



# Merchant Shipping Act 1906

## 1906 CHAPTER 48

### PART IV

#### PROVISIONS AS TO RELIEF AND REPATRIATION OF DISTRESSED SEAMEN, AND SEAMEN LEFT BEHIND ABROAD

#### **28 Dealing with wages and effects of a seaman who is left behind**

- (1) If a seaman belonging to any British ship is left behind out of the British Islands, the master of the ship shall subject to the provisions of this section—
  - (a) as soon as may be, enter in the official log-book a statement of the effects left on board by the seaman and of the amount due to the seaman on account of wages at the time when he was left behind ; and
  - (b) on the termination of the voyage during which the seaman was left behind, furnish to the proper officer within forty-eight hours after the arrival of the ship at the port at which the voyage terminates, accounts in a form approved by the Board of Trade, one (in this section referred to as the delivery account) of the effects and wages, and the other (in this section referred to as the reimbursement account) of any expenses caused to the master or owner of the ship by the absence of the seaman in cases where the absence is due to desertion, neglect to join his ship, or any other conduct constituting an offence under section two hundred and twenty-one of the principal Act. The master shall, if required by the proper officer, furnish such vouchers as may be reasonably required to verify the accounts.
- (2) The master of the ship shall deliver to the proper officer the effects of the seaman as shown in the delivery account, and subject to any deductions allowed under this section, the amount due on account of wages as shown in that account, and the officer shall give to the master a receipt, in a form approved by the Board of Trade, for any effects or amount so delivered.
- (3) The master of the ship shall be entitled to be reimbursed out of the wages or effects any sums shown in the reimbursement account which appear to the proper officer or, in case of an appeal under this section, to a court of summary jurisdiction to be properly

chargeable, and for that purpose the officer, or, if necessary, in the case of an appeal, the Board of Trade, shall allow those sums to be deducted from the amount due on account of wages shown in the delivery account, and, so far as that amount is not sufficient, to be repaid to the master out of the effects.

The proper officer, before allowing any sums to be deducted or repaid under this provision, may require such evidence as he thinks fit as to the sums being properly chargeable to be given by the master of the ship, either by statutory declaration or otherwise.

Where the master of a ship whose voyage terminates in the United Kingdom is aggrieved by the decision of the proper officer - as to the sums to be allowed as properly chargeable on his reimbursement account, and the amount in dispute exceeds ten pounds, he may appeal from the decision of the proper officer to a court of summary jurisdiction.

- (4) Where during the voyage of a ship two or more seamen have been left behind, the delivery and reimbursement accounts furnished as respects each seaman may at the option of the master of the ship be dealt with, as between him and the proper officer, collectively instead of individually, and in that case the master of the ship shall be entitled to be reimbursed out of the total amount of the wages and effects of the seamen left behind the total of the amounts allowed under this section as properly chargeable on the reimbursement accounts, and shall be required to deliver to the proper officer on account of wages only the sum by which the total of the amounts shown on the delivery accounts to be due on account of wages exceeds the total of the amounts allowed as properly chargeable on the reimbursement accounts.
- (5) The proper officer shall (subject to any repayment made under this section) remit the effects, and any amount received by him on account of wages under this section, at such time and in such manner as the Board of Trade require, and shall render such accounts in respect thereof as the Board direct.
- (6) In this section the expression "effects" includes the proceeds of any sale of the effects if these effects are sold under this section, and the effects shall be sold by the proper officer in such manner as he thinks fit when they are delivered to him, unless the Board of Trade direct to the contrary, and, if not so sold, shall be sold by the Board as and when they think fit unless they are delivered to the seaman.
- (7) The master shall be under no liability for any loss of effects or for any damage to the effects if he proves to the proper officer that the loss or damage occurred without his neglect or privity after the seaman left the ship.
- (8) The Board of Trade shall not be under any liability with respect to anything done under this section, except that, if after the wages or effects of a seaman have been dealt with under this section, any legal proceedings are taken in respect of those wages or effects, or involving the forfeiture of those wages or effects, or of any sum out of the wages, by the seaman against the master or owner of the ship, or by the master or owner of the ship against the seaman, the Board shall, if notice is given to them of the proceedings, and a reasonable opportunity afforded to them of appealing, comply with any order of the court made as respects the wages or effects, so far as they can do so out of the wages and effects remitted to them in respect of the voyage of the ship, and, so far as those wages and effects are not required for reimbursing any expenses incurred by or on behalf of the Crown, or incurred by the Government of a foreign country and repaid to that Government by or on behalf of the Crown, as expenses of a distressed seaman on behalf of the seaman.

The Board shall be entitled to appear and be heard in any such proceedings by any of their officers, and for the purpose of this section notice to any superintendent shall be deemed to be notice to the Board.

The Board may, if and so far as they think fit, meet any claim made by a seaman against the master or owner of the ship in respect of any wages or effects dealt with under this section, although legal proceedings are not actually taken in respect thereof: Provided that they have given notice to the master or owner of the ship, and the master or owner has not given written notice of objection within ten days of the notice being given.

For the purposes of this subsection, any legal proceedings taken or any claim made by a person in whose favour an allotment note has been made, or who claims reimbursement of expenses on behalf of any union or parish under section one hundred and eighty-two of the principal Act, shall be treated as proceedings taken or a claim made by the seaman.

- (9) Any sums remitted under this section or arising from the sale of effects under this section shall be paid into the Exchequer, and any sums payable by the Board of Trade under this section shall be paid out of moneys provided by Parliament.
- (10) If the master of a ship fails without reasonable cause to comply with this section, he shall (without prejudice to any other liability) for each offence be liable on summary conviction to a fine not exceeding twenty pounds, and, if he delivers a false account or makes a false statement or representation for the purposes of this section, he shall in respect of each offence be guilty of a misdemeanor.
- (11) The proper officer for the purpose of this section shall be—
- (i) at a port in the United Kingdom, a superintendent;
  - (ii) at a port in a British possession, a superintendent, or, in the absence of any such superintendent, the chief officer of customs at or near the port;
  - (iii) at a port elsewhere, the consular officer at the port.
- (12) This section shall not apply in the case of an absent seaman—
- (a) Where the master of the ship satisfies the proper officer that none of the effects of the seaman have to his knowledge been left on board the ship, and that he has paid all wages due to the seaman; or
  - (b) where the amount of wages earned by the seaman (after taking into account any deductions made in respect of allotments or advances for which provision is made by the agreement with the crew) appears from the agreement to be less than five pounds, and the master does not exercise his option to deal with the delivery and reimbursement accounts collectively; or
  - (c) where the master of the ship satisfies the proper officer that the net amount due to the seaman on account of wages (after taking into account any deductions lawfully made in respect of allotments, advances, or otherwise) is less than three pounds, and the master does not exercise his option to deal with the delivery and reimbursement accounts collectively; or
  - (d) where the question of the forfeiture of the wages and effects of the seaman has been dealt with in legal proceedings lawfully instituted before the termination of the voyage, or within forty-eight hours of the arrival of the ship at the port at which the voyage terminates.

**29 Property of seaman dying on a ship the voyage of which does not terminate in the United Kingdom**

The provisions of Part II. of the principal Act, relating to the property of deceased seamen shall be extended so as to apply to seamen belonging to a British ship registered in the United Kingdom, the voyage of which is to terminate out of the United Kingdom, and in that case the British consular officer at the port at which the voyage terminates, or, if the port is in a British possession, the officer of customs there, shall exercise the same powers as he may exercise under those provisions when a ship the voyage of which is to terminate in the United Kingdom touches and remains for forty-eight hours at a port elsewhere than in the United Kingdom, and those provisions shall apply accordingly.

**30 Sanction required for discharge of seamen out of the United Kingdom**

- (1) The master of a British ship shall not discharge a seaman at any place out of the United Kingdom (except at a port in the country in which he was shipped), unless he previously obtains, endorsed on the agreement with the crew, the sanction of the proper authority as defined for the purpose in this Part of this Act, but that sanction shall not be refused where the seaman is discharged on the termination of his service.
- (2) The authority to whom an application is made for sanction under this section may, and, if not a merchant, shall, examine into the grounds on which a seaman is to be discharged at a place out of the United Kingdom, and for that purpose may, if he thinks fit, administer oaths, and may grant or refuse the sanction as he thinks just, but such sanction shall not be unreasonably withheld.
- (3) If the master of a ship fails to comply with this section, he shall, in respect of each offence, be guilty of a misdemeanor, 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.

**31 Certificate of discharge abroad**

Where the master of a British ship discharges a seaman at any place out of the United Kingdom, he shall give to that seaman a certificate of discharge in a form approved by the Board of Trade, and, in the case of any certificated officer whose certificate he has retained, shall return that certificate to him.

**32 Repatriation of seamen on termination of service at foreign port**

- (1) Where the service of a seaman belonging to a British ship terminates at a port out of His Majesty's dominions otherwise than by the consent of the seaman to be discharged during the currency of the agreement, the master of the ship shall, besides giving the certificate of discharge required under this Part of this Act, and besides paying the wages to which the seaman is entitled, make adequate provision in accordance with this Act for his maintenance and for his return to a proper return port, and the proper authority as defined for the purpose in this Part of this Act shall endorse upon the agreement with the crew of the ship which the seaman is leaving the particulars of any provision so made.
- (2) If the master fails, without reasonable cause, to comply with this section, the expenses of maintenance and of the journey to the proper return port,—

- (a) if defrayed by the seaman, shall be recoverable as wages due to him ; and
  - (b) if defrayed by the proper authority or by any other person, shall (unless the seaman has been guilty of barratry) be a charge upon the ship to which the seaman belonged, and may also be recovered against the person who is the owner of the ship for the time being, or, where the ship has been lost, against the person who was the owner of the ship at the time of the loss, or, where the ship has been transferred to some person not being a British subject, either against the owner for the time being or against the person "who was the owner of the ship at the time of the transfer, at the suit of the proper authority or other person, defraying the expenses, or, in case they have been allowed to the authority or person out of public money, as a debt to the Crown, either by ordinary process of law or in the court and in the manner in which wages may be recovered by seamen.
- (3) This section shall not apply in the case of a foreign seaman who has been shipped at a port out of the United Kingdom and discharged at a port out of the United Kingdom.

### **33 Discharge, &c. of seamen on change of ownership of ship at a foreign port**

- (1) Where a British ship is transferred or disposed of at any port out of His Majesty's dominions, any seaman belonging to that ship shall be discharged unless the seaman consents in writing in the presence of the proper authority as defined for the purpose in this Part of this Act to complete the voyage of the ship if continued.
- (2) Where a seaman is so discharged the provisions of this Part of this Act as to the certificate of discharge, and the return of the seaman to a proper return port, shall apply as if the service of the seaman had terminated otherwise than by the consent of the seaman to be discharged during the currency of the agreement, and shall apply to foreign seamen whether they have been shipped at a port in the United Kingdom or not.

### **34 Expenses of medical attendance in case of injury or illness**

- (1) If the master of, or a seaman belonging to, a ship receives any hurt or injury in the service of the ship, or suffers from any illness (not being venereal disease, or an illness due to his own wilful act or default or to his own misbehaviour), the expense of providing the necessary surgical and medical advice and attendance and medicine, and also the expenses of the maintenance of the master or seaman until he is cured, or dies, or is returned to a proper return port, and of his conveyance to the port, and in the case of death the expense (if any) of his burial, shall be defrayed by the owner of the ship, without any deduction on that account from his wages.
- (2) If the master or a seaman is on account of any illness temporarily removed from his ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty, the expense of the removal and of providing the necessary advice and attendance and medicine, and of his maintenance while away from the ship, shall be defrayed in like manner.
- (3) The expense of all medicines, surgical and medical advice, and attendance, given to a master or seaman whilst on board his ship shall be defrayed in like manner.
- (4) In all other cases any reasonable expenses duly incurred by the owner for any seaman in respect of illness, and also any reasonable expenses duly incurred by the owner in respect of the burial of any seaman who dies whilst on service, shall, if duly proved, be deducted from the wages of the seaman.

### **35 Recovery of expenses from owner**

- (1) If any of the expenses attendant on the illness, hurt, or injury of a seaman, which are to be paid under the Merchant Shipping Acts by the master or owner, are paid by any authority on behalf of the Crown, or if any other expenses in respect of the illness, hurt, or injury of any seaman whose wages are not accounted for under the Merchant Shipping Acts to that authority, are so paid, those expenses shall be repaid to the authority by the master or owner of the ship.
- (2) If the expenses are not so repaid, the amount thereof shall with costs be a charge upon the ship, and be recoverable from the master or from the owner of the ship for the time being, or where the ship has been lost from the person who was the owner of the ship at the time of the loss, or, where the ship has been transferred to some person not being a British subject, either from the owner for the time being or from the person who was the owner of the ship at the time of the transfer, as a debt to the Crown, either by ordinary process of law or in the court and in the manner in which wages may be recovered by seamen.
- (3) In any proceeding for such recovery, a certificate of the facts, signed by the said authority, together with such vouchers (if any) as the case requires, shall be sufficient proof that the said expenses were duly paid by that authority.

### **36 Certificate of proper authority required where a seaman is left behind abroad**

- (1) The master of a British ship shall not leave a seaman behind at any place out of the United Kingdom, ashore or at sea (except where the seaman is discharged in accordance with the Merchant Shipping Acts), unless he previously obtains, endorsed on the agreement with the crew, the certificate of the proper authority as defined for the purpose in this-Part of this Act, stating the cause of the seaman being left behind, whether the cause be unfitness or inability to proceed to sea, desertion, or disappearance or otherwise.
- (2) The authority to whom an application is made for a certificate under this section may, and, if not a merchant, shall, examine into the grounds on which a seaman is to be left behind, and for that purpose may, if he thinks fit, administer oaths, and may grant or refuse the certificate as he thinks just, but the certificate shall not be unreasonably withheld.
- (3) If the master of a ship fails to comply with this section, he shall (without prejudice to his liability under any other provision of the Merchant Shipping Acts) be guilty in respect of each offence of a misdemeanor, and in any legal proceeding for the offence it shall lie on the master to prove that, the certificate was obtained or could not be obtained without unreasonable delay to the ship or was unreasonably withheld.

### **37 Account of wages in case of seaman left behind on ground of unfitness or inability to proceed to sea**

- (1) Where a master of a British ship leaves a seaman behind on shore in any place out of the United Kingdom on the ground of his unfitness or inability to proceed to sea, he shall deliver to the person signing the required certificate of the proper authority a full and true account of the wages due to the seaman, and if that person is a consular officer shall deliver the account in duplicate.

- (2) If a master fails without reasonable cause to deliver the account, he shall for each offence be liable on summary conviction to a fine not exceeding ten pounds, and, if he knowingly delivers a false account, he shall for each offence be liable on summary conviction to a fine not exceeding twenty pounds, in addition in each case to the payment of the wages.

**38 Payment of wages of seaman left behind on ground of unfitness or inability to proceed to sea**

- (1) The master shall pay the amount of wages due to a seaman left behind on the ground of his unfitness or inability to -proceed to sea, if he is left in a British possession to the seaman himself, and if he is left elsewhere to the British consular officer.
- (2) Where payment is made to a British consular officer, that officer shall retain one duplicate of the account delivered to him, and, if satisfied with the account, endorse on the other duplicate a receipt for the payment, and return it, to the master, and the master shall deliver the duplicate within forty-eight hours of his return to his port of destination, if that port is in the United Kingdom, to the superintendent at that port, and, if that port is not in the United Kingdom, to the proper authority as defined for the purpose of this Part of this Act.
- (3) The payment shall be made, whenever it is practicable, in money, and, when not so practicable, by bills drawn on the owner of the ship, but if payment is made by lull—
- (a) the person signing the required certificate of the proper authority shall certify by endorsement on the bill that the bill is drawn for seamen's wages, and shall also endorse on the agreement with the crew the amount for which the bill is drawn, and such further particulars as the Board of Trade require ;
  - (b) if the bill is drawn by the master, the owner of the ship shall be liable to pay the amount to the holder or endorsee thereof; and it shall not be necessary in any proceeding against the owner upon the bill to prove that the master had authority to draw it;
  - (c) a bill purporting to be drawn and endorsed under this section shall, if produced out of the custody of the Board of Trade or of the Registrar-General of Shipping and Seamen, or of any superintendent, be admissible in evidence; and any endorsement on any such bill purporting to be made in pursuance of this section shall also be admissible as evidence of the facts stated in the endorsement.
- (4) If a master fails, without reasonable cause, to make such payment of wages as provided by this section, he shall for each offence be liable on summary conviction, in addition to the payment of the wages, to a fine not exceeding ten pounds.

**39 Application by British consular officer of payments, on account of wages of seamen left behind**

Where the amount of wages due to a seaman left behind on the ground of his unfitness or inability to proceed to sea is so paid to a British consular officer, that officer shall deal with the sum so paid to him in the following manner, namely :—

- (1) If the seaman subsequently obtains employment at or quits the port at which the payment has been made, he shall deduct out of the sum any expenses incurred by him in respect of the maintenance of the seaman under the Merchant Shipping Acts, except such as the owner or master is by the Merchant Shipping Acts required to defray, and

shall pay the remainder to the seaman, and deliver to him an account of the sums so received and expended on his behalf;

- (2) If the seaman dies before his ship quits the port, he shall deal with the sum as part of the property of a deceased seaman; and
- (3) If the seaman is sent to a proper return port at the public expense under the Merchant Shipping Acts, he shall account for the sum to the Board of Trade; and the sum, after deducting any expenses duly incurred in respect of the seaman, except such expenses as the master or owner of the ship is required by the Merchant Shipping Acts to pay, shall be dealt with as wages of the seaman.

#### **40 Regulations as to relief and maintenance of distressed seamen**

The Board of Trade shall make regulations with respect to the relief, maintenance, and return to a proper return port of shipwrecked seamen and of seamen found otherwise in distress in any place out of the United Kingdom, and may, by those regulations (in this Act referred to as the distressed seamen regulations), make such conditions as they think fit with regard to that relief, maintenance, and sending to a proper return port and a seaman shall not have any right to be relieved, maintained, or sent to a proper return port, except in the cases and to the extent and on the conditions provided by those regulations.

#### **41 Provisions for relief and maintenance of distressed seamen**

- (1) Where either—
  - (a) any seamen, whether subjects of His Majesty or not, are found in any place out of the United Kingdom, and have been shipwrecked from any British ship or any of His Majesty's ships, or by reason of having been discharged or left behind from any such ship in any place out of the United Kingdom, are in distress in that place, or
  - (b) any seamen, being subjects of His Majesty, who have been engaged by any person, acting either as principal or agent to serve in a ship belonging to the government or to a subject or citizen of a foreign country, are in distress in any place out of the United Kingdom,

the proper authority as defined for the purpose in this Part of this Act may, and, if not a merchant, shall, in accordance with and on the conditions prescribed, by the distressed seamen regulations, provide in accordance with this Act for the return of those seamen (who are in this Act included in the term distressed seamen) to a proper return port, and also provide for their necessary clothing and their maintenance until their departure for such a port, and, in addition, in the case of shipwrecked seamen, for the repayment of any expenses incurred in their conveyance to port after their shipwreck, and their maintenance while being so conveyed.

- (2) The authority shall be paid in respect of the expenses incurred under this section on behalf of distressed seamen such sums as the Board of Trade may allow, and those sums shall, on the production, of the bills of disbursements, with the proper vouchers, be paid as provided by this Part of this Act.

#### **42 Recovery of expenses of relief of distressed seamen**

- (1) Where any expenses (other than excepted expenses as defined by this section) are incurred by or on behalf of the Crown, or are incurred by the government of a foreign



country, and repaid to that government by or on behalf of the Crown, on account of a distressed seaman, either for his maintenance, necessary clothing, conveyance to a proper return port, or in case of death for his burial, or otherwise in accordance with this Act, those expenses (together with the wages, if any, due to the seaman) shall be a charge upon the ship, whether British or foreign, to which the distressed seaman belonged, and shall be a debt to the Crown from the master of the ship, or from the owner of the ship for the time being, or, where the ship has been lost, from the person who was owner of the ship at the time of the loss, or, where the ship has been transferred to some person not being a British subject, either from the owner for the time being or from the person who was the owner of the ship at the time of the transfer, and also, if the ship be a foreign ship, from the person, whether principal or agent, who engaged the seaman for service in the ship.

- (2) The debt, in addition to any fines which may have been incurred, may be recovered by the Board of Trade, on behalf of the Crown, either by ordinary process of law or in the court and manner in which wages may be recovered by seamen.
- (3) In any proceeding for such recovery the production of the account (if any) of the expenses furnished in accordance with this Act or the distressed seamen regulations, and proof of payment of the expenses by or on behalf of the Board of Trade, shall be prima facie evidence that the expenses were incurred or repaid under this Act by or on behalf of the Crown.
- (4) For the purpose of this section, excepted expenses are expenses incurred in cases where the certificate of the proper authority obtained on leaving a seaman behind states, or the Board of Trade are otherwise satisfied, that the cause of the seaman being left behind is desertion, or disappearance, or imprisonment for misconduct, or discharge from his ship by a naval court on the ground of misconduct, and expenses incurred on account of the return to a proper return port of a distressed seaman who has been discharged at the port at which he was shipped, or at some neighbouring port.

#### **43 Penalty for forcing seamen on shore**

A person belonging to a British ship shall not wrongfully force a seaman on shore and leave him behind or otherwise cause a seaman to be wrongfully left behind at any place, either on shore or at sea, in or out of His Majesty's dominions, and if he does so he shall in respect of each, offence be guilty of a misdemeanour.

#### **44 Deduction from wages and payment to superintendents, &c, of fines**

- (1) Every fine imposed on a seaman for any act of misconduct for which his agreement imposes a fine shall be deducted as follows (that is to say):—
  - (a) if the offender is discharged in the United Kingdom, and the offence, and the entry in the log-book required by the Merchant Shipping Acts in respect thereof, are proved to the satisfaction, in the case of a foreign-going ship of the superintendent before whom the offender is discharged, and in the case of a home-trade ship of the superintendent at or nearest the port at which the crew are discharged, the master or owner shall deduct the fine from the wages of the offender ;
  - (b) if the offender enters His Majesty's naval service or is discharged abroad, and the offence and the entry as aforesaid are proved to the satisfaction of the officer in command of the ship he so enters, or of the proper authority by whose sanction he is discharged, as the case may be, the fine shall be deducted

as aforesaid and an entry made in the official log-book of the ship and signed by the officer or authority to whose satisfaction the offence is proved.

- (2) Every fine so deducted shall be paid—
- (a) if the offender is discharged in the United Kingdom, to the superintendent;
  - (b) if the offender enters His Majesty's naval service, on the return of the ship to its port of destination, if that port is in the United Kingdom, to the superintendent before whom the crew is discharged, or in the case of a home-trade ship to the superintendent at or nearest to the port at which the crew is discharged, and, if the port of destination is not in the United Kingdom, to the proper authority as defined for the purpose of this Part of this Act;
  - (c) if the offender is discharged at any place out of the United Kingdom, to the proper authority.
- (3) A proper authority shall remit any amounts received by them under this section at such times and in such manner, and render such accounts in respect thereof, as the Board of Trade require.
- (4) If a master or owner fails without reasonable cause to pay any fine as required by this section, he shall for each offence be liable on summary conviction to a fine not exceeding six times the amount of the fine not so paid.
- (5) An act of misconduct for which any fine has been inflicted and paid by, or deducted from the wages of, the seaman, shall not be otherwise punished under the Merchant Shipping Acts.

#### **45 Proper return port**

For the purpose of this Part of this Act, either the port at which the seaman was shipped or a port in the country to which he belongs, or some other port agreed to by the seaman, in the case of a discharged seaman, at the time of his discharge, shall be deemed to be a proper return port:

Provided that in the case of a seaman belonging to a British possession who has been shipped and discharged out of the United Kingdom the proper officer may treat a port in the United Kingdom as a proper return port.

#### **46 Mode of providing for return**

- (1) A seaman may be sent to a proper return port by any reasonable route, either by sea or land, or partly by sea and partly by land.
- (2) Provision shall be made for the return of the seaman as to the whole of the route if it is by sea, or as to any part of the route which is by sea, by placing the seaman on board a British ship which is in want of men to make up its complement, or, if that is not practicable, by providing the seaman with a passage in any ship, British or foreign, or with the money for his passage, and, as to any part of the route which is by land, by paying the expenses of his journey and of his maintenance during the journey, or providing him with means to pay those expenses,
- (3) Where the master of a ship is required under this Part of this Act to provide for the return of a discharged seaman to a proper return port, the master may, instead of providing the seaman's passage, or the expenses of his journey, or of providing the seaman with means to pay his passage or those expenses, deposit with the proper

authority such sum as that authority consider sufficient to defray the expenses of the return of the seaman to a proper return port.

- (4) The Board of Trade may, by the distressed seamen regulations, make such provision as may be necessary for enabling the proper authority, and in the case of expenses required to be incurred in the United Kingdom any officer named for the purpose by the Board, to defray on behalf of the authority originally making arrangements for the return of a distressed seaman to a proper return port any expenses on account of that seaman which the authority originally acting in respect of him could defray, and any expenses so incurred shall for the purposes of this Part of this Act relating to distressed seamen be deemed to be expenses incurred on behalf of the distressed seaman.

#### **47 Decision of questions as to return by proper authority**

If any question arises as to what return port a seaman is to be sent to in any case, or as to the route by which he should be sent, that question shall be decided by the proper authority, and, in deciding any question under this provision, the authority shall have regard both to the convenience of the seaman and to the expense involved, and also, where that is the case, to the fact that a British ship which is in want of men to make up its complement is about to proceed to a proper return port.

#### **48 Provisions as to taking distressed seamen on ships**

- (1) Where a distressed seaman is, for the purpose of his return to a proper return port, placed on board a British ship, the authority by whom the seaman is so placed shall endorse on the agreement with the crew of the ship the name of the seaman so placed on board, together with any particulars directed to be endorsed by the distressed seamen regulations.
- (2) The master of every British ship shall receive on board his ship, and afford a passage and maintenance to, all distressed seamen whom he is required under this Act to take on board his ship, not exceeding one for every fifty tons burden, and shall during the passage provide every such distressed seaman with a proper berth or sleeping place, effectually protected against sea and weather.
- (3) On the production of a certificate, signed by the authority by whose directions any such distressed seaman was received on board, specifying the number and names of the distressed seamen and the time when each of them was received on board, and on a declaration made by the master before a justice of the peace, or any officer authorised to administer an oath, stating the number of days during which each distressed seaman has received maintenance, and stating the full complement of his crew and the actual number of seamen employed on board his ship, and every variation in that number, whilst the distressed seamen received maintenance, the master shall be entitled to be paid, in respect to the maintenance and passage of every seaman so conveyed, maintained, and provided for by him, exceeding the number (if any) wanted to make up the complement of his crew, such sum per diem as the Board of Trade allow.
- (4) If any master of a British ship fails without reasonable cause to comply with this section in the case of any distressed seaman, he shall for each offence be liable on summary conviction to a fine not exceeding one hundred pounds.

#### **49 Definitions of "proper authority" and "seamen"**

For the purposes of this Part of this Act, unless the context otherwise requires,—

- (1) The expression "proper authority" means—
  - (a) as respects a place out of His Majesty's dominions, the British consular officer, or, if there is no such officer in the place, any two British merchants resident at or near the place, or, if there is only one British merchant so resident, that British merchant; and
  - (b) as respects a place in a British possession—
    - (i) in relation to the discharge or leaving behind of seamen, or the payment of lines, a superintendent, or, in the absence of any such superintendent, the chief officer of customs at or near the place ; and
    - (ii) in relation to distressed seamen the governor of the possession, or any person acting under his authority ; and
- (2) The expression "seamen" includes not only seamen as defined by the principal Act, but also apprentices to the sea service :
- (3) The provisions of this Part of this Act shall, for the purpose of sections two hundred and sixty to two hundred and sixty-six of the principal Act (which relate to the application of Part II of that Act), be construed as if they were contained in Part II of that Act.