



# Merchant Shipping Act 1906

## 1906 CHAPTER 48

### PART V

#### MISCELLANEOUS

#### **50 Ships' names**

- (1) The Board of Trade, in conjunction with the Commissioners of Customs, may make regulations enabling the Board of Trade to refuse the registry of any ship by the name by which it is proposed to register that ship if it is already the name of a registered British ship or a name so similar as to be calculated to deceive, and may by those regulations require notice to be given in such manner as may be directed by the regulations before the name of the ship is marked on the ship, or before the name of the ship is entered in the register.
- (2) If the registry of a ship by the name by which it is proposed to register that ship is refused by the Board of Trade, or if any requirements of the regulations are not complied with in the case of any ship which it is proposed to register, that ship shall not be registered under the name proposed or until the regulations are complied with, as the case may be.

#### **51 Power to inquire into the title of a registered ship to be registered**

- (1) Where it appears to the Commissioners of Customs that there is any doubt as to the title of any ship registered as a British ship to be so registered, they may direct the registrar of the port of registry of the ship to require evidence to be given to his satisfaction that the ship is entitled to be registered as a British ship.
- (2) If within such time, not less than thirty days, as the Commissioners fix, satisfactory evidence of the title of the ship to be registered is not so given, the ship shall be subject to forfeiture under Part I of the principal Act.
- (3) In the application of this section to a port in a British possession, the Governor of the British possession, and, in the application of this section to foreign ports of registry, the Board of Trade, shall be substituted for the Commissioners of Customs.

**52 Provisions with respect to mortgages of ships sold to foreigners**

- (1) Subsection one of section twenty-one of the principal Act shall be read as if the following words were inserted at the end of that subsection, " and the registry of the ship in that book shall be considered as closed except so far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein. "
- (2) It is hereby declared that where the registry of a ship is considered as closed under subsection (1) of section twenty-one of the principal Act as amended by this section, or under subsection (10) of section forty-four of that Act, on account of a transfer to persons not qualified to be owners of British ships, any unsatisfied registered mortgage (including mortgages made under a certificate of mortgage) may, if the ship comes within the jurisdiction of any court in His Majesty's dominions which has jurisdiction to enforce the mortgage, or would have had such jurisdiction if the transfer had not been made, be enforced by that court notwithstanding the transfer, without prejudice, in cases where the ship has been sold under a judgment of a court, to the effect of that judgment.

**53 Amendment of 57 & 58 Vict. c.60 s.48**

The following subsection shall be substituted for subsection (2) of section forty-eight of the principal Act:—

- “(2) If default is made in registering anew a ship, or in registering an alteration of a ship so altered as aforesaid, the owner of the ship shall be liable on summary conviction to a fine not exceeding one hundred pounds, and in addition to a fine not exceeding five pounds for every day during which the offence continues after conviction.”

**54 Deduction of spaces used for water ballast in ascertaining tonnage**

- (1) For the purpose of enabling spaces used for water ballast to be deducted in ascertaining the register tonnage of a ship, section seventy-nine of the principal Act shall be read as if the words—
  - “(iv) Any space (other than a double bottom) adapted only for water ballast; and were added at the end of paragraph (a) of subsection (1) of that section.”
- (2) For the purpose of obtaining the benefit of a deduction under this section the owner of any existing ship who claims to be entitled to the deduction may apply to the Board of Trade to have the necessary remeasurements of his ship made, and the Board of Trade, on the payment of such fee, not exceeding in any case one-fifth, of the corresponding maximum fee fixed by the Third Schedule to the principal Act, as they may authorise, shall direct those measurements to be made, and. the number denoting the register tonnage shall be altered accordingly.

**55 Crew space of foreign ships**

Subsection (1) of section eighty-four of the principal Act shall be read as if the following words were added thereto, namely, " and any space shown by the certificate of registry or " other national papers of any such ship as deducted from " tonnage on account of being occupied by seamen or apprentices, and appropriated to their use, shall be deemed to have " been certified under this Act, and to comply with the pro-

visions of this Act which apply to such a space in the case of " British ships, unless a surveyor of ships certifies to the Board " of Trade that the construction and the equipment of the ship " as respects that space do not come up to the standard required " under this Act in the case of a British ship, and if any question arises whether the construction and the equipment of the " ship so come up to the required standard a surveyor of ships " may inspect the ship for purpose of determining whether such. " a certificate should be given by him or not."

#### **56 Second mate certificates allowed in small foreign-going sailing ships**

The following paragraph shall be substituted for paragraph (b) of subsection (1) of section ninety-two of the principal Act (which relates to the certificates of competency to be held by officers of ships):—

- “(b) If the ship is of one hundred tons burden or upwards with at least one officer besides the master holding a certificate not lower than that of—
- (i) mate in the case of a home trade passenger ship ;
  - (ii) second mate in the case of a foreign-going sailing ship of not more than two hundred tons burden; and
  - (iii) only mate in the case of any other foreign-going ship.”

#### **57 Powers of court in case of unreasonable delay in paying masters' wages**

In any action or other legal proceedings by the master of a ship for the recovery of any sum due to him on account of wages, the court may, if it appears to them that the payment of the sum due has been delayed otherwise than owing to the act or default of the master, or to any reasonable dispute as to liability, or to any other cause not being the wrongful act or default of the person liable to make the payment, order that person to pay, in addition to any sum due on account of wages, such sum as they think just as damages in respect of the delay, without prejudice to any claim which may be made by the master on that account.

#### **58 Title to be rated as A.B**

- (1) For the purpose of reducing the period of service required as a qualification for the rating of A.B., the period of " three years before the mast " shall be substituted for the period of " four years before the mast, " and " two years of that employment " shall be substituted for " three years of that employment, " and " two or more years sea service " shall be substituted for " three or more years sea service, " in section one hundred and twenty-six of the principal Act.
- (2) Any superintendent or other officer before whom a seaman is engaged shall refuse to enter the seaman as A.B. on the agreement with the crew unless the seaman gives such satisfactory proof as is required by section one hundred and twenty-six of the principal Act of his title to be so rated ; and if any seaman, for the purpose of obtaining a rating as A.B., makes any false statement or false representation, he shall be liable on summary conviction in respect of each offence to a fine not exceeding five pounds.

#### **59 Notice of disrating of seaman**

- (1) Where the master of a ship disrates a seaman he shall forthwith enter or cause to be entered in the official logbook a statement of the disrating, and furnish the seaman

with a copy of the entry; and any reduction of wages consequent on the disrating shall not take effect until the entry has been so made and the copy so furnished.

- (2) Any reduction of wages consequent on the disrating of a seaman shall be deemed to be a deduction from wages within the meaning of sections one hundred and thirty-two and one hundred and thirty-three of the principal Act (which relate to the delivery of the account of wages and the allowance of deductions therefrom).

#### **60 Power to except claims from release on settlement of wages**

Notwithstanding anything in section one hundred and thirty-six of the principal Act, a seaman may except from the release signed by him under that section any specified claim or demand against the master or owner of the ship, and a note of any claim or demand so excepted shall be entered upon the release. The release shall not operate as a discharge and settlement of any claim or demand so noted, nor shall subsection (4) of that section apply to any payment, receipt, or settlement made with respect to any such claim or demand.

#### **61 Obligation to offer allotment notes**

In order to give effect to the provisions of section one hundred and forty-one of the principal Act enabling a seaman to require a stipulation for the allotment of his wages by means of an allotment note every superintendent or other officer before whom the seaman is engaged shall, after the seaman has signed the agreement, inquire of the seaman whether he requires such a stipulation for the allotment of his wages by means of an allotment note, and if the seaman requires such a stipulation shall insert the stipulation in the agreement with the crew, and any such stipulation shall be deemed to have been agreed to by the master.

#### **62 Time for payment of allotment note**

A payment under an allotment note shall begin at the expiration of one month from the date of the agreement with the crew and shall be paid at the expiration of every subsequent month after the first month, and shall be paid only in respect of wages earned before the date of payment.

#### **63 Master to give facilities to seamen for remitting wages**

- (1) Where the balance of wages due to a seaman is more than ten pounds, and the seaman expresses to the master of the ship his desire to have facilities afforded to him for remitting all or any part of the balance to a savings bank, or to a near relative in whose favour an allotment note may be made, the master shall give to the seaman all reasonable facilities for so doing so far as regards so much of the balance as is in excess of ten pounds, but shall be under no obligation to give those facilities while the ship is in port if the sum will become payable before the ship leaves port, or otherwise than conditionally on the seaman going to sea in the ship.
- (2) If the master of a ship fails to comply with the provisions of this section, he shall be liable on summary conviction for each offence to a fine not exceeding five pounds.

## **64 Increase of crew space**

- (1) Subsection (1) of section two hundred and ten of the principal Act (/which provides for the space required for each seaman or apprentice in any place in a British ship occupied by seamen or apprentices and appropriated to their use) shall be construed as if a space of not less than one hundred and twenty cubic feet and of not less than fifteen superficial feet measured on the deck or floor of that place were substituted for a space of not less than seventy-two cubic feet and of not less than twelve superficial feet measured on the deck or floor of that place.
- (2) In estimating the space available for the proper accommodation of seamen and apprentices, there may be taken into account the space occupied by any mess rooms, bath rooms, or washing places appropriated exclusively to the use of those seamen and apprentices, so, however, that the space in any place appropriated to the use of seamen or apprentices in which they sleep is not less than seventy-two cubic feet and twelve superficial feet for each seaman or apprentice.
- (3) Nothing in this section shall affect—
  - (a) any ship registered before the passing of this Act or which was in course of construction on the first day of January nineteen hundred and seven ; or
  - (b) any ship of not more than three hundred tons burden ; or
  - (c) any fishing boat within the meaning of Part IV of the principal Act,or require any additional space to be given in the case of places occupied solely by lascars and appropriated to their use.

## **65 Provisions as to failure to join ship and desertion**

- (1) Where a seaman who has been lawfully engaged and has received under his agreement an advance note, after negotiating his advance note, wilfully or through misconduct fails to join his ship or deserts therefrom before the note becomes payable, he shall, on summary conviction, be liable to a fine not exceeding five pounds, or, at the discretion of the court, to imprisonment for not exceeding twenty-one days, but nothing in this section shall take away or limit any remedy by action or by summary procedure before justices which any person would otherwise have in respect of the negotiation of the advance note, or which an owner or master would otherwise have for breach of contract.
- (2) Where it is shown to the satisfaction of the superintendent that a seaman lawfully engaged has wilfully or through misconduct failed to join his ship, the superintendent shall report the matter to the Board of Trade, and that Board may direct that any of the seaman's certificates of discharge shall be withheld for such period as they may think fit, and, while a seaman's certificate of discharge is so withheld, the Registrar-General of Shipping and Seamen, and any other person having the custody of the necessary documents, may, notwithstanding anything in the Merchant Shipping Acts, refuse to furnish copies of any of his certificates of discharge or certified extracts of any particulars of service or character.

## **66 Appeal from decision on investigation as to shipping casualties**

Where, on any investigation or inquiry under the provisions of Part VI of the principal Act, the court find that a shipping casualty has been caused or contributed to by the wrongful act or default of any person, and an application for rehearing has not been made under section four hundred and seventy-five or section four hundred and

seventy-eight of the principal Act, or has been refused, the owner of the ship, or any other person who, having an interest in the investigation or inquiry, has appeared at the hearing and is affected by the decision of the court, may appeal from that decision in the same manner and subject to the same conditions in and subject to which a master may appeal under those sections against a decision with respect to the cancelling or suspension of his certificate.

**67 Power of naval court to send a person sentenced to imprisonment home to undergo sentence**

- (1) The powers of a naval court under section four hundred and eighty-three of the principal Act (which deals with those powers) shall include a power to send an offender sentenced by the Court to imprisonment either to the United Kingdom or to any British possession to which his Majesty by Order in Council has applied this section, as appears to them most convenient for the purpose of being imprisoned, and the court may take the same steps, and for that purpose shall have the same powers, as respects the orders which may be given to masters of ships as a consular officer has for the purpose of sending an offender for trial under section six hundred and eighty-nine of the principal Act, and subsections (2), (4), and (5) of that section shall apply with the necessary modification.
- (2) Any master of a ship to whose charge an offender is committed under this section shall, on his ship's arrival in the United Kingdom or in a British Possession, as the case may be, give the offender into the custody of some police officer or constable, and the offender shall be dealt with as if he had been convicted and sentenced to imprisonment by a court of competent jurisdiction in the United Kingdom or in the British possession, as the case may be.
- (3) His Majesty may by Order in Council apply this section to any British possession the Legislature of which consents to that application.

**68 Appeal from naval courts**

- (1) Any person aggrieved by an order of a naval court ordering the forfeiture of wages, or by a decision of a naval court of a question as to wages, fines, or forfeitures, may appeal to the High Court in such manner and subject to such conditions and provisions as may be provided by rules of court, and on any such appeal the High Court may confirm, quash, or vary the order or decision appealed against as they think just.
- (2) Subsection (2) of section four hundred and eighty-three of the principal Act shall not have effect with respect to any order of a naval court which is quashed on an appeal under this section, and, where an order of a naval court is varied on appeal, shall apply as if the order as so varied were the order originally made by the naval court.

**69 Calculation of tonnage of steamship for the purpose of limitation of liability**

For the purpose of the limitation under the Merchant Shipping Acts of the liability of owners of ships, docks, or canals, and of harbour authorities and conservancy authorities, the tonnage of a steamship shall be her registered tonnage, with the addition of any engine-room space deducted for the purpose of ascertaining that tonnage, and the words " registered tonnage " with the addition of any engine-room space deducted for the " purpose of ascertaining that tonnage " shall accordingly be

substituted in paragraph (a) of subsection (2) of section five hundred and three of the principal Act for " gross tonnage without deduction on account of engine-room. "

**70 Liability of shipowners as respects ships launched but not registered**

The proviso to section one of the Merchant Shipping (Liability of Shipowners) Act, 1898, shall cease to have effect, but that section shall not be construed so as to extend section five hundred and two of the principal Act to the owners of any ship, or any share therein, after the ship has become a foreign ship.

**71 Liability of charterer**

Sections five hundred and. two to five hundred and nine of the principal Act shall be read so that the -word "owner" shall be deemed to include any charterer to whom the ship is demised.

**72 Delivery of wreck to receiver**

Section five hundred and eighteen of the principal Act shall apply to wreck found or taken possession of outside the limits of the United Kingdom, and brought within the limits of the United Kingdom, as it applies to wreck found or taken possession of within the limits of the United Kingdom.

**73 Alien pilotage certificates**

After the date of the passing of this Act a pilotage certificate shall not be granted to the master or mate of a ship unless he is a British subject, but nothing in this section shall affect the renewal of a pilotage certificate granted before the first day of June nineteen hundred and six to a master or mate who is not a British subject.

A pilotage certificate includes not only a certificate which may be granted under sections five hundred and ninety-nine and six hundred of the principal Act, but also the certificate which may be granted under section six hundred and four of that Act.

**74 Provisions as to superintendence, &c**

- (1) In the United Kingdom, all superintendents, deputies, clerks, and servants in mercantile marine offices shall be appointed and removable by the Board of Trade, and all superintendents, whether appointed before or after the commencement of this Act, shall, in carrying into effect the provisions of the Merchant Shipping Acts, be subject to the control of, and obey directions given by, the Board of Trade, except as respects any matter which, under those Acts or any Order in Council made thereunder, is subject to the control of any other Government Department, and the power of removal by this section conferred on the Board of Trade shall be exerciseable by the Board as respects superintendents, deputies, clerks, and servants appointed before the commencement of this Act.
- (2) In subsection (1) of section two hundred and forty-four of the principal Act the words " such of the provisions of this Act as relate to their powers and duties " shall be substituted for the words " this Act. "

**75 Substitution of ship surveyor for shipwright surveyor**

- (1) Any person appointed to be a surveyor of ships under section seven hundred and twenty-four of the principal Act may be appointed either as a ship surveyor or as an engineer surveyor, or as both, and any reference in that section or in any other section of the principal Act to a shipwright surveyor shall be construed as a reference to a ship surveyor.
- (2) Any surveyor of ships who before the passing of this Act has been appointed as a shipwright surveyor, or both as a shipwright surveyor and an engineer surveyor, shall be deemed to have been appointed as a ship surveyor, or both as a ship surveyor and an engineer surveyor, as the case may be.
- (3) The surveys required to be made under section two hundred and seventy-two of the principal Act by a ship surveyor and by an engineer surveyor may be made by the same person if that person has been appointed both as a ship surveyor and as an engineer surveyor, and that section shall be construed accordingly.
- (4) The Board of Trade may, under subsection (2) of section seven hundred and twenty-four of the principal Act, in addition to appointing a surveyor-general of ships, appoint such other principal officers in connection with the survey of ships and other matters incidental thereto, as the Board think fit.

**76 Return to be furnished by masters of ships as to passengers**

- (1) The master of every ship, whether a British or foreign ship, which carries any passenger to a place in the United Kingdom from any place out of the United Kingdom, or from any place in the United Kingdom to any place out of the United Kingdom, shall furnish to such person and in such manner as the Board of Trade direct a return giving the total number of any passengers so carried, distinguishing, if so directed by the Board, the total number of any class of passengers so carried, and giving, if the Board of Trade so direct, such particulars with respect to passengers as may be for the time being required by the Board.
- (2) Any passenger shall furnish the master of the ship with any information required by him for the purpose of the return.
- (3) If the master of a ship fails to make a return as required by this section, or makes a false return, and if any passenger refuses to give any information required by the master of the ship for the purpose of the return required by this section, or gives any false information for the purpose, the master or passenger shall be liable for each offence on summary conviction to a fine not exceeding twenty pounds.

**77 Return as to cattlemen brought to the United Kingdom**

- (1) The master of every ship which carries any cattlemen to any port in the United Kingdom from any port out of the United Kingdom shall furnish to such person and in such manner as the Secretary of State directs a return giving such particulars with respect to any cattlemen so carried as may be required for the time being by order of the Secretary of State, and every such cattleman shall furnish the master of the ship with any information required by him for the purpose of the return.
- (2) If the master of a ship fails to make the return required by this section, or makes a false return, he shall be liable on summary conviction to a fine not exceeding one hundred pounds, and if any cattleman refuses to give information required by the master for the



purpose of the return under this section, or gives any false information for the purpose, he shall be liable on summary conviction to imprisonment with hard labour for a term not exceeding three months.

- (3) For the purpose of this section the expression "cattleman" means any person who is engaged or employed to attend during the voyage of the ship on any cattle carried therein as cargo.

## **78 Dispensing powers of the Board of Trade**

- (1) The Board of Trade may, if they think fit, and upon such conditions (if any) as they think fit to impose, exempt any ship from any specified requirement contained in, or prescribed in pursuance of, the Merchant Shipping Acts, or dispense with the observance of any such requirement in the case of any ship, if they are satisfied that that requirement has been substantially complied with in the case of that ship, or that compliance with the requirement is unnecessary in the circumstances of the case, and that the action taken or provision made as respects the subject-matter of the requirement in the case of the ship is as effective as, or more effective than, actual compliance with the requirement.
- (2) The Board of Trade shall annually lay before both Houses of Parliament a special report stating the cases in which they have exercised their powers under this section during the preceding year, and the grounds upon which they have acted in each case.

## **79 Power to appoint advisory committees**

- (1) The Board of Trade may, if they think fit, appoint committees for the purpose of advising them when considering the making or alteration of any rules, regulations, or scales for the purpose of the Merchant Shipping Acts, consisting of such persons as they may appoint representing the interests principally affected, or having special knowledge of the subject matter.
- (2) There shall be paid to the members of any such committee, out of moneys provided by Parliament, such travelling and other allowances as the Board of Trade fix with the consent of the Treasury.
- (3) Committees may be appointed under this section to advise the Board of Trade specially as regards any special rules, regulations, or scales, or generally as regards any class or classes of rules, regulations, or scales which the Board may assign to them.

## **80 Power to register Government ships under the Merchant Shipping Acts**

- (1) His Majesty may by Order in Council make regulations with respect to the manner in which Government ships may be registered as British ships for the purpose of the Merchant Shipping Acts, and those Acts, subject to any exceptions and modifications which may be made by Order in Council, either generally or as respects any special class of Government ships, shall apply to Government ships registered in accordance with those regulations as if they were registered in manner provided by those Acts.
- (2) Nothing in this Act shall affect the powers of the Legislature of any British possession to regulate any Government ships under the control of the Government of that possession.

- (3) In this section the expression "Government ships" means ships not forming part of His Majesty's Navy which belong to His Majesty, or are held by any person on behalf of or for the benefit of the Crown, and for that reason cannot be registered under the principal Act,

## **81 Application of certain sections of principal Act to Scotland**

- (1) Sections four hundred and thirteen to four hundred and sixteen of the principal Act (which relate to certificates of skippers and second hands on trawlers) shall apply to fishing boats being trawlers of twenty-five tons tonnage and upwards going to sea from any port of Scotland in like manner as they apply to such fishing boats going to sea from any port of England or Ireland, except that in section four hundred and fifteen the date of the commencement of this Act shall be substituted for the dates mentioned in that section, and Part IV. of the principal Act shall be construed accordingly.
- (2) The sections aforesaid as hereby applied to Scotland shall, notwithstanding anything contained in Part IV. of the principal Act, be deemed to be portions or provisions of Part IV referred to in section three hundred and sixty-nine of the principal Act (conferring power on the Board of Trade to make exempting or extending orders), and that section (with the substitution of the Edinburgh Gazette for the London Gazette) and Part IV. shall be construed accordingly: Provided that any Order to be published in the Edinburgh Gazette under that section shall be subject to the consent of the Secretary for Scotland.

## **82 Amendment of procedure in Scotland**

The principal Act in its application to Scotland, is amended as follows :—

- (1) Subsection one of section two hundred and thirty-seven of the principal Act is hereby amended by the addition thereto of the following words : " And such person found on board without consent as aforesaid may be taken before any sheriff or justice of the peace without warrant, and such sheriff or justice may summarily hear the case, and, on proof of the offence, convict such offender as aforesaid."
- (2) The provisions of section six hundred and eighty of the principal Act shall apply to Scotland.
- (3) Section seven hundred and two of the principal Act shall be amended by the deletion of the words " by criminal " libel at the instance of the procurator fiscal of the " county before the sheriff," and every offence referred to in section seven hundred and two of the principal Act may be prosecuted by indictment.
- (4) The words " or misdemeanors " in section seven hundred and three of the principal Act are hereby repealed.

## **83 Amendment of s.744 of 57 & 58 Vict. c.60, as respects Scottish whalers**

Section seven hundred and forty-four of the principal Act (which relates to the application of that Act to certain fishing vessels) shall not apply to ships engaged in the whale fisheries off the coast of Scotland and registered at ports in Scotland, and accordingly there shall be added at the end of that section the words " and of ships engaged in the whale " fisheries off the coast of Scotland and registered at ports in " Scotland."