



# Merchant Shipping Act 1894

## 1894 CHAPTER 60

### PART II

#### MASTERS AND SEAMEN.

##### *Leaving Seamen Abroad.*

#### **186 Discharge of seamen in foreign countries.**

(1) In the following cases; namely,—

(a) where a British ship is transferred or disposed of at any port out of Her Majesty's dominions, and a seaman or apprentice belonging thereto does not in the presence of some British consular officer, or, if there is no such officer there, in the presence of one or more respectable British merchants residing at the port and not interested in the ship, signify his consent in writing to complete the voyage if continued, and

(b) where the service of any seaman or apprentice belonging to any British ship terminates at any port out of Her Majesty's dominions,

the master shall give to that seaman or apprentice a certificate of discharge in a form approved by the Board of Trade, and in the case of any certificated officer whose certificate he has retained shall return such certificate to him.

(2) The master shall also besides paying the wages to which the seaman or apprentice is entitled, either—

(a) provide him with adequate employment on board some other British ship bound to the port in Her Majesty's dominions at which he was originally shipped, or to a port in the United Kingdom agreed to by the seaman, or

(b) furnish the means of sending him back to some such port, or

(c) provide him with a passage home, or

(d) deposit with the consular officer or merchants as aforesaid such a sum of money as is by the officer or merchants deemed sufficient to defray the expenses of his maintenance and passage home.

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- (3) The consular officer or merchants shall endorse upon the agreement with the crew of the ship which the seaman or apprentice is leaving the particulars of any payment, provision, or deposit made under this section.
- (4) If the master fails, without reasonable cause, to comply with any requirement of this section, the expenses of maintenance or passage home,—
  - (a) if defrayed by the seaman or apprentice shall be recoverable as wages due to him ; and
  - (b) if defrayed by the consular officer or by any other person shall (unless the seaman or apprentice has been guilty of barratry) be a charge upon the ship to which the seaman or apprentice belonged and upon the owner for the time being thereof and may be recovered against the owner, with costs; at the suit of the consular officer or other person defraying the expenses, or, in case they have been allowed to him out of public money, as a debt to the Crown, either by ordinary process of law, or in the manner in which wages can be recovered under this Act.

**187 Penalty for forcing seamen on shore or leaving them behind.**

The master of, or any other person belonging to, a British ship, shall not wrongfully force on shore and leave behind, or otherwise wilfully and wrongfully leave behind, in any place on shore or at sea, in or out of Her Majesty's dominions, a seaman or apprentice to the sea service before the completion of the voyage for which he was engaged or before the return of the ship to the United Kingdom, and if he does so, he shall in respect of each offence be guilty of a misdemeanor.

**188 Seamen not to be discharged or left abroad unless sanction or certificate obtained.**

- (1) The master of a British ship shall not discharge a seaman or apprentice to the sea service abroad, or leave him behind abroad, ashore, or at sea, unless he previously obtains, endorsed on the agreement with the crew, the sanction, or in the case of leaving behind the certificate—
  - (a) at any place in a British possession of a superintendent (or in the absence of any such superintendent of the chief officer of customs at or near the place) ; and
  - (b) at any place elsewhere of the British consular officer for the place, or, in the absence of any such officer, of two merchants resident at or near the place, or, if there is only one merchant so resident, of that merchant,
 but nothing in this section shall require such sanction where the discharge is in the British possession where the seaman was shipped.
- (2) The certificate shall state in writing the fact and cause of the seaman being left behind whether the cause be unfitness or inability to proceed to sea, desertion, or disappearance.
- (3) The person to whom an application is made for a sanction or certificate under this section may, and, if not a merchant, shall, examine into the grounds on which a seaman or apprentice is to be discharged or left abroad, and for that purpose may, if he thinks fit, administer oaths, and may grant or refuse the sanction or certificate as he thinks just.

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- (4) If a master acts in contravention of this section, he shall be guilty of a misdemeanor, and in any legal proceeding for the offence it shall lie on the master to prove that the sanction or certificate was obtained, or could not be obtained.

**189 Accounts and payment of wages in case of seamen left abroad.**

- (1) Where a master of a British ship leaves a seaman or apprentice on shore abroad, whether within or without Her Majesty's dominions, on the ground of his unfitness or inability to proceed on the voyage, he shall deliver to the person signing the certificate above mentioned, a full and true account of the wages due to the seaman or apprentice, and if the said person is a consular officer shall deliver the account in duplicate.
- (2) If a master fails without reasonable cause to deliver the account he shall for each offence be liable to a fine not exceeding ten pounds, and if he delivers a false account he shall for each offence be liable to a fine not exceeding twenty pounds, in addition in each case to the payment of the wages,
- (3) The master shall pay the amount of wages due to a seaman or apprentice so left abroad as aforesaid, if he is left in a British possession to the seaman or apprentice himself, and if he is left elsewhere to the British consular officer.
- (4) The payment shall be made, whenever it is practicable, in money, and, when not so practicable, by bill drawn on the owner of the ship, but if payment is made by bill—
- (a) the person signing the certificate shall certify by endorsement on the bill that the same is drawn for seamen's wages, and shall also endorse on the agreement with the crew, the amount for which the bill is drawn, and such further particulars as the Board of Trade require;
  - (b) if the bill is drawn by the master, the owner of the ship shall be liable to pay the amount to the holder or endorsee thereof; and it shall not be necessary in any proceeding against the owner upon the bill to prove that the master had authority to draw it;
  - (c) a bill purporting to be drawn and endorsed under this section, shall if produced out of the custody of the Board of Trade or of the Registrar-General of Shipping and Seamen, or of any superintendent' be admissible in evidence ; and any endorsement on any such bill purporting to be made in pursuance of this section shall also be admissible as evidence of the facts stated in the endorsement.
- (5) If a master fails, without reasonable cause, to make such payment of wages as provided by this section, he shall for each offence be liable in addition to the payment of the wages to a fine not exceeding ten pounds.
- (6) Where payment is made to a British consular officer, that officer shall, if satisfied with the account, endorse on one of the duplicates thereof a receipt for the payment, and return it to the master, and the master shall deliver the duplicate within forty-eight hours of his return to his port of destination in the United Kingdom to the superintendent at that port.
- (7) The British consular officer shall retain the other duplicate of the account, and shall deal with the sum so paid to him in the following manner; namely,—
- (a) If the seaman or apprentice subsequently obtains employment at or quits the port at which the payment has been made, he shall deduct out of the sum any expenses incurred by him in respect of the maintenance of the seaman or

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apprentice under this Act, except such as the owner or master is by this Act required to defray, and shall pay the remainder to the seaman or apprentice, and deliver to him an account of the sums so received and expended on his behalf ;

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