prescribed qualifying service at sea.

Greasers,  
firemen and  
trimmers.

“39B.—(1.) A seaman is not entitled to be rated as a greaser for the purposes of this Act unless—

- (a) he has attained the age of eighteen years; and
- (b) he has had at least six months' service at sea as a fireman or such other service at sea as is prescribed.

“(2.) A seaman is not entitled to be rated as a fireman for the purposes of this Act unless—

- (a) he has attained the age of eighteen years; and
- (b) he has had at least six months' service at sea in the stokehold or bunkers of a ship as a trimmer or such other service at sea as is prescribed.

“(3.) A seaman is not entitled to be rated as a trimmer for the purposes of this Act unless he has attained the age of eighteen years.

Shipwrights  
and ship's  
carpenters.

“39C. A seaman is not entitled to be rated as a shipwright or a ship's carpenter for the purposes of this Act unless—

- (a) he has served an apprenticeship as a shipwright or a ship's carpenter or such other apprenticeship as is prescribed; or
- (b) he has performed the prescribed qualifying service at sea.

Boat-hand  
efficiency.

“39D. A person, other than a person who—

- (a) has not previously served at sea; or
- (b) is a member of a prescribed class of seamen,

shall not, at a port in Australia, engage as a seaman in a ship registered in Australia or engaged in the coasting trade unless he satisfies the superintendent at the port that he is an efficient boat-hand.

“40. A superintendent may refuse to approve the engagement of a seaman to be entered on board a ship registered in Australia or engaged in the coasting trade if the superintendent is not satisfied that the seaman is entitled under this Act to the rating appropriate to the capacity in which he is to be engaged.”.

Seaman to be engaged in appropriate capacity.

27. Section forty B of the Principal Act is repealed.

Medical examination of young persons employed at sea.

28. Section forty-two of the Principal Act is amended by inserting in sub-section (1.), after the word “ship”, the words “registered in Australia or engaged in the coasting trade”.

Notice of disrating of seaman.

29. Sections forty-three and forty-four of the Principal Act are repealed and the following sections inserted in their stead:—

“43.—(1.) Subject to sub-section (9.) of this section, the owner of a ship registered in Australia or engaged in the coasting trade shall not suffer the ship to go to sea, and the master of the ship shall not take the ship to sea, unless the ship carries the prescribed crew for that ship.

Crews for ships.

Penalty: One hundred pounds.

“(2.) Subject to the next succeeding sub-section, the prescribed crew for a ship registered in Australia or engaged in the coasting trade is—

- (a) the number of persons specified in the scales set out in Schedule II. to this Act of each of the descriptions so specified for the class of ships in which that ship is included; or
- (b) if regulations prescribing the crew for that ship, or the class of ships in which that ship is included, are in force—the crew so prescribed.

“(3.) Upon application in that behalf being made as prescribed, the Minister may, by order published in the *Gazette*, direct that—

- (a) from and including a date specified in the order, the prescribed crew for a ship—
  - (i) be varied in the manner specified in the order; or
  - (ii) be the crew specified in the order; or
- (b) the prescribed crew for a ship to be constructed or in the course of construction shall, upon the completion of the ship, be the crew specified in the order.

“(4.) The Minister shall not make an order under the last preceding sub-section unless the application has been referred for advice to a committee of advice appointed under section

four hundred and twenty-four of this Act and the committee has furnished advice to the Minister with respect to the application.

“(5.) An order made under sub-section (3.) of this section shall not be deemed to be a Statutory Rule within the meaning of the *Rules Publication Act* 1903–1939.

“(6.) Where, after an order has been made in relation to a ship (including a ship to be constructed or in the course of construction) under sub-section (3.) of this section, regulations prescribing the crew for the ship, or the class of ships in which the ship is included, come into force, the order ceases to be in force.

“(7.) Subject to the next succeeding sub-section, if—

- (a) a ship is at a port and the number of seamen of a particular description required to be carried on the ship by virtue of sub-section (1.) of this section has not been obtained; and
- (b) a Deputy Director, or a proper authority at the port, is satisfied that the owner or master of the ship has made all reasonable efforts to obtain that number of seamen of that description, including, if the port is in Australia, the seeking of the assistance of the organization of employees of which seamen of that description are members,

the Deputy Director or the proper authority, as the case may be, may, by writing under his hand, either unconditionally or subject to such conditions as he thinks fit, consent to the master taking the ship to sea from the port without the seaman or seamen of that description not obtained.

“(8.) A Deputy Director or proper authority shall not give his consent under the last preceding sub-section to the master of a ship taking the ship to sea if the effect of so doing would be to authorize the master to take the ship to sea with less than four-fifths of the engine-room staff, or less than four-fifths of the deck complement, of the ship.

“(9.) If a Deputy Director or a proper authority at a port gives his consent under sub-section (7.) of this section to the master of a ship taking the ship to sea from a port without a seaman or seamen of a particular description not obtained and the master complies with the conditions, if any, subject to which the consent is given—

- (a) the owner of the ship may suffer the ship to go to sea from that port; and

(b) the master may take the ship to sea, and may lawfully command the officers and crew of the ship to take the ship to sea, from that port, notwithstanding that the ship does not carry that seaman or those seamen of that description.

“(10.) It is a defence to a prosecution for an offence against sub-section (1.) of this section if the defendant satisfies the Court—

- (a) that the ship went to sea with not less than four-fifths of the engine room staff, and with not less than four-fifths of the deck complement, of the ship;
- (b) that the failure to obtain the prescribed crew for the ship was not due to any default or neglect on his part; and
- (c) that an officer or other member of the crew of the ship did not lodge with the master of the ship an objection in writing to the ship being taken to sea.

“(11.) For the purposes of sub-section (8.) of this section and of paragraph (a) of the last preceding sub-section, a boy or apprentice with less than six months' service at sea who is carried on a ship shall not be counted as a member of the crew of the ship.

“(12.) In this section—

‘deck complement’, in relation to a ship, means the number of persons which, by virtue of sub-section (1.) of this section, the ship is required to carry as able seamen, ordinary seamen, boys and apprentices;

‘engine-room staff’, in relation to a ship, means the number of persons which, by virtue of sub-section (1.) of this section, the ship is required to carry for employment in the engine-room, stoke-hold, bunkers and boiler-room of the ship.

“ 44.—(1.) If—

- (a) the number of seamen of a particular description ordinarily carried on a ship registered in Australia or engaged in the coasting trade is greater than the number of seamen of that description required to be carried on the ship by virtue of sub-section (1.) of the last preceding section;
- (b) the number of seamen of that description ordinarily carried on the ship has not been obtained; and
- (c) an officer or other member of the crew of the ship lodges with the master of the ship an objection in writing to the ship being taken to sea from a port specified in the objection with less than the number of seamen of that description ordinarily carried on the ship,

Authority to  
take ship to  
sea where  
ordinary crew  
not obtained.

then, notwithstanding that the prescribed crew for the ship is carried on the ship, the master shall not take the ship to sea from the port unless—

- (d) a Deputy Director or a proper authority at the port, by writing under his hand, consents to the master taking the ship to sea from the port without the seaman or seamen of that description not obtained; and
- (e) the master, as soon as practicable after receiving the consent, posts up the consent, or a copy of the consent, in a prominent place on the ship, being a place to which all officers and other members of the crew of the ship have access, and keeps it so posted up until the ship is taken to sea.

“(2.) A Deputy Director or proper authority shall not give his consent under the last preceding sub-section to the master of a ship taking the ship to sea from a port unless the Deputy Director or proper authority is satisfied that the owner or master of the ship has made all reasonable efforts to obtain the number of seamen of the particular description ordinarily carried on the ship, including, if the port is in Australia, the seeking of the assistance of the organization of employees of which seamen of that description are members.”.

Employment of  
crew in loading  
and unloading.

30. Section forty-five of the Principal Act is amended by inserting in sub-section (1.), after the word “employed”, the words “at a port in Australia”.

Approval by  
superintendent.

31. Section forty-five A of the Principal Act is amended—

- (a) by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) The engagement, at a port in Australia, of a seaman to be entered on board a ship to which this section applies (not being an engagement to which section forty-seven of this Act applies) is subject to the approval of the superintendent at that port, but the superintendent shall not refuse to approve of the engagement except in accordance with this Act.”;

- (b) by omitting sub-section (4.) and inserting in its stead the following sub-section:—

“(4.) If a seaman deserts a ship to which this section applies, or, while he is bound by an agreement to serve in a ship to which this section applies, refuses or fails, without reasonable cause, to join that ship, the master shall report the fact to a superintendent.”;

- (c) by omitting from sub-section (9.) the words “Where the Marine Council or a Committee appointed under section four hundred and twenty-four of this Act

(or a majority of the members of that Council or of such a Committee)” and inserting in their stead the words “Where the Marine Council, or a majority of the members of that Council,”;

(d) by omitting sub-section (10.) and inserting in its stead the following sub-sections:—

“(9A.) A superintendent shall refuse to approve the engagement of a person who, in the opinion of the superintendent, does not possess a knowledge of the English language sufficient to enable him to understand fully orders that may be given to him in the performance of his duties.

“(10.) Where the character of a seaman is such, or the conduct of a seaman has been such, that the seaman is, in the opinion of a master of a ship to which this section applies, unsuitable for engagement as a seaman, the master shall report the circumstances to a superintendent and, if practicable, inform the seaman that he has made the report.”;

(e) by omitting from sub-section (11.) the words “ paragraph (d) of sub-section (3.) of ”; and

(f) by adding at the end thereof the following sub-section:—

“(13.) This section applies—

- (a) to ships registered in Australia;
- (b) to ships engaged in the coasting trade; and
- (c) to ships regularly employed in trading to and from ports in Australia and owned by a person, firm or company resident, or having his or its principal place of business, in Australia.”.

32. After section forty-five B of the Principal Act the following section is inserted in Division 7A of Part II.:—

“45C. A person shall not make to a superintendent, for the purpose of obtaining the approval of the superintendent to the engagement of a seaman or otherwise in connexion with the engagement of a seaman, a statement that is false or misleading in a particular.”.

False statements.

33. Sections forty-six, forty-six A, forty-seven, forty-seven A, forty-eight and forty-nine of the Principal Act are repealed and the following sections inserted in their stead:—

“46.—(1.) Subject to the next succeeding section, where, after the commencement of this section, a seaman is engaged at a port in Australia to serve on a ship, not being a river and bay ship, the master of the ship shall not take the ship to sea with

Engagement of seamen in Australia.



that seaman as a member of the crew of the ship, and the owner of the ship shall not suffer or permit the ship to be so taken to sea, unless the master has entered into an agreement with the seaman in accordance with this section.

“(2.) An agreement under this section between the master of a ship and a seaman—

- (a) shall be in the prescribed form or, if an agreement in a form other than the prescribed form is already in force between the master and other members of the crew of the ship, in accordance with that other form;
- (b) shall be prepared, in duplicate, by or under the supervision of a superintendent;
- (c) shall be signed by the master in the presence of a superintendent before it is signed by the seaman;
- (d) shall, after having been read over and explained by a superintendent to the seaman, be signed by the seaman in the presence of the superintendent;
- (e) shall be attested by a superintendent; and
- (f) shall be dated—
  - (i) where the agreement is entered into when the crew of the ship is first engaged—at the time of signature by the master; or
  - (ii) in any other case—at the time of signature by the seaman.

“(3.) A superintendent may refuse to attest an agreement under this section between a seaman and the master of a ship which is not exempt from Division 5 of Part IV. unless—

- (a) a certificate relating to the ship and having effect as a Load Line Convention certificate or an Australian load line certificate for the purposes of that Division is produced to the superintendent; and
- (b) particulars as to the position of the deck line and load lines specified in the certificate have been inserted in the agreement.

“(4.) An agreement under this section may, with the approval of a superintendent, include any lawful provisions agreed upon between the master and seaman in addition to the provisions specified in the prescribed form.

“(5.) A superintendent who attests an agreement entered into under this section shall retain one part of the agreement and deliver the other part to the master of the ship.

“ 47. Sub-section (1.) of the last preceding section does not apply with respect to a seaman engaged to serve on a ship if—

Engagement of substitutes at short notice.

- (a) the seaman was engaged as a substitute in the place of—
  - (i) a seaman who entered into an agreement under that section but was not on board at the time specified in the agreement; or
  - (ii) a seaman whose services were lost within twenty-four hours before the ship's putting to sea by reason of death, desertion or other unforeseen cause;
- (b) it was not practicable to comply with that sub-section with respect to the substitute;
- (c) the master of the ship, before taking the substitute to sea or as soon thereafter as was practicable, entered into an agreement with the substitute, being an agreement which—
  - (i) complies with paragraph (a) of sub-section (2.) of the last preceding section;
  - (ii) after having been read over and explained to the substitute, was signed by him in the presence of a witness; and
  - (iii) was attested by the witness; and
- (d) the master of the ship reported the transaction, in the prescribed form, to a proper authority at the next port of call.

“ 48.—(1.) Where, after the commencement of this section, a seaman is engaged at a port outside Australia to serve on a ship registered in Australia, the master of the ship shall not take the ship to sea with that seaman as a member of the crew of the ship unless—

Engagement of seamen outside Australia

- (a) the master has entered into an agreement with the seaman with respect to the employment of the seaman on the ship; and
- (b) except in a case where it was not practicable so to do, the agreement was entered into before a proper authority at the port.

“ (2.) A proper authority at a port outside Australia before whom an agreement is entered into shall, so far as it is practicable so to do, ensure that the requirements of section forty-six of this Act applicable to agreements with seamen engaged at ports in Australia are complied with in relation to the agreement entered into before him as if the agreement were entered into in Australia and the proper authority were a superintendent.

“ 49. A person shall not engage an alien to be entered as a seaman on board a ship registered in Australia or engaged in the coasting trade unless the alien produces satisfactory evidence

Engagement of aliens.

of his nationality to a proper authority at the port at which he is to be engaged.

Penalty: One hundred pounds.”.

Period of  
agreements.

34. Section fifty of the Principal Act is amended—

(a) by inserting in sub-section (1.), after the word “agreement”, the words “under section forty-six of this Act”;

(b) by omitting paragraph (a) of sub-section (5.) and inserting in its stead the following paragraph:—

“(a) a free passage to the proper return port of the seaman;”;

(c) by omitting from paragraph (c) of sub-section (5.) the words “five shillings per day” and inserting in their stead the words “One pound per day or at such other rate as is provided for in the seaman’s agreement, whichever is the higher,”; and

(d) by omitting from paragraph (d) of sub-section (5.) the words “three shillings per day” and inserting in their stead the words “Fifteen shillings per day or at such other rate as is provided for in the seaman’s agreement, whichever is the higher,”.

Agreement with  
master or  
owner.  
Changes in  
crew.

35. Section fifty-one of the Principal Act is repealed.

36. Section fifty-two of the Principal Act is amended by omitting from sub-section (1.) the words “Penalty: Five pounds.”.

37. Section fifty-three of the Principal Act is repealed and the following section inserted in its stead:—

Copy of  
agreement to be  
posted up.

“53.—(1.) The master of a ship registered in Australia or engaged in the coasting trade shall cause a legible copy of the agreement (being a copy which does not contain the names or signatures of, or particulars relating to, the master and members of the crew of the ship) to be posted up in a part of the ship to which all members of the crew have access and shall use all reasonable precautions to keep the copy so posted up until the termination of the agreement.

“(2.) A person shall not wilfully deface or destroy a copy of an agreement posted up under the last preceding sub-section.”.

Erasures and  
alterations.

38. Section fifty-five of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section:—

“(2.) A certificate signed by a proper authority at a port that an erasure, interlineation or alteration in an agreement was made with the consent of all the persons interested is, in all courts, evidence of the matter certified to.”.

Certificates of  
officers to be  
produced.

39. Section fifty-eight of the Principal Act is amended by inserting after the word “superintendent” (wherever occurring) the words “or other proper authority”.

**40.** Section sixty of the Principal Act is repealed and the following sections are inserted in its stead:—

“ 59A.—(1.) Where injury or damage is suffered by a seaman by reason of the wrongful act, neglect or default of another person engaged in common employment with the seaman, the employer is liable in damages in respect of that injury or damage in the same manner and in the same cases as if they had not been engaged in common employment.

Abolition  
of defence  
of common  
employment.

“(2.) This section applies to injury or damage arising from a wrongful act, neglect or default committed after the date of commencement of this section, whether the contract of service was made before or is made after that date.

“(3.) In this section, ‘seaman’ includes master and apprentice.

“ 60. A person who engages or discharges a seaman at a port in Australia shall pay to the superintendent at that port such fee as is prescribed and may deduct from the wages of the seaman such proportion of the fee as is prescribed.

Fee on  
engagement and  
discharge of  
seamen.

“ 60A.—(1.) The master of a ship shall not take the ship to sea from a port in which a Mercantile Marine Office has been established under section thirteen of this Act unless the master produces to the Collector at that port a certificate of clearance from that port issued to the master under the next succeeding sub-section.

Certificate of  
clearance.

“(2.) Where the superintendent at a port in which a Mercantile Marine Office has been established is satisfied that the master of a ship who proposes to take the ship to sea from that port—

(a) has complied with the provisions of this Act relating to masters and crews of ships, and to the engagement and discharge of seamen, in so far as those provisions apply in relation to that ship; and

(b) can take the ship to sea from that port without contravening any of those provisions,

the superintendent shall issue to the master a certificate of clearance from that port.”.

**41.** Section sixty-one of the Principal Act is repealed and the following section inserted in its stead:—

“ 61. When a seaman is discharged from a ship, not being a river and bay ship, at a port in Australia, the master of the ship shall—

Discharges in  
Australia.

(a) sign and give to the seaman, through or in the presence of a superintendent, a discharge in accordance with the prescribed form or, if the ship is not registered in Australia or engaged in the coasting trade, in a form approved by the Minister; and

- (b) return to the seaman any previous discharge of the seaman in the possession of the master.”.

**Sanction  
required for  
discharge of  
seamen not  
shipped in  
Australia.**

42. Section sixty-two of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) The master of a ship shall not, at a port in Australia, discharge a seaman entered on board that ship who was engaged outside Australia unless—

- (a) the agreement with the seaman has expired; or
- (b) the superintendent at that port has granted his sanction to the discharge and indorsed the agreement, if any, to that effect.”.

43. After section sixty-two of the Principal Act the following section is inserted:—

**Discharge of  
seamen outside  
Australia.**

“ 62A.—(1.) The master of a ship registered in Australia shall not, at a port outside Australia, discharge a seaman from the ship unless—

- (a) the seaman is discharged in pursuance of sub-section (3.) of this section; or
- (b) a proper authority at the port has approved the discharge and indorsed the agreement with the seaman to that effect.

“(2.) A proper authority may withhold his approval to the discharge of a seaman under the last preceding sub-section if he is of the opinion—

- (a) that the discharge cannot be effected except in contravention of the agreement with the seaman, of a provision of this Act or of a law of the country in which the discharge is to be made; or
- (b) that the discharge of the seaman would be unjust.

“(3.) If a ship registered in Australia is sold, transferred or otherwise disposed of while the ship is at a port in a country other than a Commonwealth country, the master shall, notwithstanding anything contained in the ship’s agreement, discharge each seaman entered on board the ship other than a seaman who, in the presence of a proper authority at the port, consents in writing to continue to serve on the ship.

“(4.) Sub-section (5.) of section fifty of this Act applies to and in relation to a seaman discharged in pursuance of the last preceding sub-section as if that seaman had been discharged in pursuance of sub-section (3.) of that section.

“(5.) If—

(a) the indentures of an apprentice carried on a ship (being indentures entered into in Australia) cease at a time when the ship is outside Australia by reason of the master of the apprentice ceasing to have an interest in the ship; and

(b) the indentures do not continue by virtue of the proviso to sub-section (1.) of section thirty-eight of this Act,

the apprentice is entitled to receive from the master of the apprentice—

(c) a free passage to the proper return port of the apprentice; and

(d) victualling and accommodation until the apprentice arrives at that port or a sufficient allowance for that victualling and accommodation.

“(6.) When a seaman is discharged from a ship registered in Australia at a port outside Australia, the master of the ship shall sign and give to the seaman, through or in the presence of a proper authority, a discharge showing the capacity in which the seaman served on the ship and the date on which, and the place at which, the seaman was engaged for service on the ship and the date on which, and the place at which, the seaman is discharged from the ship.

Penalty: Fifty pounds.”.

44. Section sixty-four of the Principal Act is amended by omitting the words “The superintendent” and inserting in their stead the words “A proper authority at a port”.

Attestation.

45. Section sixty-five of the Principal Act is repealed.

Limited coast-trade and river and bay ships.

46. Section sixty-six of the Principal Act is repealed and the following section inserted in its stead:—

“66.—(1.) On the discharge of a seaman from a ship, the master of the ship shall return to the seaman any certificate belonging to the seaman which is in the possession, custody or control of the master.

Return of seamen's certificates.

Penalty: Fifty pounds.

“(2.) In the last preceding sub-section, ‘certificate’ means a certificate of competency granted under section fifteen of this Act, a permit issued under section eighteen A of this Act, a certificate of service granted under section eighteen B of this Act, a certificate referred to in section twenty-two or twenty-four of this Act or a certificate issued under section thirty-nine or one hundred and twenty-one of this Act, and includes a certified copy of such a certificate.”.

47. Section sixty-eight of the Principal Act is repealed and the following section inserted in its stead:—

Offences in  
relation to  
discharges.

“ 68.—(1.) A person shall not—

(a) knowingly sign or give a false certificate of discharge or knowingly make, sign or deliver a false report of character;

(b) forge or fraudulently alter a certificate of discharge, a permit to sign articles or a report of character;

(c) fraudulently use, or fraudulently produce to a proper authority at a port—

(i) a certificate of discharge;

(ii) a permit to sign articles; or

(iii) a report of character,

that is forged, is altered or does not relate to him; or

(d) allow a person to use fraudulently—

(i) a certificate of discharge;

(ii) a permit to sign articles; or

(iii) a report of character,

that does not relate to that last-mentioned person.

Penalty: One hundred pounds.

“(2.) A reference in the last preceding sub-section to a certificate of discharge, a permit to sign articles or a report of character includes a reference to a copy of a certificate of discharge, a permit to sign articles or a report of character, as the case may be.”.

48.—(1.) Section seventy of the Principal Act is repealed and the following section inserted in its stead:—

Allotment of  
seamen's wages.

“ 70.—(1.) Subject to this section, a seaman who is engaged in Australia for service in a ship registered in Australia or engaged in the coasting trade may, before first going to sea in the ship, make stipulations, being stipulations approved by the superintendent at the port, for the allotment and payment of portion of his wages as a seaman to—

(a) a person who is, or is stated by the seaman to be—

(i) his grandparent, parent, wife, brother, sister, child or grandchild; or

(ii) a person towards the maintenance of whom the seaman contributes; or

(b) a bank.

“(2.) Except by agreement with the master of the ship on which he engages to serve, a seaman is not entitled to make stipulations under this section for the allotment of a portion of his wages which, or of portions of his wages the total of which, is greater than three-fourths of the wages.

“(3.) A stipulation under this section is of no force unless—

- (a) an allotment note in the prescribed form is prepared and signed by the master and the seaman; and
- (b) the sum allotted is specified in the agreement with the seaman.

“(4.) A seaman engaged in Australia for service in a ship registered in Australia or engaged in the coasting trade shall not make stipulations for the allotment and payment of his wages, or any portion of his wages, otherwise than in accordance with this section.”

(2.) The amendment made by the last preceding sub-section does not apply to or in relation to an allotment of wages stipulated for before the commencement of this section.

49. Section seventy-four of the Principal Act is repealed. Payments by banks.

50. Section seventy-five of the Principal Act is repealed and the following section inserted in its stead:—

“75.—(1.) Subject to section seventy-nine of this Act, where a seaman is discharged at a port in Australia, or at a port outside Australia from a ship registered in Australia, the seaman shall, before or at the time he is given his discharge, be paid, in the presence of a proper authority or, if that is not practicable, through a proper authority, the amount of wages due to him up to the time of his discharge, less any deductions specified in the account required to be delivered to him under sub-section (1.) of section seventy-six of this Act and any other deductions approved by the proper authority. Wages to be paid before proper authority.

“(2.) If the seaman is not paid the amount of his wages in accordance with the last preceding sub-section, the master of the ship from which he is discharged, and the owner of the ship, are each guilty of an offence punishable upon conviction by a fine not exceeding Fifty pounds.

“(3.) It is a defence to a prosecution for an offence under this section if the person charged proves that the failure to pay to the seaman the amount of his wages in accordance with sub-section (1.) of this section was due to the seaman’s act or default, to a reasonable dispute as to liability for those wages or to any other cause not attributable to the wrongful act or default of the owner or master of the ship.”

51. Section seventy-six of the Principal Act is amended by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-section:— On discharge of seaman master to deliver account of wages.

“(1.) The master of a ship who discharges a seaman at a port in Australia, and the master of a ship registered in Australia



who discharges a seaman at any port, shall deliver to the seaman, either directly or through a proper authority, at the prescribed time and in the prescribed form or, if the ship is not registered in Australia or engaged in the coasting trade, in a form approved by the Minister, a full and true account of the wages of the seaman and of the deductions made or to be made on any account whatever from those wages.”.

52. Sections seventy-seven and seventy-eight of the Principal Act are repealed and the following sections inserted in their stead:—

Time for  
payment of  
wages.

“ 77.—(1.) Subject to any provision to the contrary in his agreement and to the next succeeding sub-section, a seaman entered on board a ship registered in Australia or engaged in the coasting trade shall, after all lawful deductions have been made—

- (a) be paid, on the first day of each month, the wages earned by him during the period that commenced on the sixteenth day, and ended on the last day, of the month last preceding that month; and
- (b) be paid, on the sixteenth day of each month, the wages earned by him during the period that commenced on the first day, and ended on the fifteenth day, of that month.

“(2.) Where, on a day on which a seaman is required to be paid wages under the last preceding sub-section, the ship on which he is entered is not in port, or is in a port at which there is no bank, the seaman shall be paid the wages within a period of twenty-four hours after the arrival of the ship at a port at which there is a bank.

“(3.) Subject to sub-section (5.) of this section, if a payment of wages is not made to a seaman at or before the time when the payment is required to be made to him under the preceding provisions of this section, he is entitled to recover from the owner or master of the ship, in addition to the wages due to him, a sum equal to two days’ pay for each of the days, not including days in excess of fourteen, during which payment of the wages is delayed beyond that time or such lesser sum as the Court thinks just in the circumstances.

“(4.) An amount which a seaman is entitled to recover under the last preceding sub-section may be recovered in the same Court and in the same manner as wages due to the seaman.

“(5.) It is a defence to an action for the recovery of an amount under sub-section (3.) of this section if the person against whom the action is brought satisfies the Court—

(a) that—

- (i) the seaman became entitled to the payment of wages on a day on which it was impracticable for moneys with which to pay the wages to be obtained by the master from a bank in the port in which the ship lay; and
- (ii) the wages were paid as soon as practicable after that day; or

(b) that the delay in payment of the wages was due to the seaman’s act or default, to a reasonable dispute as to liability for the wages or to any other cause not attributable to the wrongful act or default of the owner or master of the ship.

“(6.) In this section—

‘bank’ does not include a savings bank;

‘wages’, in relation to a seaman, does not include a payment or allowance for the working of overtime or any other payment or allowance not included in the ordinary wages of the seaman.

“78. If a seaman’s wages are not paid in accordance with section seventy-five of this Act before or at the time he is given his discharge from a ship, the seaman’s wages shall continue to run until the time of the final settlement of his wages (and shall be payable at double rates for any period after the time he is given his discharge from the ship) unless the delay is due to the seaman’s act or default, to a reasonable dispute as to liability for the wages or to any other cause not attributable to the wrongful act or default of the owner or master of the ship.”.

*Wages to run on in certain cases.*

53. Section eighty of the Principal Act is amended by omitting the word “superintendent” (wherever occurring) and inserting in its stead the words “proper authority”.

*Settlement of wages.*

54. Section eighty-one of the Principal Act is repealed and the following section inserted in its stead:—

“81.—(1.) A master or owner may agree with a seaman or apprentice to refer a question which has arisen between them to a superintendent for his decision.

*Reference of differences to superintendent.*

“(2.) A superintendent may hear and decide a question referred to him under the last preceding sub-section.

“(3.) An agreement referred to in sub-section (1.) of this section shall, unless the contrary intention appears from the agreement, be deemed to contain a provision that the decision of the superintendent shall be final and binding on each party to the agreement and a person claiming under such a party.

“(4.) A superintendent who gives a decision on a question referred to him under this section shall record that decision in a document under his hand and that document is admissible in evidence.”.

55. Section eighty-two of the Principal Act is repealed and the following section inserted in its stead:—

Commence-  
ment of right  
to wages.

“82.—(1.) Subject to this Act, a seaman’s right to wages begins—

(a) at the time at which he commences work; or

(b) at the time specified in his agreement for his commencement of work or presence on board,

whichever is the earlier.

“(2.) If the engagement of a seaman for service on a ship terminates and, on the same day, he is engaged again for service on the same ship, he is not entitled to wages in respect of that day under both engagements, but, if he works under the new engagement on that day and the rate of his wages under the new engagement is higher than the rate of his wages under the old engagement, he is entitled to wages in respect of that day at the higher rate.”.

Right to  
conveyance  
and wages  
in case of  
termination  
of services  
by wreck  
or loss.

56. Section eighty-five of the Principal Act is amended—

(a) by inserting in sub-section (1.), after the word “Australia”, the words “or engaged in the coasting trade”; and

(b) by omitting paragraph (a) of sub-section (1.) and inserting in its stead the following paragraph:—

“(a) conveyance, by or at the cost of the owner of the ship, to the proper return port of the seaman; and”.

Compensation  
for premature  
discharge.

57. Section eighty-eight of the Principal Act is amended by omitting from sub-section (2.) the words “the port of discharge mentioned in the agreement” and inserting in their stead the words “the proper return port of the seaman”.

Wages in full  
up to time of  
discharge.

58. Section eighty-nine of the Principal Act is repealed.

Jurisdiction  
as to wages.

59. Section ninety-one of the Principal Act is amended—

(a) by inserting in paragraph (a) of sub-section (1.), after the word “seaman”, the words “or apprentice”; and

(b) by omitting sub-sections (2.) and (3.).

Summary  
proceedings  
for wages.

60. Section ninety-two of the Principal Act is repealed.

61. Division 11 of Part II. of the Principal Act is repealed.

Repeal of  
Division 11 of  
Part II.

62. Section one hundred of the Principal Act is repealed and the following section inserted in its stead:—

“100. A seaman or apprentice who commits an act, or is guilty of an omission, specified in column 1 of the following table is guilty of an offence against this Act punishable upon conviction by a penalty not exceeding the penalty specified in column 2 of that table opposite to that act or omission :—

Offences by  
seamen or  
apprentices.

Column 1. OFFENCE.	Column 2. PUNISHMENT.
1. Desertion	Forfeiture of accrued wages not exceeding Forty pounds or a fine of Forty pounds
2. Failure or refusal without reasonable cause to join his ship or to proceed to sea in his ship	A fine of Twenty pounds
3. Absence from his ship without leave or reasonable cause, being absence not amounting to desertion or not treated as such by the master	A fine of Twenty pounds
4. Insubordination, or wilful disobedience to a lawful command, at sea	Imprisonment for one month or a fine of Twenty pounds
5. Insubordination or wilful disobedience to a lawful command	A fine of Ten pounds
6. Continued wilful disobedience to lawful commands or continued wilful failure in duty	A fine of Twenty pounds
7. Assaulting the master or another officer of his ship without lawful justification	Imprisonment for three months or a fine of Forty pounds
8. Conspiring with another seaman or apprentice—	Imprisonment for six months
(a) to disobey lawful commands at sea;	
(b) to neglect duty at sea; or	
(c) to impede the navigation of his ship or the progress of a voyage of his ship	

	Column 1. OFFENCE.	Column 2. PUNISHMENT.
	9. Wilfully damaging his ship or stealing or wilfully damaging the equipment of his ship	Imprisonment for nine months or a fine of One hundred pounds
	10. Stealing or wilfully damaging the cargo of his ship or the ship's stores	Imprisonment for three months or a fine of Fifty pounds
	11. Secreting a stowaway on his ship	A fine of Ten pounds."
Assaults on crew.	63. Section one hundred and two of the Principal Act is amended by omitting the words "Twenty pounds" and inserting in their stead the words "Forty pounds".	
Stowaways.	64. Section one hundred and four of the Principal Act is amended by inserting in sub-section (1.), after the word "ship", the words ", including a foreign ship,".	
Proceedings against seaman after departure of ship.	65. Section one hundred and six of the Principal Act is amended by omitting from paragraph (a) the words "from Australia".	
Failure to join or desertion.	66. Section one hundred and six A of the Principal Act is repealed.	
	67.—(1.) Section one hundred and eleven of the Principal Act is repealed and the following section inserted in its stead:—	
Log entries in respect of offences against section 100.	<p>" 111.—(1.) If the master of a ship registered in Australia or engaged in the coasting trade is satisfied that a seaman or apprentice belonging to the ship has, after the commencement of this section, committed an offence against section one hundred of this Act, the master—</p> <p>(a) shall enter, or cause to be entered, in the official log-book of the ship particulars of the offence;</p> <p>(b) shall, if the offender is still in the ship or the master can readily communicate with him, furnish a copy of the entry to the offender within twenty-four hours after the entry is made or as soon thereafter as is practicable; and</p> <p>(c) shall enter, or cause to be entered, in the official log-book of the ship a record of the furnishing to the offender of the copy of the entry and particulars of the reply, if any, made to the master by the offender in relation to the entry.</p> <p>Penalty: Fifty pounds.</p>	

“(2.) In any proceedings in a court in relation to an offence of which particulars have been entered in the official log-book of a ship in pursuance of this section, the court may refuse to receive evidence of the offence if the entry is not produced or proved to the court.”.

(2.) Notwithstanding the amendment made by the last preceding sub-section, section one hundred and eleven of the Principal Act continues to apply after the commencement of this section to and in relation to offences and acts of misconduct committed before the commencement of this section.

68. Section one hundred and twelve of the Principal Act is amended by omitting from paragraph (c) of sub-section (1.) the words “ a superintendent of mercantile marine or a consul ” and inserting in their stead the words “ a proper authority at a port ”.

Evidence of  
desertion in  
proceeding for  
forfeiture.

69. Section one hundred and thirteen of the Principal Act is amended by omitting the words “, though by this Act made punishable by imprisonment as well as forfeiture,”.

Questions as  
to forfeiture  
and deductions.

70.—(1.) Section one hundred and fifteen of the Principal Act is repealed and the following section inserted in its stead:—

“ 115.—(1.) The master of a ship to which this section applies shall not enter into an agreement with a seaman under section forty-six of this Act unless the agreement includes a provision in such form as is prescribed that, if the seaman commits a breach of discipline specified in that prescribed form, that breach shall be a breach of the agreement and the master shall impose on the seaman a fine of the amount specified in that prescribed form in relation to that breach of discipline.

Punishment of  
breaches of  
discipline by  
master.

“(2.) The master of a ship to which this section applies shall not impose a fine on a seaman in respect of a breach of discipline except after proper inquiry.

“(3.) Where the master of a ship to which this section applies imposes a fine on a seaman in respect of a breach of discipline, the master—

(a) shall enter, or cause to be entered, in the official log-book of the ship—

(i) a record of the breach of discipline and of the imposition of the fine; and

(ii) particulars of any statement made by the seaman with respect to the breach of discipline to the master or any other officer of the ship;

- (b) shall, if the seaman is still in the ship or the master can readily communicate with him, furnish a copy of the entry made by virtue of sub-paragraph (i) of the last preceding paragraph to the seaman within twenty-four hours after the fine is imposed or as soon thereafter as is practicable; and
- (c) shall enter, or cause to be entered, in the official log-book of the ship a record of the furnishing to the seaman of the copy of the entry referred to in the last preceding paragraph.

“(4.) Where the master of a ship to which this section applies imposes a fine on a seaman, the master shall deduct the amount of the fine from the wages of the seaman.

“(5.) Where the master of a ship to which this section applies imposes on a seaman a fine in excess of Two pounds, the seaman may, within the prescribed period and upon payment of the prescribed fee, lodge with a superintendent at a prescribed port an objection in writing against the fine and the superintendent may, upon receipt of the objection and after inquiry, disallow the fine and refund to the seaman the prescribed fee.

“(6.) Upon the discharge from a ship to which this section applies of a seaman upon whom a fine has been imposed by the master under the agreement, a proper authority at a port may, if he thinks it proper so to do, disallow the fine.

“(7.) If a superintendent or other proper authority disallows a fine under either of the last two preceding sub-sections, he shall indorse the official log-book of the ship to that effect, or cause the official log-book of the ship to be indorsed to that effect by a person authorized by him in that behalf.

“(8.) The regulations may prescribe the manner and circumstances in which a fine imposed on a seaman by the master of a ship to which this section applies may be reduced or remitted by the master.

“(9.) If a fine imposed on a seaman by a master—

- (a) is disallowed under sub-section (5.) or (6.) of this section;  
or

- (b) is remitted by the master,

the master shall refund to the seaman any deduction made from the wages of the seaman in respect of the fine and, if a fine imposed on a seaman by a master is reduced, the master shall refund to the seaman so much of any deduction made from the wages of the seaman as is in excess of the fine as so reduced.

“(10.) The master of a ship to which this section applies shall pay to a proper authority, on account of the Commonwealth, an amount deducted from the wages of a seaman under this section and not refunded to the seaman.

“(11.) Where a fine (including a fine which is remitted or reduced but not including a fine which is disallowed under sub-section (5.) or (6.) of this section) has been imposed on a seaman in pursuance of his agreement, the seaman is not liable to be otherwise punished under this Act by a court for the act or omission in respect of which the fine was imposed.

“(12.) The master of a ship who contravenes or fails to comply with a provision of this section is guilty of an offence punishable upon conviction by a fine not exceeding Fifty pounds.

“(13.) This section applies—

- (a) to ships registered in Australia;
- (b) to ships engaged in the coasting trade; and
- (c) to ships regularly employed in trading to and from ports in Australia and owned by a person, firm or company resident, or having his or its principal place of business, in Australia.”.

(2.) The amendment made by the last preceding sub-section does not apply to or in relation to a fine imposed on a seaman in pursuance of a provision in articles of agreement entered into with the seaman before the commencement of this section.

71. Section one hundred and sixteen of the Principal Act is amended by omitting from sub-section (2.) the words “Twenty pounds” and inserting in their stead the words “Fifty pounds”.

Bad provisions  
or water.

72. Section one hundred and seventeen of the Principal Act is repealed and the following section inserted in its stead:—

“117. The master of a ship registered in Australia or engaged in the coasting trade shall furnish provisions to each member of the crew of the ship in accordance with the prescribed scale unless he is unable to do so through circumstances not due to default or neglect on his part.

Scale of  
provisions.

Penalty: One hundred pounds.”.

73. Section one hundred and eighteen of the Principal Act is amended—

Supplying bad  
provisions.

- (a) by omitting from paragraph (i) of sub-section (1.) the words “One shilling” and inserting in their stead the words “Four shillings”;
- (b) by omitting from paragraph (ii) of sub-section (1.) the words “Two shillings” and inserting in their stead the words “Eight shillings”; and
- (c) by omitting from paragraph (iii) of sub-section (1.) the words “Two shillings” and inserting in their stead the words “Twelve shillings”.



Weights and  
measures.

74. Section one hundred and nineteen of the Principal Act is amended by omitting the words "Penalty: Ten pounds."

Inspection  
of provisions  
and water.

75. Section one hundred and twenty of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section :—

"(1.) The Minister may, in any case where he thinks it necessary or desirable so to do, authorize an official to inspect the provisions and water which are on a ship at a port in Australia and are intended for the use of the crew of the ship."

76. Section one hundred and twenty-one of the Principal Act is repealed and the following section inserted in its stead :—

Ship's cooks.

"121.—(1.) If a superintendent is satisfied that—

(a) a person—

(i) has attained the prescribed age ;

(ii) has had at least one month's service at sea in any capacity ; and

(iii) has passed the prescribed examination ; or

(b) a person had, before the commencement of this section, served at sea in the capacity of cook for a period of at least two years and, during that period, had, for a period of at least six months, been the person directly responsible for the preparation of meals for the crew of a ship registered in Australia or engaged in the coasting trade,

the superintendent may issue to that person a certificate of qualification as ship's cook.

"(2.) A seaman is not entitled to be rated as a certificated cook for the purposes of this Act unless he is the holder of a certificate issued under the last preceding sub-section or a certificate included in a class of certificates issued by a Commonwealth country other than Australia, being certificates declared by the regulations to be certificates corresponding with certificates issued under this section.

"(3.) If a superintendent is satisfied that a certificate of qualification as ship's cook issued to a person under this section has been lost or destroyed, he may issue to that person a certified copy of the certificate and that copy is, for the purposes of this Act, of the same effect as the certificate."

Refrigerating  
chambers.

77. Section one hundred and twenty-two A of the Principal Act is repealed.

78.—(1.) Sections one hundred and twenty-three, one hundred and twenty-four and one hundred and twenty-five of the Principal Act are repealed and the following sections inserted in their stead:—

“ 123.—(1.) The Minister may appoint a person who is a duly qualified medical practitioner to be a Medical Inspector of Seamen. Medical Inspectors of Seamen.

“(2.) Before the examination of a person by a Medical Inspector of Seamen for the purposes of this Act, the person at whose request the examination is to be made shall pay the prescribed fee.

“ 124.—(1.) The regulations may make provision for or in relation to the medical examination of, and the issue of certificates of fitness to, masters, seamen and apprentices and persons proposing to engage in employment as masters or seamen or to become apprentices. Medical examination of masters, seamen and apprentices.

“(2.) The regulations made by virtue of the last preceding sub-section may include provisions prohibiting the engagement of a person as a master or seaman, or the taking of an apprentice to sea, unless he is the holder of a certificate issued under those regulations.

“ 125.—(1.) The master of a ship registered in Australia or engaged in the coasting trade shall not take the ship to sea, and the owner or agent of the ship shall not permit the ship to be taken to sea, unless the ship is provided, in accordance with the regulations, with— Medicines, &c., to be carried on ships.

- (a) medicines, medical and surgical stores and appliances and anti-scorbutics ; and
- (b) instructions for dispensing and using medicines, medical and surgical stores and appliances.

Penalty : One hundred pounds.

“(2.) It is a defence to a prosecution for an offence against the last preceding sub-section if the person charged with the offence satisfies the court in which the prosecution is brought that his failure to comply with the sub-section was not due to any act or default on his part.”.

(2.) A person who, immediately before the commencement of this section, held office as a Medical Inspector of Seamen under section one hundred and twenty-three of the Principal Act shall, after the commencement of this section, continue to hold that office as if he had been appointed under section one hundred and twenty-three of the Principal Act as amended by this Act.

Inspection of  
medicines.

79. Section one hundred and twenty-six of the Principal Act is amended by omitting the words "Twenty pounds" and inserting in their stead the words "One hundred pounds".

80. Section one hundred and twenty-seven of the Principal Act is repealed and the following section inserted in its stead :—

Owner liable  
for medical  
attendance, &c.

" 127.—(1.) If a seaman belonging to a ship registered in Australia or engaged in the coasting trade—

(a) receives a hurt or injury, or contracts a disease, in the service of the ship ; or

(b) suffers from an illness, not being an illness due to his wilful act or default or to his misbehaviour,

and the seaman is not at his proper return port, the expense of—

(c) providing the necessary surgical and medical advice and attendance, and medicine, until the seaman is cured, dies or arrives at his proper return port ;

(d) the maintenance of the seaman until he is cured, dies or arrives at his proper return port ;

(e) the conveyance of the seaman to his proper return port ; and

(f) if the seaman dies before he arrives at his proper return port—his burial or, if his body is conveyed to his proper return port at the request of a member of his family, the conveyance of his body to that port,

shall, subject to sub-section (4.) of this section, be defrayed by the owner of the ship without deduction from the wages of the seaman.

" (2.) For the purposes of the last preceding sub-section, where a seaman suffers from a venereal disease, that disease shall not be deemed to be due to his wilful act or default or to his misbehaviour.

" (3.) If—

(a) a seaman belonging to a ship registered in Australia or engaged in the coasting trade is suffering from a disease or illness ; and

(b) he is, for the purpose of preventing infection or otherwise for the convenience of the ship, temporarily removed from his ship,

the expense of—

(c) the removal of the seaman from, and his return to, the ship ;

(d) providing the necessary surgical and medical advice and attendance, and medicine, while the seaman is away from the ship ; and

(e) the maintenance of the seaman while he is away from the ship,

shall, subject to the next succeeding sub-section, be defrayed by the owner of the ship without deduction from the wages of the seaman.

“(4.) If it is practicable for the seaman to be treated and maintained in a public hospital but he elects to be treated and maintained elsewhere, the liability of the owner in respect of surgical and medical advice and attendance, medicine and maintenance is not greater than it would have been if the seaman had been treated and maintained as an in-patient in the public hospital.

“(5.) The expense of all surgical and medical advice and attendance, and medicine, given to a seaman belonging to a ship registered in Australia or engaged in the coasting trade while the seaman is on board the ship shall be defrayed by the owner of the ship without deduction from the wages of the seaman.

“(6.) Any reasonable expenses incurred by the owner of a ship registered in Australia or engaged in the coasting trade in respect of—

(a) an illness of a seaman belonging to the ship ; or

(b) the burial of such a seaman who dies while on service, not being expenses which are required to be defrayed by the owner of the ship under the preceding provisions of this section, may, with the approval of a proper authority at a port, be deducted from the wages of the seaman.

“(7.) In this section, ‘seaman’ includes master and apprentice.”

**81.—(1.)** Sections one hundred and twenty-nine, one hundred and thirty, one hundred and thirty-one and one hundred and thirty-two of the Principal Act are repealed and the following sections inserted in their stead :—

“132.—(1.) Where a seaman belonging to a ship registered in Australia or engaged in the coasting trade is left on shore at his proper return port by reason of illness, hurt or injury, he is, subject to this section and section one hundred and thirty-two B of this Act, entitled to receive wages, at the rate fixed by his agreement, in respect of each day during the period commencing on the day on which he was left on shore and ending—

Wages of  
seaman left  
on shore sick  
or injured.

(a) at the expiration of a period of one week after the date of his recovery ; or

(b) at the expiration of a period of three months after the day on which he was left on shore,

whichever first occurs.

“(2.) Where a seaman belonging to a ship registered in Australia or engaged in the coasting trade is left on shore at a

port other than his proper return port by reason of illness, hurt or injury, he is, subject to this section and section one hundred and thirty-two B of this Act, entitled to receive wages, at the rate fixed by his agreement, in respect of each day during the period commencing on the day on which he was left on shore and ending—

(a) in a case in which he arrives at his proper return port before his recovery—

(i) at the expiration of a period of one week after the date of his recovery ; or

(ii) at the expiration of a period of three months after the date on which he so arrives,

whichever first occurs ; and

(b) in a case in which he does not arrive at his proper return port before his recovery—

(i) when he arrives at his proper return port ;

(ii) when he rejoins the ship ; or

(iii) when he engages in other employment,

whichever first occurs.

“(3.) If, after the recovery of a seaman entitled to receive wages under the last preceding sub-section and before he arrives at his proper return port—

(a) he refuses or fails, without the approval of a proper authority at a port, to accept an offer of employment on a ship which is proceeding to his proper return port, being employment under the terms of which—

(i) he would have been paid wages at a rate not less than the rate fixed by the agreement under which he served on the ship from which he was left on shore ; and

(ii) he would have had the right to be discharged on arrival at his proper return port ; or

(b) he refuses or fails, without reasonable excuse, to rejoin the ship from which he was left on shore or to accept conveyance back to his proper return port by or at the cost of the owner of that ship,

he is not entitled to receive wages in respect of any period after that refusal or failure.

“(4.) A seaman who, before his recovery, is fit to travel is not entitled to wages under sub-section (2.) of this section in respect of a day on which his conveyance to his proper return port by or at the cost of the owner of the ship from which he was left on shore is delayed by his own act, default or neglect.

“(5.) If—

- (a) a seaman who is left on shore from a ship is not paid wages to which he is entitled under sub-section (1.) or (2.) of this section ; or
- (b) a seaman who is left on shore at a port other than his proper return port, being a seaman who is entitled to be paid wages under sub-section (2.) of this section, is brought or taken back to his proper return port at the direction of the owner or agent of the ship at a time before his recovery when the seaman is not fit to travel,

the owner and agent of the ship are each guilty of an offence against this Act punishable upon conviction by a fine not exceeding Two hundred pounds.

“(6.) A seaman is entitled to wages under this section by reason of an illness, hurt or injury only if the illness, hurt or injury—

- (a) is not due to his own wilful act or default or to his misbehaviour ;
- (b) is such as to incapacitate him wholly from the performance of his duty ;
- (c) is, or appears to be, of such a nature as to require, or to be likely to require, medical treatment for a period exceeding seven days ; and
- (d) except in the case of a venereal disease contracted after the seaman engaged to serve on the ship, is, so far as can be ascertained, an illness contracted on board the ship, or in the service of the ship or her owner, or a hurt or injury sustained in the service of the ship or her owner.

“(7.) For the purposes of paragraph (a) of the last preceding sub-section, where a seaman suffers from a venereal disease, that disease shall not be deemed to be due to his wilful act or default or to his misbehaviour.

“(8.) In this section—

- ‘ agreement ’, in relation to the master of a ship, means the agreement made by him to serve on the ship, and, in relation to an apprentice, means his indentures of apprenticeship ;
- ‘ recovery ’, in relation to a seaman, means the recovery of the seaman as certified by a Medical Inspector of Seamen or any other duly qualified medical practitioner ;
- ‘ seaman ’ includes master and apprentice.

Security for  
expenses and  
wages of  
seaman left  
behind.

“ 132A.—(1.) A proper authority at a port may require the owner, agent or master of a ship from which a seaman is left on shore at that port—

(a) to deposit with the proper authority such sum as the proper authority considers necessary to cover the liability, or expected liability, of the owner in respect of the seaman under section one hundred and twenty-seven of this Act or under the last preceding section ;  
or

(b) to give security for the payment by the owner of amounts for which he is, or may become, liable in respect of the seaman under either of those sections.

“(2.) A person shall comply with a requirement made by a proper authority under the last preceding sub-section.

Penalty : Two hundred pounds.

“(3.) An amount deposited with a proper authority under sub-section (1.) of this section may be expended by the proper authority in discharging the liabilities in respect of which it was deposited and the balance, if any, shall be paid to the person by whom it was deposited.

“(4.) In this section, ‘ seaman ’ includes master and apprentice.

Seaman left  
on shore to  
furnish  
address and  
to report for  
medical  
examination.

“ 132B.—(1.) A seaman who is left on shore at a port and is entitled to receive wages under section one hundred and thirty-two of this Act shall inform a proper authority at the port of his address and, if he changes his address, shall inform the proper authority of his new address.

“(2.) If, at the expiration of a period of forty-eight hours after being left on shore or after the change of address, as the case may be, the seaman, without reasonable excuse, fails to inform the proper authority of his address or new address, as the case may be, the seaman is not entitled to receive wages under section one hundred and thirty-two of this Act in respect of any period after the expiration of the period of forty-eight hours and before he so informs the proper authority.

“(3.) The owner, agent or master of a ship may, by notice in writing given to a seaman who—

(a) has been left on shore from the ship ;

(b) is entitled to receive wages under section one hundred and thirty-two of this Act ; and

(c) is not an in-patient in a hospital,

direct the seaman to submit himself for medical examination to a duly qualified medical practitioner specified in the notice at or before such time as is so specified and, if the seaman, without reasonable excuse, fails to submit himself for medical examination to the medical practitioner at or before that time, he is not

entitled to receive wages under that section in respect of any period after that time and before he submits himself for medical examination to that medical practitioner or to such other duly qualified medical practitioner as the owner, agent or master directs.

“(4.) Nothing in this section affects the entitlement of a seaman to wages under section one hundred and thirty-two of this Act in respect of a period during which he is an in-patient in a hospital.

“(5.) In this section, ‘seaman’ includes master and apprentice.”.

(2.) The amendment made by the last preceding sub-section, in so far as that amendment provides for the repeal of section one hundred and thirty-two of the Principal Act and for the insertion of sections in the Principal Act, does not apply to or in relation to a master, seaman or apprentice left on shore before the commencement of this section.

**82.** Section one hundred and thirty-three of the Principal Act is amended—

Medical  
practitioners  
and first aid  
attendants.

(a) by omitting paragraph (b) of sub-section (1.) and inserting in its stead the following paragraph:—

“(b) other ship on a passage between two consecutive ports which exceeds such distance as is prescribed,”;

(b) by omitting paragraph (b) of sub-section (2.) and inserting in its stead the following paragraph:—

“(b) other ship on a passage between two consecutive ports which exceeds such distance as is prescribed,”; and

(c) by omitting from sub-section (2.) the words “by a medical inspector or by an approved authority” and inserting in their stead the words “by a Medical Inspector of Seamen or a prescribed authority”.

**83.** Section one hundred and thirty-four of the Principal Act is repealed.

Supply of  
clothing,  
blankets, and  
tobacco.

**84.** Section one hundred and thirty-eight B of the Principal Act is repealed and the following section inserted in its stead :—

“138B. In this Division—

Definitions.

‘accommodation’ includes sleeping rooms, mess rooms, duty rooms, recreation rooms, store rooms, change rooms, oilskin lockers, galleys, refrigerating chambers, sanitary and lavatory accommodation, hospital accommodation, office accommodation and catering accommodation ;

‘the Committee’ means the Committee appointed under section one hundred and thirty-eight of this Act.”.



85. Section one hundred and thirty-nine of the Principal Act is repealed and the following section inserted in its stead :—

Facilities for  
making  
complaints, &c.

“ 139.—(1.) If a seaman or apprentice who is a member of the crew of a ship registered in Australia or engaged in the coasting trade informs the master of the ship that he wishes to go ashore—

(a) for the purpose of consulting a proper authority in connexion with a matter related to his employment on the ship ; or

(b) for a purpose connected with legal proceedings, or proposed legal proceedings, against the master or a member of the crew of the ship,

the master of the ship shall not refuse the seaman or apprentice leave to go ashore for that purpose at any reasonable time or otherwise prevent him from going ashore for that purpose.

Penalty : Fifty pounds.

“(2.) A seaman or apprentice shall not obtain leave to go ashore under the last preceding sub-section by means of a false or misleading statement or pretence or for a reason which is frivolous or vexatious.”.

Not liable for  
debt till end  
of agreement.

86. Section one hundred and forty-one of the Principal Act is repealed.

Illegal charge  
for  
maintenance.

87. Section one hundred and forty-two of the Principal Act is amended by omitting the words “ Penalty : Ten pounds.”.

Illegally  
detaining  
effects.

88. Section one hundred and forty-three of the Principal Act is amended by omitting from sub-section (1.) the words “ Penalty : Ten pounds.”.

Persons  
unlawfully  
boarding, or  
remaining on  
board, ships.

89. Section one hundred and forty-five of the Principal Act is amended—

(a) by omitting from sub-section (1.) all the words before paragraph (a) and inserting in their stead the words “ A person, not being in the service of the Commonwealth or a State, shall not, unless authorized by law—”;

(b) by omitting from paragraph (b) of sub-section (1.) the words “ in Australia ” and inserting in their stead the words “ (including a foreign ship) ”; and

(c) by omitting from sub-section (1.) the words “ Twenty pounds or imprisonment for six months ” and inserting in their stead the words “ Fifty pounds or imprisonment for three months ”.

Foreign ships.

90. Section one hundred and forty-six of the Principal Act is repealed.

91. After section one hundred and forty-eight of the Principal Act the following sections are inserted in Division 16 of Part II. :—

“ 148A.—(1.) A person shall not wrongfully force on shore and leave behind at a place in Australia a seaman or apprentice belonging to a ship, including a foreign ship, or otherwise cause such a seaman or apprentice to be wrongfully left behind at such a place, either on shore or at sea.

Seaman not  
to be wrongfully  
left behind.

“(2.) A person shall not wrongfully force on shore and leave behind at a place outside Australia a seaman or apprentice belonging to a ship registered in Australia, or otherwise cause such a seaman or apprentice to be wrongfully left behind at such a place, either on shore or at sea.

“(3.) A contravention of this section is an indictable offence.

“ 148B.—(1.) The master of a ship registered in Australia or engaged in the coasting trade shall not take the ship to sea from any port, including a port outside Australia, at which he has left behind, or proposes to leave behind, a seaman (other than a seaman discharged in accordance with this Act) or an apprentice unless a proper authority at the port, after inquiring into the matter, has certified in writing upon the articles of agreement of the ship the reason for which, in his opinion, the seaman or apprentice has been, or is proposed to be, left behind.

Certificate  
where seaman  
left behind.

“(2.) A contravention of the last preceding sub-section is an indictable offence.

“(3.) It is a defence to a prosecution for an offence against this section if the accused person proves that—

- (a) the certificate of a proper authority could not have been obtained without unreasonable delay to the ship ; or
- (b) a proper authority unreasonably failed to give the certificate.

“ 148C.—(1.) If a seaman (other than a seaman discharged in accordance with this Act) or an apprentice is left on shore at any port, including a port outside Australia, from a ship registered in Australia or engaged in the coasting trade, the master of the ship shall—

Wages and  
effects of  
seaman left  
behind.

- (a) prepare, in the prescribed form, a full and true account of the wages of the seaman or apprentice, and of the deductions to be made on any account from those wages, and enter in the official log-book of the ship a statement of the balance of wages due to the seaman or apprentice ;
- (b) take into his charge any effects of the seaman or apprentice left on the ship and enter in the official log-book of the ship particulars of those effects ;

(c) deliver the account prepared under paragraph (a) of this sub-section and any effects of the seaman or apprentice which the master has taken into his charge under the last preceding paragraph—

(i) to the seaman or apprentice, either directly or through a proper authority at a port ; or

(ii) if it is not practicable so to deliver the account and effects to the seaman or apprentice—to a proper authority at a port ; and

(d) pay the amount of the wages due to the seaman or apprentice, less any deductions approved by a proper authority at a port—

(i) to the seaman or apprentice, through or in the presence of a proper authority at a port ; or

(ii) if it is not practicable so to pay the wages to the seaman or apprentice or if a proper authority at a port certifies in writing that he is of the opinion that the seaman or apprentice deserted from the ship—to a proper authority at a port.

“(2.) Where the master of a ship delivers an account or effects, or pays the amount of any wages, to a proper authority under the last preceding sub-section, the master shall make an entry to that effect in the official log-book of the ship stating the reason why the account or effects were not delivered, or the amount of wages were not paid, to the seaman or apprentice.

“(3.) A proper authority to whom an account or effects are delivered, or an amount is paid, under sub-section (1.) of this section shall transmit that account, those effects or that amount, as the case may be, to the Minister.

“(4.) Upon—

(a) the delivery by the master of a ship to a proper authority under this section of the effects of a seaman or apprentice ; or

(b) the payment by the master of a ship to a proper authority under this section of an amount of wages of a seaman or apprentice,

the owner, agent and master of the ship are each discharged from further liability in respect of the effects so delivered or the amount so paid, as the case may be.

“(5.) If the master of a ship contravenes or fails to comply with a provision of this section, the owner of the ship and the master are each guilty of an offence against this Act punishable upon conviction by a fine not exceeding Fifty pounds.

“ 148D.—(1.) Where an amount of wages of a seaman or apprentice is transmitted to the Minister under the last preceding section, the Minister shall, subject to this section, hold that amount in trust for the seaman or apprentice. Wages and effects to be held in trust by Minister.

“ (2.) If it appears to the Minister that the seaman or apprentice may have deserted from his ship, but the question of the desertion of the seaman or apprentice or of the forfeiture of wages of the seaman or apprentice by virtue of his desertion has not been determined by a court, the Minister, after referring the matter for advice to the Marine Council, may, until that question of desertion or forfeiture is determined by a court, withhold from payment to any person entitled to the amount of wages of the seaman or apprentice held in trust by the Minister an amount equal to the maximum amount which, under this Act, a court could order to be forfeited from the accrued wages of the seaman or apprentice upon his conviction for desertion or such lesser amount as the Minister thinks proper in the circumstances.

“ (3.) Where—

- (a) an amount of wages of a seaman or apprentice is held by the Minister under this section; and
- (b) a court imposes a pecuniary penalty on the seaman or apprentice, or orders the forfeiture of wages of the seaman or apprentice, under this Act,

the Minister may, unless the liability in respect of the penalty or forfeiture has not been otherwise discharged, pay to the Consolidated Revenue Fund so much of the amount of wages held by him as does not exceed the amount of the penalty or forfeiture.

“ (4.) Where the effects of a seaman or apprentice are transmitted to the Minister under the last preceding section, the Minister shall, subject to the next succeeding sub-section, hold those effects in trust for the seaman or apprentice.

“ (5.) The Minister may, after the expiration of one year from the time when the effects were transmitted to the Minister, and shall, not later than the expiration of six years from that time, cause those effects, or so much of those effects as are still held in trust by the Minister, to be sold by auction, and the Minister shall hold the proceeds of the sale in trust for the seaman or apprentice.”.

**92.** Sections one hundred and forty-nine and one hundred and fifty of the Principal Act are repealed and the following sections inserted in their stead :—

“ 149.—(1.) In this Division, unless the contrary intention appears— Interpretation.

‘ property ’, in relation to a deceased seaman or apprentice, means money and effects of the seaman or apprentice referred to in the next succeeding section and the wages

due to him at the date of his death, after all lawful deductions have been made from those wages, and includes money and effects of the seaman or apprentice which a proper authority takes into his charge under section one hundred and fifty-three of this Act ;

‘ seaman ’ includes master ;

‘ ship ’ means—

- (a) a ship registered in Australia ;
- (b) a ship engaged in the coasting trade ; or
- (c) a ship regularly employed in trading to and from ports in Australia and owned by a person, firm or company resident, or having his or its principal place of business, in Australia.

“(2.) In the application of this Division in relation to the deceased master of a ship, a reference in this Division to the master of the ship shall be read as a reference to the officer having command or charge of the ship in succession to the deceased master.

Master to  
take charge  
of money  
and effects.

“ 150. If a seaman or apprentice belonging to a ship dies, the master of the ship shall take into his charge any money or effects of the seaman or apprentice which are on, or come on to, the ship and enter in the official log-book of the ship such particulars with respect to that money and those effects as are prescribed.”.

Death of  
seamen  
abroad.

93.—(1.) Section one hundred and fifty-one of the Principal Act is amended—

- (a) by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-sections :—

“(1.) If a seaman or apprentice belonging to a ship dies outside Australia or during a voyage to a port outside Australia and, after his death and before the ship arrives at a port in Australia, the ship is, for a period of at least twenty-four hours, at a port, the master of the ship shall—

- (a) inform a proper authority at that last-mentioned port that the seaman or apprentice has died ; and
- (b) if the proper authority so requires, furnish to the proper authority information with respect to the destination of the ship and the probable duration of the voyage of the ship.

“(2.) The proper authority may, and, if the ship’s agreement will terminate at a time when the ship is outside Australia, shall, require the master to pay and

deliver to the proper authority any property of the seaman or apprentice in the possession of the master and, upon the master complying with that request, shall give to the master a receipt for the property.” ; and

- (b) by omitting from sub-sections (4.), (5.) and (6.) the words “consul or officer” and inserting in their stead the words “proper authority”.

(2.) The amendments made by the last preceding sub-section do not apply to or in relation to a master, seaman or apprentice who died before the commencement of this section.

94. Section one hundred and fifty-two of the Principal Act is amended by omitting from sub-section (1.) the words “Fifty pounds” and inserting in their stead the words “One hundred pounds”.

Penalty for not accounting for effects.

95. Section one hundred and fifty-three of the Principal Act is repealed and the following section inserted in its stead :—

“ 153. If—

- (a) a person dies at a place outside Australia ;  
 (b) at the time of, or within a period of six months before, his death, he was a seaman or apprentice belonging to a ship; and  
 (c) he left money or effects at the place at which he died elsewhere than on board the ship,

Effects of deceased seaman not left on board.

a proper authority at the port at or nearest to that place may take into his charge that money and those effects.”.

96.—(1.) Section one hundred and fifty-four of the Principal Act is amended—

Recovery of wages of seaman lost with ship.

- (a) by omitting sub-section (2.) and inserting in its stead the following sub-section :—

“(2.) For the purposes of any proceedings in a court in relation to the wages of a seaman or apprentice, a ship which was expected to arrive at a port at a time six months or more before the institution of the proceedings, but did not so arrive and has not been heard of since that time, shall be deemed to have been lost with all hands on board and the court may determine the date on which the ship shall be deemed to have been so lost.” ; and

- (b) by omitting from sub-section (3.) the words “any consul or public officer” and inserting in their stead the words “a proper authority”.

(2.) The amendments made by the last preceding sub-section apply for the purposes of proceedings whether pending at the date of commencement of this section or instituted on or after that date.

97. Section one hundred and fifty-five of the Principal Act is repealed and the following sections are inserted in its stead :—

Property of  
deceased seaman  
to be delivered  
to  
superintendent.

“ 155. Where a seaman or apprentice belonging to a ship dies after the commencement of this section, the master of the ship shall—

- (a) if the ship is in a port in Australia at the time of death—within forty-eight hours after the death, pay and deliver to the superintendent at that port any property of the seaman or apprentice in the possession of the master; and
- (b) in any other case—within forty-eight hours after the arrival of the ship at a port in Australia, pay and deliver to the superintendent at that port any property of the seaman or apprentice not paid or delivered to a proper authority under sub-section (2.) of section one hundred and fifty-one of this Act.

Penalty : One hundred pounds.

Transmission of  
money and  
effects to  
Minister.

“ 155A. A superintendent or other proper authority to whom the property of a deceased seaman or apprentice is paid or delivered under the preceding provisions of this Division, or a proper authority who, under section one hundred and fifty-three of this Act, takes into his charge the property of a deceased seaman or apprentice, shall transmit that property to the Minister.”.

Right of  
Minister to  
dispose of  
effects.

98.—(1.) Section one hundred and fifty-six of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “ One hundred pounds ” (wherever occurring) and inserting in their stead the words “ Two hundred and fifty pounds ” ; and
- (b) by omitting the words “ Twenty pounds ” and inserting in their stead the words “ Fifty pounds ”.

(2.) The amendments made by paragraph (a) of the last preceding sub-section apply in relation to property whether that property came into the hands of the Minister before the date of commencement of this section or comes into the hands of the Minister on or after that date.

**99.**—(1.) Section one hundred and fifty-seven of the Principal Act is amended by omitting from paragraph (b) of sub-section (1.) the words from and including the words “a superintendent” to the end of the paragraph and inserting in their stead the words “a proper authority at a port, a justice or a minister of religion.”

Wills of  
deceased  
seamen.

(2.) The amendment made by the last preceding sub-section does not apply to or in relation to a will made before the commencement of this section.

**100.** After section one hundred and fifty-eight of the Principal Act the following section is inserted:—

“158A. The Minister may, after the expiration of one year from the time when property not consisting of money comes into his hands under this Division and shall, not later than the expiration of six years from that time, cause any part of that property that has not been delivered to a person by the Minister under this Division to be sold by auction.”

Sale of effects,  
&c., by auction.

**101.** Section one hundred and sixty-two of the Principal Act is amended by omitting from sub-section (2.) the words “Penalty: Five pounds.”

Reimbursement  
of institutions.

**102.** Division 19 of Part II. of the Principal Act is repealed and the following Division inserted in its stead:—

**“DIVISION 19.—RELIEF AND MAINTENANCE OF DISTRESSED SEAMEN.**

“163.—(1.) In this Division—

Interpretation.

‘distressed seaman’ means a person who, being or having been a seaman, is in distress at a place outside Australia by reason of having been discharged or left behind from, or having been shipwrecked in, a foreign-going ship, an Australian-trade ship or a limited coast-trade ship;

‘seaman’ includes master and apprentice.

“(2.) A reference in this Division to the relief and maintenance of distressed seamen shall be read as including a reference to—

- (a) the conveyance of distressed seamen to their proper return ports;
- (b) the conveyance of distressed seamen to port after shipwreck and their maintenance while being so conveyed; and

(c) the burial of distressed seamen who die outside Australia.



Regulations  
may make  
provision for  
relief and  
maintenance of  
distressed  
seamen.

“ 163A.—(1.) The regulations may make provision for and in relation to the relief and maintenance of distressed seamen.

“ (2.) Without in any way limiting the generality of the last preceding sub-section, the regulations made by virtue of that sub-section—

- (a) may prescribe the duties and functions of proper authorities at ports in relation to the relief and maintenance of distressed seamen ;
- (b) may require the owner or master of a ship registered in Australia to provide a distressed seaman with a passage on the ship, and maintenance during the passage, in connexion with the conveyance of the seaman to his proper return port ;
- (c) may prescribe the charges which the owner or master of a British ship may make for providing a distressed seaman with a passage on the ship, and maintenance during the passage, in connexion with the conveyance of the seaman to his proper return port ; and
- (d) may provide for the recovery of expenditure incurred by or on behalf of the Commonwealth for or in connexion with the relief and maintenance of a distressed seaman and of wages, if any, due to the seaman and, in particular, may provide that expenditure so incurred, or wages so due, shall be a charge upon the ship to which the distressed seaman belonged.”.

All ships may  
be searched.

103. Section one hundred and sixty-four of the Principal Act is amended by omitting the words “Twenty pounds” and inserting in their stead the words “Fifty pounds”.

104. Sections one hundred and sixty-five and one hundred and sixty-six of the Principal Act are repealed and the following section is inserted in their stead :—

Furnishing of  
particulars of  
crew of ship.

“ 165. The master of a ship, including a foreign ship, which arrives at a port in Australia from a port outside Australia shall, within twenty-four hours after the ship so arrives, furnish to the superintendent at that first-mentioned port, in accordance with the prescribed form, particulars of the crew of the ship.”.

Agreement to  
be produced.

105. Section one hundred and sixty-seven of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section :—

“ (1.) The master of a foreign-going ship which arrives at a port in Australia shall forthwith deliver to the superintendent at that port—

- (a) the articles of agreement of the ship ; and

- (b) if required by the superintendent, the official log-book of the ship and the indentures of apprenticeship, and any instrument of assignment of the indentures of apprenticeship, of any apprentice on board the ship.

Penalty : Fifty pounds.”.

**106.** Section one hundred and seventy-one of the Principal Act is amended— Official log-book.

- (a) by omitting sub-sections (1.), (2.) and (3.) and inserting in their stead the following sub-section :—

“ (1.) The master of a ship, other than a river and bay ship, shall keep an official log-book in the prescribed form and shall make such entries in that log-book as are prescribed.

Penalty : Fifty pounds.” ;

- (b) by omitting from paragraph (b) of sub-section (6.) the words “ of the sale of ” and inserting in their stead the words “ relating to ” ; and

- (c) by omitting from sub-section (6.) the words “ Ten pounds ” and inserting in their stead the words “ Twenty-five pounds ”.

**107.** Section one hundred and seventy-three of the Principal Act is repealed and the following section inserted in its stead :—

“ 173.—(1.) The master of a ship who is required by section one hundred and seventy-one of this Act to keep an official log-book— Delivery of official log-book.

- (a) shall, upon the discharge of a seaman from the ship through or in the presence of a proper authority at a port, produce the official log-book to the proper authority for his inspection ; and

- (b) shall, upon the termination of the articles of agreement of the ship, deliver the official log-book to a proper authority at a port.

“ (2.) A proper authority, not being a superintendent, to whom an official log-book is delivered in pursuance of paragraph (b) of the last preceding sub-section shall deal with that log-book in accordance with the directions, if any, of the Minister.”.

**108.** Section one hundred and seventy-four of the Principal Act is amended by omitting the words “ Ten pounds ” and inserting in their stead the words “ Twenty-five pounds ”. Transmission of log-book to superintendent.

**109.** Section one hundred and seventy-five of the Principal Act is repealed and the following section inserted in its stead :—

“ 175.—(1.) The chief engineer of a ship, other than a river and bay ship, shall keep an engine-room log-book in a form approved by the Director. Engine-room log-book.

“(2.) The master of a ship on which an engine-room log-book is kept in pursuance of the last preceding sub-section shall supervise the keeping of that log-book and shall, when so required by an official, produce that log-book to the official.

“(3.) The master and chief engineer of a ship shall sign each entry made in the engine-room log-book of the ship and, if an engineer other than the chief engineer was on watch at the time of the occurrence of the matter to which the entry relates, that other engineer shall also sign the entry.

“(4.) This section does not affect a duty or obligation imposed on the master of a ship by this Act in relation to the official log-book of the ship.

“(5.) In this section, ‘chief engineer’, in relation to a ship which carries one engineer only, means that engineer.”.

Repeal of  
Division 22  
of Part II.

**110.**—(1.) Division 22 of Part II. of the Principal Act is repealed.

(2.) The repeal effected by the last preceding sub-section does not affect an inquiry pending under Division 22 of Part II. of the Principal Act at the commencement of this section.

**111.** Section one hundred and seventy-nine of the Principal Act is repealed and the following section inserted in its stead :—

Offences.

“179. A seaman who, in Australia, commits an act, or is guilty of an omission, specified in column 1 of the following table is guilty of an offence against this Act punishable upon conviction by a penalty not exceeding the penalty specified in column 2 of that table opposite to that act or omission:—

Column 1. OFFENCE.	Column 2. PUNISHMENT.
1. Desertion	Imprisonment for three months or a fine of Forty pounds
2. Failure or refusal without reasonable cause to join his ship or to proceed to sea in his ship	Imprisonment for ten days or a fine of Twenty pounds
3. Absence from his ship without leave or reasonable cause, being absence not amounting to desertion or not treated as such by the master	Imprisonment for ten days or a fine of Twenty pounds
4. Insubordination or wilful disobedience to a lawful command	Imprisonment for seven days or a fine of Ten pounds
5. Assaulting the master or another officer of his ship without lawful justification	Imprisonment for three months or a fine of Forty pounds.”.

**112.** Section one hundred and eighty-three of the Principal Act is amended by omitting from paragraph (b) the word "Governor-General" and inserting in its stead the word "Minister".

Proceedings at  
instance of  
Consul only.

**113.** Section one hundred and eighty-six of the Principal Act is repealed and the following section inserted in its stead :—

" 186. Where—

(a) a seaman is left behind at a port in Australia from a foreign ship without the consent of a consul in Australia of the country to which the ship belongs ; and

Expenses of  
returning  
foreign seamen  
left behind.

(b) the Commonwealth incurs expense in sending the seaman to a place outside Australia,

the Commonwealth may recover the amount of those expenses from the owner, agent or master of the ship in any court of competent jurisdiction as a debt due and payable by the owner, agent or master, as the case may be, to the Commonwealth."

**114.** Part IV. of the Principal Act is amended by omitting the list of Division headings appearing before Division 1 of that Part.

Part IV.—  
Division  
headings.

**115.** Section one hundred and eighty-seven A of the Principal Act is amended by omitting from sub-section (1.) the definition of " surveyor ".

Interpretation.

**116.** Section one hundred and ninety-one of the Principal Act is amended by inserting in paragraph (b), after the word " comply ", the words " and make provision for the assigning of subdivision load lines to ships and the marking of subdivision load lines on ships ".

Regulations  
relating to  
surveys,  
construction,  
&c.

**117.** After section one hundred and ninety-one A of the Principal Act the following section is inserted:—

" 191AA.—(1.) A passenger steamship registered in Australia, or any other passenger steamship at a port in Australia, which is marked with a subdivision load line shall not be so loaded as to submerge the load line in salt water when the ship has no list.

Submersion of  
subdivision  
load lines.

" (2.) If a ship is loaded in contravention of the last preceding sub-section, the owner, agent and master of the ship are each guilty of an offence against this Act, punishable upon conviction by a fine not exceeding Five hundred pounds and by such additional fine, not exceeding the amount specified in the next succeeding sub-section, as the Court thinks fit to impose, having regard to the extent to which the earning capacity of the ship was, or would have been, increased by reason of the submersion.

“(3.) The additional fine which may be imposed under the last preceding sub-section shall not exceed Five hundred pounds for every inch or part of an inch by which the subdivision load line was submerged or, if the ship had been in salt water and had had no list, would have been submerged.

“(4.) Without prejudice to any proceedings under the preceding provisions of this section, a ship which is loaded in contravention of sub-section (1.) of this section may be detained until the ship ceases to be so loaded.”.

Signalling  
lamps.

**118.** Section one hundred and ninety-one B of the Principal Act is amended by omitting the words “Penalty : Twenty pounds.”.

Posting up of  
certificate.

**119.** Section one hundred and ninety-six of the Principal Act is amended by omitting the words “Penalty : Ten pounds.”.

Invalid  
certificates to  
be given up.

**120.** Section two hundred of the Principal Act is amended by omitting the words “Penalty : Ten pounds.”.

Exemption  
from survey  
when certificates  
in force.

**121.** Section two hundred and four of the Principal Act is amended by omitting from paragraph (a) of sub-section (1.) the word and figure “Division 2” and inserting in their stead the words “this Division”.

Modification  
of certificate  
in respect of  
life-saving  
appliances.  
Offences as to  
appliances.

**122.** Section two hundred and sixteen A of the Principal Act is amended by omitting the words “Penalty : Twenty pounds.”.

**123.** Section two hundred and seventeen of the Principal Act is amended by omitting from sub-section (1.) the words “One hundred pounds” and inserting in their stead the words “One thousand pounds”.

Marking of  
deck and  
load lines.

**124.** Section two hundred and nineteen A of the Principal Act is amended—

(a) by omitting from paragraph (c) of sub-section (2.) the words “Ministry of Transport” (wherever occurring) and inserting in their stead the words “Board of Trade” ; and

(b) by omitting from that paragraph the words “*Merchant Shipping Act 1894*” and inserting in their stead the words “*Merchant Shipping Act*”.

Submersion of  
load lines.

**125.** Section two hundred and nineteen B of the Principal Act is amended by omitting from sub-sections (3.) and (4.) the words “One hundred pounds” and inserting in their stead the words “Five hundred pounds”.

Duration,  
renewal and  
cancellation  
of certificates.

**126.** Section two hundred and twenty A of the Principal Act is amended by omitting from sub-section (5.) the words “Penalty : Ten pounds.”.

Publication of  
load line  
certificate.

**127.** Section two hundred and twenty-one A of the Principal Act is amended by omitting the words “Penalty : Twenty pounds.”.

**128.** Section two hundred and twenty-two of the Principal Act is amended by omitting from sub-section (1.) the words "Penalty : Twenty pounds.".

Publication of particulars as to depth of loading.

**129.** Section two hundred and twenty-six of the Principal Act is amended by omitting sub-sections (2.) and (3.).

Load line certificates of ships not registered in Australia.

**130.** Section two hundred and twenty-nine of the Principal Act is amended by omitting paragraph (a) of sub-section (2.) and inserting in its stead the following paragraph :—

Signals of distress and urgency.

"(a) a signal, not being a signal of distress or urgency, which could be mistaken for a prescribed signal of distress or urgency ; or "

**131.** Section two hundred and thirty-one c of the Principal Act is amended by omitting sub-section (2.) and the penalty set out at the foot of the section and inserting in their stead the following sub-section and penalty :—

Maintenance and use of radio equipment and radio services.

"(2.) The master of a ship equipped with a radio navigational aid—

(a) shall maintain that radio navigational aid, or cause that radio navigational aid to be maintained, in accordance with the regulations ; and

(b) shall not use that radio navigational aid, or permit that radio navigational aid to be used, otherwise than in accordance with the regulations.

Penalty : Two hundred and fifty pounds."

**132.** Section two hundred and thirty-one F of the Principal Act is amended by inserting in paragraph (b) of sub-section (2.), after the word "installation", the words " , or a radio navigational aid,".

Regulations.

**133.** Division 7 of Part IV. of the Principal Act is repealed and the following Division inserted in its stead :—

" DIVISION 7.—COMPASSES.

" 232.—(1.) The regulations may make provision for or in relation to the equipping of ships with compasses and the examination and adjustment of compasses on ships.

Regulations.

" (2.) Without limiting the generality of the last preceding sub-section, the regulations which may be made by virtue of that sub-section include regulations making provision for or in relation to—

(a) the licensing of persons as adjusters of compasses ;

(b) the duties of adjusters of compasses ;

(c) the issue of certificates, declarations and tables of deviation in respect of compasses ;

(d) the payment of fees to adjusters of compasses ;

(e) the keeping of records in respect of the compasses of a ship ; and

(f) the exemption of ships from any requirement of this Act which relates to compasses.

**Ships not to be taken to sea without proper compasses.**

“ 233. The master of a ship shall not take the ship to sea, and the owner or agent of a ship shall not permit the ship to go to sea, from a port in Australia unless the ship is equipped with compasses in accordance with the regulations and the compasses on the ship have been adjusted in accordance with the regulations.

Penalty : Two hundred and fifty pounds.

**Ship unseaworthy if not equipped with proper compasses.**

“ 234. If a ship is not equipped with compasses in accordance with the regulations, or the compasses on the ship have not been adjusted in accordance with the regulations, the ship shall, for the purposes of this Act, be deemed to be unseaworthy.”

**Boat drill.**

**134.** Section two hundred and thirty-five of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “ Fifty pounds ” and inserting in their stead the words “ One hundred pounds ” ; and
- (b) by omitting from sub-section (2.) the words “ Five pounds ” and inserting in their stead the words “ Ten pounds ”.

**135.** Sections two hundred and fifty-seven and two hundred and fifty-seven A of the Principal Act are repealed and the following section is inserted in their stead:—

**Bulk goods, ballast, &c.**

“ 257.—(1.) In this section, ‘ bulk cargo ’ means goods, whether carried as cargo or otherwise, that are in bulk or may shift (such as coal, grain, seed or pig iron), and includes ballast.

“ (2.) The regulations may make provision for or in relation to the stowing or carriage in ships of bulk cargo.

“ (3.) Without limiting the generality of the last preceding sub-section, the regulations which may be made by virtue of that sub-section include regulations for or in relation to—

- (a) the giving of notices with respect to the loading into ships of bulk cargoes;
- (b) the prevention of bulk cargoes from shifting; and
- (c) giving effect to regulation 2 of Chapter VI. of the Safety Convention.

“ (4.) A person who contravenes or fails to comply with a regulation authorized by this section is guilty of an offence against this Act punishable upon conviction by a fine not exceeding Three hundred pounds.”

**136.—(1.)** After section two hundred and sixty-one of the Principal Act the following section is inserted :—

**Application of sections 259, 260 and 261 to naval ships.**

“ 261A. The provisions of the last three preceding sections apply in the case of vessels belonging to the Commonwealth Naval Forces as they apply in the case of other vessels.”

(2.) The amendment made by the last preceding sub-section does not apply in relation to damage or loss which occurred, or loss of life or personal injuries which were suffered, before the commencement of this section.

**137.** Section two hundred and sixty-three of the Principal Act is amended by adding at the end thereof the following sub-section:—

Abolition of statutory presumption of fault.

“(2.) In the last preceding sub-section, ‘the Merchant Shipping Act’ means the Imperial Act known as the Merchant Shipping Act, 1894, and any Imperial Act amending that Act, in so far as those Acts are part of the law of the Commonwealth.”.

**138.** Section two hundred and sixty-four of the Principal Act is amended by adding at the end thereof the following sub-section:—

Master to render assistance.

“(4.) In the last preceding sub-section, ‘the Merchant Shipping Act’ means the Imperial Act known as the Merchant Shipping Act, 1894, and any Imperial Act amending that Act, in so far as those Acts are part of the law of the Commonwealth.”.

**139.** Section two hundred and sixty-five of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

Obligation to render assistance.

“(1.) If—

(a) a ship registered in Australia or engaged in the coasting trade is at sea ; and

(b) the master of the ship has reason to believe that persons on or from a vessel or aircraft are in distress,

the master shall, unless he is unable so to do or, in the special circumstances of the case, considers it unreasonable or unnecessary so to do, cause his ship to proceed with all practicable speed to the assistance of those persons and, if possible, inform them that he is so doing.”.

**140.** Division 12 of Part IV. of the Principal Act is repealed.

Repeal of Division 12 of Part IV.

**141.** Section two hundred and sixty-eight of the Principal Act is amended by omitting from paragraph (f) the words “or sea mark” and inserting in their stead the words “sea mark or submarine cable”.

Accidents to be reported.

**142.** Section two hundred and sixty-nine of the Principal Act is repealed and the following section inserted in its stead:—

“269. If—

Notification of loss of ships.

(a) the owner or agent of a ship registered in Australia or engaged in the coasting trade has reason to believe that the ship has been wholly lost ; or



(b) the owner or agent of any other ship has reason to believe that the ship has been wholly lost on or near the coast of Australia,

he shall forthwith give notice in writing to the Minister that he believes the ship to be lost and shall state, to the best of his knowledge, the probable cause of the loss.

Penalty : Fifty pounds.”.

Hospital  
accommo-  
dation.

**143.** Section two hundred and seventy-one of the Principal Act is amended by omitting paragraph (b) of sub-section (1.) and inserting in its stead the following paragraph:—

“(b) other ship on a passage between two consecutive ports which exceeds such distance as is prescribed,”.

Penalty for  
using fraud.

**144.** Section two hundred and seventy-seven of the Principal Act is amended by omitting the words “Twenty pounds” and inserting in their stead the words “Fifty pounds”.

Injuring ship  
or machinery.

**145.** Section two hundred and seventy-eight of the Principal Act is amended by omitting the words “Twenty pounds” and inserting in their stead the words “Fifty pounds”.

Offences on  
ships by  
disorderly  
persons.

**146.** Section two hundred and eighty-one of the Principal Act is amended by omitting the words “Penalty : Five pounds.”.

Offences by  
passengers.

**147.** Section two hundred and eighty-two of the Principal Act is amended by omitting from sub-section (1.) the words “Penalty : Five pounds.”.

Returns by  
masters.

**148.** Section two hundred and eighty-three of the Principal Act is amended—

(a) by omitting the words “Penalty : Twenty pounds.” (wherever occurring) ; and

(b) by adding at the end thereof the words “Penalty: Fifty pounds.”.

Permits to  
unlicensed  
ships.

**149.** Section two hundred and eighty-six of the Principal Act is amended—

(a) by omitting from sub-section (1.) the word “British”;

(b) by inserting after sub-section (1.) the following sub-section:—

“(1A.) The Minister shall not grant a permit under the last preceding sub-section to an unlicensed foreign ship to engage in the coasting trade with any port or between any ports if an unlicensed British ship is available for the service.”;

- (c) by omitting from sub-section (2.) the words “ any such permit ” and inserting in their stead the words “ a permit issued under this section ”;
- (d) by omitting from sub-section (6.) the word “ Governor-General ” (wherever occurring) and inserting in its stead the word “ Minister ”; and
- (e) by omitting from sub-sections (6.) and (7.) the word “ British ”.

**150.** Section two hundred and eighty-seven of the Principal Act is amended by omitting from sub-section (1.) the words “ part of the British Dominions ” and inserting in their stead the words “ Commonwealth country ”.

*Ships in receipt of foreign subsidies.*

**151.** Section two hundred and eighty-eight of the Principal Act is amended—

*Licensing of ships to engage in coasting trade.*

- (a) by omitting from sub-section (3.) the words “ Penalty (on owner): Ten pounds.”;
- (b) by omitting sub-section (4.) and inserting in its stead the following sub-section:—

“ (4.) Where a condition referred to in paragraph (a) or (b) of the last preceding sub-section is not complied with, the owner of the ship is guilty of an offence against this Act punishable upon conviction by a fine not exceeding Five hundred pounds and, where a condition referred to in paragraph (c) of that sub-section is not complied with, the owner and master of the ship are each guilty of an offence against this Act punishable upon conviction by a fine not exceeding Twenty pounds.”; and
- (c) by omitting from sub-section (6.) the word “ Governor-General ” and inserting in its stead the word “ Minister ”.

**152.** Section two hundred and eighty-nine of the Principal Act is amended by omitting from sub-section (3.) the words “ any part of the British Dominions ” and inserting in their stead the words “ a Commonwealth country ”.

*Payment of Australian rates of wages.*

**153.** Section two hundred and ninety-three of the Principal Act is amended by omitting the words “, and the ship in respect of which the offence is committed may be disqualified by the Governor-General from engaging in the coasting trade ”.

*Responsibility of master, owner and agent for compliance with Act.*

**154.** Part VII. of the Principal Act is amended by omitting the list of Division headings appearing before Division 1 of that Part.

*Part VII.—Division headings.*

Examination on  
oath as to  
wrecks.

**155.** Section three hundred and one of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section :—

“(2.) The person holding the examination shall cause the evidence given at the examination to be taken down in writing and shall send a copy of the evidence so taken down to the Minister.”.

Sale of wreck  
by receiver.

**156.** Section three hundred and six of the Principal Act is amended by omitting from paragraph (a) of sub-section (1.) the words “ Five pounds ” and inserting in their stead the words “ Twenty pounds ”.

Salvage for  
saving life.

**157.—**(1.) Section three hundred and fifteen of the Principal Act is amended—

(a) by omitting from sub-section (1.) the words “ British ship ” and inserting in their stead the words “ ship registered in Australia ”; and

(b) by adding at the end thereof the following sub-section:—

“(3.) Where—

(a) the ship, and the cargo and equipment of the ship, are destroyed; or

(b) the value of the ship, and of the cargo and equipment of the ship, after payment of any expenses incurred in saving them, is insufficient to pay the amount of salvage payable in respect of the preservation of life,

the Minister may, in his discretion, pay to the salvor, out of moneys appropriated by the Parliament for the purpose, such sum as he thinks fit in whole or part satisfaction of an amount of salvage payable in respect of the preservation of life left unpaid.”.

(2.) The amendment made by paragraph (a) of the last preceding sub-section does not apply to or in relation to services rendered before the commencement of this section.

Salvage for  
saving life  
beyond limits  
of British  
jurisdiction.

**158.** Section three hundred and sixteen of the Principal Act is repealed.

Apportionment  
of salvage  
where ships  
not registered  
in Australia.

**159.** Section three hundred and twenty-seven of the Principal Act is amended by omitting the words “ any foreign vessel ” and inserting in their stead the words “ a ship not registered in Australia ”.

**160.** The following Division is added at the end of Part VII. of the Principal Act:—

“ DIVISION 7.—SALVAGE CLAIMS BY AND AGAINST THE CROWN.

Definition.

“ 329A. In this Division, ‘ postal article ’ has the same meaning as in the *Post and Telegraph Act* 1901–1950.

“ 329B.—(1.) Subject to the next succeeding sub-section, this Part, other than Divisions 2 and 6, and sections three hundred and twenty-one, three hundred and twenty-two, three hundred and twenty-three and three hundred and twenty-four of this Act, applies in relation to salvage services rendered after the commencement of this Division—

Salvage claims  
against the  
Crown.

- (a) in saving life from, or assisting, a Government ship; or
- (b) in saving a wreck, or any cargo or equipment, which belongs to the Commonwealth or a State,

in the same manner as if the ship, wreck, cargo or equipment belonged to a private person.

“(2.) A claim does not lie against the Commonwealth by virtue of this section in respect of anything done or suffered in relation to a postal article, or the contents of a postal article, while the postal article is being carried by sea.

“ 329C.—(1.) Where, after the commencement of this Division, salvage services are rendered by or on behalf of the Commonwealth, a State or the government of a Commonwealth country other than Australia, the Commonwealth, the State or that government, as the case may be, is entitled to claim salvage in respect of those services to the same extent, and has the same rights and remedies, as any other salvor.

Salvage claims  
by the Crown.

“(2.) The regulations may make provision in relation to salvage services, and claims for salvage services, rendered by or on behalf of the Commonwealth, a State or the government of a Commonwealth country other than Australia.

“(3.) Without limiting the generality of the last preceding sub-section, the regulations which may be made by virtue of that sub-section include regulations providing for or in relation to—

- (a) the action to be taken with respect to ships and other property saved as a result of salvage services rendered by or on behalf of the Commonwealth or a State;
- (b) the execution of bonds for the payment of salvage services so rendered;
- (c) the taking of security for the performance of bonds executed under regulations made by virtue of the last preceding paragraph;
- (d) the adjudication on, and the enforcement of, bonds executed under regulations made by virtue of paragraph (b) of this sub-section or under a law of a Commonwealth country other than Australia corresponding with those regulations; and
- (e) the conditions subject to which claims for salvage services may be made by the commander or master, or other members of the crew, of a government ship or a ship belonging to a Commonwealth country other than Australia.”.

**161.—**(1.) Part VIII. of the Principal Act is repealed and the following Part inserted in its stead:—

**“ PART VIII.—LIMITATION OF LIABILITY IN RESPECT OF  
GOVERNMENT SHIPS.**

**Interpretation.**

“ 330.—(1.) In this Part, ‘the Merchant Shipping Act’ means the Imperial Act known as the Merchant Shipping Act, 1894, and any Imperial Act amending that Act, in so far as those Acts are part of the law of the Commonwealth.

“ (2.) A reference in this Part to the provisions of the Merchant Shipping Act which limit the amount of the liability of the owners of ships shall be read as including a reference to a provision of that Act which negatives the liability of the owner of a ship and a reference in this Part to the limiting of the liability of the Commonwealth, a State or any person shall be read as including a reference to the negating of the liability of the Commonwealth, the State or that person.

“ (3.) A reference in this Part to a Government ship shall be read as including a reference to a Government ship in the course of completion or construction.

**Limitation of  
liability of the  
Commonwealth  
and States.**

“ 331. The provisions of the Merchant Shipping Act which limit the amount of the liability of the owners of ships apply, with any necessary modifications, for the purpose of limiting the liability of the Commonwealth or a State in respect of a Government ship, and a provision of that Act which relates to or is ancillary to or consequential on the provisions so applied has effect accordingly.

**Ships in the  
course of  
construction.**

“ 332.—(1.) Without prejudice to the operation of the last preceding section, where a ship is built at a port in a Commonwealth country and the Commonwealth or a State is interested in her by reason of the fact that she is built by or on behalf, or to the order, of the Commonwealth or the State, the provisions of the Merchant Shipping Act which limit the amount of the liability of the owners of ships apply, with any necessary modifications, for the purpose of limiting the respective liabilities in respect of that ship of the Commonwealth or the State, as the case may be, the owners and builders of the ship and any other persons interested in the ship, and a provision of that Act which relates to or is ancillary to or consequential on the provisions so applied has effect accordingly.

“ (2.) The last preceding sub-section has effect only in respect of the period from and including the launching of the ship until the time of her completion and does not have effect in respect of a period during which the Commonwealth or the State is not interested in her as specified in the last preceding sub-section.

“(3.) In the case of a ship built to the order of the Commonwealth or a State, the ship shall, for the purposes of the last preceding sub-section, be deemed to have been completed at the time when the Commonwealth or the State finally takes delivery of her under the building contract.

“333. Where a ship has been demised or sub-demised by the Commonwealth or a State, then, whether or not the ship is registered for the purposes of the Merchant Shipping Act, the provisions of that Act which limit the amount of the liability of the owners of ships shall, in respect of the period for which the demise or sub-demise continues, apply, with any necessary modifications, for the purpose of limiting the liability in respect of the ship of any person entitled to her by demise or sub-demise, and a provision of that Act which relates to or is ancillary to or consequential on the provisions so applied has effect accordingly.

Demised or  
sub-demised  
Government  
ships.

“334. Where, by virtue of an arrangement between the Commonwealth or a State and a person, not being a servant of the Commonwealth or the State, that person is entrusted with the management of a Government ship, the provisions of the Merchant Shipping Act which limit the amount of the liability of the owners of ships apply, with any necessary modifications, for the purpose of limiting the liability of the person with whom the management of the ship is so entrusted while he remains so entrusted, and a provision of that Act which relates to or is ancillary to or consequential on the provisions so applied has effect accordingly.

Managers of  
Government  
ships.

“335.—(1.) Where, for the purposes of a provision of the Merchant Shipping Act as applied by this Part, it is necessary to ascertain the tonnage of a ship which is not registered under the Merchant Shipping Act, the Director may, by writing under his hand, certify that, if the ship were registered, the registered tonnage of the ship would, in his opinion, be such tonnage as is specified in the certificate and, for the purposes of that provision as so applied, the tonnage of the ship shall be deemed to be a tonnage equal to nine-tenths of the tonnage specified in the certificate.

Tonnage.

“(2.) For the purpose of giving a certificate under the last preceding sub-section with respect to the tonnage of a ship, the Director shall, subject to the next succeeding sub-section, ascertain the tonnage in accordance with such rules as would be applicable to ascertaining the tonnage of the ship if she were to be registered in Australia under the Merchant Shipping Act.

“(3.) Where, for any reason, the Director is unable to measure a ship, or to cause a ship to be measured, for the purpose of ascertaining its tonnage in accordance with the

last preceding sub-section, the Director may, after considering such evidence as to the dimensions of the ship as it is practicable to obtain, estimate the tonnage of the ship.

Merchant  
Shipping  
(Liability of  
Shipowners)  
Act, 1898  
(U.K.).

“ 336. Relief is not available by virtue of the Imperial Act known as the Merchant Shipping (Liability of Shipowners) Act, 1898 in a case in which relief is available by virtue of this Part.”.

(2.) The provisions of Part VIII. of the Principal Act as amended by this Act do not apply in relation to liability incurred before the commencement of this section.

Establishment  
of Courts of  
Marine Inquiry

162. Section three hundred and fifty-six of the Principal Act is amended by omitting from sub-section (2.) the words “ shall be Courts of Record and ”.

Appointment of  
officers.

163.—(1.) Section three hundred and fifty-seven of the Principal Act is amended by omitting the word “ Governor-General ” and inserting in its stead the word “ Minister ”.

(2.) An officer of a Court of Marine Inquiry holding office immediately before the commencement of this section by virtue of an appointment under section three hundred and fifty-seven of the Principal Act shall, upon the commencement of this section, be deemed to have been appointed by the Minister under section three hundred and fifty-seven of the Principal Act as amended by this Act.

Appointment of  
assessors.

164. Section three hundred and sixty of the Principal Act is amended by omitting the word “ Governor-General ” (wherever occurring) and inserting in its stead the word “ Minister ”.

Assessors with  
special  
knowledge.

165. Section three hundred and sixty-one of the Principal Act is amended by omitting the words “ by the Governor-General as ” and inserting in their stead the words “ under this Act and ”.

166. Section three hundred and sixty-two of the Principal Act is repealed and the following section inserted in its stead:—

Payment of  
assessors.

“ 362. An assessor who assists a Court of Marine Inquiry or a Supreme Court under this Part shall be paid such fees and travelling expenses as the Minister determines.”.

Powers of  
court.

167.—(1.) Section three hundred and sixty-four of the Principal Act is amended—

(a) by omitting from paragraphs (b) and (e) of sub-section (1.) the word “ British ”;

(b) by omitting from paragraph (a) of sub-section (2.) the words “ any part of the King’s dominions outside Australia ” and inserting in their stead the words “ a Commonwealth country other than Australia ”;

(c) by omitting paragraph (d) of sub-section (2.) and inserting in its stead the following paragraph:—

“ (d) in respect of a shipwreck or casualty occurring to a ship registered in a Commonwealth country other than Australia unless—

- (i) the government of that country requests, or consents to, the inquiry;
- (ii) the shipwreck or casualty occurs on or near the coast of Australia; or
- (iii) the ship is wholly engaged in the coasting trade.”; and

(d) by omitting sub-sections (3.) and (4.).

(2.) The amendments made by the last preceding sub-section do not apply to or in relation to any inquiry pending at the commencement of this section.

**168.** Section three hundred and sixty-six of the Principal Act is amended by omitting from sub-section (2.) the words “ any part of the King’s dominions outside Australia ” and inserting in their stead the words “ a Commonwealth country other than Australia ”. Rehearing.

**169.** Section three hundred and seventy of the Principal Act is repealed and the following sections are inserted in its stead :—

“ 370.—(1.) A Court of Marine Inquiry may, for the purposes Witnesses. of proceedings before it under this Act—

(a) appoint a person (who may be a member of the Court) to receive evidence on behalf of the Court; and

(b) summon a person, by writing under the hand of a member of the Court, to attend the Court or a person appointed by the Court to receive evidence on behalf of the Court, at a time and place named in the summons, and then and there to give evidence and to produce any documents, books or writings in his custody or control which he is required by the summons to produce.

“ (2.) A summons under paragraph (b) of the last preceding sub-section may be served personally or in such other manner as is prescribed.

“ (3.) A member of a Court of Marine Inquiry, or a person appointed by a Court of Marine Inquiry to receive evidence on behalf of the Court, may administer an oath to a person appearing



as a witness before the Court or the person so appointed, and the Court, or the person so appointed, may examine the witness upon oath.

“(4.) Where a witness to be examined before a Court of Marine Inquiry, or before a person appointed to receive evidence on behalf of a Court of Marine Inquiry, conscientiously objects to take an oath, he may make an affirmation that he so objects and that the evidence he will give will be the truth, the whole truth and nothing but the truth and an affirmation so made is of the same force and effect, and entails the same liabilities, as an oath.

“(5.) A witness attending before a Court of Marine Inquiry, or before a person appointed to receive evidence on behalf of the Court of Marine Inquiry, shall be paid such allowances as are fixed by or under the regulations.

Arrest of  
witness failing  
to appear.

“370A.—(1.) Where a person who has been summoned under this Part to attend before a Court of Marine Inquiry, or to attend before a person appointed to receive evidence on behalf of a Court of Marine Inquiry, fails to attend or appear before the Court or the person so appointed as required by the summons, a member of the Court may, on proof by statutory declaration of the service of the summons, issue a warrant for the apprehension of that person.

“(2.) A warrant so issued authorizes the apprehension of the person and his being brought before the Court, or before the person appointed to receive evidence on behalf of the Court, as the case may be, and his detention in custody for that purpose until he is released by order of a member of the Court.

“(3.) A warrant so issued may be executed by a person who is a member of the Police Force of a State or Territory of the Commonwealth or a Peace Officer holding office under the *Peace Officers Act 1925*, or by any person to whom it is addressed, and the person executing the warrant has power to break and enter any place, building or vessel for the purpose of executing the warrant.

“(4.) The apprehension of a person under this section does not relieve him from any liability incurred by him by reason of his failure to attend before the Court or the person appointed to receive evidence on behalf of the Court.

Offences in  
relation to  
Courts of  
Marine Inquiry.

“370B.—(1.) A person served with a summons under this Part to attend a Court of Marine Inquiry, or to attend a person appointed to receive evidence on behalf of a Court of Marine Inquiry, shall not, without reasonable excuse—

(a) fail to attend the Court or the person so appointed; or

- (b) fail to produce any document, book or writing in his custody or control which he was required by the summons to produce.

“(2.) A person appearing as a witness before a Court of Marine Inquiry, or before a person appointed to receive evidence on behalf of a Court of Marine Inquiry, shall not, without reasonable excuse—

- (a) refuse or fail to be sworn or to make an affirmation; or
- (b) refuse or fail to answer a question which he is lawfully required to answer by the Court or the person so appointed, as the case may be.

“(3.) A person shall not—

- (a) wilfully insult or disturb a Court of Marine Inquiry;
- (b) interrupt the proceedings of a Court of Marine Inquiry;
- (c) use insulting language towards a Court of Marine Inquiry or a member of a Court of Marine Inquiry; or
- (d) by writing or speech use words calculated—
  - (i) to influence improperly a Court of Marine Inquiry or a witness before the Court; or
  - (ii) to bring a Court of Marine Inquiry, or a member of a Court of Marine Inquiry, into disrepute.

Penalty: One hundred pounds or imprisonment for three months.”.

**170.** Section three hundred and seventy-two of the Principal Act is amended by omitting from paragraph (b) the words “any part of the King’s dominions outside Australia” and inserting in their stead the words “a Commonwealth country other than Australia”.

Power to cancel or suspend certificate.

**171.** Section three hundred and seventy-four of the Principal Act is amended by omitting from sub-section (2.) the words “any part of the King’s dominions outside Australia” and inserting in their stead the words “a Commonwealth country other than Australia”.

Delivery up of certificate.

**172.** Section three hundred and seventy-five of the Principal Act is repealed and the following section inserted in its stead:—

“375. If, at any time during the progress of an inquiry being held by a Court of Marine Inquiry, the Court has reason to believe that an officer is incompetent or has been guilty of misconduct, the Court may direct the officer to deliver up his certificate of competency and the officer shall thereupon deliver the certificate to the Court.

Delivery up of certificate during inquiry.

Penalty: Fifty pounds.”.

**173.**—(1.) Section three hundred and seventy-five B of the Principal Act is repealed and the following section inserted in its stead:—

Appeals  
against  
cancellation or  
suspension of  
certificate.

“ 375B.—(1.) Where a Court of Marine Inquiry has cancelled or suspended the certificate of an officer, the officer may, subject to the next succeeding sub-section, appeal against the cancellation or suspension to the Supreme Court of the State or Territory of the Commonwealth in which the inquiry was held.

“(2.) An appeal under the last preceding sub-section shall be instituted not later than the expiration of a period of one month after the date of the cancellation or suspension or, in a case where the inquiry out of which the cancellation or suspension arose is reheard by a Court of Marine Inquiry under section three hundred and sixty-six of this Act, after the date of the decision of that Court.

“(3.) On the hearing of an appeal under this section, a Supreme Court may confirm, revoke or vary the cancellation or suspension appealed from and may make such order as to costs as it thinks fit.

“(4.) A Supreme Court hearing an appeal under this section shall have the assistance of not less than two assessors appointed under section three hundred and sixty of this Act.”.

(2.) The amendment made by the last preceding sub-section does not affect an appeal under section three hundred and seventy-five B of the Principal Act pending at the commencement of this section.

Inquiry into  
charges against  
licensed pilots  
and exempt  
masters.  
Division  
heading.

**174.** Section three hundred and seventy-six of the Principal Act is repealed.

**175.** Part X. of the Principal Act is amended by omitting the word “*Jurisdiction*.” appearing before section three hundred and seventy-eight of that Act and inserting in its stead the following heading:—

“ DIVISION 1.—JURISDICTION.”.

Jurisdiction  
with respect  
to offences  
on board ship.

**176.**—(1.) Section three hundred and eighty-one of the Principal Act is amended—

(a) by omitting the words “a British subject” (wherever occurring) and inserting in their stead the words “an Australian citizen”; and

(b) by omitting the words “a British ship” (wherever occurring) and inserting in their stead the words “a ship registered in Australia”.

(2.) The amendments made by the last preceding sub-section do not affect the jurisdiction of a court to try an offence with which a person has been charged before the commencement of this section.

177.—(1.) Section three hundred and eighty-two of the Principal Act is amended—

Offences committed by Australian seamen abroad.

- (a) by omitting the words “out of the King’s dominions” and inserting in their stead the words “elsewhere than in a Commonwealth country”;
- (b) by omitting the words “British ship” and inserting in their stead the words “ship registered in Australia”; and
- (c) by omitting the words “and in the same place, as if the offence had been committed within Australia” and inserting in their stead the words “as if the offence had been committed at the port at which the ship is registered at the time when the offence is committed”.

(2.) The amendments made by the last preceding sub-section do not apply to or in relation to an offence with which a person has been charged before the commencement of this section.

178. Section three hundred and eighty-three of the Principal Act is amended by omitting paragraph (a) of sub-section (1.) and inserting in its stead the following paragraph:—

Power to detain foreign ship that has occasioned damage.

- “(a) a foreign ship has, whether within or without the Commonwealth, caused injury to property belonging to the Queen, the Commonwealth, a State, a Commonwealth country other than Australia, a British subject or a citizen of a Commonwealth country; and”.

179. Part X. of the Principal Act is amended by omitting the word “*Offences.*” appearing before section three hundred and eighty-six of that Act and inserting in its stead the following heading:—

Division heading.

“DIVISION 2.—OFFENCES.”.

180. Section three hundred and eighty-seven B of the Principal Act is amended by omitting the words “Penalty: Twenty pounds.”.

Harbouring or secreting deserting seamen or apprentices.

181. Section three hundred and eighty-eight of the Principal Act is amended by omitting from sub-section (1.) the words “Twenty-five pounds” and inserting in their stead the words “Fifty pounds”.

Being on board or alongside a ship unlawfully.

182. Section three hundred and eighty-nine of the Principal Act is repealed and the following sections are inserted in its stead:—

“389. A person who knowingly—

- (a) makes a false declaration, false statement or false representation; or
- (b) gives false evidence on oath,

False declarations, &c.

in connexion with an application or proceeding under this Act is guilty of an indictable offence.

Offences in  
connexion with  
certificates.

“ 389A.—(1.) A person shall not—

- (a) knowingly make a false representation for the purpose of obtaining a certificate, either for himself or for another person;
- (b) forge or fraudulently alter a certificate ;
- (c) fraudulently use a certificate that is forged, altered, cancelled or suspended or to which he is not justly entitled; or
- (d) allow a person to use fraudulently a certificate that does not relate to that last-mentioned person.

“(2.) A person who contravenes a provision of the last preceding sub-section in relation to a certificate referred to in paragraph (a) of sub-section (7.) of this section is guilty of an indictable offence and a person who contravenes a provision of the last preceding sub-section in relation to a certificate referred to in paragraph (b) of sub-section (7.) of this section is guilty of an offence against this Act punishable upon conviction by a fine not exceeding One hundred pounds.

“(3.) If a Deputy Director or a superintendent has reason to believe that an offence against sub-section (1.) of this section has been committed in relation to a certificate, he may, by notice in writing to the person in possession of the certificate, require the certificate to be delivered to him.

“(4.) A person to whom a notice is given under the last preceding sub-section shall comply with the notice.

Penalty : Twenty-five pounds.

“(5.) Where a certificate has been delivered to a Deputy Director or a superintendent in pursuance of a notice given under sub-section (3.) of this section—

- (a) the Deputy Director or superintendent, as the case may be, may, for the purpose of inquiring into the matter, retain the certificate until the expiration of a period of one month after the certificate was delivered to him ; and
- (b) if proceedings in respect of an offence against sub-section (1.) of this section are pending in relation to the certificate at the expiration of that period, he may retain the certificate until the proceedings are discontinued or finally determined.

“(6.) A superintendent may cancel a certificate referred to in paragraph (b) of the next succeeding sub-section if a person is convicted of an offence against sub-section (1.) of this section in relation to the certificate.

“(7.) In this section, ‘ certificate ’ means—

- (a) a certificate of competency granted under section fifteen of this Act, a permit issued under section eighteen A of this Act, a certificate of service granted under

section eighteen B of this Act, a certificate referred to in section twenty-two or twenty-four of this Act and a certified copy of such a certificate or permit ; and

- (b) a certificate issued under section thirty-nine or section one hundred and twenty-one of this Act and a certified copy of such a certificate.”.

**183.**—(1.) Section three hundred and ninety-one of the Principal Act is repealed and the following section inserted in its stead :—

“ 391.—(1.) Where a person has a beneficial interest (including an equitable interest arising under contract or otherwise) in a ship, or a share in a ship, registered in the name of another person as owner, the person so interested is, as well as the registered owner, subject to any pecuniary penalty imposed by this Act on the owner of the ship and proceedings may be taken for the enforcement of the penalty against the registered owner or the person so interested, or both of them, with or without joining them.

Beneficial owners subject to pecuniary penalties.

“(2.) A person who has an interest in a ship, or a share in a ship, which arose by way of mortgage shall, for the purposes of the last preceding sub-section, be deemed not to have a beneficial interest in the ship or in that share in the ship unless he is in possession of the ship.”.

(2.) The amendment made by the last preceding sub-section does not apply to or in relation to proceedings instituted before the commencement of this section for an offence against section three hundred and ninety-one of the Principal Act.

**184.** Part X. of the Principal Act is amended by omitting the words “ *Prosecution and Penalties.*” appearing before section three hundred and ninety-two of that Act and inserting in their stead the following heading:—

Division heading.

“ DIVISION 3.—PROSECUTION AND PENALTIES.”.

**185.** Section three hundred and ninety-two of the Principal Act is amended by adding at the end thereof the following sub-section:—

Indictable offences.

“(2.) The trial on indictment of an offence against this Act, not being an offence committed within a State, may be held in any State or Territory of the Commonwealth.”.

**186.** Section three hundred and ninety-three of the Principal Act is repealed and the following section inserted in its stead :—

“ 393. A person who contravenes or fails to comply with a provision of this Act for a contravention or breach of which

General penalty.

a penalty is not expressly provided is guilty of an offence against this Act punishable upon conviction by a fine not exceeding Twenty pounds.”.

Limitation of actions.

187. Section three hundred and ninety-six of the Principal Act is amended by inserting in sub-section (3.), after the words “defendant vessel”, the words “(not being a Government ship)”.

Limitation of time for summary proceedings.

188.—(1.) Section three hundred and ninety-seven of the Principal Act is repealed.

(2.) The repeal effected by the last preceding sub-section does not apply in relation to a proceeding in respect of a cause of complaint that arose before the commencement of this section.

Division heading.

189. Part X. of the Principal Act is amended by omitting the words “*Evidence and Service.*” appearing before section four hundred of that Act and inserting in their stead the following heading:—

“ DIVISION 4.—EVIDENCE AND SERVICE.”.

Production of depositions.

190. Section four hundred of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “ the King’s dominions, or any British consul elsewhere ” and inserting in their stead the words “ a Commonwealth country, or before a consul of a Commonwealth country ”; and
- (b) by omitting from sub-section (2.) the words “ or magistrate ” and inserting in their stead the words “, magistrate or consul ”.

191. The following Division is added at the end of Part X. of the Principal Act :—

“ DIVISION 5.—PROCEEDINGS AGAINST THE CROWN.

Proceedings against the Crown.

“ 405A.—(1.) Nothing in this Act—

- (a) authorizes proceedings *in rem* in respect of a claim against the Commonwealth or a State or the arrest, detention or sale of a Government ship or of cargo or other property belonging to the Commonwealth or a State; or
- (b) gives to any person a lien on a Government ship or cargo or other property belonging to the Commonwealth or a State.

“(2.) Where proceedings *in rem* have been instituted in a court against a Government ship or cargo or other property belonging to the Commonwealth or a State, the court may, if satisfied that the proceedings were instituted in the reasonable belief that the ship was not a Government ship or the cargo or other property did not belong to the Commonwealth or a State,

order, upon such terms as it thinks fit, that the proceedings shall be treated as if they were *in personam* duly instituted against the Commonwealth or the State, as the case may be, or against such person as the court regards as the proper person to be sued in the circumstances.”.

**192.** Section four hundred and eight of the Principal Act is amended by omitting the words “the British dominions” and inserting in their stead the words “a Commonwealth country”. Tonnage register.

**193.** Section four hundred and ten of the Principal Act is repealed and the following section inserted in its stead:—

“410.—(1.) The master of a ship which is—

- (a) registered in Australia;
- (b) engaged in the coasting trade; or
- (c) regularly employed in trading to and from ports in Australia and owned by a person, firm or company resident, or having his or its principal place of business, in Australia,

Copy of Act to be kept on certain ships.

shall keep on board the ship a copy of this Act.

“(2.) In the last preceding sub-section, ‘this Act’ does not include the regulations other than regulations made by virtue of sub-section (1.) of section two hundred and fifty-eight of this Act and such other regulations as are prescribed.”.

**194.** Section four hundred and ten A of the Principal Act is amended— Charts.

- (a) by omitting from sub-section (1.) the words “Fifty pounds” and inserting in their stead the words “One hundred pounds”; and
- (b) by omitting from sub-section (2.) the words “Twenty pounds” and inserting in their stead the words “Fifty pounds”.

**195.** After section four hundred and ten A of the Principal Act the following section is inserted:—

“410B.—(1.) A pilot who has the conduct of a ship is subject to the authority of the master of the ship and the master is not relieved from responsibility for the conduct and navigation of the ship by reason only of the ship being under pilotage. Liability of master or owner of ship under pilotage.

“(2.) Notwithstanding anything contained in an Act or State Act, the owner or master of a ship navigating under circumstances in which pilotage is compulsory under a law of a State or Territory of the Commonwealth is answerable for any loss or damage caused by the ship, or by a fault of the navigation of the ship, in the same manner as he would if pilotage were not compulsory.”.



Powers of  
Minister.

**196.** Section four hundred and thirteen of the Principal Act is amended by omitting from paragraph (a) of sub-section (1.) the words “ (including the apparatus for wireless communication, if any) ”.

Detention of  
ships.

**197.—**(1.) Section four hundred and fourteen of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“ (1.) Where, under this Act, a ship is to be or may be detained, a Deputy Director, a superintendent or an officer of Customs may detain the ship.”.

(2.) The amendment made by the last preceding sub-section does not apply in relation to a ship under detention by virtue of section four hundred and fourteen of the Principal Act at the commencement of this section.

**198.** Sections four hundred and seventeen and four hundred and eighteen of the Principal Act are repealed and the following section is inserted in their stead:—

Births, deaths,  
marriages, &c.

“ 417.—(1.) Where, to the knowledge of the master of a ship registered in Australia or engaged in the coasting trade—

(a) a member of the crew of the ship, or a passenger or any other person carried on the ship, marries, gives birth to a child, dies or disappears; or

(b) a member of the crew of the ship suffers a hurt or injury, or contracts an illness, which incapacitates him from the performance of his duty,

the master shall—

(c) record the occurrence in the official log-book of the ship together with such particulars with respect to the occurrence as are prescribed; and

(d) as soon as practicable, furnish to a proper authority at a port a report in writing of the occurrence in accordance with the prescribed form.

Penalty: Fifty pounds.

“ (2.) Where, to the knowledge of the master of a British ship not registered in Australia or engaged in the coasting trade, being a ship which is carrying passengers to a port in Australia, a person, other than a member of the crew of the ship, marries, gives birth to a child, dies or disappears, the master shall—

(a) record the occurrence in the official log-book of the ship together with such particulars with respect to the occurrence as are prescribed; and

(b) as soon as practicable, furnish to a superintendent a report in writing of the occurrence in accordance with the prescribed form.

Penalty: Fifty pounds.

“(3.) Where the death, disappearance or illness of, or a hurt or injury to, a person is reported to a superintendent or other proper authority under this section, the superintendent or proper authority, or such other official as the Director approves, may, unless the Director otherwise directs, inquire into the occurrence.

“(4.) A person who inquires into an occurrence under the last preceding sub-section shall enter in the official log-book of the ship in relation to which the occurrence occurred particulars of the result of the inquiry and furnish a copy of the entry to the Director.”.

**199.** Section four hundred and eighteen A of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:— Security.

“(1.) A security required or authorized to be given under this Act shall be given in a manner and form approved by a Deputy Director and may, subject to that approval, be by bond, guarantee, cash deposit or any other method, or by two or more different methods.”.

**200.** Section four hundred and twenty of the Principal Act is repealed and the following section inserted in its stead:—

“420.—(1.) The Minister may cancel or suspend a certificate of competency granted under this Act if the holder of the certificate has been convicted of an offence in a Commonwealth country. Cancellation and suspension of certificates where offences committed.

“(2.) The Minister may cancel or suspend, in so far as concerns its validity in Australia, a certificate referred to in section twenty-two of this Act if the holder of the certificate has been convicted of an indictable offence in a Commonwealth country.

“(3.) If, under the last preceding sub-section, the Minister cancels or suspends a certificate granted under the law of a Commonwealth country other than Australia, the Minister shall cause the Government of that Commonwealth country to be informed that the certificate has been cancelled or suspended and of the reasons for the cancellation or suspension.

“(4.) Where the Minister cancels or suspends the certificate of an officer under this section, the Minister may, by notice in writing served upon the officer, require the officer to deliver the certificate to the Minister or such other person as is specified in the notice within such period as is so specified.

“(5.) A person upon whom a notice is served under the last preceding sub-section shall, unless it is impracticable so to do, comply with the notice.

**Penalty:** One hundred pounds.

“(6.) The suspension of the certificate of an officer under this section may be revoked by the Minister at any time.

“(7.) If, under the last preceding sub-section, the Minister revokes the suspension of a certificate granted under the law of a Commonwealth country other than Australia, the Minister shall cause the Government of that Commonwealth country to be informed of the revocation.

“(8.) In this section, ‘certificate of competency granted under this Act’ means a certificate of competency granted under section fifteen of this Act, and includes a certificate of service granted under section eighteen B of this Act and a certificate referred to in section twenty-four of this Act.”.

Returns as to  
earnings of  
ships.

**201.** Section four hundred and twenty-one of the Principal Act is repealed.

**202.** Section four hundred and twenty-four of the Principal Act is repealed and the following section inserted in its stead:—

Marine Council  
and  
committees of  
advice.

“424.—(1.) There shall be a Marine Council.

“(2.) The Marine Council shall consist of—

- (a) the Director;
- (b) four members representative of shipowners;
- (c) one member representative of deck officers;
- (d) one member representative of engine-room officers; and
- (e) two members representative of seamen other than officers.

“(3.) The members of the Marine Council, other than the Director, shall be appointed by, and hold office during the pleasure of, the Minister.

“(4.) The Director shall be Chairman of the Marine Council but, at a meeting of the Council from which the Chairman is absent, another member appointed by the members present at the meeting shall preside.

“(5.) The Marine Council shall inquire into and report to the Minister upon any matter arising out of or relating to this Act which the Minister refers to the Council for advice.

“(6.) Regulations shall not be made for the purposes of sub-section (2.) of section fourteen, sub-section (2.) of section forty-three or section one hundred and seventeen of this Act unless the Minister has first obtained from the Marine Council a report on the proposed regulations.

“(7.) The Minister may, for the purpose of obtaining advice on any particular matter arising out of or in relation to this Act, appoint persons to constitute a committee of advice.

“(8.) The members of a committee of advice—

- (a) shall, so far as practicable, include a representative or representatives of persons interested in the matter in respect of which the committee is constituted; and
- (b) if the Minister considers it necessary, may include persons having special knowledge of the matter.

“(9.) The regulations may make provision for and in relation to—

- (a) the constitution of committees of advice appointed under this section;
- (b) the number of members of the Marine Council or of such a committee to constitute a quorum;
- (c) the manner in which the Marine Council or such a committee may exercise its powers and functions;
- (d) the manner in which the business and meetings of the Marine Council or of such a committee shall be conducted; and
- (e) the payment of fees, allowances and expenses to members of, and witnesses appearing before, the Marine Council or such a committee.”.

**203.** Section four hundred and twenty-five of the Principal Act is amended by omitting paragraphs (*f*) to (*ge*) (inclusive) and inserting in their stead the following paragraphs:— Regulations.

- “(f) the remuneration of Medical Inspectors of Seamen;
- “(g) the issue of certificates as to the service at sea of seamen;”.

**204.** Schedule I. to the Principal Act is amended— Schedule I.

- (a) by omitting from the column headed “First Mate” in the table setting out the scale of deck officers the letter “(b)” (wherever occurring);
- (b) by omitting from the foot of that table the words—  
 “(b) Holder of a second mate’s foreign-going certificate may ship as first mate of a limited coast-trade ship, or as mate of a river and bay ship (*see* section 15 (3.)).”; and
- (c) by omitting all the words from and including the words “N.H.P. (nominal horse-power) to be calculated as follows:—” to the end of the Schedule and inserting in their stead the words—  
 “For the purposes of this Schedule, nominal horse-power (in this Schedule referred to as ‘N.H.P.’) shall be calculated—  
 (a) in the case of a reciprocating steam engine, by dividing the sum of the squares of the diameters in inches of all the engine-room steam cylinders by 30;

- (b) in the case of a rotary engine, by multiplying the grate area in square feet by  $1\frac{1}{2}$ ; and
- (c) in the case of any other engine, as prescribed.”.

## Schedule II.

**205.** Schedule II. to the Principal Act is amended—

- (a) by inserting after the word “coal” (first occurring) the words “and not equipped with mechanical stokers”;
- (b) by omitting the words “(*Passenger Steam-ships carrying not more than Ten Passengers, and Cargo Steam-ships.*)” and inserting in their stead the words “(*Steam-ships carrying no Passengers or not more than Twelve Passengers.*)”;
- (c) by omitting the words “(*Passenger Steam-ships carrying more than Ten passengers.*)” and inserting in their stead the words “(*Steam-ships carrying more than Twelve Passengers.*)”.

## Schedule III.

**206.** Schedule III. to the Principal Act is repealed.

## Schedule V.

**207.** Schedule V. to the Principal Act is amended by omitting the words “the Department of Trade and Customs of”.

## Saving of regulations.

**208.** Regulations made, or purporting to have been made, under the *Navigation Act* 1912 or under that Act as amended from time to time and in force, or purporting to be in force, immediately before the date of commencement of a section of this Act which amends or repeals a provision of the Principal Act shall, on and after that date, be as valid and effectual as if they had been made on that date.

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