



# Merchant Shipping Act 1995

## 1995 CHAPTER 21

### PART III

#### MASTERS AND SEAMEN

##### *Application of Part*

#### **24 Application of this Part**

- (1) With the exceptions specified in subsection (2) below, this Part applies only to ships which are sea-going ships and masters and seamen employed in sea-going ships.
- (2) Those exceptions are sections 43, 46 to 52, 54, 55, 58, 61 to 68 and 69.
- (3) This Part, in its application to fishing vessels and persons serving in them, has effect subject to the modifications made by Part V and in particular sections 110 and 112 apply to the exclusion of sections 30 and 31.

##### *Engagement and discharge of crews*

#### **25 Crew agreements**

- (1) Except as provided under subsection (5) below, an agreement in writing shall be made between each person employed as a seaman in a United Kingdom ship and the persons employing him and shall be signed both by him and by or on behalf of them.
- (2) The agreements made under this section with the several persons employed in a ship shall be contained in one document (in this Part referred to as a crew agreement) except that in such cases as the Secretary of State may approve—
  - (a) the agreements to be made under this section with the persons employed in a ship may be contained in more than one crew agreement; and
  - (b) one crew agreement may relate to more than one ship.

- (3) The provisions and form of a crew agreement must be of a kind approved by the Secretary of State; and different provisions and forms may be so approved for different circumstances.
- (4) Subject to the following provisions of this section, a crew agreement shall be carried in the ship to which it relates whenever the ship goes to sea.
- (5) The Secretary of State may make regulations providing for exemptions from the requirements of this section—
- (a) with respect to such descriptions of ship as may be specified in the regulations or with respect to voyages in such areas or such description of voyages as may be so specified; or
  - (b) with respect to such descriptions of seamen as may be specified in the regulations;
- and the Secretary of State may grant other exemptions from those requirements (whether with respect to particular seamen or with respect to seamen employed by a specified person or in a specified ship or in the ships of a specified person) in cases where the Secretary of State is satisfied that the seamen to be employed otherwise than under a crew agreement will be adequately protected.
- (6) Where, but for an exemption granted by the Secretary of State, a crew agreement would be required to be carried in a ship or a crew agreement carried in the ship would be required to contain an agreement with a person employed in a ship, the ship shall carry such document evidencing the exemption as the Secretary of State may direct.
- (7) Regulations under this section may enable ships required under this section to carry a crew agreement to comply with the requirement by carrying a copy thereof, certified in such manner as may be provided by the regulations.
- (8) If a ship goes to sea or attempts to go to sea in contravention of the requirements of this section the master or the person employing the crew shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and the ship, if in the United Kingdom, may be detained.

## **26 Regulations relating to crew agreements**

- (1) The Secretary of State may make regulations—
- (a) requiring such notice as may be specified in the regulations to be given to a superintendent or proper officer, except in such circumstances as may be so specified, before a crew agreement is made or an agreement with any person is added to those contained in a crew agreement;
  - (b) providing for the delivery to a superintendent or proper officer or the Registrar General of Shipping and Seamen of crew agreements and agreements added to those contained in a crew agreement and of copies of crew agreements and of agreements so added;
  - (c) requiring the posting in ships of copies of or extracts from crew agreements;
  - (d) requiring copies of or extracts from crew agreements to be supplied to members of the crew demanding them and requiring copies of or extracts from documents referred to in crew agreements to be made available, in such circumstances as may be specified in the regulations, for inspection by members of the crew; and

- (e) requiring any documents carried in a ship in pursuance of section 25 to be produced on demand to an officer of customs and excise.
- (2) Regulations under this section may make a contravention of any provision thereof an offence punishable, on summary conviction, with a fine not exceeding level 3 on the standard scale or such less amount as may be specified in the regulations.

## **27 Discharge of seamen**

- (1) The Secretary of State may make regulations prescribing the procedure to be followed in connection with the discharge of seamen from United Kingdom ships.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision—
  - (a) requiring notice of such a discharge to be given at such time as may be specified in the regulations to the superintendent or proper officer at a place specified in or determined under the regulations;
  - (b) requiring such a discharge to be recorded, whether by entries in the crew agreement and discharge book or otherwise, and requiring copies of any such entry to be given to a superintendent or proper officer or the Registrar General of Shipping and Seamen.
- (3) Regulations under this section may provide that in such cases as may be specified in the regulations, or except in such cases as may be specified in or determined under the regulations, a seaman shall not be discharged outside the United Kingdom from a United Kingdom ship without the consent of the proper officer.
- (4) Regulations under this section may make a contravention of any provision thereof an offence punishable, on summary conviction, with a fine not exceeding level 3 on the standard scale or such less amount as may be specified in the regulations.

## **28 Seamen left behind abroad otherwise than on discharge**

Regulations made under section 27 may apply any provision thereof, with such modifications as appear to the Secretary of State to be appropriate, to cases where a seaman employed in a United Kingdom ship is left behind outside the United Kingdom otherwise than on being discharged from the ship.

## **29 Discharge of seamen when ship ceases to be registered in United Kingdom**

Where a United Kingdom ship ceases to be registered, any seaman employed in the ship shall be discharged from the ship unless he consents in writing to continue his employment in the ship; and sections 30 to 33 shall apply in relation to his wages as if the ship had remained a United Kingdom ship.

*Wages etc.*

## **30 Payment of seamen's wages**

- (1) Where a seaman employed under a crew agreement relating to a United Kingdom ship leaves the ship on being discharged from it, then, except as provided by or under this

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Part or any other enactment, the wages due to the seaman under the agreement shall either—

- (a) be paid to him in full at the time when he so leaves the ship (in this section and in section 31 referred to as the time of discharge), or
  - (b) be paid to him in accordance with subsections (4) and (5) below.
- (2) If the amount shown in the account delivered to a seaman under section 31(1) as being the amount payable to him under subsection (1)(a) above is replaced by an increased amount shown in a further account delivered to him under section 31(3), the balance shall be paid to him within seven days of the time of discharge; and if the amount so shown in the account delivered to him under section 31(1) exceeds £50 and it is not practicable to pay the whole of it at the time of discharge, not less than £50 nor less than one-quarter of the amount so shown shall be paid to him at that time and the balance within seven days of that time.
- (3) If any amount which, under subsection (1)(a) or (2) above, is payable to a seaman is not paid at the time at which it is so payable the seaman shall be entitled to wages at the rate last payable under the crew agreement for every day on which it remains unpaid during the period of 56 days following the time of discharge; and if any such amount or any amount payable by virtue of this subsection remains unpaid after the end of that period it shall carry interest at the rate of 20 per cent. per annum.
- (4) Where the crew agreement referred to in subsection (1) above provides for the seaman's basic wages to be payable up-to-date at specified intervals not exceeding one month, and for any additional amounts of wages to be payable within the pay cycle following that to which they relate, any amount of wages due to the seaman under the agreement shall (subject to subsection (5) below) be paid to him not later than the date on which the next payment of his basic wages following the time of discharge would have fallen due if his employment under the agreement had continued.
- (5) If it is not practicable, in the case of any amount due to the seaman by way of wages additional to his basic wages, to pay that amount by the date mentioned in subsection (4) above, that amount shall be paid to him not later than what would have been the last day of the pay cycle immediately following that date if his employment under the crew agreement had continued.
- (6) If any amount which, under subsection (4) or (5) above, is payable to a seaman is not paid at the time at which it is so payable, it shall carry interest at the rate of 20 per cent. per annum.
- (7) The provisions of subsection (3) or (6) above shall not apply if the failure to pay was due to—
  - (a) a mistake,
  - (b) a reasonable dispute as to liability,
  - (c) the act or default of the seaman, or
  - (d) any other cause, not being the wrongful act or default of the persons liable to pay his wages or of their servants or agents;and so much of those provisions as relates to interest on the amount due shall not apply if a court in proceedings for its recovery so directs.
- (8) Where a seaman is employed under a crew agreement relating to more than one ship the preceding provisions of this section shall have effect, in relation to wages due to him under the agreement, as if for any reference to the time of discharge there were substituted a reference to the termination of his employment under the crew agreement.

- (9) Where a seaman, in pursuance of section 29, is discharged from a ship outside the United Kingdom but returns to the United Kingdom under arrangements made by the persons who employed him, the preceding provisions of this section shall have effect, in relation to the wages due to him under a crew agreement relating to the ship, as if for the references in subsections (1) to (4) above to the time of discharge there were substituted references to the time of his return to the United Kingdom, and subsection (8) above were omitted.
- (10) For the purposes of this section any amount of wages shall, if not paid to him in cash, be taken to have been paid to a seaman—
- (a) on the date when a cheque, or a money or postal order issued by the Post Office, for that amount was despatched by the recorded delivery service to the seaman's last known address, or
  - (b) on the date when any account kept by the seaman with a bank or other institution was credited with that amount.

### **31 Account of seaman's wages**

- (1) Subject to subsections (4) and (5) below and to regulations made under section 32 or 73, the master of every United Kingdom ship shall deliver to every seaman employed in the ship under a crew agreement an account of the wages due to him under that crew agreement and of the deductions subject to which the wages are payable.
- (2) The account shall indicate that the amounts stated therein are subject to any later adjustment that may be found necessary and shall be delivered not later than 24 hours before the time of discharge or, if the seaman is discharged without notice or at less than 24 hours' notice, at the time of discharge.
- (3) If the amounts stated in the account require adjustment the persons who employed the seaman shall deliver to him a further account stating the adjusted amounts; and that account shall be delivered not later than the time at which the balance of his wages is payable to the seaman.
- (4) Where section 30(4) or (5) applies to the payment of any amount of wages due to a seaman under a crew agreement—
- (a) the persons who employed the seaman shall deliver to him an account of the wages payable to him under that subsection and of the deductions subject to which the wages are payable; and
  - (b) any such account shall be so delivered at the time when the wages are paid to him; and
  - (c) subsections (1) to (3) above shall not apply;
- and section 30(10) shall apply for the purposes of this subsection as it applies for the purposes of that section.
- (5) Where a seaman is employed under a crew agreement relating to more than one ship any account which under the preceding provisions of this section would be required to be delivered to him by the master shall instead be delivered to him by the persons employing him and shall be so delivered on or before the termination of his employment under the crew agreement.
- (6) If a person fails without reasonable excuse to comply with the preceding provisions of this section he shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.

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### **32 Regulations relating to wages and accounts**

The Secretary of State may make regulations—

- (a) authorising deductions to be made from the wages due to a seaman under a crew agreement (in addition to any authorised by any provision of this Part or of any other enactment for the time being in force) in cases where a breach of his obligations under the agreement is alleged against him and such conditions, if any, as may be specified in the regulations are complied with, or in such other cases as may be specified in the regulations;
- (b) regulating the manner in which any amounts deducted under the regulations are to be dealt with;
- (c) prescribing the manner in which wages due to a seaman under a crew agreement are to be or may be paid;
- (d) regulating the manner in which such wages are to be dealt with and accounted for in circumstances where a seaman leaves his ship in the United Kingdom otherwise than on being discharged therefrom;
- (e) prescribing the form and manner in which any account required to be delivered by section 31 is to be prepared and the particulars to be contained therein (which may include estimated amounts).

### **33 Power of superintendent or proper officer to decide disputes about wages**

- (1) Any dispute relating to the amount payable to a seaman employed under a crew agreement may be submitted by the parties to a superintendent or proper officer for decision; but the superintendent or proper officer shall not be bound to accept the submission or, if he has accepted it, to decide the dispute, if he is of the opinion that the dispute, whether by reason of the amount involved or for any other reason, ought not to be decided by him.
- (2) The decision of a superintendent or proper officer on a dispute submitted to him under this section shall be final.

### **34 Restriction on assignment of and charge upon wages**

- (1) As respects the wages due or accruing to a seaman employed in a United Kingdom ship—
  - (a) the wages shall not be subject to attachment;
  - (b) the wages shall not, in Scotland, be subject to any diligence other than those provided for in section 46(1) of the Debtors (Scotland) Act 1987;
  - (c) an assignment thereof before they have accrued shall not bind the seaman and the payment of the wages to the seaman shall be valid notwithstanding any previous assignment or charge; and
  - (d) a power of attorney or authority for the receipt of the wages shall not be irrevocable.
- (2) Nothing in this section shall affect the provisions of this Part with respect to allotment notes.
- (3) Nothing in this section applies to any disposition relating to the application of wages—
  - (a) in the payment of contributions to a fund declared by regulations made by the Secretary of State to be a fund to which this section applies; or

- (b) in the payment of contributions in respect of the membership of a body declared by regulations made by the Secretary of State to be a body to which this section applies;  
or to anything done or to be done for giving effect to such a disposition.
- (4) Subsection (1)(a) above is subject, in relation to England and Wales, to the Attachment of Earnings Act 1971.
- (5) Subsection (1)(a) above is subject to any provision made by or under—
  - (a) section 31 or 33 of the Child Support Act 1991 (deductions from earnings orders); or
  - (b) Article 31 or 32 of the Child Support (Northern Ireland) Order 1991 (deductions from earnings orders).

### **35 Power of court to award interest on wages due otherwise than under crew agreement**

In any proceedings by the master of a ship or a person employed in a ship otherwise than under a crew agreement for the recovery of any sum due to him as wages the court, unless it appears to it that the delay in paying the sum was due to—

- (a) a mistake,
- (b) a reasonable dispute as to liability,
- (c) the act or default of the person claiming the amount, or
- (d) any other cause, not being the wrongful act or default of the persons liable to make the payment or their servants or agents,

may order them to pay, in addition to the sum due, interest on it at the rate of 20 per cent. per annum or such lower rate as the court may specify, for the period beginning seven days after the sum became due and ending when the sum is paid.

### **36 Allotment notes**

- (1) Subject to the following provisions of this section, a seaman may, by means of an allotment note issued in accordance with regulations made by the Secretary of State, allot to any person or persons part of the wages to which he will become entitled in the course of his employment in a United Kingdom ship or ships.
- (2) A seaman's right to make an allotment under this section shall be subject to such limitations as may, by virtue of the following provisions of this section, be imposed by regulations made by the Secretary of State.
- (3) Regulations made by the Secretary of State for the purposes of this section may prescribe the form of allotment notes and—
  - (a) may limit the circumstances in which allotments may be made;
  - (b) may limit (whether by reference to an amount or by reference to a proportion) the part of the wages that may be allotted and the number of persons to whom it may be allotted and may prescribe the method by which that part is to be calculated;
  - (c) may limit the persons to whom allotments may be made by a seaman to persons of such descriptions or persons standing to him in such relationships as may be prescribed by the regulations;

(d) may prescribe the times and the intervals at which payments under allotment notes are to be made.

(4) Regulations under this section may make different provision in relation to different descriptions of seamen and different circumstances.

### **37 Right of person named in allotment to sue in own name**

(1) A person to whom any part of a seaman's wages has been allotted by an allotment note issued in accordance with regulations made under section 36 shall have the right to recover that part in his own name and for that purpose shall have the same remedies as the seaman has for the recovery of his wages.

(2) In any proceedings brought by a person named in such an allotment note as the person to whom any part of a seaman's wages has been allotted it shall be presumed, unless the contrary is shown, that the seaman is entitled to the wages specified in the note and that the allotment has not been varied or cancelled.

### **38 Right, or loss of right, to wages in certain circumstances**

(1) Where a United Kingdom ship is wrecked or lost a seaman whose employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed shall, subject to the following provisions of this section, be entitled to wages at the rate payable under the agreement at the date of the wreck or loss for every day on which he is unemployed in the two months following that date.

(2) Where a United Kingdom ship is sold while outside the United Kingdom or ceases to be a United Kingdom ship and a seaman's employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed, then, unless it is otherwise provided in the agreement, he shall, subject to the following provisions of this section, be entitled to wages at the rate payable under the agreement at the date on which his employment is terminated for every day on which he is unemployed in the two months following that date.

(3) A seaman shall not be entitled to wages by virtue of subsection (1) or (2) above for a day on which he was unemployed, if it is shown—

(a) that the unemployment was not due to the wreck or loss of the ship or, as the case may be, the termination of his employment on the sale of the ship or its ceasing to be a United Kingdom ship; or

(b) that the seaman was able to obtain suitable employment for that day but unreasonably refused or failed to take it.

(4) This section shall apply to a master as it does to a seaman.

### **39 Protection of certain rights and remedies**

(1) A seaman's lien, his remedies for the recovery of his wages, his right to wages in case of the wreck or loss of his ship, and any right he may have or obtain in the nature of salvage shall not be capable of being renounced by any agreement.

(2) Subsection (1) above does not affect such of the terms of any agreement made with the seamen belonging to a ship which, in accordance with the agreement, is to be employed on salvage service, as provide for the remuneration to be paid to them for salvage services rendered by that ship.

#### **40 Claims against seaman's wages for maintenance, etc. of dependants**

- (1) Where, during a seaman's employment in a ship, expenses are incurred by a responsible authority for the benefit of any dependant of his and the expenses are of a kind specified in regulations under this section and such further conditions, if any, as may be so specified are satisfied, the authority may by notice in writing complying with the regulations require the persons employing the seaman—
- (a) to retain for a period specified in the notice such proportion of his net wages as may be so specified; and
  - (b) to give to the responsible authority as soon as may be notice in writing of the seaman's discharge from the ship;
- and the persons employing the seaman shall comply with the notice (subject to subsection (3) below) and give notice in writing of its contents to the seaman.
- (2) For the purposes of this section—
- (a) the following persons, and no others, shall be taken to be a seaman's dependants, that is to say, his spouse and any person under the age of 19 whom he is liable, for the purposes of any enactment in any part of the United Kingdom, to maintain or in respect of whom he is liable under any such enactment to make contributions to a local authority; and
  - (b) expenses incurred for the benefit of any person include (in addition to any payments made to him or on his behalf) expenses incurred for providing him with accommodation or care or for exercising supervision over him;
- but no expenses shall be specified in regulations under this section unless they are such that a magistrates' court has power under any enactment in force in any part of the United Kingdom to order the making of payments in respect thereof.
- (3) Not more than the following proportion of a seaman's net wages shall be retained under subsection (1) above (whether in pursuance of one or more notices)—
- (a) one-half if the notice or notices relate to one dependant only;
  - (b) two-thirds if the notice or notices relate to two or more dependants.
- (4) Where a responsible authority have served a notice under this section on the persons employing a seaman a magistrates' court may, on the application of the authority, make an order for the payment to the authority of such sum, not exceeding the proportion of the seaman's wages which those persons were required by virtue of this section to retain, as the court, having regard to the expenses incurred by the authority and the seaman's means, thinks fit.
- (5) Any sums paid out of a seaman's wages in pursuance of an order under this section shall be deemed to be paid to him in respect of his wages; and the service, on the persons who employed the seaman, of such an order or of an order dismissing an application for such an order shall terminate the period for which they were required to retain the wages.
- (6) An application for an order under this section for the payment of any sum by the persons who employed a seaman shall be deemed, for the purposes of any proceedings, to be an application for an order against the seaman; but the order, when served on those persons, shall have effect as an order against them and may be enforced accordingly.
- (7) Parts I and III of the Maintenance Orders Act 1950 shall have effect as if an order under this section were included among those referred to in sections 4(1) and (2), 9(1) and (2), and 12(1) and (2) of that Act; and any sum payable by any persons under an

order made under this section in any part of the United Kingdom may, in any other part of the United Kingdom, be recovered from them as a debt due to the authority on whose application the order was made.

- (8) Any notice or order under this section may be served by registered post or recorded delivery service.
- (9) The Secretary of State may make regulations specifying—
- (a) the expenses in respect of which a notice may be served by a responsible authority under subsection (1) above;
  - (b) any conditions that must be satisfied if such a notice is to be served;
  - (c) the period that may be specified in such a notice (being a period beginning with the service of the notice and ending a specified number of days after the seaman's discharge from his ship);
  - (d) the form of such a notice and the information to be contained therein; and
  - (e) the amounts to be deducted from a seaman's wages in computing his net wages for the purposes of this section;
- and the amounts specified under paragraph (e) above may include amounts allotted by allotment notes issued under section 36.
- (10) In this section “responsible authority” means the Secretary of State, the Department of Health and Social Services for Northern Ireland, a Health and Social Services Board acting on behalf of that Department, or (except in Northern Ireland) any local authority.
- (11) In the application of subsection (2)(a) above to Northern Ireland, for the reference to a local authority there shall be substituted a reference to a Health and Social Services Board and in subsection (10) above and this subsection “Health and Social Services Board” means such a Board established under the Health and Personal Social Services (Northern Ireland) Order 1972.
- (12) In this section “magistrates' court”—
- (a) in relation to Scotland, means the sheriff court, and
  - (b) in relation to Northern Ireland, means a court of summary jurisdiction.

#### **41 Remedies of master for remuneration, disbursements and liabilities**

The master of a ship shall have the same lien for his remuneration, and all disbursements or liabilities properly made or incurred by him on account of the ship, as a seaman has for his wages.

#### *Safety, health and welfare*

#### **42 Obligation of shipowners as to seaworthiness**

- (1) In every contract of employment between the owner of a United Kingdom ship and the master of or any seaman employed in the ship there shall be implied an obligation on the owner of the ship that—
- (a) the owner of the ship,
  - (b) the master of the ship, and
  - (c) every agent charged with—
    - (i) the loading of the ship,

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- (ii) the preparing of the ship for sea, or
- (iii) the sending of the ship to sea,

shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences and to keep the ship in a seaworthy condition for the voyage during the voyage.

- (2) The obligation imposed by subsection (1) above applies notwithstanding any agreement to the contrary.
- (3) No liability on the owner of a ship arises under subsection (1) above in respect of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable.

### **43 Crew accommodation**

- (1) The Secretary of State may make regulations with respect to the crew accommodation to be provided in United Kingdom ships.
- (2) Without prejudice to the generality of subsection (1) above, regulations made under this section may, in particular—
  - (a) prescribe the minimum space per man which must be provided by way of sleeping accommodation for seamen and the maximum number of persons by whom a specified part of such sleeping accommodation may be used;
  - (b) regulate the position in the ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;
  - (c) require the submission to a surveyor of ships of plans and specifications of any works proposed to be carried out for the purpose of the provision or alteration of any such accommodation and authorise the surveyor to inspect any such works; and
  - (d) provide for the maintenance and repair of any such accommodation and prohibit or restrict the use of any such accommodation for purposes other than those for which it is designed.
- (3) Regulations under this section may make different provision with respect to different descriptions of ship or with respect to ships which were registered in the United Kingdom at different dates or the construction of which was begun at different dates and with respect to crew accommodation provided for seamen of different descriptions.
- (4) Regulations under this section may exempt ships of any description from any requirements of the regulations and the Secretary of State may grant other exemptions from any such requirement with respect to any ship.
- (5) Regulations under this section may require the master of a ship or any officer authorised by him for the purpose to carry out such inspections of the crew accommodation as may be prescribed by the regulations.
- (6) If the provisions of any regulations under this section are contravened in the case of a ship the owner or master shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale and the ship, if in the United Kingdom, may be detained.

- (7) In this section “crew accommodation” includes sleeping rooms, mess rooms, sanitary accommodation, hospital accommodation, recreation accommodation, store rooms and catering accommodation provided for the use of seamen but does not include any accommodation which is also used by or provided for the use of passengers.

#### **44 Complaints about provisions or water**

- (1) If three or more seamen employed in a United Kingdom ship consider that the provisions or water provided for the seamen employed in that ship are not in accordance with safety regulations containing requirements as to the provisions and water to be provided on ships (whether because of bad quality, unfitness for use or deficiency in quantity) they may complain to the master, who shall investigate the complaint.
- (2) If the seamen are dissatisfied with the action taken by the master as a result of his investigation or by his failure to take any action they may state their dissatisfaction to him and may claim to complain to a superintendent or proper officer; and thereupon the master shall make adequate arrangements to enable the seamen to do so as soon as the service of the ship permits.
- (3) The superintendent or proper officer to whom a complaint has been made under this section shall investigate the complaint and may examine the provisions or water or cause them to be examined.
- (4) If the master fails without reasonable excuse to comply with the provisions of subsection (2) above he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and if he has been notified in writing by the person making an examination under subsection (3) above that any provisions or water are found to be unfit for use or not of the quality required by the regulations, then—
- (a) if they are not replaced within a reasonable time the master or owner shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale unless he proves that the failure to replace them was not due to his neglect or default; or
  - (b) if the master, without reasonable excuse, permits them to be used he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### **45 Expenses of medical and other treatment during voyage**

- (1) If a person, while employed in a United Kingdom ship, receives outside the United Kingdom any surgical or medical treatment or such dental or optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency, the reasonable expenses thereof shall be borne by the persons employing him.
- (2) If a person dies while employed in a United Kingdom ship and is buried or cremated outside the United Kingdom, the expenses of his burial or cremation shall also be borne by those persons.
- (3) The reference in subsection (2) above to dying in a ship includes a reference to dying in a ship’s boat.

*Manning, qualifications, training and uniform*

**46 Application of sections 47 to 51**

Sections 47 to 51 apply to every United Kingdom ship and also to any ship registered under the law of a country outside the United Kingdom which carries passengers—

- (a) between places in the United Kingdom or between the United Kingdom and the Isle of Man or any of the Channel Islands; or
- (b) on a voyage which begins and ends at the same place in the United Kingdom and on which the ship calls at no place outside the United Kingdom.

**47 Manning**

- (1) Subject to subsection (2) below, the Secretary of State may make regulations—
  - (a) requiring ships to which this section applies to carry such number of qualified officers of any description, qualified doctors and qualified cooks and such number of other seamen or qualified seamen of any description as may be specified in the regulations; and
  - (b) prescribing or enabling the Secretary of State to specify standards of competence to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the regulations) by officers and other seamen of any description in order to be qualified for the purposes of this section.
- (2) The Secretary of State shall not exercise his power to make regulations requiring ships to carry seamen other than doctors and cooks except to the extent that it appears to him necessary or expedient in the interests of safety.
- (3) Regulations under this section may make different provision for different descriptions of ship or for ships of the same description in different circumstances.
- (4) Without prejudice to the generality of subsection (1)(b) above, the conditions prescribed or specified under that paragraph may include conditions as to nationality, and regulations made for the purposes of that paragraph may make provision, or enable the Secretary of State to make provision, for—
  - (a) the manner in which the attainment of any standard or the satisfaction of any other condition is to be evidenced;
  - (b) the conduct of any examinations, the conditions for admission to them and the appointment and remuneration of examiners; and
  - (c) the issue, form and recording of certificates and other documents;and different provisions may be so made or enabled to be made for different circumstances.
- (5) If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a certificate or other document which may be issued under this section he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**48 Power to exempt from manning requirements**

- (1) The Secretary of State may exempt any ship or description of ship from any requirements of regulations made under section 47.

- (2) An exemption given under this section may be confined to a particular period or to one or more particular voyages.

#### **49 Prohibition of going to sea undermanned**

- (1) Subject to section 48, if a ship to which this section applies goes to sea or attempts to go to sea without carrying such officers and other seamen as it is required to carry under section 47, the owner or master shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine;
- and the ship, if in the United Kingdom, may be detained.
- (2) This section shall, in its application to ships which are not sea-going ships, have effect as if for the words “goes to sea or attempts to go to sea” there were substituted the words “goes on a voyage or excursion or attempts to do so” and the words “if in the United Kingdom” were omitted.

#### **50 Production of certificates and other documents of qualification**

- (1) Any person serving or engaged to serve in any ship to which this section applies and holding any certificate or other document which is evidence that he is qualified for the purposes of section 47 shall on demand produce it to any superintendent, surveyor of ships or proper officer and (if he is not himself the master) to the master of the ship.
- (2) If, without reasonable excuse, a person fails to comply with subsection (1) above he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **51 Crew’s knowledge of English**

- (1) Where in the opinion of a superintendent or proper officer the crew of a ship to which this section applies consists of or includes persons who may not understand orders given to them in the course of their duty because of their insufficient knowledge of English and the absence of adequate arrangements for transmitting the orders in a language of which they have sufficient knowledge, then—
- (a) if the superintendent or proper officer has informed the master of that opinion, the ship shall not go to sea; and
  - (b) if the ship is in the United Kingdom, it may be detained.
- (2) If a ship goes to sea or attempts to go to sea in contravention of this section the owner or master shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **52 Unqualified persons going to sea as qualified officers or seamen**

- (1) If a person goes to sea as a qualified officer or seaman of any description without being such a qualified officer or seaman he shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum,
  - (b) on conviction on indictment, to a fine.
- (2) In this section “qualified” means qualified for the purposes of section 47.

### **53 Medical treatment on board ship**

Where a United Kingdom ship does not carry a doctor among the seamen employed in it the master shall make arrangements for securing that any medical attention on board the ship is given either by him or under his supervision by a person appointed by him for the purpose.

### **54 Special certificates of competence**

- (1) The Secretary of State may issue and record documents certifying the attainment of any standard of competence relating to ships or their operation, notwithstanding that the standard is not among those prescribed or specified under section 47(1)(b); and may, in relation thereto, make regulations for purposes corresponding to those mentioned in section 47(4).
- (2) If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a document which may be issued under this section he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **55 Young persons**

- (1) A person under school-leaving age shall not be employed in any United Kingdom ship except as permitted by regulations under this section.
- (2) The Secretary of State may make regulations—
  - (a) prescribing circumstances in which and conditions subject to which persons under school-leaving age who have attained such age as may be specified in the regulations may be employed in a ship in such capacities as may be so specified;
  - (b) prescribing circumstances and capacities in which persons over school leaving-age but under the age of 18 or under such lower age as may be specified in the regulations must not be employed in a United Kingdom ship or may be so employed only subject to such conditions as may be specified in the regulations.
- (3) Regulations made for the purposes of this section may make different provision for different employments and different descriptions of ship and any other different circumstances.
- (4) If any person is employed in a ship in contravention of this section or if any condition subject to which a person may be employed under regulations made for the purposes of this section is not complied with, the owner or master shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) For the purposes of this section a person employed in a ship shall be deemed to be over school-leaving age if he has, and under school-leaving age if he has not, attained the age which is the upper limit of compulsory school age (in Scotland school age) under the enactments relating to education in the part of the United Kingdom in which he entered into the agreement under which he is so employed or, if he entered into that agreement outside the United Kingdom or is employed otherwise than under an agreement, under the enactments relating to education in England and Wales; and if he is treated for the purposes of those enactments as not having attained that age he shall be so treated also for the purposes of this section.

**56 Financial assistance for training**

- (1) The Secretary of State may, with the consent of the Treasury, give any person or body of persons of any description determined by him for the purposes of this section financial assistance in respect of expenses incurred or to be incurred by any such person or body in connection with the training (whether in the United Kingdom or elsewhere) of officers and ratings for service in merchant ships, including expenses incurred or to be incurred by any such person in connection with his undergoing any such training.
- (2) Assistance under this section may be given by way of a grant or a loan or otherwise; and in giving any such assistance the Secretary of State may impose such conditions as he thinks fit, including conditions requiring a grant to be repaid in specified circumstances.
- (3) This section is without prejudice to any other power of the Secretary of State to give financial assistance in connection with any such training as is mentioned in subsection (1) above.

**57 Uniform**

- (1) Subject to subsection (3) below, if any person, not being entitled to wear the merchant navy uniform, wears that uniform or any part thereof, or any dress having the appearance or bearing any of the distinctive marks of that uniform, he shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable, on summary conviction,—
  - (a) except in a case falling within paragraph (b) below, to a fine not exceeding level 1 on the standard scale;
  - (b) if he wears it in such a manner or under such circumstances as to be likely to bring contempt on the uniform, to a fine not exceeding level 1 on the standard scale or to imprisonment for a term not exceeding one month.
- (3) Subsection (1) above shall not prevent any person from wearing any uniform or dress in the course or for the purposes of a stage play or representation, or a music-hall or circus performance if the uniform is not worn in such a manner or under such circumstances as to bring it into contempt.
- (4) If any person entitled to wear the merchant navy uniform when aboard a ship in port or on shore appears dressed partly in uniform and partly not in uniform under such circumstances as to be likely to bring contempt on the uniform, or, being entitled to wear the uniform appropriate to a particular rank or position, wears the uniform appropriate to some higher rank or position, he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

*Offences by seamen, etc***58 Conduct endangering ships, structures or individuals**

- (1) This section applies—
  - (a) to the master of, or any seaman employed in, a United Kingdom ship; and
  - (b) to the master of, or any seaman employed in, a ship which—

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*Status: This is the original version (as it was originally enacted).*

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- (i) is registered under the law of any country outside the United Kingdom; and
  - (ii) is in a port in the United Kingdom or within United Kingdom waters while proceeding to or from any such port.
- (2) If a person to whom this section applies, while on board his ship or in its immediate vicinity—
  - (a) does any act which causes or is likely to cause—
    - (i) the loss or destruction of or serious damage to his ship or its machinery, navigational equipment or safety equipment, or
    - (ii) the loss or destruction of or serious damage to any other ship or any structure, or
    - (iii) the death of or serious injury to any person, or
  - (b) omits to do anything required—
    - (i) to preserve his ship or its machinery, navigational equipment or safety equipment from being lost, destroyed or seriously damaged, or
    - (ii) to preserve any person on board his ship from death or serious injury, or
    - (iii) to prevent his ship from causing the loss or destruction of or serious damage to any other ship or any structure, or the death of or serious injury to any person not on board his ship,and either of the conditions specified in subsection (3) below is satisfied with respect to that act or omission, he shall (subject to subsections (6) and (7) below) be guilty of an offence.
- (3) Those conditions are—
  - (a) that the act or omission was deliberate or amounted to a breach or neglect of duty;
  - (b) that the master or seaman in question was under the influence of drink or a drug at the time of the act or omission.
- (4) If a person to whom this section applies—
  - (a) discharges any of his duties, or performs any other function in relation to the operation of his ship or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as is mentioned in subsection (2)(a) above, or
  - (b) fails to discharge any of his duties, or to perform any such function, properly to such an extent as to cause, or to be likely to cause, any of those things,he shall (subject to subsections (6) and (7) below) be guilty of an offence.
- (5) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (6) In proceedings for an offence under this section it shall be a defence to prove—
  - (a) in the case of an offence under subsection (2) above where the act or omission alleged against the accused constituted a breach or neglect of duty, that the accused took all reasonable steps to discharge that duty;
  - (b) in the case of an offence under subsection (2) above, that at the time of the act or omission alleged against the accused he was under the influence of a

- drug taken by him for medical purposes and either that he took it on medical advice and complied with any directions given as part of that advice or that he had no reason to believe that the drug might have the influence it had;
- (c) in the case of an offence under subsection (4) above, that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence; or
- (d) in the case of an offence under either of those subsections—
- (i) that he could have avoided committing the offence only by disobeying a lawful command, or
  - (ii) that in all the circumstances the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of its being caused, either could not reasonably have been foreseen by the accused or could not reasonably have been avoided by him.
- (7) In the application of this section to any person falling within subsection (1)(b) above, subsections (2) and (4) above shall have effect as if subsection (2)(a)(i) and (b)(i) above were omitted; and no proceedings for any offence under this section shall be instituted against any such person—
- (a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.
- (8) In this section—
- “breach or neglect of duty”, except in relation to a master, includes any disobedience to a lawful command;
- “duty”—
- (a) in relation to a master or seaman, means any duty falling to be discharged by him in his capacity as such; and
  - (b) in relation to a master, includes his duty with respect to the good management of his ship and his duty with respect to the safety of operation of his ship, its machinery and equipment; and
- “structure” means any fixed or movable structure (of whatever description) other than a ship.

## **59 Concerted disobedience and neglect of duty**

- (1) If a seaman employed in a United Kingdom ship combines with other seamen employed in that ship—
- (a) to disobey lawful commands which are required to be obeyed at a time while the ship is at sea;
  - (b) to neglect any duty which is required to be discharged at such a time; or
  - (c) to impede, at such a time, the progress of a voyage or the navigation of the ship,
- he shall be liable—
- (i) on summary conviction, to a fine not exceeding the statutory maximum;
  - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (2) For the purposes of this section a ship shall be treated as being at sea at any time when it is not securely moored in a safe berth.

### *Disciplinary offences*

#### **60 Breaches by seamen of codes of conduct**

- (1) The Secretary of State may make regulations under the following provisions of this section for the purpose of maintaining discipline on board United Kingdom ships; and in this section “disciplinary body” means a body established or approved by the Secretary of State under subsection (6) below.
- (2) Regulations may provide for the hearing on shore in the United Kingdom, by a disciplinary body, of a complaint by the master or owner of a United Kingdom ship, other than a fishing vessel, against a seaman alleging that during his employment on board the ship the seaman contravened a provision of a code of conduct approved by the Secretary of State for the purposes of this section.

The alleged contravention may be one on or off the ship and in the United Kingdom or elsewhere.

- (3) Regulations may enable a disciplinary body—
  - (a) to dismiss the complaint if it finds the allegation not proved;
  - (b) if it finds the allegation proved—
    - (i) to warn the seaman;
    - (ii) to reprimand the seaman; or
    - (iii) to recommend to the Secretary of State that the seaman shall, either for a period specified in the recommendation or permanently, cease to be entitled to a discharge book in pursuance of section 80 and shall be required to surrender any such book which has been issued to him.
- (4) Regulations may—
  - (a) enable the seaman to appeal against such a recommendation to another disciplinary body (an “appellate body”);
  - (b) enable an appellate body—
    - (i) to confirm the recommendation;
    - (ii) to cancel the recommendation; or
    - (iii) in the case of a recommendation that the seaman shall cease to be entitled to a discharge book permanently or for a particular period, to substitute for it a recommendation that he shall cease to be so entitled, instead of permanently, for a period specified in the substituted recommendation or, instead of for the particular period, for a shorter period so specified.
- (5) Regulations may make provision for securing that a recommendation that the seaman shall permanently cease to be entitled to a discharge book is not submitted to the Secretary of State unless it has been confirmed, either on appeal or otherwise, by an appellate body.
- (6) Regulations may make provision for the establishment or approval for the purposes of this section of such number of bodies as the Secretary of State thinks fit and with respect to the composition, jurisdiction and procedure of any such body.
- (7) Regulations may make provision for the payment, out of money provided by Parliament, of such remuneration and allowances as the Secretary of State may, with the consent of the Treasury, determine to any member of such a body.

- (8) Regulations may make different provision for different circumstances and may contain such incidental and supplemental provisions as the Secretary of State considers appropriate.
- (9) Without prejudice to the generality of the preceding provisions, regulations may include provision for any proceedings to take place notwithstanding the absence of the seaman to whom they relate.
- (10) Nothing in the regulations or done in pursuance of the regulations shall be construed as affecting any power to institute, prosecute, entertain or determine proceedings (including criminal proceedings) under any other enactment or at common law.

*Disqualification of seamen and inquiries*

**61 Inquiry into fitness or conduct of officer**

- (1) If it appears to the Secretary of State that an officer—
  - (a) is unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason; or
  - (b) has been seriously negligent in the discharge of his duties; or
  - (c) has failed to comply with the provisions of section 92;
 the Secretary of State may cause an inquiry to be held by one or more persons appointed by him and, if he does so, may, if he thinks fit, suspend, pending the outcome of the inquiry, any certificate issued to the officer in pursuance of section 47 and require the officer to deliver it to him.
- (2) Where a certificate issued to an officer has been suspended under subsection (1) above the suspension may, on the application of the officer, be terminated by the High Court or, if the inquiry is held in Scotland, by the Court of Session, and the decision of the court on such an application shall be final.
- (3) An inquiry under this section shall be conducted in accordance with rules made under section 65(1) and those rules shall require the persons holding the inquiry to hold it with the assistance of one or more assessors.
- (4) The persons holding an inquiry under this section into the fitness or conduct of an officer—
  - (a) may, if satisfied of any of the matters mentioned in paragraphs (a) to (c) of subsection (1) above, cancel or suspend any certificate issued to him under section 47 or censure him;
  - (b) may make such order with regard to the costs (or in Scotland expenses) of the inquiry as they think just; and
  - (c) shall make a report on the case to the Secretary of State;
 and if the certificate is cancelled or suspended the officer (unless he has delivered it to the Secretary of State in pursuance of subsection (1) above) shall deliver it forthwith to the persons holding the inquiry or to the Secretary of State.
- (5) Any costs (or in Scotland expenses) which a person is ordered to pay under subsection (4)(b) above may be recovered from him by the Secretary of State.

## **62 Disqualification of holder of certificate other than officer's**

- (1) Where it appears to the Secretary of State that a person who is the holder of a certificate to which this section applies is unfit to be the holder of such a certificate, whether by reason of incompetence or misconduct or for any other reason, the Secretary of State may give him notice in writing that he is considering the suspension or cancellation of the certificate.
- (2) The notice must state the reasons why it appears to the Secretary of State that that person is unfit to be the holder of such a certificate and must state that within a period specified in the notice, or such longer period as the Secretary of State may allow, he may make written representations to the Secretary of State or claim to make oral representations to the Secretary of State.
- (3) After considering any representations made in pursuance of subsection (2) above the Secretary of State shall decide whether or not to suspend or cancel the certificate and shall give the holder of it written notice of his decision.
- (4) Where the decision is to suspend or cancel the certificate the notice shall state the date from which the cancellation is to take effect, or the date from which and the period for which the suspension is to take effect, and shall require the holder to deliver the certificate to the Secretary of State not later than the date so specified unless before that date the holder has required the case to be dealt with by an inquiry under section 63.
- (5) Where, before the date specified in the notice, he requires the case to be dealt with by such an inquiry, then, unless he withdraws the requirement, the suspension or cancellation shall not take effect except as ordered in pursuance of the inquiry.
- (6) The Secretary of State may make regulations prescribing the procedure to be followed with respect to the making and consideration of representations in pursuance of this section, the form of any notice to be given under this section and the period to be specified in any such notice as the period within which any steps are to be taken.
- (7) This section applies to every certificate issued under section 54 and to any certificate issued under section 47 other than one certifying that a person is qualified as an officer.

## **63 Inquiry into fitness or conduct of seaman other than officer**

- (1) Where a person has, before the date mentioned in section 62(4), required his case to be dealt with by an inquiry under this section the Secretary of State shall cause an inquiry to be held by one or more persons appointed by him.
- (2) An inquiry under this section shall be conducted in accordance with rules made under section 65(1) and those rules shall require the persons holding the inquiry to hold it with the assistance of one or more assessors.
- (3) The persons holding an inquiry under this section—
  - (a) may confirm the decision of the Secretary of State and cancel or suspend the certificate accordingly;
  - (b) may, where the decision was to cancel the certificate, suspend it instead;
  - (c) may, where the decision was to suspend the certificate, suspend it for a different period;
  - (d) may, instead of confirming the decision of the Secretary of State, censure the holder of the certificate or take no further action;

- (e) may make such order with regard to the costs of the inquiry as they think just; and
  - (f) shall make a report on the case to the Secretary of State;
- and if the certificate is cancelled or suspended it shall be delivered forthwith to the persons holding the inquiry or to the Secretary of State.
- (4) Any costs (or in Scotland expenses) which a person is ordered to pay under subsection (3)(e) above may be recovered from him by the Secretary of State.

#### **64 Re-hearing of and appeal from inquiries**

- (1) Where an inquiry has been held under section 61 or 63 the Secretary of State may order the whole or part of the case to be reheard, and shall do so—
- (a) if new and important evidence which could not be produced at the inquiry has been discovered; or
  - (b) if there appear to the Secretary of State to be other grounds for suspecting that a miscarriage of justice may have occurred.
- (2) An order under subsection (1) above may provide for the re-hearing to be as follows,—
- (a) if the inquiry was held in England, Wales or Northern Ireland, by the persons who held it, by a wreck commissioner or by the High Court;
  - (b) if it was held in Scotland, by the persons who held it, by the sheriff or by the Court of Session.
- (3) Any re-hearing under this section which is not held by the High Court or the Court of Session shall be conducted in accordance with rules made under section 65(1).
- (4) Where the persons holding the inquiry have decided to cancel or suspend the certificate of any person or have found any person at fault, then, if no application for an order under subsection (1) above has been made or such an application has been refused, that person or any other person who, having an interest in the inquiry, has appeared at the hearing and is affected by the decision or finding, may appeal—
- (a) to the High Court if the inquiry was held in England, Wales or Northern Ireland;
  - (b) to the Court of Session if it was held in Scotland.

#### **65 Rules as to inquiries and appeals**

- (1) The Secretary of State may make rules for the conduct of inquiries under sections 61 and 63 and for the conduct of any re-hearing under section 64 which is not held by the High Court or the Court of Session.
- (2) Without prejudice to the generality of subsection (1) above, rules under this section may provide for the appointment and summoning of assessors, the manner in which any facts may be proved, the persons allowed to appear, and the notices to be given to persons affected.
- (3) Rules of court made for the purpose of re-hearings under section 64 which are held by the High Court, or of appeals to the High Court, may require the court, subject to such exceptions, if any, as may be allowed by the rules, to hold such a re-hearing or hear such an appeal with the assistance of one or more assessors.

**66 Failure to deliver cancelled or suspended certificate**

If a person fails to deliver a certificate as required under section 61, 62 or 63 he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**67 Power to restore certificate**

Where a certificate has been cancelled or suspended under section 61, 62, 63 or 64, the Secretary of State, if of the opinion that the justice of the case requires it, may re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or may grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

**68 Power to summon witness to inquiry into fitness or conduct of officer or other seaman**

- (1) The persons holding an inquiry under section 61 or 63 may—
  - (a) by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry; and
  - (b) take evidence on oath (and for that purpose administer oaths) or, instead of administering an oath, require the person examined to make a solemn affirmation.
- (2) If on the failure of a person to attend such an inquiry in answer to a summons under this section—
  - (a) the persons holding the inquiry are satisfied by evidence on oath—
    - (i) that the person in question is likely to be able to give material evidence or produce any document which relates to any matter in question at the inquiry,
    - (ii) that he has been duly served with the summons, and
    - (iii) that a reasonable sum has been paid or tendered to him for costs and expenses, and
  - (b) it appears to them that there is no just excuse for the failure, they may issue a warrant to arrest him and bring him before the inquiry at a time and place specified in the warrant.
- (3) If any person attending or brought before such an inquiry refuses without just excuse to be sworn or give evidence, or to produce any document, the persons holding the inquiry may—
  - (a) commit him to custody until the end of such period not exceeding one month as may be specified in the warrant or until he gives evidence or produces the document (whichever occurs first), or
  - (b) impose on him a fine not exceeding £1,000,or both.
- (4) A fine imposed under subsection (3)(b) above shall be treated for the purposes of its collection, enforcement and remission as having been imposed by the magistrates' court for the area in which the inquiry in question was held, and the persons holding the inquiry shall, as soon as practicable after imposing the fine, give particulars of it to the clerk of that court.

(5) This section does not apply to Scotland.

**69 Procedure where inquiry into fitness or conduct of officer or other seaman is held by sheriff**

Where an inquiry under section 61 or 63 is held in Scotland by a sheriff—

- (a) he shall (subject to rules made under section 65(1)) dispose of the inquiry as a summary application; and
- (b) (subject to section 64) his decision on the inquiry shall be final.

*Civil liability of seamen for offences*

**70 Civil liability for absence without leave**

- (1) The following provisions of this section shall apply with respect to the liability of a seaman employed in a United Kingdom ship to damages for being absent from his ship at a time when he is required under his contract of employment to be on board.
- (2) If he proves that his absence was due to an accident or mistake or some other cause beyond his control and that he took all reasonable precautions to avoid being absent his absence shall not be treated as a breach of contract.
- (3) Where subsection (2) above does not apply, then—
  - (a) if no special damages are claimed his liability shall be £10;
  - (b) if special damages are claimed his liability shall not be more than £100.
- (4) In the application of this section to Scotland for the references to special damages there shall be substituted references to damage in respect of specific expense incurred or loss sustained.

**71 Civil liability for smuggling**

If a seaman employed in a United Kingdom ship is found in civil proceedings before a court in the United Kingdom to have committed an act of smuggling, whether within or outside the United Kingdom, he shall be liable to make good any loss or expense that the act has caused to any other person.

**72 Civil liability for fines imposed under immigration laws**

- (1) The following provisions of this section shall apply where, at a time when a United Kingdom ship is in the national or territorial waters of any country outside the United Kingdom, a seaman employed in the ship is absent without leave and present in that country in contravention of that country's laws.
- (2) If, by reason of the contravention, a penalty is incurred under those laws by the persons employing the seaman the penalty shall be treated as being attributable to his absence without leave and may, subject to the provisions of section 70, be recovered from him as special damages for breach of contract (or, in Scotland, as damages in respect of specific expense incurred or loss sustained).

- (3) If, by reason of the contravention, a penalty is incurred under those laws by any other person the amount thereof, or, if that amount exceeds £100, £100, may be recovered by him from the seaman.

*Relief and repatriation and relief costs*

**73 Relief and return of seamen etc. left behind and shipwrecked**

- (1) Where—
- (a) a person employed as a seaman in a United Kingdom ship is left behind in any country outside the United Kingdom or is taken to such a country on being shipwrecked; or
  - (b) a person who became so employed under an agreement entered into outside the United Kingdom is left behind in the United Kingdom or is taken to the United Kingdom on being shipwrecked;
- the persons who last employed him as a seaman shall make such provision for his return and for his relief and maintenance until his return and such other provisions as may be required by regulations made by the Secretary of State.
- (2) The provisions to be so made may include the repayment of expenses incurred in bringing a shipwrecked seaman ashore and maintaining him until he is brought ashore and the payment of the expenses of the burial or cremation of a seaman who dies before he can be returned.
- (3) The Secretary of State may also make regulations providing for the manner in which any wages due to any person left behind or taken to any country as mentioned in subsection (1) above, and any property of his left on board ship, are to be dealt with.
- (4) The Secretary of State may make regulations requiring a superintendent or proper officer—
- (a) to make such provision as may be prescribed by the regulations with respect to any matter for which provision may be required to be made by regulations under the preceding provisions of this section; and
  - (b) to make the like provision with respect to persons who are British citizens, British Dependent Territories citizens or British overseas citizens and are found in distress in any country outside the United Kingdom after being employed in ships registered in, or belonging to the government of, such a country.
- (5) Without prejudice to the generality of the preceding provisions, regulations made under this section may make provision—
- (a) for determining the place to which a person is to be returned;
  - (b) for requiring the master of any United Kingdom ship to convey a person to a place determined in accordance with the regulations and for enabling a superintendent or proper officer to give the master directions for that purpose;
  - (c) for the making of payments in respect of the conveyance of a person in accordance with the regulations; and
  - (d) for the keeping of records and the rendering of accounts.
- (6) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 3 on the standard scale or such less amount as may be specified in the regulations.

- (7) This section applies to a person left behind on being discharged in pursuance of section 29, whether or not at the time he is left behind the ship is still a United Kingdom ship.
- (8) This section applies to the master of a ship as it applies to a seaman and sections 74 and 75 shall have effect accordingly.

#### **74 Limit of employer's liability under section 73**

Where a person left behind in or taken to any country as mentioned in section 73(1) remains there after the end of a period of three months the persons who last employed him as a seaman shall not be liable under that section to make provision for his return or for any matter arising after the end of that period, unless they have before the end of that period been under an obligation imposed on them by regulations under that section to make provision with respect to him.

#### **75 Recovery of expenses incurred for relief and return, etc**

- (1) Where any expenses are incurred in respect of any matter for which the employers of a seaman are required to make provision under section 73, then—
- (a) if the expenses are incurred by the Secretary of State, or are incurred by the government of any country outside the United Kingdom and repaid to them on behalf of the Crown, the Secretary of State may recover them from the employers;
  - (b) if the expenses are incurred by the seaman he may recover them from the employers unless they prove either that under the terms of his employment they were to be borne by him or that he would not have been left behind but for his own wrongful act or neglect.
- (2) Where, in the case of any seaman, expenses are incurred by the Secretary of State or are incurred by the government of any country outside the United Kingdom and repaid to them on behalf of the Crown—
- (a) in respect of any matter for which, but for section 74, the seaman's last employers would have been required to make provision under section 73; or
  - (b) in respect of any matter for which provision is required to be made under section 73(4)(b);
- the Secretary of State may recover them from the seaman (or, if he has died, from his personal representatives).

#### **76 Financial assistance in respect of crew relief costs**

- (1) The Secretary of State may, with the consent of the Treasury, give financial assistance to—
- (a) the owner of a ship registered in the British Islands, or
  - (b) any manager of a ship so registered, being either an individual ordinarily resident in the British Islands or a body corporate which is incorporated in the British Islands and has its principal place of business there,
- in respect of travel and other costs incurred by the owner or manager in connection with members of the ship's crew joining or leaving the ship outside the limited European trading area.

- (2) If the Secretary of State so determines, eligibility for assistance under this section shall be conditional on the fulfilment of such conditions with respect to all or any of the following matters as are specified in his determination—
  - (a) the nationality of any person in relation to whom any such costs as are mentioned in subsection (1) above are incurred;
  - (b) the ordinary residence of any such person;
  - (c) the place (outside the limited European trading area) where any such person joins or leaves his ship.
- (3) Assistance under this section may be given by way of a grant or loan or otherwise; and in giving any such assistance the Secretary of State may impose such conditions as he thinks fit.
- (4) For the purposes of this section—
  - (a) the crew of a ship shall be taken to include the master and other officers of the ship; and
  - (b) “the limited European trading area” has the same meaning as it has for the purposes of any regulations made under section 47.

#### *Documentation*

### **77 Official log books**

- (1) Except as provided by regulations under this section an official log book in a form approved by the Secretary of State shall be kept in every United Kingdom ship.
- (2) The Secretary of State may make regulations prescribing the particulars to be entered in official log books, the persons by whom such entries are to be made, signed or witnessed, and the procedure to be followed in the making of such entries and in their amendment or cancellation.
- (3) The regulations may require the production or delivery of official log books to such persons, in such circumstances and within such times as may be specified therein.
- (4) Regulations under this section may exempt ships of any description from any requirements thereof, either generally or in such circumstances as may be specified in the regulations.
- (5) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.
- (6) If a person intentionally destroys or mutilates or renders illegible any entry in an official log book he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **78 Lists of crew**

- (1) Except as provided by regulations made under this section, the master of every United Kingdom ship shall make and maintain a list of the crew containing such particulars as may be required by the regulations.
- (2) The Secretary of State may make regulations—

- (a) specifying the particulars to be entered in a list of the crew;
  - (b) limiting the time for which a list of the crew may remain in force;
  - (c) providing for the maintenance by such persons and either in such place as may be specified in the regulations or, if it is so specified, in the ship, of a copy or copies of each list of a crew, and for the notification to such persons of any changes therein;
  - (d) for the production of a list of the crew to such persons, in such circumstances and within such time as may be specified in the regulations; and
  - (e) for the delivery to a superintendent or proper officer or the Registrar General of Shipping and Seamen, in such circumstances as may be specified in the regulations, of a list of the crew or a copy thereof maintained under the regulations and for the notification to him of any changes in such a list.
- (3) Regulations under this section may enable a list of the crew to be contained in the same document as a crew agreement and may treat any particulars entered in the crew agreement as forming part of the particulars entered in the list.
- (4) Regulations under this section may exempt from the requirements thereof such descriptions of ship as may be specified in the regulations and may make different provisions for different circumstances.
- (5) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.

## **79 British seamen's cards**

- (1) The Secretary of State may make regulations providing—
- (a) for the issue to British seamen of cards (in this section referred to as “British seamen’s cards”) in such form and containing such particulars with respect to the holders thereof and such other particulars (if any) as may be prescribed by the regulations, and for requiring British seamen to apply for such cards;
  - (b) for requiring the holders of British seamen’s cards to produce them to such persons and in such circumstances as may be prescribed by the regulations;
  - (c) for the surrender of British seamen’s cards in such circumstances as may be prescribed by the regulations;
  - (d) for any incidental or supplementary matters for which the Secretary of State thinks it expedient for the purposes of the regulations to provide;
- and any provision of the regulations having effect by virtue of paragraph (a) above may be so framed as to apply to all British seamen or any description of them and as to have effect subject to any exemptions for which provision may be made by the regulations.
- (2) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.
- (3) In this section “British seamen” means persons who are not aliens within the meaning of the British Nationality Act 1981 and are employed, or ordinarily employed, as masters or seamen.
- (4) If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself

or another person a British seaman's card he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **80 Discharge books**

- (1) The Secretary of State may make regulations providing—
- (a) for the issue to persons who are or have been employed in United Kingdom ships of discharge books in such form and containing such particulars with respect to the holders thereof and such other particulars (if any) as may be prescribed by the regulations and for requiring such persons to apply for such discharge books;
  - (b) for requiring the holders of discharge books to produce them to such persons and in such circumstances as may be prescribed by the regulations;
  - (c) for the surrender of discharge books in such circumstances as may be prescribed by the regulations;
  - (d) for any incidental or supplementary matters for which the Secretary of State thinks it expedient for the purposes of the regulations to provide;

and any provision of the regulations having effect by virtue of paragraph (a) above may be so framed as to apply to all such persons as are mentioned in that paragraph or any description of such persons and as to have effect subject to any exemptions for which provision may be made by the regulations.

- (2) Regulations under this section may—
- (a) provide for a person to cease to be entitled to a discharge book in consequence of a recommendation made by a disciplinary body by virtue of regulations made under section 60(3) or (4); and
  - (b) provide for the re-issue of discharge books which have been surrendered in consequence of such a recommendation.
- (3) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.
- (4) A person who, in the United Kingdom or elsewhere—
- (a) obtains employment as a seaman on board a United Kingdom ship and does so when he is disentitled to a discharge book by virtue of regulations made under subsection (2)(a) above; or
  - (b) employs as such a seaman a person who he knows or has reason to suspect is disentitled as aforesaid,

shall be liable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

## **81 Handing over of documents by master**

- (1) If a person ceases to be the master of a United Kingdom ship during a voyage of the ship he shall deliver to his successor the documents relating to the ship or its crew which are in his custody.
- (2) If, without reasonable excuse, the master of such a ship fails to comply with subsection (1) above, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### *Merchant Navy Reserve*

#### **82 Maintenance of Merchant Navy Reserve**

- (1) The Secretary of State may maintain the body of persons known as the Merchant Navy Reserve whose members may, in such circumstances and for such periods as the Secretary of State may determine, be required by him to serve in ships belonging to or employed in the service of Her Majesty.
- (2) The Merchant Navy Reserve shall consist of such number of persons as the Secretary of State may determine who voluntarily undertake to become members of the Reserve and are accepted as members of it.
- (3) The Secretary of State may determine the procedure by which, and the conditions under which, persons may become, or (subject to any regulations made by him under this section) may cease to be, members of the Merchant Navy Reserve.
- (4) The Secretary of State may make regulations with respect to the calling into, and discharge from, service of members of the Merchant Navy Reserve and with respect to other matters relating to the service of members of the Reserve.
- (5) Any such regulations may, in particular, make provision—
  - (a) for call-out notices to be served on members of the Reserve;
  - (b) for the requirements to be complied with by persons on whom such notices have been served;
  - (c) as to the uniform and equipment with which members of the Reserve are to be provided;
  - (d) for regulating the conduct and discipline of members of the Reserve who have entered into service, and for securing their attendance at their places of duty;
  - (e) for the imposition of fines, or the forfeiture of pay or other amounts, for misconduct or breaches of discipline or for contravention of provisions of the regulations.
- (6) Without prejudice to the operation of subsection (5)(e) above, regulations under this section may provide that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding level 3 on the standard scale or such lower amount as is prescribed by the regulations.
- (7) Regulations under this section may make different provision for different circumstances.

#### **83 Supplementary provisions as respects the Reserve**

- (1) Subject to such conditions as the Secretary of State may determine, there shall be payable to members of the Merchant Navy Reserve such pay, bounties and allowances as he may determine.
- (2) The Secretary of State may make such payments as he thinks fit in connection with the training and certification of members of the Merchant Navy Reserve (including payments to persons undergoing such training and payments in connection with the re-validation of certificates).
- (3) The Secretary of State shall not make any determination under subsection (1) above, or any payment under subsection (2) above, except with the consent of the Treasury.

- (4) Where any person is called into service by virtue of regulations under section 82—
- (a) the provisions of the Reserve Forces (Safeguard of Employment) Act 1985 shall apply to that person as if any service rendered by him in pursuance of the call-out were whole-time service within the meaning of that Act; and
  - (b) any service so rendered shall be relevant service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.

### *Interpretation*

## **84 Interpretation**

- (1) In this Part—
- “crew agreement” has the meaning given to it by section 25(2);
  - “relief and maintenance” includes the provision of surgical or medical treatment and such dental and optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency; and
  - “ship’s boat” includes a life-raft.
- (2) References in this Part to going to sea include references to going to sea from any country outside the United Kingdom.
- (3) For the purposes of this Part a seaman is discharged from a ship when his employment in that ship is terminated.
- (4) For the purposes of this Part a seaman discharged from a ship in any country and left there shall be deemed to be left behind in that country notwithstanding that the ship also remains there.
- (5) Any power conferred by this Part to provide for or grant an exemption includes power to provide for or grant the exemption subject to conditions.