



# Merchant Shipping Act 1894

## 1894 CHAPTER 60

### PART XIV

#### SUPPLEMENTAL.

##### *General Control of Board of Trade.*

**713 Superintendence of merchant shipping by Board of Trade.**

The Board of Trade shall be the department to undertake the general superintendence of all matters relating to merchant shipping and seamen, and are authorised to carry into execution the provisions of this Act and of all Acts relating to merchant shipping and seamen for the time being in force, except where otherwise provided by those Acts, or except so far as those Acts relate to the revenue.

**714 Returns as to merchant shipping to Board of Trade.**

All consular officers and officers of customs abroad, and all local marine boards and superintendents, shall make and send to the Board of Trade such returns or reports on any matter relating to British merchant shipping or seamen as the Board may require.

**715 Production of log-books, &c. by superintendents.**

All superintendents shall, when required by the Board of Trade, produce to that Board or to its officers all official logbooks and other documents which are delivered to them under this Act.

**716 Application of fees, fines, &c.**

- (1) All fees and other sums (other than fines) received by the Board of Trade under the Second, Fourth, and Fifth Parts of this Act shall be carried to the account of the Mercantile Marine Fund.

- (2) All fines coming into the hands of the Board of Trade under this Act shall be paid into the Exchequer as the Treasury may direct, and shall be carried to and form part of the Consolidated Fund.

**717 Legal proceedings.**

The Board of Trade may take any legal proceedings under this Act in the name of any of their officers.

*Expenses of Commissioners of Customs.*

**718 Expenses incurred by Commissioners of Customs.**

All expenses incurred by the Commissioners of Customs in the conduct of suits or prosecutions, or otherwise in carrying into effect the provisions of this Act, shall be considered as expenses having reference to the Revenues of Customs, and shall be paid accordingly; but the Board of Trade may, with the consent of the Treasury, repay out of the Mercantile Marine Fund all or any part of such of the expenses so paid as are under this Act chargeable on that fund.

*Documents and Forms.*

**719 Proof of documents.**

All documents purporting to be made, issued, or written by or under the direction of the Board of Trade, and to be sealed with the seal of the Board, or to be signed by their secretary or one of their assistant secretaries, or, if a certificate, by one of the officers of the Marine Department, shall be admissible in evidence in manner provided by this Act.

**720 Power of Board of Trade to prescribe forms.**

- (1) Subject to any special provisions of this Act the Board of Trade may prepare and sanction forms for any book, instrument, or paper required under this Act, other than those required under the First Part of this Act, and may make such alterations in these forms as they think fit.
- (2) The Board shall cause every such form to be sealed with their seal or marked with some other distinguishing mark, and before finally issuing any form or making any alteration in a form shall cause public notice thereof to be given in such manner as the Board think requisite in order to prevent inconvenience.
- (3) The Board of Trade shall cause all such forms to be supplied at all custom houses and mercantile marine offices in the United Kingdom, free of charge, or at such moderate prices as the Board may fix, or the Board may license any persons to print and sell the forms.
- (4) Every such book, instrument, or paper, required under this Act shall be made in the form (if any) approved by the Board of Trade, or as near thereto as circumstances permit, and unless so made shall not be admissible in evidence in any civil proceeding on the part of the owner or master of any ship.

- (5) Every such book, instrument, or paper, if made in a form purporting to be the proper form, and to be sealed or marked in accordance with this section, shall be deemed to be in the form required by this Act unless the contrary is proved.

**721 Exemption from stamp duty.**

The following instruments shall be exempt from stamp duty:—

- (a) Any instruments used for carrying into effect the First Part of this Act; and
- (b) Any instruments used by or under the direction of the Board of Trade in carrying into effect the Second, Fifth, Eleventh, and Twelfth Parts of this Act; and
- (c) Any instruments which are by those Parts of this Act required to be in a form approved by the Board of Trade, if made in that form.

**722 Offences as to use of forms.**

(1) If any person—

- (a) forges, assists in forging, or procures to be forged, the seal or any other distinguishing mark of the Board of Trade on any form issued by the Board of Trade under this Act; or
- (b) fraudulently alters, or assists in fraudulently altering, or procures to be fraudulently altered, any such form,

that person shall in respect of each offence be guilty of a misdemeanor.

(2) If any person—

- (a) when a form approved by the Board is, under the Second Part of this Act, required to be used, uses without reasonable cause a form not purporting to be a form so approved; or
- (b) prints, sells, or uses any document purporting to be a form approved by the Board of Trade, knowing the same not to be the form approved for the time being, or not to have been prepared or issued by the Board of Trade,

that person shall, for each offence, be liable to a fine not exceeding ten pounds.

*Powers for enforcing Compliance with Act.*

**723 Powers for seeing that Act is complied with.**

(1) Where any of the following officers; namely,—

- any officer of the Board of Trade,
- any commissioned officer of any of Her Majesty's ships on full pay,
- any British consular officer,
- the Registrar-General of Shipping and Seamen or his assistant, any chief officer of customs in any place in Her Majesty's dominions, or
- any superintendent,

has reason to suspect that the provisions of this Act, or any law for the time being in force relating to merchant seamen or navigation, is not complied with, that officer may—

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- (a) require the owner, master, or any of the crew of any British ship to produce any official log-books or other documents relating to the crew or any member thereof in their respective possession or control;
  - (b) require any such master to produce a list of all persons on board his ship, and take copies of the official log-books, or documents, or of any part thereof;
  - (c) muster the crew of any such ship ; and
  - (d) summon the master to appear and give any explanation concerning the ship or her crew or the official log-books or documents produced or required to be produced.
- (2) If any person, on being duly required by an officer authorises under this section, fails without reasonable cause to produce to that officer any such official log-book or document as he is required to produce under this section, or refuses to allow the same to be inspected or copied, or impedes any muster of the crew required under this section, or refuses or neglects to give any explanation which he is required under this section to give, or knowingly misleads or deceives any officer authorised under this section to demand any such explanation, that person shall for each offence be liable to a fine not exceeding twenty pounds.

#### *Surveyors of Ships.*

#### **724 Appointment of surveyors.**

- (1) The Board of Trade may, at such ports as they think fit, appoint either generally or for special purposes, and on special occasion, any person they think fit to be a surveyor of ships for the purposes of this Act, and a person so appointed (in this Act referred to as a surveyor of ships) may be appointed either as a shipwright surveyor or as an engineer surveyor or as both.
- (2) The Board of Trade may also appoint a surveyor-general of ships for the United Kingdom.
- (3) The Board of Trade may remove any surveyors of ships and fix and alter their remuneration, and may make regulations as to the performance of their duties, and in particular as to the manner in which surveys of passenger steamers are to be made, as to the notice to be given by them when surveys are required, and as to the amount and payment of any travelling or other expenses incurred by them in the execution of their duties, and may by such regulations determine the persons by whom and the conditions under which the payment of those expenses is to be made.
- (4) If a surveyor of ships demands or receives directly or indirectly any fee, remuneration, or gratuity whatever in respect of any duties performed by him under this Act otherwise than by the direction of the Board of Trade, he shall for each offence be liable to a fine not exceeding fifty pounds.
- (5) The duties of a surveyor of ships shall be performed under the direction of the Board of Trade, and in accordance with the regulations made by that Board.

#### **725 Power of surveyor for purpose of survey of ships.**

- (1) A surveyor of ships in the execution of his duties may go on board any steamship at all reasonable times, and inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof, or any certificates of the master, mate,

or engineer to which the provisions of this Act or any of the regulations made under this Act apply, not unnecessarily detaining or delaying the ship from proceeding on any voyage, and if in consequence of any accident to the ship or for any other reason they consider it necessary so to do, may require the ship to be taken into dock for the purpose of surveying the hull thereof.

- (2) If any person hinders any surveyor of ships from going on board any steamship or otherwise impedes him in the execution of his duties under this Act, that person shall for each offence be liable to a fine not exceeding five pounds.

#### **726 Returns by surveyors to Board of Trade.**

- (1) Surveyors of ships shall make such returns to the Board of Trade as that Board may require with respect to the build, dimensions, draught, burden, rate of sailing, room for fuel, and the nature and particulars of machinery and equipments of ships surveyed by them.
- (2) The owner, master, and engineer of any ship so surveyed shall, on demand, give to the surveyors all such information and assistance within his power as they require for the purpose of those returns.
- (3) If any owner, master, or engineer, on being applied to for that purpose, fails without reasonable cause to give any such information or assistance, he shall for each offence be liable to a fine not exceeding five pounds.

#### **727 Appointment of surveyors in colonies.**

The governor of a British possession may appoint and remove surveyors of ships within the limits of the possession for any purposes of this Act to be carried into effect in that possession.

*Board of Trade Inspectors.*

#### **728 Appointment of inspectors to report on accidents, &c.**

The Board of Trade may as and when they think fit appoint any person as an inspector to report to them—

- (a) upon the nature and causes of any accident or damage which any ship has sustained or caused, or is alleged to have sustained or caused ; or
- (b) whether the provisions of this Act, or any regulations made under or by virtue of this Act, have been complied with; or
- (c) whether the hull and machinery of any steamship are sufficient and in good condition.

#### **729 Powers of inspectors.**

- (1) An inspector so appointed (in this Act referred to as a Board of Trade inspector) and any person having the powers of a Board of Trade inspector—
  - (a) may go on board any ship and inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage; and

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- (b) may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make ; and
  - (c) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for the purpose of his report, and may require answers or returns to any inquiries he thinks fit to make; and
  - (d) may require and enforce the production of all books, papers, or documents which he considers important for the purpose of his report; and
  - (e) may administer oaths, or may, in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.
- (2) Every witness summoned under this section shall be allowed such expenses as would be allowed to a witness attending on subpoena to give evidence before any court of record, or if in Scotland to a witness attending on citation the Court of Justiciary; and in case of any dispute as to the amount of those expenses, the same shall be referred in England or Ireland to one of the masters or registrars of the High Court, and in Scotland to the Queen's and Lord Treasurer's Remembrancer, and the officer shall, on request made to him for that purpose under the hand of the inspector or person having the powers of an inspector, ascertain and certify the proper amount of those expenses.;
- (3) If any person refuses to attend as a witness before a Board of Trade inspector or before any person having the powers of a Board of Trade inspector, after having been required to do so in manner provided by this section and after having had a tender made to him of the expenses (if any) to which he is entitled under this section, or refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make or subscribe any declarations which an inspector or person having the powers of an inspector is hereby empowered to require, that person shall for each offence be liable to a fine not exceeding ten pounds.

### **730 Penalty for obstructing inspectors in the execution of their duty.**

If any person wilfully impedes a Board of Trade inspector or any person having the powers, of a Board of Trade inspector in the execution of his duty, whether on board a ship or elsewhere, that person shall for each offence be liable to a fine not exceeding ten pounds, and may be seized and detained by the inspector or person having the powers of an inspector, or by any person or persons whom that inspector or person may call to his assistance, until he can be conveniently taken before some justice of the peace or other officer having proper jurisdiction.

#### *Exemption from Rates and Harbour Dues.*

### **731 Exemption from rates.**

All lighthouses, buoys, beacons, and all light dues, and other rates, fees, or payments accruing to or forming part of the Mercantile Marine Fund, and all premises or property belonging to or occupied by any of the general lighthouse authorities or by the Board of Trade, which are used or applied for the purposes of any of the services for which those dues, rates, fees, and payments are received, and all instruments or writings used by or under the direction of any of the general lighthouse authorities or of the Board of Trade in carrying on those services, shall be exempted from all public, parochial, and local taxes, duties, and rates of every kind.

**732 Exemption from harbour dues.**

All vessels belonging to or used by any of the general lighthouse authorities or the Board of Trade shall be entitled to enter, resort to, and use any harbours, ports, docks, or piers in the United Kingdom without payment of any tolls, dues, or rates of any kind.

*Private Signals.*

**733 Registration of private code of signals.**

- (1) If a shipowner desires to use for the purpose of a private code any rockets, lights, or other similar signals, he may register those signals with the Board of Trade, and that Board shall give public notice of the signals so registered in such manner as they think requisite for preventing those signals from being mistaken for signals of distress or signals for pilots.
- (2) The Board may refuse to register any signals which in their opinion cannot easily be distinguished from signals of distress or signals for pilots.
- (3) Where a signal has been registered under this section, the use or display thereof by any person acting under the authority of the shipowner in whose name it is registered shall not subject any person to any fine or liability under this Act for using or displaying signals improperly.

*Application of Act to Foreign Ships by Order in Council.*

**734 Application by Order in Council of provisions of Merchant Shipping Acts to foreign ships.**

Where it has been made to appear to Her Majesty that the government of any foreign country is desirous that any of the provisions of this Act, or of any Act hereafter to be passed amending the same, which do not apply to the ships of that country, should so apply and there are no special provisions in this Act for that application, Her Majesty in Council may order that such of those provisions as are in the Order specified shall (subject to the limitations, if any, contained therein) apply to the ships of that country, and to the owners, masters, seamen, and apprentices of those ships, when not locally within the jurisdiction of the government of that country, in the same manner in all respects as if those ships were British ships.

*Powers of Colonial Legislature.*

**735 Power of colonial legislatures to alter provisions of Act.**

- (1) The legislature of any British possession may by any Act or Ordinance, confirmed by Her Majesty in Council, repeal, wholly or in part, any provisions of this Act (other than those of the Third Part thereof which relate to emigrant ships), relating to ships registered in that possession ; but any such Act or Ordinance shall not take effect until the approval of Her Majesty has been proclaimed in the possession, or until such time thereafter as may be fixed by the Act or Ordinance for the purpose.
- (2) Where any Act or Ordinance of the legislature of a British possession has repealed in whole or in part as respects that possession any provision of the Acts repealed by this

Act, that Act or Ordinance shall have the same effect in relation to the corresponding provisions of this Act as it had in relation to the provision repealed by this Act.

**736 Regulation of coasting trade by colonial legislature.**

The legislature of a British possession, may, by any Act or Ordinance, regulate the coasting trade of that British possession, subject in every case to the following conditions :—

- (a) The Act or Ordinance shall contain a suspending clause providing that the Act or Ordinance shall not come into operation until Her Majesty's pleasure thereon has been publicly signified in the British possession in which it has been passed:
- (b) The Act or Ordinance shall treat all British ships (including the ships of any other British possession) in exactly the same manner as ships of the British possession in which it is made:
- (c) Where by treaty made before the passing of the Merchant Shipping (Colonial) Act, 1869 (that is to say, before the thirteenth day of May eighteen hundred and sixty-nine), Her Majesty has agreed to grant to any ships of any foreign state any rights or privileges in respect of the coasting trade of any British possession, those rights and privileges shall be enjoyed by those ships for so long as Her Majesty has already agreed or may hereafter agree to grant the same, anything in the Act or Ordinance to the contrary notwithstanding.

*Provision for Foreign Places where Her Majesty has Jurisdiction.*

**737 Provision for foreign places where her Majesty has jurisdiction.**

Where under this Act anything is authorised to be done by to or before a British consular officer, and in any place outside Her Majesty's dominions in which Her Majesty has jurisdiction there is no such officer, such thing may be done in that place by to or before such officer as Her Majesty in Council may direct.

*Orders in Council.*

**738 Provision as to Orders in Council.**

- (1) Where Her Majesty has power under this Act, or any Act hereafter to be passed amending the same, to make an Order in Council, Her Majesty may from time to time make that Order in Council, and by Order in Council revoke alter or add to any Order so made.
- (2) Every such Order in Council shall be published iu the London Gazette, and shall be laid before both Houses of Parliament within one month after it is made, if Parliament be then sitting, or if not, within one month after the then next meeting of Parliament.
- (3) Subject to any special provisions of this Act, upon the publication of any such Order the Order shall, as from the date of the publication or any later date mentioned in the Order, take effect as if it were enacted by Parliament.



*Transmission and Publication of Documents.*

**739 Notices, &c. to be in writing and provision as to sending by post.**

- (1) Where by this Act any notice, authority, order, direction, or other communication is required or authorised to be given or made by the Board of Trade, or the Commissioners of Customs, or the governor of a British possession, to any person not being an officer of such Board, or Commissioners, or governor, the same shall be given or made in writing.
- (2) Where any notice or document is by this Act required or authorised to be transmitted or sent, the same may be transmitted or sent by post.

**740 Publication in London Gazette.**

Where a document is required by this Act to be published in the London Gazette, it shall be sufficient if notice thereof is published in accordance with the Rules Publication Act, 1893.

*Exemption of Her Majesty's Ships.*

**741 Exemption of Her Majesty's ships.**

This Act shall not, except where specially provided, apply to ships belonging to Her Majesty.

*Definitions and Provisions as to Application of Act.*

**742 Definitions.**

In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them ; (that is to say,)

" VESSEL " includes any ship or boat, or any other description of vessel used in navigation;

" SHIP " includes every description of vessel used in navigation not propelled by oars ;

" FOREIGN-GOING-SHIP " includes every ship employed in trading or going between some place or places in the United Kingdom, and some place or places situate beyond the following limits; that is to say, the coasts of the United Kingdom, the Channel Islands, and Isle of Man, and the continent of Europe between the River Elbe and Brest inclusive;

" HOME TRADE SHIP " includes every ship employed in trading or going within the following limits ; that is to say, the United Kingdom, the Channel Islands, and Isle of Man, and the continent of Europe between the River Elbe and Brest inclusive;

" HOME TRADE PASSENGER SHIP " means every home trade ship employed in carrying passengers ;

" MASTER " includes every person (except a pilot) having command or charge of any ship ;

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" SEAMAN " includes every person (except masters, pilots, and apprentices duly indentured and registered), employed or engaged in any capacity on board any ship;

" WAGES " includes emoluments;

" EFFECTS " includes clothes and documents;

" SALVOR " means, in the case of salvage services rendered by the officers or crew or part of the crew of any ship belonging to Her Majesty, the person in command of that ship ;

" PILOT " means any person not belonging to a ship who has the conduct thereof;

" COURT " in relation to any proceeding includes any magistrate or justice having jurisdiction in the matter to which the proceeding relates;

" COLONIAL COURT OF ADMIRALTY " has the same meaning as in the Colonial Courts of Admiralty Act, 1890 ;

" A COMMISSIONER FOR OATHS " means a commissioner for oaths within the meaning of the Commissioners for Oaths Act, 1889;

" CHIEF OFFICER OF CUSTOMS " includes the collector, superintendent, principal coast officer, or other chief officer of customs at each port;

" SUPERINTENDENT " shall, so far as respects a British possession, include any shipping master or other officer discharging in that possession the duties of a superintendent;

" CONSULAR OFFICER, " when used in relation to a foreign country, means the officer recognised by Her Majesty as a consular officer of that foreign country ;

" BANKRUPTCY " includes insolvency ;

" REPRESENTATION " means probate, administration, confirmation, or other instrument constituting a person the executor, administrator, or other representative of a deceased person;

" LEGAL PERSONAL REPRESENTATIVE " means the person so constituted executor, administrator, or other representative, of a deceased person;

" NAME " includes a surname ;

" PORT " includes place;

" HARBOUR " includes harbours properly so called, whether natural or artificial, estuaries, navigable rivers, piers, jetties, and other works in or at which ships can obtain shelter, or ship and unship goods or passengers ;

" TIDAL WATER " means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides, and not being a harbour;

" HARBOUR AUTHORITY " includes all persons or bodies of persons, corporate or unincorporate, being proprietors of, or intrusted with, the duty or invested with the power of constructing, improving, managing, regulating, maintaining, or lighting a harbour;

" CONSERVANCY AUTHORITY " includes all persons or bodies of persons, corporate or unincorporate, intrusted with the duty or invested with the power of conserving, maintaining, or improving the navigation of a tidal water;

" LIGHTHOUSE " shall in addition to the ordinary meaning of the word include, any floating and other light exhibited for the guidance of ships, and also any sirens and any other description of fog signals, and also any addition

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to a lighthouse of any improved light, or any siren, or any description of fog signal;

" BUOYS AND BEACONS " includes all other marks and signs of the sea;

" THE TRINITY HOUSE " shall mean the master wardens and assistants of the guild, fraternity, or brotherhood of the most glorious and undivided Trinity and of St. Clement in the parish of Deptford Strond in the county of Kent, commonly-called the corporation of the Trinity House of Deptford Strond;

" THE COMMISSIONER OF IRISH LIGHTS " means the body incorporated by that name under the local Act of the session held in the thirtieth and thirty-first years of the reign of Her present Majesty, chapter eighty-one, intituled "An Act to " alter the constitution of the Corporation for preserving " and improving the Port of Dublin and for other purposes " connected with that body and with the Port of- Dublin Corporation,' and any Act amending the same;

" LIFEBOAT SERVICE " means the saving, or attempted saving of vessels, or of life, or property on board vessels, wrecked or aground or sunk, or in danger of being wrecked or getting aground or sinking.

Any reference to failure to do any act or thing shall include a reference to refusal to do that act or thing.

#### **743 Application of Act to ships propelled by electricity, &c.**

Any provisions of this Act applying to steamers or steamships shall apply to ships propelled by electricity or other mechanical power with such modifications as the Board of Trade may prescribe for the purpose of adaptation.

#### **744 Application of Act to certain fishing vessels.**

Ships engaged in the whale, seal, walrus, or Newfoundland cod fisheries shall be deemed to be foreign-going ships for the purpose of this Act, and not fishing boats, with the exception of ships engaged in the Newfoundland cod fisheries which belong to ports in Canada or Newfoundland.

#### *Repeal and Savings.*

#### **745 Repeal.**

- (1) The Acts mentioned in the Twenty-second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

Provided that—

- (a) Any Order in Council, licence, certificate, byelaw, rule, or regulation made or granted under any enactment hereby repealed shall continue in force as if it had been made or granted under this Act;
- (b) Any officer appointed, any body elected or constituted, and any savings bank or office established, under any enactment hereby repealed shall continue and be deemed to have been appointed, elected, constituted, or established, as the case may be, under this Act;
- (c) Any document referring to any Act or enactment hereby repealed shall be construed to refer to this Act, or to the corresponding enactment of this Act;

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- (d) Any penalty may be recovered, and any offence may be prosecuted, under any provision of the Merchant Shipping Acts, 1854 to 1892, which is not repealed by this Act, in the same manner as fines may be recovered and offences prosecuted under this Act;
  - (e) Ships registered under the Merchant Shipping Act, 1854, and the Acts amending the same, or duly registered before the passing of the Merchant Shipping Act, 1854, shall be deemed to have been registered under this Act;
  - (f) Nothing in this Act shall affect the Behring Sea Award Act, 1894, and that Act shall have effect as if this Act had not passed.
- (2) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals,
- (3) The tonnage of every ship not measured or remeasured in accordance with the Merchant Shipping Tonnage Act, 1889, shall be estimated for all purposes as if any deduction prohibited by the Merchant Shipping (Tonnage) Act, 1889, had not been made, and the particulars relating to the ship's tonnage in the registry book and in her certificate of registry shall be corrected accordingly.

**746 Savings.**

- (1) Nothing in this Act shall affect the Chinese Passengers Act, 1855.
- (2) Any local Act which repeals or affects any provisions of the Acts repealed by this Act shall have the same effect on the corresponding provisions of this Act as it had on the said provisions repealed by this Act
- (3) Nothing in this Act shall affect the rating of any seaman who was rated and served as A.B. before the second day of August one thousand eight hundred and eighty.

*Short Title and Commencement.*

**747 Short title.**

This Act may be cited as the Merchant Shipping Act, 1894.

**748 Commencement.**

This Act shall come into operation on the first day of January one thousand eight hundred and ninety-five.