



# Merchant Shipping Act 1970

## 1970 CHAPTER 36

### *Engagement and discharge of crews*

#### **1 Crew agreements**

- (1) Except as provided under subsection (5) of this section an agreement in writing shall be made between each person employed as a seaman in a ship registered in the United Kingdom 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 Act referred to as a crew agreement) except that in such cases as the Board of Trade 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 Board of Trade; 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 Board of Trade 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 Board of Trade 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 Board are 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 Board of Trade, a crew agreement would be required to be carried in a ship or a crew agreement carried in a ship would be required to contain an agreement with a person employed in the ship, the ship shall carry such document evidencing the exemption as the Board of Trade 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 £100 and the ship, if in the United Kingdom, may be detained.

## **2 Regulations relating to crew agreements**

- (1) The Board of Trade 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 document carried in a ship in pursuance of section 1 of this Act 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 £50 or such less amount as may be specified in the regulations.

## **3 Discharge of seamen**

- (1) The Board of Trade may make regulations prescribing the procedure to be followed in connection with the discharge of seamen from ships registered in the United Kingdom.
- (2) Without prejudice to the generality of subsection (1) of this section, 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 ship registered in the United Kingdom 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 £100 or such less amount as may be specified in the regulations.

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

Regulations made under section 3 of this Act may apply any provision thereof, with such modifications as appear to the Board of Trade to be appropriate, to cases where a seaman employed in a ship registered in the United Kingdom is left behind outside the United Kingdom otherwise than on being discharged from the ship.

#### **5 Discharge of seamen when ship ceases to be registered in U.K**

Where a ship registered in the United Kingdom ceases to be so 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 7 to 10 of this Act shall apply in relation to his wages as if the ship had remained registered in the United Kingdom.

#### **6 Restrictions on making arrangements for employment of seamen**

- (1) A person shall not for reward make arrangements for finding seamen for persons seeking to employ seamen or for finding employment for seamen, unless—
  - (a) he is the holder of a licence under this section authorising him to do so or is in the regular employment of the holder of such a licence ; or
  - (b) he is in the regular employment of the persons seeking to employ the seamen or makes the arrangements in the course of acting as ship's agent for those persons or is the master of the ship in which the seamen are to serve or an officer acting under his authority; or
  - (c) the employment is such as is exempted from the provisions of this subsection by regulations made by the Board of Trade.
- (2) A person shall not demand or directly or indirectly receive from any person any remuneration for providing him with employment as a seaman.
- (3) The Board of Trade may grant licences for the purposes of this section for such periods, on such terms and subject to such conditions, including conditions providing for revocation, as they think fit.
- (4) If a person acts in contravention of subsection (1) of this section he shall be liable on summary conviction to a fine not exceeding £50 and if a person acts in contravention of subsection (2) of this section he shall be liable on summary conviction to a fine not exceeding £20.

*Wages, etc.*

**7 Payment of seamen's wages**

- (1) Except as provided by or under this Act or any other enactment, the wages due to a seaman under a crew agreement relating to a ship shall be paid to him in full at the time when he leaves the ship on being discharged therefrom (in this section and section 8 of this Act referred to as the time of discharge).
- (2) If the amount shown in the account delivered to a seaman under section 8(1) of this Act as being the amount payable to him under subsection (1) of this section is replaced by an increased amount shown in a further account delivered to him under section 8(3) of this Act, 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 8(1) of this Act 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 the preceding provisions of this section, 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 fifty-six 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) Subsection (3) of this section does not apply if the failure to pay was due to a mistake, to a reasonable dispute as to liability or to the act or default of the seaman or to 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 that subsection as relates to interest on the amount due shall not apply if a court in proceedings for its recovery so directs.
- (5) 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.
- (6) Where a seaman, in pursuance of section 5 of this Act, 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 (3) to the time of discharge there were substituted references to the time of his return to the United Kingdom, and subsection (5) were omitted.

**8 Account of seaman's wages**

- (1) Subject to subsection (4) of this section and to regulations made under section 9 or 62 of this Act, the master of every ship registered in the United Kingdom 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 twenty-

four hours before the time of discharge or, if the seaman is discharged without notice or at less than twenty-four 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 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.
- (5) If a person fails without reasonable cause to comply with the preceding provisions of this section he shall be liable on summary conviction to a fine not exceeding £20.

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

The Board of Trade 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 Act 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 8 of this Act is to be prepared and the particulars to be contained therein (which may include estimated amounts).

## **10 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 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.

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

- (1) Subject to subsections (2) and (3) of this section, the following provisions shall have effect with respect to the wages due or accruing to a seaman employed in a ship registered in the United Kingdom, that is to say.—
  - (a) the wages shall not be subject to attachment or arrestment ;
  - (b) 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
  - (c) 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 Act 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 Board of Trade 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 Board of Trade to be a body to which this section applies;or to anything done or to be done for giving effect to such a disposition.

## **12 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 mistake, to a reasonable dispute as to liability or to the act or default of the person claiming the amount or to 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 twenty 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.

## **13 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 Board of Trade, allot to any person or persons part of the wages to which he will become entitled in the course of his employment in a ship or ships registered in the United Kingdom.
- (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 Board of Trade.
- (3) Regulations made by the Board of Trade 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.

#### **14 Right of person named in allotment note 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 13 of this Act 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.

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

- (1) Where a ship registered in the United Kingdom 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 unless it is proved that he did not make reasonable efforts to save the ship and persons and property carried in it.
- (2) Where a ship registered in the United Kingdom is sold while outside the United Kingdom or ceases to be so registered 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 subsection (2) of this section 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 registered in the United Kingdom ; or
  - (b) that the seaman was able to obtain suitable employment for that day but unreasonably refused or failed to take it.

## 16 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) of this section 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.

## 17 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) of this section) 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 sixteen whom he is liable, for the purposes of any enactment in force 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) of this section (whether in pursuance of one or more notices) that is to say.—
  - (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 subsections (1) and (2) of section 4, subsections (1) and (2) of section 9 and subsections (1) and (2) of section 12 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 Board of Trade may make regulations specifying—
- (a) the expenses in respect of which a notice may be served by a responsible authority under subsection (1) of this section;
  - (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) of this subsection may include amounts allotted by allotment notes issued under section 13 of this Act.
- (10) In this section "responsible authority" means the Secretary of State, the Ministry of Health and Social Services for Northern Ireland or any local authority; but any application to be made or notice to be given under this section by or to a responsible authority may, if the authority is the Secretary of State or the Ministry of Health and Social Services for Northern Ireland, be made or given on behalf of the Secretary of State or Ministry by or to the Supplementary Benefits Commission or, as the case may be, the Supplementary Benefits Commission for Northern Ireland.
- (11) In this section "local authority" includes a welfare authority constituted under the Public Health and Local Government (Administrative Provisions) Act (Northern Ireland) 1946 and "magistrates' court"—
- (a) in relation to Scotland, means the sheriff, and
  - (b) in relation to Northern Ireland, means a court of summary jurisdiction.

## **18 Remedies of master for remuneration, disbursements, etc.**

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*

**19 Safety Regulations**

- (1) The Board of Trade may make regulations for securing, as far as practicable, safe working conditions and safe means of access for masters and seamen employed in ships registered in the United Kingdom and for requiring the reporting of injuries sustained by them.
- (2) Without prejudice to the generality of the preceding subsection, regulations under this section may—
  - (a) require the maintenance, inspection and testing of any equipment and impose conditions on its use;
  - (b) require, prohibit, or regulate the use of any material or process;
  - (c) require the provision and use of any protective clothing or equipment;
  - (d) limit the hours of employment of seamen in any specified operation or in any specified circumstances ;
  - (e) make provision for the discharge, by persons appointed from among the persons employed in a ship, of functions in connection with the arrangements to be made under the regulations.
- (3) Regulations under this section may make different provisions for different descriptions of ship and for ships of the same description in different circumstances.
- (4) The Board of Trade may grant exemptions from any requirement of regulations under this section in respect of any ship or description of ship.
- (5) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding, if the offence is committed by the master or owner, £200, and, if it is committed by any other person, £20.

**20 Crew accommodation**

- (1) The Board of Trade may make regulations with respect to the crew accommodation to be provided in ships registered in the United Kingdom.
- (2) Without prejudice to the generality of the preceding subsection, 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 ships 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 Board of Trade may grant other exemptions from any such requirement with respect to any ship.
- (5) Regulations made 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 made 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 £200, 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.

## **21 Provisions and water**

- (1) The Board of Trade may make regulations requiring such provisions and water to be provided for seamen employed in ships registered in the United Kingdom or any description of such ships as may be specified in the regulations; and regulations under this section may make different provision for different circumstances and different descriptions of seamen.
- (2) Regulations under this section may require a ship to carry such weighing and measuring equipment as may be necessary to ensure that the quantities of provisions and water supplied to seamen employed in the ship are in accordance with the regulations.
- (3) The Board of Trade may exempt any ship from any requirement of regulations made under this section, either generally or in respect of a particular voyage.
- (4) If the provisions of any regulations made under this section are not complied with in the case of a ship the master or owner shall be liable on summary conviction to a fine not exceeding £100 unless he proves that the failure to comply was not due to his neglect or default.
- (5) If a person empowered under this Act to inspect the provisions and water to be supplied to the seamen employed in a ship is not satisfied that they are in accordance with regulations made under this section the ship, if in the United Kingdom, may be detained.

## **22 Complaints about provisions or water**

- (1) If three or more seamen employed in a ship registered in the United Kingdom consider that the provisions or water provided for the seamen employed in that ship are not in accordance with regulations made under section 21 of this Act (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 cause to comply with the provisions of subsection (2) of this section he shall be liable on summary conviction to a fine not exceeding £20, and if he has been notified in writing by the person making an examination under subsection (3) of this section 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 £100 unless he proves that the failure to replace them was not due to his neglect or default; and
  - (b) if the master, without reasonable cause, permits them to be used he shall be liable on summary conviction to a fine not exceeding £100.

## **23 Other complaints**

- (1) If a seaman employed in a ship registered in the United Kingdom considers that he has cause to complain about the master or any other seaman employed in the ship or about the conditions on board the ship he may complain to the master.
- (2) If the seaman is dissatisfied with the action taken by the master on the complaint or by his failure to take any action he may state his dissatisfaction to him and, if the ship is outside the United Kingdom, claim to complain to a proper officer; and thereupon the master shall make adequate arrangements to enable the seaman to do so as soon as the service of the ship permits.
- (3) If the master of a ship fails without reasonable cause to comply with the provisions of this section he shall be liable on summary conviction to a fine not exceeding £20.

## **24 Medical stores**

- (1) The Board of Trade may make regulations requiring ships registered in the United Kingdom, or such descriptions of ships registered in the United Kingdom as may be specified in the regulations, to carry such medicines and other medical stores (including books containing instructions and advice) as may be specified in the regulations; and the regulations may make different provision for different circumstances.
- (2) If a ship goes to sea or attempts to go to sea without carrying the medical stores which it is required to carry by regulations under this section the master or owner shall be liable on summary conviction to a fine not exceeding £100 unless he proves that the failure to carry the stores was not due to his neglect or default.

- (3) If a person empowered under this Act to inspect the medical stores carried in a ship is not satisfied that the ship carries the stores which it is required to carry by regulations under this section, the ship, if in the United Kingdom, may be detained.

## **25 Medical treatment on board ship**

Where a ship registered in the United Kingdom 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.

## **26 Expenses of medical treatment, etc., during voyage**

If a person, while employed in a ship registered in the United Kingdom, 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; and if he dies while so employed and is buried or cremated outside the United Kingdom, the expenses of his burial or cremation shall also be borne by those persons.

*Offences by seamen, etc.*

## **27 Misconduct endangering ship or persons on board ship**

- (1) If the master or any member of the crew of a ship registered in the United Kingdom—
- (a) does any act which causes or is likely to cause the loss or destruction of or serious damage to the ship or the death of or serious injury to a person on board the ship; or
  - (b) omits to do anything required to preserve the ship from loss, destruction or serious damage or to preserve any person on board the ship from death or serious injury;

and the act or omission is deliberate, or amounts to a breach or neglect of duty, or he is under the influence of drink or a drug at the time of the act or omission, he shall be liable, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, and, on summary conviction, to a fine not exceeding £200.

- (2) In this section "breach or neglect of duty", except in relation to a master, includes any disobedience to a lawful command.

## **28 Drunkenness, etc. on duty**

If a seaman employed in a ship registered in the United Kingdom is, while on duty, under the influence of drink or a drug to such an extent that his capacity to carry out his duties is impaired, he shall be liable on summary conviction to a fine not exceeding £50.

**29 Wilful disobedience to certain lawful commands**

If a seaman employed in a ship registered in the United Kingdom wilfully disobeys a lawful command relating to or likely to affect the operation of the ship or its equipment he shall be liable on summary conviction to a fine not exceeding £50.

**30 Continued or concerted disobedience, neglect of duty, etc.**

If a seaman employed in a ship registered in the United Kingdom—

- (a) persistently and wilfully neglects his duty ; or
- (b) persistently and wilfully disobeys lawful commands ; or
- (c) combines with other seamen employed in that ship to disobey lawful commands or to neglect duty or to impede the navigation of the ship or the progress of a voyage;

he shall be liable on summary conviction to a fine not exceeding £100.

**31 Absence without leave at time of sailing**

If a seaman employed in a ship registered in the United Kingdom is absent without leave and the ship is thereby delayed or goes to sea without him, then if he is so absent deliberately and without reasonable cause or his absence is due to recklessness, he shall be liable on summary conviction to a fine not exceeding £100.

**32 Offences committed by certain other persons**

Where a person goes to sea in a ship without the consent of the master or of any other person authorised to give it or is conveyed in a ship in pursuance of section 62(5)(b) of this Act, sections 27, 29, 30(b) and 30(c) of this Act shall apply as if he were a seaman employed in the ship.

*Defence of drug taken for medical purposes*

**33 Defence of drug taken for medical purposes**

In proceedings for an offence under section 27 or section 28 of this Act it shall be a defence to prove that at the time of the act or omission alleged against the defendant 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.

*Disciplinary offences*

**34 Disciplinary offences**

- (1) For the purpose of maintaining discipline on board ships registered in the United Kingdom the Board of Trade may make regulations specifying any misconduct on board as a disciplinary offence and enabling the master, or such officer as may under the regulations be required or authorised to exercise the powers of the master, to impose fines on seamen committing disciplinary offences.

- (2) The fine that may be so imposed on a seaman for a disciplinary offence shall be such as may be provided in the regulations either by reference to his pay for such period as may be specified in the regulations, calculated in such manner as may be so specified, or by reference to an amount so specified ; but the period so specified shall not exceed five days and the amount so specified shall not exceed £10.
- (3) Regulations under this section shall prescribe the procedure to be followed in dealing with disciplinary offences.
- (4) Regulations under this section shall enable the master to remit, in such circumstances as may be specified in the regulations, the whole or part of any fine imposed thereunder.
- (5) Regulations under this section may make different provision for different descriptions of ship and for seamen employed in different capacities.

### **35 Appeal against fine for disciplinary offence**

- (1) A seaman on whom a fine has been imposed for a disciplinary offence may, in accordance with regulations made by the Board of Trade, appeal against the decision to a superintendent or proper officer and on such an appeal the superintendent or proper officer may confirm or quash the decision and may remit the whole or part of the fine.
- (2) Regulations under this section shall provide for the procedure to be followed on any such appeal, including the time within which notice of an intended appeal is to be given by the appellant to the master and by the master to the superintendent or proper officer and the place at which the appeal is to be heard.

### **36 Power to provide for ship's disciplinary committees**

- (1) The Board of Trade may make regulations providing for the setting up in ships to which the regulations apply of committees of persons employed in the ships, to be known as ship's disciplinary committees, and for the exercise by members of those committees of all or any of the powers of the master in dealing with disciplinary offences.
- (2) Regulations under this section may contain such provisions excluding, modifying or adding to the provisions of regulations under section 34 of this Act as appear to the Board of Trade necessary or expedient for the proper and effective discharge by members of a ship's disciplinary committee of functions otherwise exercisable by the master.
- (3) Regulations under this section may be so made as to apply to ships generally or to any description of ship specified in the regulations and either in all circumstances or in such circumstances as may be so specified, or to apply to such ships or to ships of such descriptions as may for the time being be specified in a direction of the Board of Trade.
- (4) No regulations shall be made under this section unless a draft thereof has been laid before Parliament and approved by resolution of each House of Parliament.

### **37 Prohibition of double prosecutions**

Where any conduct is both a disciplinary offence and an offence against any provision of the Merchant Shipping Acts, then if it has been dealt with as a disciplinary offence it shall not be dealt with as an offence against that provision.

### **38 Payment of fines for disciplinary offences**

- (1) Subject to subsection (3) of this section, the amount of a fine imposed on a seaman for a disciplinary offence, so far as not remitted by the master or on appeal, may be deducted from his wages or otherwise recovered by the persons employing him and shall be paid by them (whether or not it has been so deducted or otherwise recovered) to a superintendent or proper officer.
- (2) Subject to subsection (3) of this section—
  - (a) if the wages or part of the wages are paid by the master on behalf of the persons employing the seaman, or the master is the person employing the seaman, the said amount shall be paid at the time when the seaman leaves the ship at the end of the voyage or, if earlier, when his employment in the ship is terminated;
  - (b) in any other case the master shall at that time notify the amount to those persons and they shall pay it when the next payment in respect of the seaman's wages falls to be made by them.
- (3) Where an appeal against such a fine is pending at the time mentioned in subsection (2) of this section no amount shall by reason of the fine be deducted, recovered, paid or notified under the preceding provisions of this section until the appeal has been disposed of; but regulations under section 35 of this Act may provide for the amount of the fine to be provisionally deducted from the seaman's wages pending the appeal.
- (4) Any amount paid under this section to a superintendent or proper officer shall be transmitted by him to the Board of Trade and any amount required to be so paid but remaining unpaid shall be recoverable by the Board of Trade.
- (5) The Board of Trade shall pay any sums received by them in pursuance of this section into the Consolidated Fund.

*Civil liability for absence without leave, smuggling  
and fines imposed under immigration laws*

### **39 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 ship registered in the United Kingdom 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) of this section 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 damages in respect of specific expense incurred or loss sustained.



#### **40 Civil liability for smuggling**

If a seaman employed in a ship registered in the United Kingdom 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.

#### **41 Civil liability for fines imposed under immigration laws**

- (1) The following provisions of this section shall apply where, at a time when a ship registered in the United Kingdom 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 39 of this Act, 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.

#### *Trade disputes*

#### **42 Trade disputes involving seamen**

- (1) The Conspiracy and Protection of Property Act 1875, except section 5, shall apply to seamen as it applies to other persons.
- (2) Notwithstanding anything in any agreement, a seaman employed in a ship registered in the United Kingdom may terminate his employment in that ship by leaving the ship in contemplation or furtherance of a trade dispute after giving to the master not less than forty-eight hours' notice of his intention to do so, and shall not be compelled (unless the notice is withdrawn) to go to sea in the forty-eight hours following the giving of such a notice ; but such a notice shall be of no effect unless at the time it is given the ship is in the United Kingdom and securely moored in a safe berth.
- (3) In this section " trade dispute " has the same meaning as in section 5(3) of the Trade Disputes Act 1906.

#### *Manning and certification*

#### **43 Manning**

- (1) Subject to subsection (2) of this section, the Board of Trade 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 Board of Trade to specify standards of competence to be attained and other conditions to be satisfied (subject to any exceptions

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

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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 Board of Trade shall not exercise their power to make regulations requiring ships to carry seamen other than doctors and cooks except to the extent that it appears to them 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 paragraph (b) of subsection (1) of this section, 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 Board of Trade 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 £100.

#### **44 Power to exempt from manning requirements**

- (1) The Board of Trade may exempt any ship or description of ship from any requirements of regulations made under section 43 of this Act.
- (2) An exemption given under this section may be confined to a particular period or to one or more particular voyages.

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

Subject to section 44 of this Act, 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 43 of this Act the owner or master shall be liable on summary conviction to a fine not exceeding £200 and the ship, if in the United Kingdom, may be detained.

#### **46 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 on summary conviction to a fine not exceeding £100.
- (2) In this section " qualified " means qualified for the purposes of section 43 of this Act.

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

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 43 of this Act shall on demand produce it to any superintendent, surveyor or proper officer and (if he is not himself the master) to the master of the ship ; and if he fails to do so without reasonable cause he shall be liable on summary conviction to a fine not exceeding £20.

#### **48 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 £200.

#### **49 Application of sections 43, 45, 47 and 48**

Sections 43, 45, 47 and 48 of this Act apply to every ship registered in the United Kingdom and also to any ship registered elsewhere 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.

#### **50 Special certificates of competency**

- (1) The Board of Trade 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 43(1)(b) of this Act; and may, in relation thereto, make regulations for purposes corresponding to those mentioned in section 43(4) of this Act.
- (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 £100.

#### **51 Restriction on employment of persons under 18 on board ship**

- (1) A person under school-leaving age shall not be employed in any ship registered in the United Kingdom except as permitted by regulations under this section.
- (2) The Board of Trade 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 eighteen or under such lower age as may be specified in the regulations must not be employed in a ship registered in the United Kingdom 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 £100.
- (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 the 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.

*Disqualification of seamen, inquiries and investigations*

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

- (1) If it appears to the Board of Trade 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 422 of the Merchant Shipping Act 1894 (duty to give assistance and information after collision);
- the Board of Trade may cause an inquiry to be held by one or more persons appointed by them and, if they do so, may, if they think fit, suspend, pending the outcome of the inquiry, any certificate issued to the officer in pursuance of section 43 of this Act and require the officer to deliver it to them.
- (2) Where a certificate issued to an officer has been suspended under subsection (1) of this section 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 58(1) of this Act 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) of this section, cancel or suspend any certificate issued to him under section 43 of this Act or censure him ;
  - (b) may make such order with regard to the costs of the inquiry as they think just; and
  - (c) shall make a report on the case to the Board of Trade ;
- and if the certificate is cancelled or suspended the officer (unless he has delivered it to the Board of Trade in pursuance of subsection (1) of this section) shall deliver it forthwith to the persons holding the inquiry or to the Board of Trade.
- (5) Any costs which a person is ordered to pay under subsection (4)(b) of this section may be recovered from him by the Board of Trade.

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

- (1) Where it appears to the Board of Trade 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, they may give him notice in writing that they are considering the suspension or cancellation of the certificate.
- (2) The notice must state the reasons why it appears to the Board of Trade 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 Board of Trade may allow, he may make written representations to the Board or claim to make oral representations to the Board.
- (3) After considering any representations made in pursuance of the preceding subsection the Board shall decide whether or not to suspend or cancel the certificate and shall give the holder of it written notice of their 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 Board not later than the date so specified unless before that date he has required the case to be dealt with by an inquiry under section 54 of this Act.
- (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 Board of Trade 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 50 of this Act and to any certificate issued under section 43 of this Act other than one certifying that a person is qualified as an officer.

### **54 Inquiry into fitness or conduct of person other than officer**

- (1) Where a person has, before the date mentioned in section 53(4) of this Act, required his case to be dealt with by an inquiry under this section the Board of Trade shall cause an inquiry to be held by one or more persons appointed by them

- (2) An inquiry under this section shall be conducted in accordance with rules made under section 58(1) of this Act 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 Board of Trade 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 Board of Trade, 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 Board of Trade;
- and if the certificate is cancelled or suspended it shall be delivered forthwith to the persons holding the inquiry or to the Board of Trade.
- (4) Any costs which a person is ordered to pay under subsection (3)(e) of this section may be recovered from him by the Board of Trade.

## **55 Inquiries and investigations into shipping casualties**

- (1) Where any of the following casualties has occurred, that is to say.—
- (a) the loss or presumed loss, stranding, grounding, abandonment of or damage to a ship ; or
  - (b) a loss of life caused by fire on board or by any accident to a ship or ship's boat, or by any accident occurring on board a ship or ship's boat; or
  - (c) any damage caused by a ship ;
- and, at the time it occurred, the ship was registered in the United Kingdom or the ship or boat was in the United Kingdom or the territorial waters thereof, the Board of Trade—
- (i) may cause a preliminary inquiry into the casualty to be held by a person appointed for the purpose by the Board; and
  - (ii) may (whether or not a preliminary inquiry into the casualty has been held) cause a formal investigation into the casualty to be held, if in England, Wales or Northern Ireland, by a wreck commissioner and, if in Scotland, by the sheriff.
- (2) A person appointed under this section to hold a preliminary inquiry shall for the purpose of the inquiry have the powers conferred on an inspector by section 729 of the Merchant Shipping Act 1894.

## **56 Formal investigation into shipping casualty**

- (1) A wreck commissioner or sheriff holding a formal investigation into a casualty under section 55 of this Act shall conduct it in accordance with rules under section 58(1) of this Act, and those rules shall require the assistance of one or more assessors and, if any question as to the cancellation or suspension of an officer's certificate is likely to arise, the assistance of not less than two assessors.

- (2) Subsections (1), (3) and (4) of section 77 of the Magistrates' Courts Act 1952 (which provide for the attendance of witnesses and the production of evidence) shall apply in relation to a formal investigation held by a wreck commissioner as if the wreck commissioner were a magistrates' court and the investigation a complaint; and the wreck commissioner shall have power to administer oaths for the purposes of the investigation.
- (3) Where a formal investigation is held in Scotland the sheriff shall, subject to any rules made under section 58(1) of this Act, dispose of it as a summary application, and, subject to section 57 of this Act, his decision on the investigation shall be final.
- (4) If as a result of the investigation the wreck commissioner or sheriff is satisfied, with respect to any officer, of any of the matters mentioned in paragraphs (a) to (c) of section 52(1) of this Act and, if it is a matter mentioned in paragraph (a) or (b) of that section, is further satisfied that it caused or contributed to the casualty, he may cancel or suspend any certificate issued to the officer under section 43 of this Act or censure him; and if he cancels or suspends the certificate the officer shall deliver it forthwith to him or to the Board of Trade.
- (5) The wreck commissioner or sheriff may make such order with regard to the costs of the investigation as he thinks just and shall make a report on the case to the Board of Trade.
- (6) Any costs which a person is ordered to pay under the preceding subsection may be recovered from him by the Board of Trade.
- (7) In its application to Northern Ireland this section shall have effect as if in subsection (2) for the references to subsections (1), (3) and (4) of section 77 of the Magistrates' Courts Act 1952 there were substituted references to subsections (1) and (3) of section 120 and subsection (1) of section 122 of the Magistrates' Courts Act (Northern Ireland) 1964.

## **57 Rehearing of and appeal from inquiries and investigations**

- (1) Where an inquiry or formal investigation has been held under the preceding provisions of this Act the Board of Trade may order the whole or part of the case to be re-heard, and shall do so—
  - (a) if new and important evidence which could not be produced at the inquiry or investigation has been discovered; or
  - (b) if there appear to the Board to be other grounds for suspecting that a miscarriage of justice may have occurred.
- (2) An order under subsection (1) of this section may provide for the re-hearing to be as follows.—
  - (a) if the inquiry or investigation 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 58(1) of this Act; and section 56 of this Act shall apply in relation to a re-hearing of an

investigation by a wreck commissioner or sheriff as it applies in relation to the holding of an investigation.

- (4) Where the persons holding the inquiry or investigation 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) of this section has been made or such an application has been refused, that person or any other person who, having an interest in the inquiry or investigation, has appeared at the hearing and is affected by the decision or finding, may appeal to the High Court or the Court of Session, according as the inquiry or investigation was held in England, Wales or Northern Ireland or in Scotland.

## **58 Rules as to inquiries, investigations and appeals**

- (1) The Board of Trade may make rules for the conduct of inquiries under sections 52 and 54 of this Act and of formal investigations under section 55 of this Act and for the conduct of any re-hearing under section 57 of this Act which is not held by the High Court or the Court of Session.
- (2) Without prejudice to the generality of the preceding subsection, 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 57 of this Act 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 rehearing or hear such an appeal with the assistance of one or more assessors.

## **59 Failure to deliver cancelled or suspended certificate**

If a person fails to deliver a certificate as required under section 52 or 56 of this Act he shall be liable on summary conviction to a fine not exceeding £50; and if a person fails to deliver a certificate as required under section 53 or 54 of this Act he shall be liable on summary conviction to a fine not exceeding £10.

## **60 Power to restore certificate**

Where a certificate has been cancelled or suspended under this Act or under section 478 of the Merchant Shipping Act 1894, the Board of Trade, if of 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.

## **61 Inquiries into deaths of crew members and others**

- (1) Subject to subsection (4) of this section, where—
  - (a) any person dies in a ship registered in the United Kingdom; or
  - (b) the master of or a seaman employed in such a ship dies in a country outside the United Kingdom;

an inquiry into the cause of the death shall be held by a superintendent or proper officer at the next port where the ship calls after the death and where there is a superintendent or proper officer, or at such other place as the Board of Trade may direct.



- (2) The superintendent or proper officer holding the inquiry shall for the purpose of the inquiry have the powers conferred on an inspector by section 729 of the Merchant Shipping Act 1894.
- (3) The person holding the inquiry shall make a report of his findings to the Board of Trade and the Board shall make a copy of the report available—
  - (a) if the deceased person was employed in the ship and a person was named as his next of kin in the crew agreement or list of the crew in which the deceased person's name last appeared, to the person so named ;
  - (b) in any case, to any person requesting it who appears to the Board of Trade to be interested.
- (4) No inquiry shall be held under this section in a case where, in England, Wales or Northern Ireland, a coroner's inquest is to be held or, in Scotland, an inquiry is to be held under the Fatal Accidents Inquiry (Scotland) Act 1895 or the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1906.

*Relief and repatriation of seamen left behind*

**62 Relief and return of seamen left behind, etc.**

- (1) Where—
  - (a) a person employed as a seaman in a ship registered in the United Kingdom 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 Board of Trade.
- (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 Board of Trade 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) of this section, and any property of his left on board ship, are to be dealt with.
- (4) The Board of Trade 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 citizens of the United Kingdom and Colonies 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.

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

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- (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 ship registered in the United Kingdom 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 £100 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 5 of this Act, whether or not at the time he is left behind the ship is still registered in the United Kingdom.

### **63 Limit of employers' liability under s. 62**

Where a person left behind in or taken to any country as mentioned in section 62(1) of this Act 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.

### **64 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 62 of this Act, then—
- (a) if the expenses are incurred by the Board of Trade, or are incurred by the government of any country outside the United Kingdom and repaid to them on behalf of the Crown, the Board of Trade 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 Board of Trade 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 63 of this Act, the seaman's last employers would have been required to make provision under section 62 of this Act; or
  - (b) in respect of any matter for which provision is required to be made under section 62 (4) (b) of this Act;

the Board of Trade may recover them from the seaman (or, if he has died, from his personal representatives).

*Property of deceased seamen*

**65 Custody, etc. of property of deceased seamen**

- (1) The Board of Trade may make regulations providing for the custody of and dealing with—
  - (a) any property left on board a ship registered in the United Kingdom by a seaman dying while or after being employed in the ship ;
  - (b) any property left in a country outside the United Kingdom by a seaman dying while or within six months after being employed in such a ship ; and
  - (c) any property left in a country outside the United Kingdom by a citizen of the United Kingdom and colonies dying while or within six months after being employed as a seaman in a ship registered outside the United Kingdom;until it is disposed of by or under the directions of the Board of Trade; and for the recovery by the Board of Trade of any wages which, at the time of a seaman's death, were due to him in respect of his employment in a ship registered in the United Kingdom.
- (2) Regulations under this section may require the recording of particulars and the rendering of accounts and may enable the Board of Trade or any person having custody of any such property to sell it by auction or otherwise and account for the proceeds.
- (3) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding £100.

**66 Disposal of property of deceased seaman**

- (1) Where, on the death of a seaman, any assets come into the hands of the Board of Trade by virtue of section 65 of this Act the Board may satisfy out of them any expenses incurred by the Board in respect of the seaman or his property.
- (2) If the value of the residue of the assets does not exceed £500, the Board of Trade may at any time pay or deliver it to any of the persons mentioned in subsection (3) of this section or distribute it among them, unless a grant of representation, or in Scotland confirmation, has then been made and the Board of Trade know of it; and the Board shall thereby be discharged from any further liability in respect of the residue.
- (3) The persons referred to in subsection (2) of this section are—
  - (a) any person appearing to the Board of Trade to be a person named as the seaman's next of kin in the crew agreement or list of the crew in which the seaman's name last appeared;
  - (b) any person appearing to the Board of Trade to be his widow or a child of his ;
  - (c) any person appearing to the Board of Trade to be beneficially entitled, under a will or on intestacy, to the seaman's estate or any part of it;
  - (d) any person appearing to the Board of Trade to be a creditor of the seaman.
- (4) If it appears to the Board of Trade that any of the persons to whom any assets may be paid or delivered under this section is resident in a foreign state the Board of Trade may pay or deliver them to him by paying or delivering them to a consular officer of that state for transmission to him.
- (5) In this section " child " includes an adopted child and an illegitimate child.

*Application of sections 62 to 66 to masters*

**67 Application of sections 62 to 66 to masters**

In sections 62 to 66 of this Act " seaman " (notwithstanding the definition in section 742 of the Merchant Shipping Act 1894) includes the master of a ship.

*Documentation, reports and returns*

**68 Official log books**

- (1) Except as provided by regulations under this section an official log book in a form approved by the Board of Trade shall be kept in every ship registered in the United Kingdom.
- (2) The Board of Trade 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 £20.
- (6) If a person wilfully 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 £100.

**69 Lists of crew**

- (1) Except as provided by regulations made under this section the master of every ship registered in the United Kingdom shall make and maintain a list of the crew containing such particulars as may be required by the regulations.
- (2) The Board of Trade 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 provision 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 £20.

## **70 British seamen's cards**

- (1) The Board of Trade 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 Board think it expedient for the purposes of the regulations to provide;and any provision of the regulations having effect by virtue of paragraph (a) of this subsection 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 £10.
- (3) In this section " British seamen " means persons who are not aliens within the meaning of the British Nationality Act 1948 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 £100.

## **71 Discharge books**

- (1) The Board of Trade may make regulations providing—
  - (a) for the issue to persons who are or have been employed in ships registered in the United Kingdom 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 Board think it expedient for the purposes of the regulations to provide;

and any provision of the regulations having effect by virtue of paragraph (a) of this subsection 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 make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding £10.

## **72 Returns of births and deaths in ships, etc.**

- (1) The Board of Trade may make regulations—
  - (a) requiring the master of any ship registered in the United Kingdom to make a return to a superintendent or proper officer for transmission to the Registrar General of Shipping and Seamen of any birth or death occurring in the ship and of the death, wherever occurring outside the United Kingdom, of any person employed in the ship, and to notify any such death to such person (if any) as the deceased may have named to him as his next of kin ; and
  - (b) requiring the master of any ship not registered in the United Kingdom which calls at a port in the United Kingdom in the course of or at the end of a voyage to make a return to a superintendent for transmission to the Registrar General of Shipping and Seamen of any birth or death of a citizen of the United Kingdom and Colonies which has occurred in the ship during the voyage.
- (2) Regulations under this section may require the Registrar General of Shipping and Seamen to send a certified copy of any return made thereunder to the Registrar General for England and Wales, the Registrar General of Births, Death and Marriages for Scotland or the Registrar General for Northern Ireland, as the case may require.
- (3) The Registrar General to whom any such certified copies are sent shall record the information contained therein in a register kept by him for the purpose and to be called the marine register, and may also record in that register such additional information as appears to him desirable for the purpose of ensuring the completeness and correctness of the register; and the enactments relating to the registration of births and deaths in England, Scotland and Northern Ireland shall have effect as if the marine register were a register of births (other than stillbirths) or deaths or certified copies of entries in such a register and had been transmitted to the Registrar General in accordance with those enactments.
- (4) Regulations under the preceding provisions of this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding £20.
- (5) Regulations under this section may contain provisions for authorising the registration of the following births and deaths occurring outside the United Kingdom in circumstances where no return is required to be made under the preceding provisions of this section—
  - (a) any birth or death of a citizen of the United Kingdom and Colonies which occurs in a ship not registered in the United Kingdom ;

- (b) any death of a citizen of the United Kingdom and Colonies who has been employed in such a ship which occurs elsewhere than in the ship ; and
- (c) any death of a person who has been employed in a ship registered in the United Kingdom which occurs elsewhere than in the ship.

### **73 Reports of shipping casualties**

- (1) Where any such casualty as is mentioned in section 55(1) of this Act has occurred in the case of a ship or ship's boat and, at the time it occurred, the ship was registered in the United Kingdom, the owner or master of the ship shall, as soon as practicable, and in any case not later than twenty-four hours after the ship's arrival at the next port, report the casualty to the Board of Trade, giving a brief description of it and stating the time and place where it occurred, the name and official number of the ship, its position at the time of the report and the next port of call.
- (2) If the owner or master of a ship fails without reasonable cause to comply with the preceding provisions of this section he shall be liable on summary conviction to a fine not exceeding £100.

### **74 Handing over of documents on change of master**

If a person ceases to be the master of a ship registered in the United Kingdom 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 ; and if he fails without reasonable cause to do so he shall be liable on summary conviction to a fine not exceeding £100.

### **75 Admissibility in evidence and inspection of certain documents**

- (1) The following documents shall be admissible in evidence and, when in the custody of the Registrar General of Shipping and Seamen, shall be open to public inspection, that is to say.—
  - (a) crew agreements, lists of crews made under section 69 of this Act and notices given under this Act of additions to or changes in crew agreements and lists of crews;
  - (b) the official log book of any ship kept under section 68 of this Act and, without prejudice to section 695(2) of the Merchant Shipping Act 1894, any document purporting to be a copy of an entry therein and to be certified as a true copy by the master of the ship;
  - (c) documents purporting to be submissions to or decisions by superintendents or proper officers under section 10 of this Act;
  - (d) returns or reports under section 72 of this Act or under regulations made under section 19 of this Act.
- (2) A certificate issued under section 43 of this Act shall be admissible in evidence.

### *Inspections*

#### **76 Inspections**

(1) For the purpose of seeing that the provisions of the Merchant Shipping Acts and regulations and rules made thereunder are duly complied with any of the following persons, that is to say.—

- (a) a surveyor of ships ;
- (b) a superintendent;
- (c) any person appointed by the Board of Trade, either generally or in a particular case, to exercise powers under this section;

may at all reasonable times go on board a ship and inspect the ship and its equipment or any part thereof, any articles on board, and any document carried in the ship in pursuance of the Merchant Shipping Acts or regulations or rules made thereunder ; and if the ship is registered in the United Kingdom the powers conferred by this subsection may also be exercised outside the United Kingdom and may be so exercised by a proper officer as well as by the persons mentioned in paragraphs (a) to (c) of this subsection.

- (2) A person exercising powers under this section shall not unnecessarily detain or delay a ship but may, if he considers it necessary in consequence of an accident or for any other reason, require a ship to be taken into dock for a survey of its hull or machinery.
- (3) Where any such person as is mentioned in paragraphs (a) to (c) of subsection (1) of this section has reasonable grounds for believing that there are on any premises provisions or water intended for supply to a ship registered in the United Kingdom which, if provided on the ship, would not be in accordance with regulations under section 21 of this Act, he may enter the premises and inspect the provisions or water for the purpose of ascertaining whether they would be in accordance with those regulations.
- (4) If any person obstructs a person in the exercise of his powers under this section, or fails to comply with a requirement made under subsection (2) thereof, he shall be liable on summary conviction to a fine not exceeding £100.

#### *Stowaways, unauthorised presence on board ship and master's power of arrest*

#### **77 Stowaways**

- (1) If a person, without the consent of the master or of any other person authorised to give it, goes to sea or attempts to go to sea in a ship registered in the United Kingdom he shall be liable on summary conviction to a fine not exceeding £100 or to imprisonment for a period not exceeding three months.
- (2) Nothing in section 686 of the Merchant Shipping Act 1894 shall be taken to limit the jurisdiction of any court in the United Kingdom to deal with an offence under this section which has been committed in a country outside the United Kingdom by a person who is not a British subject.



## **78 Unauthorised presence on board ship**

Where a ship registered in the United Kingdom or any other country is in a port in the United Kingdom and a person who is neither in Her Majesty's service nor authorised by law to do so—

- (a) goes on board the ship without the consent of the master or of any other person authorised to give it; or
- (b) remains on board the ship after being requested to leave by the master, a constable, or an officer of the Board of Trade or of customs and excise ;

he shall be liable on summary conviction to a fine not exceeding £20.

## **79 Master's power of arrest**

The master of any ship registered in the United Kingdom may cause any person on board the ship to be put under restraint if and for so long as it appears to him necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship.

### *Administrative provisions*

## **80 Registrar General of Shipping and Seamen**

- (1) The Board of Trade shall appoint, and may remove, an officer to be styled the Registrar General of Shipping and Seamen, who shall exercise such functions as are conferred on him by the Merchant Shipping Acts and keep such records and perform such other duties as the Board of Trade may direct.
- (2) The Board of Trade may appoint and remove persons to perform on behalf of the Registrar General of Shipping and Seamen such of his functions as the Board or the Registrar General of Shipping and Seamen may direct.

## **81 Appointment of superintendents**

The Board of Trade shall appoint, and may remove, officers to be styled mercantile marine superintendents, who shall exercise the functions conferred on superintendents by the Merchant Shipping Acts.

## **82 Appointment of wreck commissioners**

- (1) The Lord Chancellor may appoint such number of persons as he thinks fit to be wreck commissioners and may remove any wreck commissioners appointed by him.
- (2) Before appointing a person to act as wreck commissioner in Northern Ireland the Lord Chancellor shall consult the Lord Chief Justice of Northern Ireland.

## **83 Remuneration of wreck commissioners and assessors**

There shall be paid to any wreck commissioner or assessor appointed under this Act such remuneration, out of moneys provided by Parliament, as the Lord Chancellor may with the consent of the Treasury determine.

**84 Fees**

The Board of Trade may with the consent of the Treasury make regulations prescribing fees to be paid in respect of the issue or recording of any certificate, licence or other document or the doing of any other thing in pursuance of this Act.

*Miscellaneous***85 Amendment of Merchant Shipping (Safety Convention) Act 1949**

- (1) For sections 3 and 6 of the Merchant Shipping (Safety Convention) Act 1949 there shall be substituted the sections set out in Schedule 1 to this Act.
- (2) In section 5(2) of that Act (rules for direction finders) the words " being ships of sixteen hundred tons gross tonnage or upwards " shall be omitted.
- (3) Before making rules under any of those sections the Board of Trade shall consult with organisations in the United Kingdom appearing to them representative of persons who will be affected by the rules.

**86 Nautical publications**

- (1) The Board of Trade may make rules specifying such charts, directions or information as appear to the Board necessary or expedient for the safe operation of ships and those rules may require ships registered in the United Kingdom, or such descriptions of ships registered in the United Kingdom as may be specified in the rules, to carry, either at all times or on such voyages as may be specified in the rules, copies of the charts, directions or information so specified.
- (2) If a ship goes to sea or attempts to go to sea without carrying copies of the charts, directions or information which it is required to carry by rules under this section the master or owner shall be liable on summary conviction to a fine not exceeding £100.

**87 The merchant navy uniform**

- (1) The Board of Trade may make regulations prescribing a uniform, to be known as the merchant navy uniform, for the use of persons serving in ships registered in the United Kingdom, and distinguishing marks to be worn, as part of the uniform, by persons so serving in different positions or in different circumstances.
- (2) Regulations under this section may prescribe the persons by whom and the circumstances in which the merchant navy uniform or any part of it may be worn.
- (3) If a person wears the merchant navy uniform or any part of it, or wears anything bearing the appearance of the uniform or any part of it, when he is not authorised by regulations under this section to wear the uniform or that part he shall be liable on summary conviction to a fine not exceeding £50.
- (4) Where any design, within the meaning of the Registered Designs Act 1949, which forms part of the merchant navy uniform has been registered under that Act and the Board of Trade are the registered proprietor thereof their copyright in the design shall, notwithstanding section 8 of that Act, continue so long as the design remains so registered.

- (5) Nothing in this section shall prohibit or restrict the use of the merchant navy uniform or any part of it for the purposes of any stage, film or television performance, unless the use is such as to bring the uniform into disrepute.

**88 Increase of penalty for sailing while ship under detention**

In section 692(1) of the Merchant Shipping Act 1894 (enforcing detention of ship) for the words " one hundred pounds " there shall be substituted the words " two hundred pounds ".

**89 Dealing with deserters under reciprocal agreements**

- (1) Subject to subsection (5) of this section, this section applies to any country to which, immediately before the coming into operation of the repeal by this Act of section 238 of the Merchant Shipping Act 1894, that section applied by virtue of an Order in Council made under it or having effect as if made under it.
- (2) Where a seaman deserts in the United Kingdom from a ship registered in a country to which this section applies, a justice of the peace may, on the application of a consular officer of that country and on information on oath, issue a warrant for the arrest of the seaman.
- (3) Where a seaman has been arrested on a warrant issued under this section a magistrates' court may, on proof of the desertion, order him to be conveyed on board his ship.
- (4) Where a seaman is liable to be arrested under this section, any person who, knowing or believing that he has deserted, does without lawful authority or reasonable excuse any act with intent to impede his arrest shall be liable on summary conviction to a fine not exceeding £20.
- (5) Her Majesty may by Order in Council direct that this section shall cease to apply to any country specified in the Order.
- (6) In its application to Scotland this section shall have effect as if for the reference to a justice of the peace there were substituted a reference to a sheriff, magistrate or justice of the peace, for the reference to a magistrates' court a reference to a court of summary jurisdiction within the meaning of the Summary Jurisdiction (Scotland) Act 1954, and for the reference to information on oath a reference to evidence on oath.
- (7) In its application to Northern Ireland this section shall have effect as if in subsection (3) for the reference to a magistrates' court there were substituted a reference to a court of summary jurisdiction.

**90 Adaptation to metric units**

The Board of Trade may by regulations provide for such adaptations of any enactments contained in the Merchant Shipping Acts as appear to them appropriate for the purpose of replacing references therein to units other than metric units by references to metric units which are either equivalent thereto or such approximations thereto as appear to the Board desirable for the purpose of securing that the enactments as adapted are expressed in convenient terms.

## 91 Tonnage measurement and certificates

For subsections (5) and (6) of section 1 of the Merchant Shipping Act 1965 (tonnage regulations) there shall be substituted the following subsections—

- “(5) Regulations under this section may make provision for the alteration (notwithstanding section 82 of the principal Act) of the particulars relating to the registered tonnage of a ship.
- (6) Regulations under this section may provide for the issue by the Board of Trade or by persons appointed by such organisations as may be authorised in that behalf by the Board of Trade of certificates of the registered tonnage of any ship or of the tonnage which is to be taken for any purpose specified in the regulations as the tonnage of a ship not registered in the United Kingdom, and for the cancellation and delivery up of such certificates in such circumstances as may be prescribed by the regulations.
- (6A) Regulations under this section requiring the delivery up of any certificate may make a failure to comply with the requirement an offence punishable on summary conviction with a fine not exceeding £100.”

*Unregistered ships and ships registered outside the United Kingdom*

## 92 Unregistered ships

The Board of Trade may make regulations specifying any description of British ships which are not registered in the United Kingdom or elsewhere and directing that such of the provisions of this Act and of regulations and rules made thereunder as may be specified in the regulations shall extend to ships of that description and to masters and seamen employed in them, with such exceptions, adaptations or modifications as may be so specified.

## 93 Ships registered in independent Commonwealth countries

- (1) Her Majesty may by Order in Council direct that such of the provisions of this Act and of regulations and rules made thereunder as may be specified in the Order shall extend, with such exceptions, adaptations or modifications as may be so specified, to ships registered in any independent Commonwealth country so specified and to masters and seamen employed in them.
- (2) The modifications that may be made by an Order in Council under this section with respect to the ships registered in any country and the masters and seamen employed in them include the substitution, for any provision of this Act or of regulations or rules made thereunder, of a corresponding provision of the law of that country, with such exceptions, adaptations or modifications as appear to Her Majesty expedient.
- (3) In this section " independent Commonwealth country " means any country for the time being specified in section 1 (3) of the British Nationality Act 1948.

## 94 Power to extend Act to certain territories outside the United Kingdom, and to ships registered therein

Her Majesty may by Order in Council give with respect to any of the following territories, that is to say—

- (a) the Isle of Man ;
- (b) any of the Channel Islands ;
- (c) any colony;
- (d) any territory outside Her Majesty's dominions in which for the time being Her Majesty has jurisdiction ;

either or both of the following directions—

- (i) that such of the provisions of this Act and of regulations and rules made thereunder as may be specified in the Order shall apply to ships registered in that territory and to masters and seamen employed in them, with such exceptions, adaptations or modifications as may be specified in the Order, as they apply to ships registered in the United Kingdom and to masters and seamen employed in them ;
- (ii) that such of the provisions of this Act and of any regulations and rules made thereunder as may be specified in the Order shall extend to that territory, with such exceptions, adaptations or modifications as may be specified in the Order, as part of the law of that territory.

*Fishing vessels and non-sea-going ships*

**95 Fishing vessels**

- (1) In the application of this Act to fishing vessels and persons serving in them—
  - (a) sections 6, 29 to 32, 34 to 38, 89 and 93 do not apply and the provisions contained in Part I of Schedule 2 to this Act apply in addition to the other provisions of this Act; and
  - (b) sections 7 and 8 apply as set out in Part II of that Schedule;and nothing in Schedule 2 to this Act applies to fishing vessels not registered in the United Kingdom or to persons serving in them.
- (2) Section 15 of this Act does not apply to so much of the wages of a seaman employed in a fishing vessel as is in any manner related to the catch.
- (3) In its application to persons serving in fishing vessels section 87 of this Act shall have effect as if for the words " merchant navy uniform", wherever they occur, there were substituted the words " fishing fleet uniform ".
- (4) Nothing in section 11 of this Act shall affect the operation of Part II of the Administration of Justice Act 1970 in relation to wages due to a person employed in a fishing vessel; and the provisions of the Magistrates' Courts Act (Northern Ireland) 1964 and the Judgments (Enforcement) Act (Northern Ireland) 1969 relating to the attachment of wages shall apply in relation to such wages as they apply in relation to other wages.
- (5) The Board of Trade may grant exemptions from any requirements of this Act or of any regulations made under this Act—
  - (a) with respect to any fishing vessel or to a fishing vessel of any description ; or
  - (b) with respect to any person or a person of any description serving in a fishing vessel or in a fishing vessel of any description ;and nothing in any other provision of this Act conferring a power to provide for or grant exemptions shall be taken to restrict the power conferred by this subsection.

- (6) In this Act " fishing vessel" means a vessel which is for the time being employed in sea fishing, but does not include a vessel used otherwise than for profit.

## 96 Non-sea-going ships

- (1) The preceding provisions of this Act other than sections 19, 20, 43 to 60, 88, 90 and 91 do not apply to ships which are not sea-going ships or to masters or seamen employed in ships which are not sea-going ships.
- (2) In relation to ships which are not sea-going ships section 45 of this Act shall have effect as if for the words " goes to sea or attempts to go to sea " there were substituted the words " plies or attempts to ply " and the words " if in the United Kingdom " were omitted; and where such a ship may be detained in pursuance of that section, section 692 of the Merchant Shipping Act 1894 shall have effect, in relation to it, as if subsections (2) to (4) were omitted and in subsection (1) for the words " proceeds to sea " there were substituted the word " plies ", for the words " sends the ship to sea " there were substituted the words " causes the ship to ply " and the words " any British consular officer " were omitted.

### *Supplementary*

## 97 Interpretation

- (1) In this Act—
- " crew agreement " has the meaning assigned to it by section 1(2) of this Act;
  - " enactment " includes an enactment of the Parliament of Northern Ireland;
  - " proper officer " means a consular officer appointed by Her Majesty's Government in the United Kingdom and, in relation to a port in a country outside the United Kingdom which is not a foreign country, also any officer exercising in that port functions similar to those of a superintendent;
  - " 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;
  - " ship's boat " includes a life-raft; and
  - " the Merchant Shipping Acts " means the Merchant Shipping Acts 1894 to 1967, the Fishing Vessels (Safety Provisions) Act 1970 and this Act
- (2) References in this Act to going to sea include references to going to sea from any country outside the United Kingdom.
- (3) For the purposes of this Act a seaman is discharged from a ship when his employment in that ship is terminated.
- (4) For the purposes of this Act 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) References in this Act to dying in a ship include references to dying in a ship's boat and to being lost from a ship or ship's boat.

- (6) Any power conferred by this Act to provide for or grant an exemption includes power to provide for or grant the exemption subject to conditions.
- (7) If the Parliament of Northern Ireland passes provisions amending or replacing any enactment of that Parliament referred to in this Act the reference shall be construed as a reference to the enactment as so amended or, as the case may be, as a reference to those provisions.

## **98 Expenses and receipts**

- (1) Any expenses incurred by the Board of Trade under this Act shall be defrayed out of moneys provided by Parliament.
- (2) Any fees received by the Board of Trade under this Act shall be paid into the Consolidated Fund.

## **99 Regulations and rules**

- (1) Any regulations or rules made under this Act shall be made by statutory instrument, which, except in the case of regulations made under section 36 of this Act or paragraph 2 of Schedule 2 to this Act, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Before making regulations under any provision of this Act other than sections 84 and 90 the Board of Trade shall consult with organisations in the United Kingdom appearing to them representative of masters and seamen who will be affected by the regulations and of persons employing such masters and seamen.

## **100 Amendments, savings, transitional provisions and repeals**

- (1) The enactments mentioned in Schedule 3 to this Act shall have effect subject to the minor and consequential amendments specified therein.
- (2) This Act shall have effect subject to the savings and transitional provisions contained in Schedule 4 to this Act.
- (3) The enactments specified in Schedule 5 to this Act (which include some which are obsolete and some not affected by the preceding provisions of this Act) are hereby repealed to the extent specified in the third column of that Schedule.

## **101 Citation, construction and commencement**

- (1) This Act may be cited as the Merchant Shipping Act 1970.
- (2) This Act, the Merchant Shipping Acts 1894 to 1967 and the Fishing Vessels (Safety Provisions) Act 1970 may be cited together as the Merchant Shipping Acts 1894 to 1970.
- (3) This Act shall be construed as one with the Merchant Shipping Acts 1894 to 1967 and the Fishing Vessels (Safety Provisions) Act 1970.
- (4) This Act shall come into force on such date as the Board of Trade may by order made by statutory instrument appoint, and different days may be so appointed for different provisions of this Act.