

1912.

THE PARLIAMENT OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES.

NAVIGATION BILL 1912.

MEMORANDUM SHOWING THE ALTERATIONS PROPOSED
TO BE MADE IN THE BILL.*(Circulated by the Minister for Trade and Customs, the Hon. F. G.
Tudor.)*

The words printed in erased type are words proposed to be
omitted from the Bill.

The words printed in black type are words proposed to be
added to the Bill.

The numbers refer to the numbers of the clauses of the
Bill.

Clauses of the Bill which it is not proposed to amend are
not printed.

1. This Act may be cited as the *Navigation Act 1911*, and shall
commence on a day to be fixed by proclamation after the King's
assent thereto has been proclaimed in the Commonwealth. Short title and
commencement.

1A.—(1.) This Act shall not apply in relation to any Australian-
trade ship, limited coast-trade ship, or river and bay ship, or her master
or crew, unless the ship— Application of Act.

(a) is engaged in trade or commerce with other countries or among
the States; or

(b) is on the high seas, or in waters which are used by ships
engaged in trade or commerce with other countries or among
the States; or

(c) is in the territorial waters of any Territory which is part of
the Commonwealth.

(2.) This Act shall be read and construed subject to the Constitution,
and so as not to exceed the legislative power of the Commonwealth, to
the intent that where any enactment thereof would, but for this sub-
section, have been construed as being in excess of that power, it shall
nevertheless be a valid enactment to the extent to which it is not in excess
of that power.

[C.2]—600/23.9.1912.—F.2273.

The following alterations and additions are proposed to be made in clause 5 :—

Page 2, line 20—

“River and bay ship” includes every ship which trades exclusively in some river or gulf or bay within any State or States: within the limits of any port, bay, or river, or within prescribed limits in any gulf, within the Commonwealth, including a Territory being part of the Commonwealth.

Page 3, to follow line 34 :—

“Proper authority” means—

- (a) at a port in Australia, a superintendent ;
- (b) at a port in any other part of the British Dominions, a superintendent, or, in the absence of a superintendent, the chief officer of Customs at or near the port ;
- (c) at a port elsewhere, the British Consular Officer, or if there is no such officer at the port, any two British merchants resident at or near the place, or if there is only one British merchant so resident, that British merchant.

Page 3, line 48 :—

“Go to sea” includes the getting under way for the purpose of going to sea, plying, or running of a ship, or proceeding on a voyage :

“Take to sea” has a meaning corresponding with “go to sea” :

“Send to sea” has a meaning corresponding with “go to sea” :

New clause, 5A, proposed to be inserted to follow clause 5, page 4 :—

Definition of
coasting trade.

5A. A ship shall be deemed to be engaged in the coasting trade, within the meaning of this Act, if she takes on board passengers or cargo at any port in a State, or a Territory which is part of the Commonwealth, to be carried to, and landed or delivered at, any other port in the same State or Territory or in any other State or other such Territory :

Provided that a ship shall not be deemed to be engaged in the coasting trade by reason of the fact that she carries—

- (a) passengers who hold through tickets to or from a port beyond Australia and the Territories under the authority of the Commonwealth ; or
- (b) cargo consigned on a through bill of lading to or from a port beyond Australia and those Territories ; or
- (c) mails between any ports in Australia or in any of those Territories.

New clause 8A, proposed to be inserted to follow clause 8, page 5 :—

8A. The Governor-General, where he is satisfied that the laws and regulations of any part of the British Dominions relating to any subject-matter dealt with in this part of this Act are as effective as the provisions of this Part of this Act relating thereto, may by Proclamation direct that (subject to such conditions, limitations, and exceptions as are expressed in the Proclamation) on proof of a ship registered in that part of the British Dominions having complied with those laws and regulations, she shall not be required to comply with the provisions of this Part of this Act relating to that subject-matter.

Power to exempt
British ships.

11.—(1.) If a ship registered in Australia or engaged in the coasting trade goes to sea without a duly certificated master and officers, according to the scale set out in Schedule I or as prescribed, the master and owner of the ship shall be guilty of an offence.

Certificated
officers.
M.S.A. 1894, s. 92.

(2.) Every British ship (other than those registered in Australia or engaged in the coasting trade), when going to sea from any place in Australia shall be provided with a duly certificated master and such duly certificated officers as are, by the law of that part of the British Dominions in which the ship is registered, prescribed as being necessary for her when going to sea from any place in that part of the British Dominions.

Penalty : One hundred pounds.

28.—(1.) When the Governor-General has notified by Proclamation that a register has been established at a port in pursuance of the last preceding section, the provisions of this section shall, until the Governor-General by Proclamation otherwise declares, apply with respect to the engagement and supply of seamen at that port.

Engagement and
supply of seamen
at ports where
there is a seamen's
inspector.

(2.) No person other than a seaman's inspector or the owner, master, mate, or engineer of a ship, shall engage or supply a seaman or apprentice to be entered on board the ship at the port.

(3.) No person shall employ, for the purpose of engaging or supplying a seaman or apprentice to be entered on board a ship at the port, any person other than a seaman's inspector or the owner, master, mate, or engineer of the ship.

Penalty : Fifty pounds or three months' imprisonment.

35. The master of every ship, except limited coast-trade ships of less than fifteen tons gross registered tonnage and river and bay ships, shall, before taking an apprentice to sea—

Entry of indentures
on articles.
M.S.A. 1894, s. 109.

- (a) cause his name to be entered on the ship's articles, together with the date of his indentures and of any assignment thereof, and the name of every port at which they have been registered ;
- (b) cause him to appear before the superintendent ; and

Production of
apprentice.

(c) produce the indentures, and every assignment thereof, to the superintendent.
Penalty: Five pounds.

Definition of A.B.
M.S.A. 1894, s. 126.
M.S.A. 1906, s. 58.

37.—(1.) A seaman shall not be entitled to the rating of A.B., that is to say, an able-bodied seaman, unless he has served at sea for at least three years before the mast or as an apprentice, and is eighteen years of age, but employment in limited coast-trade ships under thirty tons shall only count as sea service up to the period of two years of that employment:

Continuance of rating as A.B.

Provided that any seaman who has been lawfully rated as A.B. before the commencement of this Act shall continue to be entitled to be so rated.

(2.) A seaman shall not be entitled to the rating of O.S., that is to say, an ordinary seaman, unless he has served at sea for at least one year before the mast or as an apprentice and is eighteen seventeen years of age.

Proof of rating.

(3.) A superintendent before whom a seaman is engaged shall refuse to enter a seaman as A.B., O.S., greaser or fireman in the agreement, unless the seaman gives to him satisfactory proof of his title to be so rated.

Discharge or permit to be produced.
N.Z. 1908, s. 52.

38.—(1.) No seaman shall be permitted to engage in any capacity unless he delivers to the superintendent, or, in the case of a limited coast-trade ship of less than fifteen tons gross registered tonnage or a river and bay ship, to the person engaging him—

- (a) a discharge or certificate showing his right to be rated in the capacity in which he desires to be shipped; or
- (b) a permit to sign articles granted by the superintendent.

(2.) The superintendent shall not grant such permit unless he is satisfied, after questioning the applicant, and if necessary making a practical test of his qualifications, that the applicant is qualified for the position he seeks.

Greasers and firemen.
Ib. s. 53.

39.—(1.) No seaman shall be rated—

- (a) as "greaser," who has not served six months as fireman at sea; or
- (b) as "fireman," who has not served six months as a trimmer or fireman at sea.

Provided that persons rated as firemen or greasers before the commencement of this Act shall continue to be entitled to be so rated.

Continuance of rating.

(2.) No person shall give a discharge to a seaman as fireman or greaser, unless the seaman has served in the capacity in which the discharge is given for the time specified in such discharge.
Penalty for breach of this sub-section: Fifty pounds.

(2.) After the expiration of twelve months from the commencement of this Act, a seaman shall not be permitted to engage in any capacity unless he satisfies the superintendent that he can pull an oar and handle a boat: Provided that this sub-section shall not apply to the engagement of a seaman who has not previously served at sea.

42.—(1.) The owner or master of a ship shall not suffer the ship to go to sea without carrying the prescribed crew.

Penalty.
M.S.A. 1906, s. 54.

(1.) The owner of a ship shall not suffer her to go to sea and the master shall not take her to sea without carrying the crew prescribed or specified in the last preceding section.

Penalty: One hundred pounds.

(2.) If a ship proceeds to sea being short in her crew of not more than one-fifth of her engine-room staff, or one-fifth of her deck complement, the master or owner shall not be liable under this section if it is proved that the breach was not occasioned through any fault of of his own.

Limitation of action

44.—(1.) The master of a ship, other than a limited coast-trade ship of less than fifteen tons gross registered tonnage or a river and bay ship, who engages any seaman in Australia, shall enter into an agreement with him in the prescribed form, in the presence of the superintendent.

Agreement to be entered into.
M.S.A. 1894, s. 113.

(Sub-clauses 2-5 unaltered.)

46.—(1.) If a seaman who has signed the agreement is not on board at the time specified in the agreement, or if within twenty-four hours of the ship's putting to sea the services of a seaman are lost by death, desertion, or other unforeseen cause, and the master engages a substitute—

Substitutes.
Ib. s. 115 (4).

- (a) the engagement shall, when practicable, be made before a superintendent or Customs officer; but
- (b) when that is not practicable, the master shall, when finally going to sea, or as soon thereafter as practicable, cause the agreement to be read over and explained to the substitute, who shall thereupon sign it in the presence of a witness who shall attest the signature, and the master shall subsequently report the transaction to the superintendent of the mercantile marine office at the first port of call, and deliver to him one part of the agreement.

Penalty: Ten pounds.

48.—(1.) An agreement may be made for a voyage, or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and agreements so made to extend over two or more voyages are in this Act referred to as "running agreements."

Running agreements.
M.S.A. 1894, s. 115 (5).

(2.) A running agreement shall not extend beyond six months from the date thereof:

Provided that every such agreement shall, in any case, remain in force until the ship reaches a port of destination, ship's arrival at a port of destination and the discharge of cargo consequent on that arrival, and the crew shall be considered engaged when the agreement is first signed, and discharged when the employment ends.

Provided further that when a ship the crew of which have been engaged under a running agreement which has been in force more than six months reaches a port other than a port of destination, and the ship is not then on her way back to the port of discharge mentioned in the agreement, the crew shall be entitled to claim their discharge, and the master or owner shall be liable to provide them with a passage to the port of discharge or to such other port as is mutually agreed to with the approval of the superintendent proper authority.

Changes in crew.
M.S.A., 1894, s. 117.

50. (1.) ~~The master of every ship shall, before leaving any port, sign and send to the superintendent, on the prescribed form, a full and accurate statement of every change which takes place in his crew up to the time of sailing.~~

Penalty: Five pounds.

Changes in crew.
Ib. s. 117.

50. (1.) The master of every foreign-going ship shall, before finally leaving Australia, sign and send to the nearest Superintendent, on the prescribed form, a full and accurate statement of every change which takes place in his crew before finally leaving Australia.

Penalty: Five pounds.

(2.) Such statement shall be admissible in evidence.

Agreement to be exhibited.
Ib. s. 120.

51. (1.) The master of every ship shall, at the beginning of every voyage or engagement, cause a legible copy of the agreement (omitting signatures) to be posted up in some part of the ship which is accessible to the crew, and shall use all reasonable precautions to keep it so posted during the voyage.

(2.) No person shall wilfully deface or destroy any such copy.

Penalty: Five pounds.

Agreement to be delivered to superintendent.
M.S.A. 1894, s. 118 (3).

52. The master of every foreign-going ship shall, within forty-eight hours after arrival in any port at her final port of destination in Australia or upon the discharge of his crew, whichever first happens, deliver the agreement to the superintendent.

Penalty: Fifty pounds.

Discharges to be given.
Ib. ss. 127, 128.

59. (1.) When a seaman is discharged from any ship (except a limited coast-trade ship of less than fifteen tons gross registered tonnage or a river and bay ship) the master shall sign and give the seaman, in the presence of the superintendent, a discharge in the prescribed form.

(2.) When a seaman is discharged from a limited coast-trade ship of less than fifteen tons gross registered tonnage or a river and bay ship, the master shall sign and forthwith deliver to the superintendent a discharge of the seaman in the said form attested by a witness.

Agreement to be delivered to superintendent.
M.S.A. 1894, s. 118 (3).

(3.) When discharging a seaman, the master shall return to him all his previous discharges in the master's possession.

Penalty for contravention of any of the preceding sub-sections:
Ten pounds.

60. (1.) A seaman not shipped in Australia shall not be discharged (except at the end of his service at the time specified in his agreement) unless the master has previously obtained the sanction of the superintendent indorsed on the agreement.

Sanction required for discharge of seamen not shipped in Australia.
M.S.A. 1906, s. 30.

(2.) The superintendent shall examine into the grounds on which a seaman is to be discharged, and may, if he think fit, administer oaths, and may grant or refuse his sanction as he thinks just; but his sanction shall not be unreasonably withheld.

(3.) A master of a ship not complying with this section shall be guilty of an indictable offence, and in any legal proceeding for the offence it shall lie on the master to prove that the sanction was obtained or could not be obtained, or was unreasonably withheld, and it shall be a good defence if the master proves that under the circumstances it was not reasonably practicable for him to apply for the sanction.

61. No person shall give to any seaman a discharge which falsely indicates the capacity in which the seaman actually served or the time during which he served in that capacity.

False discharges.
N.Z. 1903, s. 53 (3).

Penalty: Fifty pounds.

63. If the master or not less than two of the seamen of any limited coast-trade ship of less than fifteen tons gross registered tonnage or any river and bay ship so desire, the seamen of that ship may be discharged as provided in the case of ships other than such limited coast-trade ships and river and bay ships.

Limited coast-trade ships.
M.S.A. 1894, s. 127 (3).

68. (1.) A seaman engaged in Australia on a foreign-going ship for a voyage calculated to exceed two months may, before the commencement of the voyage, make stipulations, subject to the approval of the superintendent as to terms and conditions, for the allotment, during his absence, by means of an allotment note—

Allotment notes.
Cf. ib. s. 141.

(a) to his grand-parents, parents, wife, brothers, sisters, children, or grand-children, or any of them; or

(b) to a Savings Bank,

of any portion (not exceeding one-half) of the wages which he may earn on the voyage.

(1A.) Except by agreement with the master an allotment note shall not provide for payment of a greater sum than one-half of the seaman's wages.

(2.) The stipulations shall be inserted in the agreement, and shall state the amounts and times of the payments to be made, and the persons to whom they are to be made.

(3.) All allotment notes shall be in the prescribed form.

(4.) Except as provided in this Act, no allotment of the wages of any seaman engaged in Australia shall be made, and no stipulation for such allotment shall be valid.

M.S.A. 1906, s. 61;

(5.) The superintendent before whom a seaman is engaged shall, after the seaman has signed the agreement, inquire of the seaman whether he requires such a stipulation for the allotment of his wages by means of an allotment note, and if the seaman requires such a stipulation shall insert it in the agreement, and any such stipulation shall be deemed to have been agreed to by the master.

Commencement of payment.
M.S.A. 1906, s. 62.

~~70. Payment under an allotment note shall begin at the expiration of one month from the date of the agreement, or at such later date as is fixed by the agreement, and shall be made at the expiration of every subsequent month, or of such other periods as are fixed by the agreement, and shall be made only in respect of wages earned before the date of payment.~~

Commencement of payment.
M.S.A. 1906, s. 62.

70.—(1.) Payment under an allotment note shall, except as provided by sub-section (2) of this section, begin at the expiration of one month from the date of the agreement and shall be made at the expiration of every subsequent month after the first month, and shall be made only in respect of wages earned before the date of payment.

1 and 2 Geo. V., c. 8, s. 1.

(2.) By agreement with the master an allotment note may be granted to a seaman providing for payment at a period earlier than one month from the date of the agreement and at intervals more frequent than one month.

On discharge of seaman master to deliver account of wages.
M.S.A. 1894, s. 132.

74.—(1.) Every master shall, before discharging a seaman, deliver to him at the time prescribed a full and true account, in the prescribed form, of his wages, and of all deductions to be made therefrom on any account whatever.

Penalty : Five pounds.

(2.) No deduction from the wages of any seaman, except in respect of any matter happening after such delivery, shall be allowed unless it is included in the account so delivered. M.S.A. 1894, s. 33.

(3.) The master shall during the voyage enter in a book to be kept for that purpose, as they occur, the various matters in respect of which any deductions from wages are made and the amounts of the respective deductions, which shall be initialled or signed by the seaman, and no deduction shall be allowed unless so entered.

(4.) The Minister may disallow any such deduction.

75.—(1.) The master or owner of every foreign-going ship registered in Australia shall pay to every seaman, at the prescribed times, his wages or prescribed portions thereof: Time for payment of wages on foreign-going ships. Ib. ss. 134-5.

Provided that this provision shall not apply to cases where the seaman by the terms of his agreement is wholly compensated by shares in the profits of the adventure.

(1A.) In cases where the seamen are engaged on time or running agreement on an Australian-trade or limited coast-trade ship, all wages earned shall be paid monthly not later than the first day of each month, or thereafter within twenty-four hours after the ship first arrives at any port in Australia at which there is a bank. Wages to be paid monthly on Australian trade and limited coast-trade ships. N.Z., 1908, s. 63.

(2.) Every master or owner who, without sufficient cause, fails to make payment at any prescribed time, shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days during which payment is delayed beyond that time, and that sum shall be recoverable in the same manner as wages. N.Z. 1903, s. 62.

~~76. In cases where the seamen are engaged on time agreement on an Australian trade or limited coast trade ship, all wages earned shall be paid monthly not later than the second day of each month, or thereafter within twenty four hours after the ship first arrives at any port in Australia at which there is a bank.~~

77.—In the event of a seaman's wages not being paid or settled at the end of the voyage or engagement as provided in this Act, then, unless the delay is due to the seaman's act or default, or to any reasonable dispute as to liability, or to any other cause which is not the wrongful act or default of the owner or master, the seaman's wages shall continue to run and be payable until the time of final settlement. Wages to run on in certain cases. M.S.A. 1894, s. 134 (c).

Decision of questions by superintendent.

M.S.A., 1894, s. 137.
N.Z. 1903, s. 65.

80.—(1.) A superintendent may hear and decide the following questions between a master or owner and a seaman or apprentice:—

- (a) Any such question whatever which both parties request him in writing to hear and decide; and
- (b) Any claim for wages not exceeding Five pounds in amount which either party requests him to hear and decide.

(2.) If the superintendent is of opinion that any question is one which ought to be decided by a Court, he may refuse to decide it.

(3.) The decisions of the superintendent shall be final and conclusive as to the rights of the parties.

(4.) Any document under the hand of the superintendent purporting to be such decision shall be admissible as evidence thereof.

Compensation for premature discharge.

M.S.A. 1894, s. 162.

87.—(1.) If a seaman is discharged, otherwise than in accordance with the terms of his agreement, without fault on his part justifying that discharge, and without his consent, he shall be entitled to receive from the master or owner, in addition to any wages he has earned, compensation not being less than one month's wages, and may recover that compensation as if it were wages duly earned.

(2.) If the seaman is so discharged elsewhere than at the port of discharge mentioned in the agreement, the master or owner shall provide him with a passage to that port or such other port as is mutually agreed to with the approval of the superintendent proper authority.

Discharge abroad.

N.Z. 1903, s. 86.

92.—(1.) Where a seaman is engaged in Australia for a voyage or engagement which is to terminate in Australia he shall not be entitled to sue in any Court abroad for wages, unless he is discharged with such sanction as is required by this Act, law, and with the written consent of the master or proves such ill usage on the part or by the authority of the master as to warrant reasonable apprehension of danger to his life or health if he were to remain on board.

(2.) If a seaman, on his return to Australia, proves that the master or owner has been guilty of any conduct or default which, but for this section, would have entitled the seaman to sue for wages before the termination of the voyage or engagement, he shall be entitled to recover, in addition to his wages, such compensation as the Court hearing the case thinks reasonable.

99. The acts specified in column 1 hereunder shall be offences against discipline, and a seaman or apprentice committing any one of them shall be liable to a punishment not exceeding the punishment set opposite to the offence in column 2 hereunder:—

Column 1.
Offences.

Column 2.
Punishments.

Desertion.

Forfeiture of all accrued wages not exceeding Twenty pounds, or a penalty of Twenty pounds.
M.S.A. 1894, 221.
Penalty of Twenty pounds.

Failure or refusal without reasonable cause to join the ship or proceed to sea in the ship.

Absence without leave from duty, such absence not amounting to desertion or not treated as such by the master.

Forfeiture of two days' wages, with an additional forfeiture of two days' wages for every twenty-four hours of absence; or a penalty of Twenty pounds.
Ib. s. 221 (b).

Insubordination at sea, or wilful disobedience to any lawful command at sea.

One month's imprisonment or forfeiture of ten days' wages.
Ib. s. 252.

Insubordination, or wilful disobedience to any lawful command.

Forfeiture of two days' wages, or a penalty of Ten pounds.

Continued wilful disobedience to lawful commands, or continued wilful failure in duty.

Forfeiture of two days' wages for each day during which the offence continues.
Ib. s. 225 (c).

Assaulting master or ships' officer without lawful justification.

Three months' imprisonment, or a penalty of Twenty pounds.
Ib. s. 225 (d).

Conspiring with any other of the crew to disobey lawful commands at sea, neglect duty at sea, or impede the navigation of the ship or progress of the voyage.

Six months' imprisonment.
Ib. s. 225 (e).

Wilfully damaging the ship.

Twelve months' imprisonment, or a penalty equal in amount to the loss sustained.
Ib. s. 225 (f).

Embezzling or wilfully damaging the cargo, stores, or equipment of the ship.

Six months' imprisonment, or a penalty equal in amount to the loss sustained.

Secreting a stowaway or deserter.

Forfeiture of two days' wages.

Any forfeiture under this section (except where expressed to be of accrued wages) shall be out of such wages as have accrued or may accrue to the person committing the offence; and wages shall not be deemed to include salvage.

103. No deserter shall secrete himself in any place with intent to escape from his engagement.
Penalty: Five pounds.

Secretion by deserter.
N.S.W. 1898, No. 46, s. 89.

Desertion after
departure of ship
to be prosecuted
by superintendent.
N.S.W. 1898, No. 46,
s. 88.
N.Z. 1903, s. 133 (5).

106. When proceedings have been instituted for desertion against a seaman who has deserted from his ship, or who has failed or refused without reasonable cause to join his ship or proceed to sea, and a warrant has been issued for his apprehension, but he has not been apprehended until—

- (a) after the departure of the ship from Australia; or
- (b) so shortly before the departure of the ship that he cannot conveniently be brought to trial prior to her departure; or
- (c) so shortly before such departure that the master cannot reasonably be expected to attend for the purpose of prosecuting him,

the superintendent shall continue the proceedings against the deserter seaman; and upon the hearing of the charge, verified copies of the agreement, and of the entry in the log-book, in which respectively the offender's name appears, shall be admissible in evidence.

Statutory scales
of provisions.
M.S.A. 1906, s. 25.

117. The master of every ship registered in Australia or engaged in the coasting trade for which an agreement with the crew is required under this Act shall furnish provisions to every member of the crew (who does not furnish his own provisions) in accordance with the scale set out in Schedule III. applicable to the ship, or as is prescribed.

Penalty: One hundred pounds, in addition to any compensation awarded under the next following section:

Provided that, if the master proves to the satisfaction of the Court that the failure was not due to any default or neglect on his part, no penalty shall be incurred.

Certificated cooks.
Cf. M.S.A. 1906,
s. 27.

121.—(1.) Every British ship of five hundred tons gross registered tonnage or upwards, registered in Australia or engaged in the coasting trade, and going to sea from any port in Australia, shall carry a duly certified cook, who is able to prove one month's service at sea in some capacity.

(2.) A cook shall not be deemed to be duly certificated, within the meaning of this section, unless he is the holder of—

- (a) a certificate issued as prescribed; or
- (b) a certificate granted or approved by the Board of Trade of the United Kingdom; or
- (c) certificates of discharge showing at least two years' service as cook prior to the first of January One thousand nine hundred and ten twelve, or at least six months' service as first or second cook on a passenger ship prior to that date.

(3.) The cook shall be rated in the ship's articles as ship's cook, or, in the case of ships of not more than one thousand tons gross registered tonnage, or ships in which the crew or three-fourths of the crew provide their own provisions, either as ship's cook or as cook and steward.

Penalty on master or owner for contravention of above sub-sections: Fifty pounds.

(4.) The Minister may cancel or suspend the certificate of any cook for incompetency or misconduct.

132.—(1.) Where a seaman or apprentice is left on shore from a ship at any place in Australia in any manner authorized by law, by reason of illness or accident in the service of the ship incapacitating him from performing his duties, he shall be deemed to be discharged from his ship.

Seamen lawfully
left behind to be
deemed discharged.
N.Z. 1903, s. 119.

(2.) Where the ship is registered out of Australia—

- (a) the master or agent shall deposit with the superintendent the full amount of wages then due to the seaman or apprentice, and, in addition, a sum fixed by the superintendent not exceeding Fifty pounds, for the purpose of defraying any expenses lawfully incurred by the superintendent for the maintenance of or medical attendance on the seaman or apprentice or in payment of his passage back to the port of his engagement, or of his burial in case of his death in Australia.

Master to make
deposit.

- (b) no certificate of clearance outwards shall be granted by any Customs officer to the ship until this provision has been complied with.

Clearance refused.

- (c) the seaman or apprentice shall, within seven days from the date of his medical attendant certifying that he is convalescent, make application to the superintendent to be provided with his passage back to the port of his engagement, or such other port as the superintendent approves.

Seaman to return
when convalescent.

- (d) any portion of the Fifty pounds not expended as herein specified shall be refunded to the master or agent who paid it.

Refund balance.

(3.) Where the ship is registered in Australia—

- (e) the master or agent shall deposit with the superintendent the full amount of wages then due to the seaman or apprentice, together with a sum equal to his wages to the end of his engagement, according to his agreement, not exceeding a period of three months, and, in addition, such reasonable sum as is estimated by the superintendent to cover the expenses of the maintenance and medical and other attendance of the seaman or apprentice in a public hospital until his recovery or the end of his engagement, or, in cases where the engagement expires within one month from the commencement of the illness, then during one month after such expiry;

As to seamen left
ashore from
Australian ships.

Payment of balance.

(f) if, on the recovery of the seaman or apprentice, and after payment of the charges aforesaid, there is any balance of the moneys so deposited, the superintendent shall apply it, so far as it will extend, in payment to the seaman or apprentice of a sum equal to his wages according to his agreement, up to the expiration of one week after the date of his recovery as certified by his medical attendant, and the remainder thereof (if any) shall be returned to the master or agent who paid it;

To be discharged.

(g) the seaman or apprentice shall, on being so left on shore, be entitled to a certificate or other evidence of his discharge required by law to be given to a seaman or apprentice on his discharge;

Owner may be required to find passage.

(h) the seaman or apprentice may require the owner or master of the ship, instead of complying with the foregoing provisions of this sub-section, to provide him with a free passage to the port in Australia where, in accordance with his agreement, he would be entitled to be discharged; and if such passage is so provided, and on payment of all wages payable up to the arrival of the seaman or apprentice at that port, the liability of the master or owner in respect of that seaman or apprentice shall be deemed to have determined.

(4.) If the master of a ship leaves a seaman or apprentice on shore without the requirements of this section being complied with, he shall be guilty of an offence.

Penalty: One hundred pounds.

Seamen not entitled to benefit of section when illness their own fault.

(5.) The illness which shall entitle a seaman or apprentice to the benefits provided for in this section shall—

(a) be such as wholly to incapacitate him from the performance of his duty, and

(b) be or appear to be of such a nature as to require or be likely to require medical treatment for a period of not less than fourteen days, and

(c) so far as can be ascertained, have been contracted on board or in the service of the ship or its owners:

Provided that if the illness has been caused by his own wilful act or default he shall not be entitled to the benefits herein referred to.

(6.) Payment of wages to a superintendent under this section shall be deemed a payment to the seaman.

Payment by superintendent.

Certain ships to carry medical man.
M.S.A. 1894, s. 209.

133.—(1.) The owner or master of every—

(a) foreign-going ship, or

(b) Australian-trade ship on a voyage between consecutive ports of call which exceeds a prescribed distance,

having one hundred persons or upwards on board shall cause to be carried as part of her complement, a duly qualified medical practitioner.

Penalty: One hundred pounds.

(2.) The owner or master of every—

(a) foreign-going ship, or

(b) Australian-trade ship on a voyage between consecutive ports of call which exceeds a prescribed distance,

Certain ships to carry person qualified to render "first aid."

having more than ten and less than one hundred persons on board, and not carrying a duly qualified medical practitioner as part of her complement, shall cause to be carried as part of her complement a person certified to by a medical inspector or by an approved authority as qualified to render "first aid."

Penalty: Fifty pounds.

135.—(1.) The owner of every steam-ship registered in Australia, or engaged in the coasting trade, shall—

Accommodation for officers.
N.Z. 1903, s. 121.

(a) make provision to the satisfaction of the medical inspector or the prescribed official for the adequate ventilation of the officers' rooms, engine-room, and stoke-hole; and

(b) except as in the next paragraph mentioned, provide for each officer, up to at least four, a separate room having a cubic content of not less than one hundred and eighty feet, and having a separate entrance to the deck, and not opening directly into the engine-room; or

(c) in the case of limited coast-trade steam-ships of less than three hundred tons gross registered tonnage and river and bay ships—provide for each two officers a separate room, having a cubic content of not less than three hundred and fifty cubic feet, and having a separate entrance to the deck, and not opening directly into the engine room; or

(d) in the case of river and bay ships—provide for the officers such accommodation as is prescribed.

Penalty: Twenty pounds, with Five pounds for every day after the first day during which such default continues.

~~(2.) For purposes of a prosecution under this section, service on the master or agent of a ship shall be service on the owner.~~

136.—(1.) Every place in a ship registered in Australia or engaged in the coasting trade, which is appropriated to the berthing accommodation of seamen or apprentices, shall—

Accommodation for seamen.
Cf. M.S.A. 1894, s. 210.
M.S.A. 1903, s. 64

(a) have for each seaman or apprentice a space of not less than one hundred and forty cubic feet and of not less than eighteen superficial feet measured on the deck or floor of that place, and of not less than five feet measured between bunks clear of all encumbrances at the forward or narrow end;

- (b) not be below the winter load-line of the ship;
- (c) be kept free from all goods and stores not being the personal property in use of the crew, and be so constructed as to be wind and weather proof and adequately lighted and properly adapted for the preservation of the health and comfort of the seamen berthed therein;
- (d) not have built in it, or so near to it as to be in the opinion of a qualified medical inspector nominated by the Minister likely to be prejudicial to the health of the occupants, any paint or chain locker, latrine, or similar erection;
- (e) be so constructed as to insure that no bilge water, or effluvia therefrom or from any other cause, shall be allowed to penetrate the space to such an extent or in such manner as would be detrimental to the health and comfort of the persons berthed therein;
- (f) be ventilated in such manner as to insure a flow of not less than three thousand cubic feet of fresh air per hour for each seaman or apprentice, evenly diffused by means approved by a qualified medical inspector nominated by the Minister, with an intake and outtake of such size and so arranged as to prevent such draught as would in the opinion of the medical inspector be likely to be prejudicial to the health of the seamen or apprentices; and
- (g) be fitted with bunks made of metal of the prescribed construction.

Penalty on the owner: One hundred pounds.

(2.) The owner of every such ship shall provide, on an open deck, a separate mess-room of sufficient size and conveniently arranged for the taking of meals by the seamen and apprentices.

In cases where, in the opinion of the Minister, compliance with this requirement would involve such structural alterations of the ship as are not practicable, the owner shall provide equivalent accommodation in some other part of the ship not below the winter load-line, or, if in the opinion of the Minister this is not practicable, shall provide folding or sliding tables of sufficient size to enable the seamen or apprentices to take their meals in comfort in the fore-castle.

Penalty: One hundred pounds.

(3.) The owner of every such ship shall provide such sanitary, hospital, and lavatory accommodation, including bath-rooms, as in the opinion of a qualified medical inspector nominated by the Minister is sufficient for the requirements of the crew, and in the case of steamships the provision shall include an adequate supply of hot fresh water for the use of all members of the crew employed in connexion with the engines of the ship.

Penalty: One hundred pounds.

(3A.) Sub-sections (2) and (3) of this section shall not apply to river and bay ships, but the owner of every such ship shall make such

provision as is prescribed for accommodation for the taking of meals by the seamen and apprentices, and for their sanitary and lavatory accommodation, including bath-rooms.

(4) If the requirements of the foregoing sub-sections of this section in regard to any space in the ship appropriated to the use of the seamen and apprentices are not complied with, the master or owner shall pay to each seaman and apprentice affected thereby the sum of Five shillings for each day during which, after complaint has been made to the master by two or more of the persons so affected, the cause of complaint is allowed to continue.

(5) If the Minister is satisfied, on expert evidence, that it is not practicable to make any alterations necessary to meet the requirements of paragraph (a) of sub-section (1.) of this section, the Minister may permit similar and equivalent accommodation in another part of the ship to be substituted for the crew space which does not fulfil the requirements of this Act.

139.—(1.) Any seaman or apprentice may demand permission to go ashore at a convenient time in order to consult a superintendent or justice, or to take legal proceedings against the master or any officer of his ship.

Facilities for making complaints.
M.S.A. 1894, s. 211.

(2.) No master or officer, knowing that any seaman is desirous of going ashore for any such purpose, shall prevent his going or unreasonably refuse him leave.

Penalty: Fifty pounds.

(3.) A seaman or apprentice who by any false statement or pretence obtains leave to go ashore for any such purpose shall be guilty of an offence.

Penalty: Five pounds.

Provided that this section shall not apply to any seaman who has not asked for leave of absence for any such purpose within seven days after the arrival of his ship in port; or, if the cause of action or prosecution accrued after the arrival, then within three days from its accrual.

145.—(1.) No person, not being in the King's service, or not authorized by law, shall—

Persons not to board ship arriving.
M.S.A., 1894, s. 218.

(a) go on board any ship which is about to arrive, is arriving, or has arrived at the end of her voyage, without the permission of the master, before the seamen lawfully leave the ship at the end of their engagement, or are discharged (whichever last happens); or

(b) remain on board a ship in Australia after being warned to leave by the master or by a police officer, or by an officer of Customs.

Penalty: Twenty pounds or imprisonment for three months.

(2.) Any officer of the ship, or of Customs or police, may take any offender under this section into custody, and cause him forthwith to be taken before a proper Court to be dealt with.

List of crew to be delivered.
N.S.W. 1898,
No. 46, s. 92.

~~164. The master of every ship, other than an Australian-trade or limited coast-trade ship, which arrives in any port, shall, within twenty-four hours after such arrival, sign and deliver to the superintendent a list containing the names of the crew of the ship.~~
~~Penalty: Twenty pounds.~~

166.—(1.) The master—

List of crew.
M.S.A. 1894, s. 253.

(a) of a foreign-going ship whose crew is discharged in Australia; and
(b) of an Australian-trade ship or limited coast-trade ship, shall make out and sign a list of the crew in the prescribed form and containing the prescribed particulars.

(2.) The list of the crew—

(a) in a case of a foreign-going ship, or Australian-trade ship, shall be delivered by the master to the superintendent within forty-eight hours after the arrival of the ship at her port of destination in Australia, or upon the discharge of the crew, whichever first happens; and
(b) in the case of a limited coast-trade ship, shall be transmitted by the master or owner to some superintendent in Australia on or within twenty-one days after the thirtieth day of June and the thirty-first day of December in each year: ~~the termination of the agreement.~~

Penalty: Five pounds.

Record of births, deaths, and marriages.
Ib. s. 254.

167. The master of every ship shall record in his the official log-book every birth, death, and marriage happening on board his ship, and the prescribed particulars concerning them, and, upon his arrival at any port in Australia, shall transmit to the superintendent in the prescribed form a return of the facts recorded by him in respect of any birth, death, or marriage.

Penalty: Five pounds.

Logs to be kept.
M.S.A. 1894, s. 239.

172.—(1.) An official log in the prescribed form shall be kept in every ship other than a limited coast-trade ship of less than fifteen tons gross registered tonnage or a river and bay ship.

(2.) Forms of official log-books may be different for different classes of ships, and the particulars to be inserted therein shall be as prescribed.

(3.) The official log may, at the discretion of the master or owner, be kept distinct from, or united with, the ship's log, but so that in all cases the spaces in the official log-book be duly filled up.

(4.) An entry required by this Act in an official log-book shall be—

(a) made as soon as possible after the occurrence to which it relates;

(b) made and dated so as to show the date of the occurrence and of the entry respecting it.

Penalty: Thirty pounds.

(5.) No person shall, more than twenty-four hours after the arrival of a ship at her final port of discharge, make in the official log-book any entry of any occurrence which happened before her arrival.

(6.) Every entry in the official log-book shall be signed by the master, and by the mate or some other member of the crew, and also—

(a) if it is an entry of illness, injury, or death—by the medical officer on board (if any); and
(b) if it is an entry of wages due to, or of the sale of the effects of, a deceased seaman or apprentice—by both the mate and some member of the crew besides the master; and
(c) if it is an entry of wages due to a seaman who enters the King's naval service—by the seaman, or the officer authorized to receive the seaman into that service.

Penalty (on the master): Ten pounds.

(7.) Every entry made in an official log-book in manner provided by this Act shall be admissible in evidence.

174.—(1.) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her port of destination in Australia, or upon the discharge of the crew, whichever first happens, deliver the official log-book of the voyage to the superintendent. Delivery of log.
M.S.A. 1894, s. 242.

(2.) The master or owner of every Australian-trade or limited coast-trade ship for which an official log-book is required to be kept shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver the official log-book for the preceding half-year to some superintendent in a State in which the ship plies or trades.

Penalty: Ten pounds.

~~(3.) After due examination the log-book may be returned to the master or owner.~~

176.—(1.) On every steam-ship of fifty tons gross registered tonnage or over, the chief or only engineer shall keep an engine-room log-book in the prescribed form, and the entries required to be made therein shall be signed by the chief engineer and by the engineer on watch at the time of any occurrence being recorded, or, where there is only one engineer, by him, and shall be countersigned by the master. Engineers' logs.
N.Z. 1903, s. 156.

Penalty: Five pounds.

(2.) The engine-room log shall be kept under the supervision of the master, and shall be produced when required to a superintendent or surveyor.

Penalty: Five pounds.

(3.) Nothing in this section shall affect the duty or liability of the master in regard to the official log.

Proof of agreement.
N.S.W. 1898, No. 47,
s. 9.

185.—(1.) In any prosecution under this Part of this Act it shall not be necessary, for the purpose of proving the articles of agreement by which any seaman has engaged to serve on board any ship, to call any subscribing or attesting witness thereto.

(2.) A copy of any articles of agreement, certified to be true by the Consul of the country to which the ship belongs, shall be admissible in evidence in proof of the existence and contents thereof.

Definition of
surveyor.

193. ~~For the purposes of this Division a surveyor means any person who examines or reports on any ship, her cargo or equipment, for any business or commercial purpose, but shall not include any prescribed surveyor under Division 2 of this Part of this Act or any person directed by the Minister or any Court to survey or examine any vessel or her equipment.~~

Survey of steam-
ships.
M.S.A. 1894, s. 271.

196. ~~Subject to the power of the Minister to extend the time for resurvey, every steam ship more than five years old, reckoning from the date of her first registration, shall be surveyed once at least in every six months, and every other steam ship once at least every twelve months, by the prescribed surveyor.~~

Survey of steam-
ships.
Ib. s. 271.

196. Subject to the power of the Minister to extend the time for resurvey, every steamship shall be surveyed once at least in every twelve months by the prescribed surveyor.

Ship may be
required to dock.
N.S.W. 1901, No. 60,
s. 46.

202. ~~The Minister may at any time, for the purpose of survey require a steam ship, at the expense of her owner, to be taken into dock, or to have her cargo discharged, or her boilers or machinery opened out, or her fittings removed as far as is reasonably necessary.~~

Powers of surveyors.
Cf. M.S.A. 1894,
s. 725.
N.S.W., 1901,
No. 60, s. 46.

202.—(1.) A surveyor or any person authorized by the Minister to inspect or survey a ship may, in the execution of his duties, go on board any ship at all reasonable times and inspect the same or any part thereof, including her boilers, machinery, and equipment, and the certificates of the master and officers of the ship, but shall not in such inspection unnecessarily detain or delay the ship from proceeding on her voyage.

(2.) The Minister may, on the report of the surveyor or person inspecting the ship, if he considers it necessary so to do, require the ship to be taken into dock or to be so dealt with that he may be able to inspect her hull, boilers, machinery, or equipment.

(3.) No person shall obstruct or hinder any surveyor or authorized person from going on board any ship or shall otherwise impede him in the execution of his duties under this Act.

Penalty: One hundred pounds.

205. ~~If any steam ship is absent from Australia when the certificate of survey expires, she must be resurveyed after her first return to Australia, and before she again goes to sea, unless the term of the certificate of survey is extended.~~

Expiration of time
before arrival.
N.Z. 1903, s. 178 (2).

210.—(1.) All steam-ships registered in Australia or engaged in the coasting trade shall, if required by the regulations, be divided by transverse water-tight partitions in the prescribed manner, and have water-tight false bottoms as prescribed.

Water-tight
partitions.
N.S.W. 1901,
No. 60, s. 47.
N.Z. 1903, s. 170.

(2.) The master and owner of any such ship which goes to sea without compliance with this section shall be guilty of an offence.
Penalty: One hundred pounds.

212.—(1.) ~~Every person who sends any ship to sea, and any master who knowingly takes any ship to sea, in an unseaworthy state, so that the life of any person is likely to be thereby endangered, shall, unless he proves that he used all reasonable means to insure the seaworthiness of the ship, be guilty of an indictable offence.~~

Sending
unseaworthy ships
to sea.
M.S.A. 1894, s. 457.

(2.) ~~A prosecution under this section shall not be instituted except by the consent of the Attorney-General.~~

(3.) ~~If a ship is unseaworthy, no seaman or apprentice belonging to her shall be deemed to have committed a breach of his agreement by reason of his having refused to sail in her while she is unseaworthy; and any seaman or apprentice so refusing shall, if he requests it, be granted a discharge from the ship.~~

(4.) ~~Nothing in this section shall subject the owner or master of a ship to any liability, by reason of the ship being sent or taken to sea in an unseaworthy state, where, owing to special circumstances, the sending of the ship to sea in that state was reasonable and justifiable.~~

212.—(1.) Every person who sends any ship to sea in an unseaworthy state, so that the life of any person is likely to be thereby endangered, shall, unless he proves that he used all reasonable means to insure the seaworthiness of the ship, be guilty of an indictable offence.

Sending
unseaworthy ship
to sea.
Ib. s. 457.
N.Z. 1903, s. 224.

(2.) Every master who knowingly takes a ship to sea in an unseaworthy state, so that the life of any person is likely to be thereby endangered, shall be guilty of an indictable offence.

(3.) A prosecution under this section shall not be instituted except by the consent of the Attorney-General.

(4.) Nothing in this section shall subject the owner or master of a ship to any liability, by reason of the ship being sent or taken to sea in an unseaworthy state, where, owing to special circumstances, the sending of the ship to sea in that state was reasonable and justifiable.

If ship unseaworthy seaman may claim discharge.

212A. If a British ship is unseaworthy a seaman or apprentice belonging to her shall not be deemed to have committed a breach of his agreement by reason of his having refused to sail in her while she is unseaworthy; and any seaman or apprentice so refusing may claim his discharge unless the ship is made seaworthy within a reasonable time.

Compensation for unnecessary detention.
M.S.A. 1894, s. 460.

Costs against owner.
M.S.A. 1894, s. 460
(2.)

214.—(1.) If it appears that there was no reasonable and probable cause for the provisional detention of the ship, the Minister shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

(2.) If a ship is finally detained under this Act Division, or if it appears that a ship provisionally detained under this Division was at the time of the detention unseaworthy, the owner of the ship shall be liable to pay to the Minister, or to such person as the Minister directs, the costs of and incidental to the detention and survey of the ship, and those costs shall, without prejudice to any other remedy, be recoverable by the Minister, or by any person authorized by him to sue for them, in any Court of summary jurisdiction.

(3.) For the purposes of this Division, the costs of and incidental to any proceeding before a Court of Marine Inquiry shall be deemed to be part of the costs of the detention and survey of the ship.

215. If the master of any ship legally detained under this Division takes the ship to sea before she is duly released, he shall be guilty of an indictable offence.

Taking detained ship to sea.

Taking official to sea.

216.—(1.) ~~No official performing any duty under this Act shall be taken to sea in any ship without his consent.~~
~~Penalty: One hundred pounds.~~

(2.) ~~The owner or master of any ship in which any official is taken to sea illegally, shall, in addition to any penalty for an offence against this or the last section, be liable to pay all expenses incidental to the official's return to duty.~~

Costs of court.

217. ~~For the purposes of this Act, the costs of and incidental to any proceedings before a Court of Marine Inquiry shall be deemed to be part of the costs of the detention and survey of the ship.~~

Vessels to be marked with lines.
Ib. s. 437.

223.—(1) Every ship shall be permanently and conspicuously marked with lines, in this Act called deck-lines and load-lines.

(2) This provision shall not apply to—

(a) limited coast-trade ships under fifteen tons gross registered tonnage;

- (b) ships employed solely in fishing;
- (c) pleasure yachts; or
- (d) ~~ships employed exclusively in going from place to place in any river or inland water.~~
- (d) river and bay ships.

227. (1.) ~~Where a ship proceeds from a port on any voyage the disc indicating the load-line shall be marked—~~

- (a) ~~before the ship is entered outwards at the Customs, or if that is not practicable, as soon after as may be; or,~~
- (b) ~~in the case of a ship which the owner is not required to enter outwards before clearance for the ship is demanded.~~

Time &c. for marking of load-line.

M.S.A. 1894, s. 448.

M.S.A. 1906, s. 8.

(1.) Where a ship proceeds from a port on any voyage for which the master or owner is required to enter the ship outwards at the Customs, the disc indicating the load-line shall be marked before so entering her, or, if that is not practicable, as soon afterwards as may be.

(2.) The owner of the ship shall, upon entering her outwards, insert in the form of entry a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the deck-lines which is above that centre.

(3.) ~~In the case of a ship which the owner is not required to enter outwards, the master shall prepare a statement similar to that required by the last sub-section to be inserted in the form of entry, and shall deliver a copy of the statement to the officer of Customs from whom a clearance for the ship is demanded; and a clearance shall not be granted until the statement is so delivered.~~

(4.) The master, in the case of a British ship, shall enter a copy of that statement in the agreement with the crew before it is signed by any member of the crew, and a superintendent shall not proceed with the engagement of the crew until that entry is made.

(5.) The master, in the case of a British ship, shall also enter a copy of that statement in the official log-book.

(6.) When a ship to which this section applies has been marked with a disc indicating the load-line, she shall be kept so marked, or, if the mark has been altered outside Australia, in accordance with regulations made by the Board of Trade for the purpose, marked with the mark so altered, until her next return to a port of discharge in Australia.

231.—(1) The Regulations may make provision—

- (a) for determining the lines or marks to be used in connexion with the disc, in order to indicate the maximum load-line under different circumstances and at different seasons, and declaring that the provisions of this Act as to load-lines shall have effect as if any such line were drawn through the centre of the disc;

Regulations as to lines and marks.
Ib. s. 443.

- (b) as to the mode in which the disc and the lines or marks to be used in connexion therewith are to be marked or affixed on the ship, whether by painting, cutting, or otherwise; and
- (c) as to the issue of certificates approving and certifying the position of the disc; and
- (d) for requiring the entry of those certificates, and other particulars as to the draught of water and freeboard of the ship, in the official log-book of the ship, or other publication thereof on board the ship, and requiring the delivery of copies of those entries.

(2) Every person who without reasonable cause fails to comply with any regulation made with respect to the entry, publication, or delivery of copies of certificates or other particulars as to the draught of water and freeboard of a ship shall be guilty of an offence.

Penalty: One hundred pounds.

233. The master of a ship shall not take her to sea and the owner of a ship shall not permit her to go to sea unless she is duly furnished with the prescribed signals of distress.

Penalty: One hundred pounds.

~~236. The regulations may require the master or owner of every ship registered in Australia or engaged in the coasting trade, and of every foreign-going ship carrying passengers from Australia, which carries passengers to the number prescribed, to cause the ship to be fitted as prescribed, before going to sea, with apparatus for transmitting messages by wireless telegraphy.~~

236.—(1) Every foreign-going ship, Australian-trade ship, or ship engaged in the coasting trade, carrying fifty or more persons, including passengers and crew, shall before going to sea from any port in Australia, be equipped with an efficient apparatus for wireless communication in good working order in charge of one or more persons holding prescribed certificates of skill in the use of such apparatus.

(2) For the purposes of this section apparatus for wireless communication shall not be deemed to be efficient unless—

- (a) it is capable of transmitting and receiving messages over a distance of at least one hundred miles, day or night;
- (b) the person controlling the operator undertakes in writing to the Minister to exchange, and does, in fact, exchange, as far as may be physically practicable (of which the master shall be the judge), messages with shore or ship stations using similar or other systems of wireless communication; and

Ships to be furnished with distress signals.

Wireless telegraphy apparatus.

Wireless telegraphy apparatus.
Wireless Ship Act, U.S.A., 1910.
Imperial Wireless Telegraphy Bill 1910.

- (c) there is provided, in connexion with the apparatus, and ready for use whenever from any cause the ordinary supply of electrical power is not available, a battery of accumulators of such capacity as to insure for a period of at least six hours communication of the efficiency prescribed in paragraph (a) of this sub-section.

(3.) The master of a ship required by this section to be so equipped shall not take her to sea, and the owner of a ship required to be so equipped shall not permit her to go to sea, unless the requirements of this section have been complied with.

Penalty: One thousand pounds.

(4.) The Regulations may prescribe the times and hours during which an operator shall be in attendance on the apparatus, ready to receive or transmit messages.

(5.) Except as otherwise prescribed, the provisions of this section shall not apply to ships plying exclusively between ports in Australia less than two hundred miles apart.

259.—(1.) If, in the opinion of the Minister, the carriage of any particular cargo or goods in any ship would endanger her safety or interfere with the comfort of her passengers or crew, he may notify the master or owner accordingly, and the carriage in the ship of the cargo or goods specified in the notice shall be prohibited, and the master or owner shall not, after receiving such notice, permit the ship to go to sea and, after receiving such notice, the master shall not take the ship to sea and the owner shall not permit the ship to go to sea with the prohibited cargo or goods therein or thereon.

Penalty: One hundred pounds.

(2.) The ship may be detained by any officer of Customs, or person authorized by the Minister, until the prohibited cargo or goods have been removed from the ship.

263A.—(1.) Where, by fault of two or more vessels, damage or loss is caused to one or more vessels, to their cargoes or freight, or to any property on board, the liability to make good the damage or loss shall be in proportion to the degree in which each vessel was in fault:

Provided that, if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally.

(2.) Nothing in this section shall operate so as to render any vessel liable for any loss or damage to which her fault has not contributed.

(3.) Nothing in this section shall affect the liability of any person under a contract of carriage or any contract or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by any provision of law or as affecting the right of any person to limit his liability in manner provided by law.

Minister may prohibit carriage of any cargo.
N.S.W. 1901, No. 60, s. 111.

Rule as to division of loss.
1 & 2 Geo. V., c. 57, s. 1.

(4.) For the purposes of this section, the expression "freight" includes passage money and hire, and references to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses consequent upon that fault, recoverable at law by way of damages.

263b.—(1.) Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and of any other vessel or vessels, the liability of the owners of the vessels shall be joint and several.

(2.) Nothing in this section shall be construed as depriving any person of any right of defence on which, independently of this section, he might have relied in an action brought against him by the person injured or any person or persons entitled to sue in respect of such loss of life, or shall affect the right of any person to limit his liability in cases to which this section relates in the manner provided by law.

263c.—(1.) Where loss of life or personal injuries are suffered by any person on board a vessel owing to the fault of that vessel and any other vessel or vessels, and a proportion of the damages is recovered against the owner of one of the vessels which exceeds the proportion in which she was in fault, he may recover by way of contribution the amount of the excess from the owners of the other vessels to the extent to which those vessels were respectively in fault:

Provided that no amount shall be so recovered which could not, by reason of any statutory or contractual limitation of, or exemption from, liability, or which could not for any other reason, have been recovered in the first instance as damages by the persons entitled to sue therefor.

(2.) In addition to any other remedy provided by law, the persons entitled to any contribution as provided by sub-section (1) of this section shall, for the purpose of recovering the contribution, have, subject to the provisions of this Act, the same rights and powers as the persons entitled to sue for damages in the first instance.

263d.—Any enactment which confers on any Court Admiralty jurisdiction in respect of damage shall have effect as though references to such damage included references to damages for loss of life or personal injury, and accordingly proceedings in respect of such damages may be brought *in rem* or *in personam*.

264.—If, in any case of collision, it appears to the Court before which the case is tried that the collision was occasioned by the non-observance of any rule made in pursuance of this Division, the ship by which the rule has been infringed shall be deemed to be in fault, unless it is shown to the satisfaction of the Court that the circumstances of the case made a departure from the rule necessary.

Damages for personal injuries.
1 & 2 Geo. V.,
c. 57, s. 2.

Right of contribution.
Ib. s. 3.

Jurisdiction in cases of loss of life or personal injury.
Ib. s. 5.

Ship not conforming in fault.
M.S.A. 1894,
s. 419 (4).

264. Notwithstanding anything contained in sub-section (4) of section four hundred and nineteen of the Merchant Shipping Act, in case of a collision a vessel shall not be deemed to be in fault solely by reason of the fact that the vessel has infringed any of the regulations for the prevention of collisions at sea.

265.—(1.) ~~In every case of collision between two ships, it shall be the duty of the person in charge of each ship, if and so far as he can do so without danger to his own ship, crew, and passengers (if any)—~~

(a) ~~to render to the other ship, her master, crew, and passengers (if any) such assistance as is practicable and necessary in order to save them from any danger caused by the collision; and~~

(b) ~~to stay by the other ship until he has ascertained that she has no need of further assistance;~~

~~and if he fails to do so and no reasonable excuse for the failure is shown, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act neglect or default.~~

(2.) ~~If the master of any ship fails without reasonable cause to comply with this section, he shall be guilty of an indictable offence.~~

265.—(1.) In every case of collision between two vessels it shall be the duty of the person in charge of each vessel, if and so far as he can do so without danger to his own vessel, crew, and passengers (if any)—

(a) to render to the other vessel, her master, crew, and passengers (if any) such assistance as is practicable and necessary in order to save them from danger caused by the collision; and

(b) to stay by the other vessel until he has ascertained that she has no need of further assistance.

(2.) If the master of any vessel fails without reasonable cause to comply with this section, he shall be guilty of an indictable offence.

(3.) Notwithstanding anything contained in sub-section (2) of section four hundred and twenty-two of the Merchant Shipping Act, in case of a collision between two vessels, the collision shall not be deemed to have been caused by the wrongful act, neglect, or default of the master or person in charge of the vessel, who failed to comply with the provisions of that section, solely by reason of the fact that he has not complied with the provisions of that section.

265A.—(1.) The master or person in charge of a vessel shall, so far as he can do so without serious danger to his own ship, her crew and passengers (if any), render assistance to every person, even if such person be a subject of a foreign State at war with the King, who is found at sea in danger of being lost.

Abolition of statutory presumption of fault.

1 & 2 Geo. V.,
c. 57, s. 4.

Master to render assistance.
M.S.A. 1894, s. 422.

Master to render assistance.
Ib. s. 422.

Abolition of statutory presumption of fault.

1 & 2 Geo. V.,
c. 57, s. 4.

General duty to render assistance to persons in danger at sea.

Ib. s. 6.

(2.) The master or person in charge of a vessel, who fails to comply with the provisions of this section, shall be guilty of an indictable offence.

(3.) Compliance by the master or person in charge of a vessel with the provisions of this section shall not affect his right or the right of any other person to salvage.

No misleading lights
to be shown.
M.S.A. 1894, s. 667.

~~266.—(1.) Every person on whose premises any light or signal on shore, which is likely to mislead any ship or be mistaken for any authorized light or signal, is shown, shall comply with any notice given and served in the prescribed manner, requiring the discontinuance of the light or signal or the screening of the light or signal or other action to be taken to prevent any danger to shipping therefrom.~~

~~Penalty: Fifty pounds.~~

Misleading lights
may be removed.

~~(2.) If the notice is not complied with, any person authorized by the Minister, or any officer of Customs or Police, may at any time enter on any land or premises and remove the light or signal.~~

Accidents to be
reported.
N.S.W. 1901,
No. 60, s. 50.
M.S.A. 1894, s. 425.

269. The owner or master of any ship which, during her voyage to or from any port in Australia, or when within the limits of Australia or the territorial waters thereof—

- (a) has sustained or caused any accident occasioning loss of life or any serious injury to any person; or
- (b) has received any damage likely to render her unseaworthy, or her boilers or machinery inefficient; or
- (c) has been in any position of great peril either from the action of some other ship or from danger of wreck or collision; or
- (d) has been stranded or wrecked; or
- (e) having left any port in Australia has put back to that port; or
- (f) has fouled or done any damage to any light-ship, buoy, beacon, or sea mark,

shall report the same within twenty-four hours after the happening of the event, or after her next arrival at any port in Australia, to the person and in the form prescribed.

Penalty: Fifty pounds.

271A.—(1.) Every—

- (a) Foreign-going ship trading regularly with the Commonwealth; or
- (b) Australian-trade ship on a voyage between consecutive ports which exceeds a prescribed distance

and having one hundred persons or more on board, shall be provided with hospital accommodation of such a character, and so placed and arranged as to afford proper means of isolation for cases of communicative disease which may arise during the voyage, and for any persons attending to such cases.

Hospital
accommodation.

(2.) The accommodation shall include the necessary lavatory and sanitary accommodation and such other accommodation as is prescribed.

(3.) The hospital shall, wherever practicable, be placed on the top deck aft or on the boat deck as far back as practicable.

(4.) The master of a vessel who fails to comply with this section who suffers his vessel to enter any port or place in Australia shall be guilty of an offence.

Penalty on owner or master: One hundred pounds.

282.—(1.) No person shall—

- (a) enter a ship after having been refused admission thereto by the owner, or any person in his employ, on account of the ship being full, and after the amount of his fare (if he has paid it) has been tendered to him; or
- (b) fail to quit a ship forthwith, after he has been ordered to do so by master or any officer, on account of the ship being full, before she has left the place at which he went on board and after having the amount of his fare (if he has paid it) returned or tendered to him; or
- (c) travel in a ship without first paying his fare, and with intent to avoid payment thereof; or
- (d) having paid his fare for a certain distance, knowingly proceed in the ship beyond that distance without first paying the additional fare for the additional distance, and with intent to avoid payment thereof; or
- (e) knowingly and wilfully fail to quit the ship at the place to which he has paid his fare; or
- (f) fail, when requested by an officer of the ship to do so, either to pay his fare or exhibit his ticket or receipt, if any, showing the payment of his fare; or
- (g) not being a passenger or a member of the crew, fail to quit any ship when requested by any officer thereof.

Offences by
passengers.
M.S.A., 1894, s. 287.
N.Z. 1903, s. 168.

Penalty: Five pounds.

(2.) The penalty under this section shall not prejudice the recovery of any fare payable by the offender.

285. This Part of this Act shall come into operation on a date to be fixed by proclamation, but shall not come into operation on the date fixed for the commencement of this Act unless the proclamation fixing that date expressly declares that this Part is to come into operation on that date:

Commencement of
Part.

~~Provided that the next following section shall come into operation on the date fixed for the commencement of this Act.~~

When a ship
deemed to engage
in coasting trade.
N.Z. 1903, s. 75 (1).

Carriage of
passengers by
mail ships.

Evidence of rates
of wages.

Summary
determination of
disputes as to
salvage.
M.S.A. 1894 s. 547.

In the Supreme
Court.

286. ~~A ship shall be deemed to engage in the coasting trade if she takes on board passengers or cargo at any port in Australia, or any territory under the authority of the Commonwealth, to be carried to, and landed or delivered at, any other port in Australia or in any such territory.~~

~~Provided that the carrying of passengers who hold through tickets to or from a port beyond Australia, or of cargo consigned on a through bill of lading to or from a port beyond Australia, or of mails, shall not be deemed engaging in the coasting trade.~~

Provided further that the Governor-General may by order declare that the carrying of passengers between specified ports in Australia by British ships, shall not be deemed engaging in the coasting trade within the meaning of this Part of this Act.

292. An award of the Commonwealth Court of Conciliation or and Arbitration which is binding on or applicable to seamen employed in the coasting trade, or a certificate of a Registrar or Deputy Registrar of that Court, certifying what are the rates of wages ruling in Australia for seamen employed in any part of the coasting trade, shall be *prima facie* evidence of those rates of wages.

320.—(1.) All disputes as to the amount of salvage, whether of life or property, arising between the salvor and the owners of any ship or wreck, shall, if not settled otherwise, be determined summarily in the following cases, namely:—

- (a) In any case where the parties to the dispute consent;
- (b) In any case where the value of the property saved does not exceed One thousand pounds;
- (c) Where the amount claimed does not exceed Three hundred pounds.

(2.) Subject as aforesaid, disputes as to the salvage may be determined by the Supreme Court of a State, but if the claimant does not recover in any such Court more than Three hundred pounds, he shall only be entitled to recover such costs as the Court allows, such costs not to exceed reasonable costs on the scale usually allowed in any inferior Court in which the case might have been brought, unless the Court certifies that the case is a fit one to be tried otherwise than summarily.

(3.) Disputes relating to salvage to be determined summarily may be so determined, on the application of either of the parties or his agent, by a County Court, District Court, or Local Court of a State.

(4.) Disputes relating to salvage may be determined on the application of the salvor or of the owner of the property saved, or of their respective agents.

321.—(1.) Disputes as to salvage which are to be determined summarily shall—

Court in which
disputes to be
determined.
M.S.A. 1894, s. 548.

- (a) where the dispute relates to the salvage of wreck be referred to a Court having jurisdiction at or near the place where the wreck is found;
- (b) where the dispute relates to salvage in the case of services rendered to any ship, or to any wreck the cargo or equipment thereof, or in saving life therefrom—be referred to a Court having jurisdiction at or near the place where the ship is lying or the wreck is, or at or near the port in Australia into which the ship or wreck is first brought, after the occurrence by reason whereof the claim of salvage arises.

(2.) Any Court to whom a dispute as to salvage is referred for summary determination may, for the purpose of determining the dispute, call in to its assistance any skilled person as assessor, and there shall be paid as part of the costs of the proceedings to every such assessor such sum as the Minister directs.

Power to call in
assessors.

322.—(1.) Where a dispute relating to salvage has been determined summarily in manner provided by this Act, any party aggrieved by the decision may if the sum in dispute exceeds One hundred pounds appeal therefrom to the Supreme Court of the State.

Appeal to
Supreme Court.
Ib. s. 549.

(2.) The appellant shall, within twenty days of the decision of the Court which has determined the matter summarily, take such proceedings as according to the practice of the Supreme Court of the State are necessary for the institution of an appeal.

324.—(1.) Where salvage is due to any person under this Act, the receiver shall—

Detention of wreck
till salvage paid.
Ib. s. 552.

- (a) if the salvage is due in respect of services rendered in assisting any ship, or in saving life therefrom, or in saving the cargo or equipment thereof—detain the ship and cargo or apparel equipment; and
- (b) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed—detain the wreck.

(2.) The receiver shall detain the ship and the cargo, or the wreck (hereinafter referred to as "detained property") until payment is made for salvage, or process is issued for the arrest or detention thereof by some competent Court.

(3.) A receiver may release any detained property if security is given to his satisfaction.

(4.) Any security given for salvage in pursuance of this section may be enforced by any Federal or State Court of competent jurisdiction in the same manner as if it had been given in that Court.

Apportionment of
salvage by Courts.
M.S.A. 1894, s. 566.

328. Where the aggregate amount of salvage payable in any case has been finally ascertained, and exceeds Two hundred pounds, then if any delay or dispute arises as to the apportionment thereof, any Court of competent jurisdiction may cause the amount to be apportioned amongst the persons entitled thereto in such manner as it thinks just.

Apportionment of
salvage amongst
owners, &c., of
foreign ships.
1 & 2 Geo. V.,
c. 57, s. 7.

328A. Where any dispute arises as to the apportionment of any amount of salvage amongst the owners, master, pilot, crew, and other persons in the service of any foreign vessel, the amount shall be apportioned by the Court or person making the apportionment in accordance with the law of the country to which the vessel belongs.

Cancellation or
suspension of
certificate.

377.—(1.) If the certificate of any master or officer, where ever issued, has been cancelled, by a Court of Marine Inquiry in Australia, the fact that his certificate has been returned to him by the Board of Trade or the authority which originally granted the certificate, other than a Court of Appeal, shall not enable any such master or officer to serve in Australia on board any ship in the capacity specified in the certificate so cancelled.

(2.) If the certificate of any master or officer has been suspended by a Court of Marine Inquiry in Australia, the master or officer shall not be permitted to serve in the capacity specified in the certificate so suspended until the period of suspension set out in the order of the Court of Marine Inquiry has expired, unless the suspension has been revoked on appeal to a higher Court.

Limitation of
actions.
Ib. s. 8.

397A.—(1.) No action shall be maintainable to enforce any claim or lien against a vessel or her owners in respect of any damage or loss to another vessel, her cargo or freight, or any property on board her, or damage for loss of life or personal injuries suffered by any person on board her, caused by the fault of the former vessel, whether such vessel be wholly or partly in fault, or in respect of any salvage services, unless proceedings therein are commenced within two years from the date when the damage or loss or injury was caused or the salvage services were rendered.

(2.) No action shall be maintainable under this Act to enforce any contribution in respect of an over-paid proportion of any damages for loss of life or personal injuries unless proceedings therein are commenced within one year from the date of payment.

(3.) Any Court having jurisdiction to deal with an action to which this section relates may, in accordance with the rules of court extend any period mentioned in this section to such an extent and on such conditions as it thinks fit, and shall, if satisfied that there has not during such period been any reasonable opportunity of arresting the

defendant vessel within the jurisdiction of the Court, or within the territorial waters of the country to which the plaintiff's vessel belongs or in which the plaintiff resides or has his principal place of business, extend any such period to an extent sufficient to give such reasonable opportunity.

(4.) For the purposes of this section, the expression " freight " includes passage money and hire, and reference to damage or loss caused by the fault of a vessel shall be construed as including references to any salvage or other expenses, consequent upon that fault, recoverable at law by way of damages.

415A.—(1.) No official performing any duty under this Act shall be taken to sea without his consent. Taking official to sea.

Penalty : One hundred pounds.

(2.) The owner or master of any ship in which any official is taken to sea illegally shall, in addition to any penalty for an offence against this section, be liable to pay all expenses incidental to the official's return to duty.

419. The seal of the Minister for the purposes of this Act shall be a seal having the Royal Arms in the centre, and the words " Minister for Trade and Customs, Commonwealth of Australia," in a circle surrounding the Royal Commonwealth Coat of Arms. Minister's seal.

Page 107, Schedule III., omit—

Split peas	1 pint	To be considered equal when issued with meat rations.
Flour	3 lb.	
Calavances or haricot beans	1 pint	

Rice	3 lb.	To be considered equal.
Marmalade	1 lb.	
Jam	1 lb.	
Butter	1 lb.	

insert—

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