



ANALYSIS

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title and commencement. 2. Interpretation. <p style="text-align: center;"><i>Application of Act</i></p> <ol style="list-style-type: none"> 3. Boilers and machinery to which this Act applies. 4. Act not applicable to certain boilers and machinery. <p style="text-align: center;"><i>Surveyors</i></p> <ol style="list-style-type: none"> 5. Appointment of Surveyors. 6. Powers of Surveyors. 7. Owners to allow entry and inspection. 8. Obstruction of Surveyor. 9. Certificate of appointment. <p style="text-align: center;"><i>Certificates of Inspection</i></p> <ol style="list-style-type: none"> 10. Certificate of inspection to be in force. 11. Issue of certificates of inspection. 12. Duration of certificate for boiler. 13. Duration of certificate of other machinery. 14. Certificate to be exhibited in conspicuous place. 15. Temporary use of boiler or machinery without certificate. 16. Persons having boilers and machinery subject to Act to notify Surveyor. 17. Chief Surveyor may prescribe standard requirements. 18. Drawings of boilers, lifts, and cranes to be submitted to Chief Surveyor. 19. When boilers and machinery to be inspected. | <ol style="list-style-type: none"> 20. Special inspections of machinery or boilers. 21. Official number of boiler to be stamped thereon. <p style="text-align: center;"><i>Safety Provisions</i></p> <ol style="list-style-type: none"> 22. Notice to owner of faulty boiler. 23. Owner of boiler to notify Surveyor of repairs. 24. Increasing pressure in boiler. 25. Glass water gauges to be protected. 26. Alterations in cylinders to be notified to Surveyor. 27. Defective and insufficiently guarded machinery. 28. Lifts. 29. Cranes. 30. Young persons not to be employed in certain cases. <p style="text-align: center;"><i>Proceedings</i></p> <ol style="list-style-type: none"> 31. Liability of owner in first instance. 32. Proceedings against actual offender. 33. When owners and mortgagees not liable. 34. Surveyors to be notified of accident. 35. Inquiry into cause of accident. <p style="text-align: center;"><i>Certificates and Qualification of Engine Drivers</i></p> <ol style="list-style-type: none"> 36. Certificates of competency to be granted. 37. Engine drivers to hold certificates. 38. Holders of certain certificates entitled to have charge of other machinery. 39. Rights of holders of engine drivers' certificates. |
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| <p>40. Examinations.
 41. Applications for examination.
 42. Granting of certificates.
 43. Stationary engine driver's certificates.
 44. Holders of certain certificates may be granted certificates under this Act.
 45. Certificates from outside New Zealand recognized.
 46. Disqualification of holder of certificate.
 47. Provision for gold dredges.
 48. Engine driver to be in effective charge.
 49. In certain cases engine and boilers to be in charge of different persons.</p> | <p>50. Certain maimed persons not to act as engine drivers.
 51. Acting without certificate.
 52. Obtaining certificate improperly.</p> <p style="text-align: center;"><i>General</i></p> <p>53. Responsibility of owners, &c., maintained.
 54. Service of notices, &c.
 55. General penalty.
 56. Application of part of fine to person injured.
 57. No certiorari.
 58. Regulations.
 59. Provisions as to steam motor cars and steam wagons.
 60. Repeals and savings.</p> |
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1950, No. 53

AN ACT to Make Provision for the Inspection and Certification of Boilers, Lifts, Cranes, and Certain Other Machinery, for the Safety of Persons Working with Boilers or Machinery to Which the Act Applies, and for the Qualification of Persons Operating Any Such Boilers or Machinery.

[23rd November, 1950

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the Boilers, Lifts, and Cranes Act, 1950.

(2) This Act shall come into force on the first day of January, nineteen hundred and fifty-one.

2. (1) In this Act, unless the context otherwise requires,—

“ Board of Examiners ” means the Board of Examiners appointed under section forty of this Act:

“ Boiler ” means any boiler or vessel in which steam is used or applied above atmospheric pressure for any purpose; and includes—

(a) Any vessel (other than a container for transport) which has an internal diameter exceeding six inches and is used as a receiver for compressed air or gas the pressure of which exceeds thirty pounds to the square inch:

Title.

Short Title and commencement.

Interpretation.

1928, No. 17, s. 2

(b) Any economizer used for the purpose of heating water that is fed to a boiler and any superheater used for heating steam:

(c) The setting and all fittings and mountings, steam and other pipes, feed pumps, injectors, fans, mechanical stokers, and other equipment connected to a boiler or necessary to maintain its efficiency:

“Crane” means any appliance equipped with mechanical means for raising and lowering a load by ropes or chains and for transporting the load while suspended; and includes all chains, ropes, slings, shackles, swivels, rings, hooks, or other tackle used in the operation of a crane, whether or not any such tackle is detachable from the crane; but does not include—

(a) A hoist block running on a fixed rail or wire:

(b) A stacker or conveyer whereby a load is moved by means of a belt or platform:

(c) An earth or mineral moving or excavating appliance not fitted with a grab:

“Hoist” means any hoist or other cargo handling machine or gear (other than a crane) used on any barge or hulk or on any wharf, or in any shed or store on or near to a wharf wherein cargo unloaded from a ship or to be loaded into a ship may be stored; and includes any machine or gear used in any dry dock or on any slipway in connection with the repair of ships:

“Lift” means an appliance used for raising and lowering persons or goods by means of a car or platform the movement of which in a vertical or approximately vertical direction is maintained by guides; and includes the supports, well, enclosures, car, and the whole of the mechanical and electrical apparatus required in connection with the operation and safety of a lift:

“Machinery” means a lift, crane, hoist, winding engine, or steam engine:

“Minister” means the Minister of Marine:

“ Owner ”, in relation to any boiler or machinery to which this Act applies, includes the mortgagee or lessee thereof, and any engineer, overseer, foreman, agent, or person in charge or having or apparently having the control or management of the boiler or machinery:

“ Premises ” includes any yard, place, house, or building and any farm, paddock, field, road, or place, in which any boiler or machinery is kept, worked, or used, or is in operation:

“ Secretary ” means the Secretary of the Marine Department:

“ Surveyor ” or “ Engineer Surveyor ” means an Engineer Surveyor appointed under this Act:

“ Winding engine ” means any machine by means whereof persons are drawn up, down, or along any shaft, pit, or inclined plane or level in any mine or coal mine or by means whereof material is raised or lowered when a shaft is being sunk in any mine or coal mine.

(2) For the purposes of this Act the area of any cylinder in circular inches shall be computed by squaring the number of inches in its internal diameter.

Application of Act

3. Subject to the provisions of section four of this Act, this Act shall apply to all boilers and machinery as hereinbefore defined.

Boilers and machinery to which this Act applies.

4. (1) Nothing in this Act shall apply to—

(a) Any machinery which is driven solely by manual or animal power or the motive power of which does not exceed one horsepower:

Act not applicable to certain boilers and machinery. 1928, No. 17, s. 4

(b) Any boiler or machinery that is declared by the Governor-General by Order in Council not to be subject to the provisions of this Act.

(2) Any Order in Council under paragraph (b) of subsection one of this section may from time to time be amended or revoked and may apply generally to any particular class of boilers or machinery irrespective of the purpose for which they are used, or to boilers or machinery only while used exclusively for any specified purpose or purposes.

(3) Nothing in this Act shall prejudice or in any way interfere with the powers of inspection and regulation of steamships, and the machinery thereof, contained in the Shipping and Seamen Act, 1908, or the powers of inspection and regulation of machinery, air cylinders, and braking systems of tramways contained in the Tramways Act, 1908, or the powers of inspection and regulation of machinery contained in the Machinery Act, 1950, or in any other Act.

See Reprint
of Statutes,
Vol. VIII,
p. 249
Ibid., p. 754
1950, No. 52

Surveyors

Appointment of
Surveyors.
1928, No. 17, s. 5

5. (1) There may from time to time be appointed as officers of the Public Service such Engineer Surveyors as may be required for the purposes of this Act.

(2) There may from time to time be appointed as an officer of the Public Service a Chief Engineer Surveyor who shall have all the powers of an Engineer Surveyor.

Powers of
Surveyors.
1946, No. 43, s. 5

6. (1) Every Surveyor may—

- (a) Enter any premises at all reasonable hours by day or night if he has reasonable cause to believe that any boiler or machinery to which this Act applies is in use or working or kept therein, and may then and there inspect and examine the boiler or machinery:
- (b) Take with him a constable or any person he may think competent to assist him in the execution of his duty:
- (c) Make such examination and inquiry as he deems necessary in order to ascertain whether the provisions of this Act are complied with:
- (d) Examine with respect to matters under this Act, either alone or in the presence of any other person, as he thinks fit, every person whom he finds in any premises and require any such person to make and sign a statutory declaration as to the matters with respect to which he is so examined:
- (e) Require the owner of any boiler or machinery to which this Act applies to explain the working thereof:
- (f) Exercise such other powers and authorities as may be necessary for carrying this Act into effect.

(2) No person shall, on an examination or inquiry by a Surveyor under this section, be required to answer any question tending to incriminate himself.

(3) Except for the purposes of this Act and the exercise of his functions under this Act, a Surveyor shall not disclose to any person any information which in the exercise of those functions he acquires with respect to any boiler or machinery.

7. The owner and his agents and servants shall at all times furnish the means required by any Surveyor for an entry, inspection, examination, and inquiry or the exercise of any other powers under this Act.

Owners to allow entry and inspection.
1946, No. 43,
s. 6

8. Every person commits an offence against this Act who—

Obstruction of Surveyor.
Ibid., s. 7

(a) Without reasonable cause delays a Surveyor in the exercise of any of his powers or duties under this Act; or

(b) Fails to produce any documents which he is required under this Act to produce; or

(c) Wilfully obstructs a Surveyor in the exercise of any duty under this Act; or

(d) Conceals or prevents or attempts to conceal or prevent any person from appearing before and being examined by a Surveyor.

9. (1) Every Surveyor shall be furnished with a certificate of his appointment, and on applying for admission to any premises for any of the purposes of this Act he shall, if required, produce the certificate to the owner.

Certificate of appointment.
Ibid., s. 8

(2) Every person who forges or counterfeits any such certificate, or makes use of any forged, counterfeited, or false certificate, or impersonates the Surveyor named in any certificate, or falsely pretends to be a Surveyor, commits an offence and shall be liable on summary conviction to imprisonment for a term not exceeding six months.

Certificates of Inspection

10. (1) Except as hereinafter provided, no boiler, lift, crane, or winding engine to which this Act applies shall be operated or used unless the owner has in his possession a current certificate of inspection in respect of the boiler, lift, crane, or winding engine.

Certificate of inspection to be in force.

1928, No. 17,
s. 38

(2) Every owner who works or uses any such boiler, lift, crane, or winding engine in respect of which a certificate has not been issued, or for which a certificate is not in force, commits an offence.

(3) The Minister may exempt from the requirements of this section—

(a) Boilers or any class of boilers which are used for domestic purposes only and do not exceed two cubic feet in capacity, and of which the working pressure does not exceed fifteen pounds to the square inch; or

(b) Boilers or any class of boilers which are used as receivers for compressed air or gas and do not exceed two cubic feet in capacity.

Issue of
certificates of
inspection.
Ibid., s. 32

11. (1) Where a Surveyor has inspected any boiler or machinery to which this Act applies and is satisfied,—

(a) In the case of a boiler and any engine attached thereto that the same are in good repair and may be safely used for the purpose for which they are then used or intended to be used; or

(b) In the case of a lift, crane, or winding engine that it is securely guarded and is in good repair and may be safely used for the purpose for which it is then used or intended to be used,—

he shall report to the Secretary accordingly, who, if satisfied that all the requirements of this Act have been complied with, shall, on payment of the prescribed fee, issue to the owner a certificate in such form as the Minister from time to time approves.

(2) Any certificate issued under this section to the owner of a boiler may contain such conditions relating to the pressure at which the boiler may be used as the Minister thinks fit.

(3) Any certificate issued under this section to the owner of a lift or crane may contain such conditions in respect of the number of passengers or the load that may be carried by the lift, or in respect of the load that may be carried by the crane, as the Minister thinks fit.

Duration of
certificate for
boiler.
Ibid., s. 34

12. (1) Subject to the provisions of subsection three of this section, the certificate issued to the owner of a boiler shall remain in force for the period stated in the certificate.

(2) Any such period shall not exceed one year, except in respect of a boiler of a class in respect of which a direction has been given under subsection one of section nineteen of this Act that inspections shall be made only once in every two years, in which case the certificate may be granted for any period not exceeding two years.

(3) The Secretary, on the report of a Surveyor, may at any time cancel or suspend any certificate issued to the owner of a boiler where he deems it necessary in the interests of the public safety to do so.

13. (1) Subject to the provisions of subsection three of this section, the certificate issued to the owner of any machinery to which this Act applies for which a certificate is required shall remain in force for such period as may be stated in the certificate in that behalf.

Duration of certificate of other machinery.
1928, No. 17, s. 36

(2) Any such period shall not exceed—

(a) Six months in the case of a lift; or

(b) One year in the case of any other class of machinery.

(3) The Secretary may, on the report of a Surveyor, cancel or suspend any such certificate if any material alteration is made in or to the machinery, or if the machinery is not at all times kept securely fenced and guarded and in good repair, and fit to be safely used for the purpose for which it is used, or in any other case in which he deems cancellation or suspension of the certificate to be necessary in the interests of safety.

14. (1) The certificate granted to the owner of any boiler or machinery to which this Act applies shall be exhibited in some conspicuous place where it can be readily seen by all persons working at or with the boiler or machinery.

Certificate to be exhibited in conspicuous place.
Ibid., s. 33

(2) In any proceedings under this section it shall be a sufficient defence if the defendant satisfies the Court that owing to the necessity of moving the boiler or machinery from place to place during the currency of the certificate there was no conspicuous place in which the certificate could reasonably be affixed, and also that at all reasonable times the certificate was in the possession of the person in charge of the boiler or machinery and was available for inspection by all persons working at or with the boiler or machinery and also by a Surveyor and all members of the Police Force.

Temporary use
of boiler or
machinery
without
certificate.

1928, No. 17,
s. 37

15. Notwithstanding anything to the contrary in this Act, the owner of any boiler or machinery to which this Act applies, may, pursuant to a permit in that behalf under the hand of a Surveyor, use any such boiler or machinery after the expiration of the period for which any certificate in respect thereof has been granted, but for such time only and subject to such conditions as may be specified in the permit.

Persons having
boilers and
machinery
subject to Act
to notify
Surveyor.

Ibid., s. 11

16. (1) Every person who becomes the owner of any boiler or machinery to which this Act applies shall within one month thereafter send to the Surveyor for the time being in charge of the district where the same is, or in which it is intended to use, keep, or work the same, a notice stating the name of the owner, the place or town where the boiler or machinery is erected, kept, or intended to be used, and the nature and kind of the boiler or machinery.

(2) Every person who sells or absolutely disposes of any such boiler or machinery to any person shall forthwith give notice to the Surveyor stating the name, occupation, and abode of the person to whom the sale or disposition has been made.

(3) Where any such boiler or machinery is let on hire, or for a certain term, or to be returned to the owner, a similar notice shall in every such case be given to the Surveyor by the lessor or owner in manner aforesaid.

Chief Surveyor
may prescribe
standard
requirements.

17. The Chief Surveyor may from time to time prescribe standard requirements to be observed in the design and construction of boilers, lifts, and cranes so as to secure the safe working thereof.

Drawings of
boilers, lifts,
and cranes to
be submitted
to Chief
Surveyor.

Ibid., s. 12

18. The owner or other person at whose request the first inspection of any boiler, lift, or crane is made shall, not later than the date of making application for that inspection, forward to the Chief Surveyor a drawing of the boiler, lift, or crane accompanied by the prescribed fee and containing all such dimensions and other particulars as may be necessary to enable the Chief Surveyor to determine whether or not the Chief Surveyor's requirements have been complied with.

19. (1) All boilers shall be inspected at least once in every year:

When boilers and machinery to be inspected. 1928, No. 17, ss. 22, 35

Provided that the Governor-General may, upon or subject to such conditions as he thinks fit, direct that any class of boilers shall be inspected only once in every two years; but this provision shall not restrict or prohibit inspection if the certificate granted in respect of any boiler of any such class is for a less period than two years:

Provided also that the Minister may exempt from the periodical inspection required by this section—

- (a) Boilers or any class of boilers which are used for domestic purposes only and do not exceed two cubic feet in capacity, and of which the working pressure does not exceed fifteen pounds to the square inch; or
- (b) Boilers which are used as receivers for compressed air or gas and do not exceed two cubic feet in capacity.

(2) Lifts shall be inspected at least once in every six months.

(3) Winding engines and cranes shall be inspected at least once in each year.

(4) There shall be payable in respect of inspections under this section such fees as may be prescribed.

20. (1) Any person who desires a special inspection or test of any boiler or machinery to which this Act applies may make application therefor to a Surveyor.

Special inspections of machinery or boilers.

(2) There shall be payable in respect of any such inspection or test the fees prescribed for an inspection of the particular boiler or machinery, together with all expenses incurred in making the special inspection or test.

Ibid., s. 31

(3) The fees payable under this section shall be additional to any fees payable under this Act in respect of any other inspection.

21. (1) The Surveyor shall stamp legibly every boiler inspected by him with the official number of the boiler on some conspicuous part thereof.

Official number of boiler to be stamped thereon.

(2) Every person who disfigures, destroys, or conceals any such official number commits an offence against this Act.

Ibid., s. 24

Safety Provisions

Notice to
owner of
faulty boiler.
1928, No. 17,
s. 25

22. (1) If upon inspection it appears to a Surveyor that any boiler is unsafe, or that it would be dangerous to life or property if it were to continue to be used in its then state, he may give to the owner a notice requiring him—

- (a) To desist from working or using the boiler, from a date to be fixed in the notice, until any repairs or alterations required in the notice have been effected; or
- (b) To desist from working or using the boiler, from a date fixed as aforesaid, at a greater pressure than that stated in the notice until any repairs or alterations required in the notice have been effected.

(2) Every person upon whom any such notice has been served who fails during the period specified by the Surveyor in the notice to desist from working the boiler according to the terms of the notice commits an offence against this Act.

Owner of
boiler to
notify Surveyor
of repairs.
Ibid., s. 26

23. (1) The owner shall, before—

- (a) Effecting any substantial structural repairs to a boiler; or
- (b) Adding to or taking away from a boiler any fittings or appliances; or
- (c) In any manner altering the construction of a boiler,—

give to the Surveyor notice in writing setting forth full particulars of the proposed work.

(2) The person by whom or by whose direction any such work as aforesaid is actually done shall on completion thereof furnish a report to the Surveyor, giving full particulars of the nature of the work done, together with such other particulars in relation thereto as the Surveyor may require.

(3) This section shall not apply to cases where repairs have been effected in accordance with a notice to effect repairs given by any Surveyor under the powers hereinbefore contained.

Increasing
pressure in
boiler.
Ibid., s. 27

24. (1) Every person who by any means does anything that increases or tends to increase the pressure in a boiler beyond that stated in the certificate then in force in respect of the boiler, or beyond that stated in a

notice under section twenty-two of this Act, and every person who aids or abets in increasing the pressure as aforesaid, or procures any such pressure to be increased, commits an offence against this Act.

(2) The person in charge of a boiler when any such increased pressure is discovered, or who, finding the boiler in a state of pressure above that authorized in the appropriate certificate or notice, allows the boiler to continue at the increased pressure, shall be deemed, until the contrary is proved, to have committed an offence against this section.

25. Every glass water gauge fitted to a boiler shall be properly protected and shall be so placed that the water level in the gauge is clearly visible.

Glass water gauges to be protected.

1928, No 17, s. 28

26. If the cylinders of any steam engine have been bored out or renewed at any time or any alteration has been made in the diameter of the cylinders, notice thereof shall within one month be sent by the owner to the Surveyor for the time being in charge of the district in which the engine is working.

Alterations in cylinders to be notified to Surveyor.

Ibid., s. 13

27. (1) Where any machinery to which this Act applies, or any appliance or contrivance connected or used with any such machinery or any part thereof, is or appears to a Surveyor, by reason of any fault or defect therein or of insufficient fencing or guarding thereof, to be so dangerous as to be likely to cause loss of life or bodily injury to any person, he may give to the owner of the machinery a notice to that effect.

Defective and insufficiently guarded machinery.

Ibid., s. 17

(2) Any such notice shall specify the fault or defect required to be remedied, or the guarding or fencing required to be provided, and may require the owner either—

- (a) To desist from working or using the machinery or any appliance or contrivance used or connected therewith until the requirements of the Surveyor as specified in the notice have been complied with; or
- (b) To have the machinery, appliance, or contrivance altered, or fenced, or guarded, or the faulty or defective part renewed or repaired within a certain time to be stated in the notice.

(3) If the owner does not comply with the terms of any such notice he commits an offence against this Act.

Lifts.

28. (1) Except for the purpose of a test required and witnessed by a Surveyor, no person in charge of a lift shall permit to be carried on the lift any number of passengers, or any load, greater than that stated in the certificate given under section eleven of this Act in respect of the lift.

(2) No person shall wilfully damage a lift or remove or interfere with any safeguard, fence, or safety device of a lift.

(3) The owner of a lift shall keep the lift and all of its safety devices in a good and safe condition during the currency of the certificate given in respect of the lift.

(4) The owner of a lift shall, before making any material alteration or repairs to the lift, give to the Surveyor notice in writing setting forth full particulars of the proposed work.

Cranes.

29. (1) Except for the purpose of a test required and witnessed by a Surveyor or with the written permission of the Chief Surveyor, no person shall load any power driven crane beyond the safe working load stated in the certificate given under section eleven of this Act in respect of the crane, and, in the case of a jib crane of variable radius, no person shall load the crane otherwise than in accordance with the conditions stated in the certificate given as aforesaid in respect of the crane.

(2) The owner of a crane shall keep the crane and all tackle used in connection with the working of the crane, whether or not any such tackle is for the time being attached to the crane, in a good and safe condition during the currency of the certificate given in respect of the crane.

(3) The owner of any crane, before making any material alterations or repairs to the crane, shall give to the Surveyor notice in writing setting forth full particulars of the proposed work.

(4) All rails on which a travelling crane moves and every track on which the carriage of a transporter or runway moves shall be of proper size and adequate strength and have an even running surface, and the owner of any such crane, transporter, or runway shall have any such rails or tracks properly laid, adequately supported or suspended, and properly maintained.

(5) Before any person is employed or instructed to do any work on or in the vicinity of the wheel track of an overhead travelling crane where he would be liable

to be struck by the crane the person in charge of the work or giving the instructions shall warn the driver of the crane of the danger and take effective measures to ensure the safety of all persons who may be working in the vicinity of the wheel track.

30. (1) No boiler, steam engine, crane, or hoist to which this Act applies shall at any time be left in the charge or control of any person unless, in the case of a male, he is at least eighteen years of age, or, in the case of a female, she is at least twenty years of age.

Young persons not to be employed in certain cases. 1928, No. 17, s. 15

(2) No lift of any kind, other than an automatically controlled passenger lift that may be brought into operation by the pressure of a button which causes the lift car to start and to stop automatically at the landing corresponding to the button pressed, shall be worked unless it is in the charge of a male attendant of at least eighteen years of age or a female attendant of at least twenty years of age. For the purposes of this subsection an attendant shall mean a person who has been specially employed or authorized in that behalf by the owner of the lift or his agent.

Proceedings

31. (1) Subject to the provisions of this Act, in every case where under this Act any requirement, obligation, rule, or provision is imposed or enacted or required to be observed with respect to or in connection with any boiler or machinery to which this Act applies, the owner shall cause the requirement, obligation, rule, or provision to be duly and faithfully complied with or observed, and if the requirement, obligation, rule, or provision is not duly and faithfully complied with or observed the owner commits an offence against this Act.

Liability of owner in first instance. *Ibid.*, s. 40

(2) The owner of any boiler or machinery to which this Act applies in respect of which an offence has been committed against this Act for which a fine may be imposed shall in every case (save as hereinafter provided) be deemed in the first instance to have committed the offence and be liable to pay the fine; but an owner who has been proceeded against by a Surveyor shall be entitled, upon information duly laid by the owner, to have any agent, servant, or workman brought before the Court at the time appointed for hearing the charge made against him by the Surveyor.

(3) In any such case, if the charges are heard together and the offence is proved but the Magistrate finds that—

- (a) The offence was committed in fact by the said other person, without the knowledge, consent, or connivance of the owner; and
- (b) That the owner had done all that could reasonably be expected of him to prevent the offence,—

that other person shall be convicted of the offence, and the owner shall not be guilty of the offence.

Proceedings
against actual
offender.
1928, No. 17,
s. 41

32. If, before the commencement of any proceedings against the owner in respect of any offence under this Act, the Surveyor is satisfied that if any other person were charged with the offence under the foregoing provisions of this Act that other person would be convicted of the offence, the Surveyor shall proceed against the person whom he believes to be the actual offender without first proceeding against the owner. In any such case the provisions of subsection three of section thirty-one of this Act shall, with the necessary modifications, apply, notwithstanding that no proceedings have been commenced against the owner.

When owners
and mortgagees
not liable.
Ibid., s. 43

33. (1) No person shall be liable to the provisions of this Act as an owner of any boiler or machinery to which this Act applies unless the same is under his immediate power or control, nor shall any mortgagee of any such boiler or machinery be so liable unless he is in actual possession thereof or has the same under his immediate power or control.

(2) For the purposes of this section any boiler or machinery shall be deemed to be under the immediate power or control of a person where it is worked or used by that person personally, or by his agents, servants, or others under his orders or directions, and for his benefit or profit.

(3) Nothing in this section shall exempt any corporate body from liability under this Act by reason only that any such boiler or machinery is under the control of any director, secretary, manager, or other person elected or employed by the corporate body for the benefit of or on behalf of that body.

34. (1) Where any person is killed or suffers serious bodily injury by reason of the explosion of a boiler, or as a result of an accident caused by machinery to which this Act applies, the owner of the boiler or machinery shall within twenty-four hours after the explosion or accident send notice thereof to a Surveyor at his office or usual place of residence, and the Surveyor shall forthwith transmit the notice to the Secretary.

Surveyors to be notified of accident.
1928, No. 17,
s. 44

(2) As soon as practicable after receiving any such notice or otherwise becoming aware of any such explosion or accident the Surveyor, or some other Surveyor, shall go to the place where the explosion or accident occurred and make such inquiry as he thinks fit as to the cause of the explosion or accident, and for that purpose may examine the owner of the boiler or machinery and all persons employed about the boiler or machinery, and shall report to the Secretary the result of the inquiry.

(3) It shall not be lawful for any person to do any act likely to prevent the discovery of the cause of the explosion or accident until the Surveyor has visited the scene thereof and completed his inquiry:

Provided that nothing in this subsection shall prohibit the owner from doing anything reasonably necessary to prevent further damage or injury to any person or property, or from disconnecting a boiler from others connected with it.

(4) Every person commits an offence against this Act who—

- (a) Fails to give the notice required by subsection one of this section; or
- (b) Except as authorized in the proviso to subsection three of this section, does or causes to be done any act likely to prevent the discovery of the cause of the explosion or accident.

35. (1) In the event of an accident happening to any boiler or machinery to which this Act applies, or where, by reason of any such accident, any person is killed or suffers serious bodily injury, the Minister may direct an inquiry to be held before a Magistrate, together with a person skilled in the use and construction of the boiler or machinery to be appointed by the Minister.

Inquiry into cause of accident.
Ibid., s. 45

(2) The Magistrate, together with the said person, shall have power to hold the inquiry at such times and places as the Minister appoints, and shall report on the cause of the accident to the Minister.

(3) With respect to the summoning and attendance of witnesses at or upon any such inquiry, and the examination of any such witnesses upon oath, every such Magistrate shall have all the powers which he would have or might exercise in any case within his ordinary jurisdiction under the Justices of the Peace Act, 1927.

(4) For the purposes of this section and the last preceding section the expression "serious bodily injury" means an injury which is likely to incapacitate the sufferer for work for at least forty-eight hours.

Certificates and Qualification of Engine Drivers

See Reprint
of Statutes,
Vol. II, p. 351

Certificates of
competency to
be granted.

36. Certificates of competency shall be granted, in accordance with this Act, to persons qualified to act as engine drivers and for each of the following grades:—

- (a) Extra first class stationary engineer:
- (b) First class engine driver:
- (c) Second class engine driver:
- (d) Steam winding engine driver:
- (e) Electric winding engine driver:
- (f) Locomotive and traction engine driver:
- (g) Locomotive engine driver:
- (h) Traction engine driver.

Engine drivers
to hold
certificates.

37. (1) Subject to the provisions of this Act, every person employed or acting in the capacity of engine driver who is in charge of—

- (a) A winding engine; or
- (b) A steam traction engine or steam locomotive while being propelled or moved from place to place by its own motive power and machinery; or
- (c) A steam stationary engine and its boiler; or
- (d) A steam boiler with no machinery attached thereto—

shall be the holder of an engine driver's certificate of the appropriate grade granted in respect of the kind of boiler or machinery of which he is in charge.

(2) No certificate granted under this Act shall be required to be held by the driver or person in charge of—

- (a) Any steam stationary engine the area of the cylinder or cylinders of which does not exceed one hundred and forty-four circular inches; or
- (b) Any steam stationary turbine engine if the aggregate horsepower of the boilers used for supplying steam to the turbine does not exceed fifteen horsepower; or
- (c) Any boiler of fifteen horsepower or under unless two or more of any such boilers are connected to a common steam pipe and the aggregate horsepower of the connected boilers exceeds fifteen horsepower; or
- (d) Any engine or boiler forming part of the propelling machinery of any ship; or
- (e) Any engine or boiler used or employed in the working of any railway the property of His Majesty.

(3) The Secretary may, upon or subject to such conditions as he thinks fit, exempt any boiler or machinery to which this Act applies from the requirements of this Act as to having a certificated driver in charge for such time as he may prescribe if it is proved to his satisfaction that compliance with any such requirement is unnecessary or would unduly stop the working of the boiler or machinery.

38. (1) The holder of a steam winding engine driver's certificate shall also be entitled to drive or have charge of a steam traction engine, a steam locomotive, or a steam log hauling engine and its boilers.

Holders of certain certificates entitled to have charge of other machinery.

(2) The holder of a traction engine driver's certificate shall, in respect of any steam traction engine which he owns or which he is employed to drive while it is used as a traction engine, also be entitled to drive and have charge of any such traction engine while it is used as a steam stationary engine.

1928, No. 17, s. 47

39. (1) The holder of a first class engine driver's certificate shall be entitled to drive or have charge of any steam stationary engine (other than a winding engine) and its boilers, and of any steam boiler whether any such engine or boiler is on land or afloat.

Rights of holders of engine drivers' certificates.

Ibid., s. 49 (4) (5)

(2) The holder of a second class engine driver's certificate shall be entitled to drive or have charge of any boiler to which no machinery is attached, or of any steam stationary engine (other than a winding engine) the area of the cylinder or cylinders of which does not exceed two hundred circular inches, or of any steam turbine stationary engine and the boilers attached thereto if the aggregate horsepower of the boilers used for supplying steam to the turbine does not exceed twenty-five horsepower, whether any such engine or boiler is on land or afloat.

(3) Where the crankshafts of two or more steam engines working side by side are coupled to form one driving power, or where two or more steam engines are working side by side and driving a mutual shaft by means of belting or gearing, the class of certificate required to be held by the engine driver in charge of the engines shall be determined by reference to the combined circular inch area of the cylinders of the engines.

Examinations.
1928, No. 17,
s. 61 (1) (3)
(4)
See Reprint
of Statutes,
Vol. V, p. 943,
Ibid. p. 843

40. (1) All examinations for engine drivers under the Mining Act, 1926, the Coal Mines Act, 1925, or this Act shall be conducted under the general direction of a Board of Examiners consisting of the Chief Surveyor and the Inspecting Engineer of the Mines Department.

(2) The Minister may from time to time appoint any fit person to be a member of the Board, but any person so appointed shall act only while the Chief Surveyor or the Inspecting Engineer of the Mines Department is unable to attend the meeting of the Board, and the fact of any person so appointed acting as a member of the Board shall be sufficient evidence of his authority to do so.

(3) The Minister shall from time to time appoint one of the members of the Board to be its Chairman, and there may also be appointed, as an officer of the Public Service, a fit person to be secretary of the Board.

**Applications
for
examination.**
1928, No. 17,
s. 61 (5)

41. All applications for examination shall be forwarded to the Secretary of the Marine Department accompanied by the prescribed fee.

**Granting of
certificates.**
Ibid., ss. 61
(7) (8) (9),
46 (4)

42. (1) On an applicant passing the prescribed examination the Secretary, on the recommendation of the Board and on being satisfied that the provisions of this Act have been complied with, shall issue a certificate of the appropriate class.

(2) Where an applicant for a winding engine driver's certificate has had experience limited to a particular class of winding engine the Secretary may issue a certificate to the applicant authorizing him to be in charge only of winding engines of that class.

(3) Every applicant for examination shall satisfy the Board that he can speak and write the English language sufficiently to be able to perform the duties he is required to perform as the holder of a certificate under this Act.

(4) A Surveyor may, with the approval of the Board, on such occasions as he thinks fit, examine any applicant for any certificate, other than an extra first class stationary engineer's certificate or a first class engine driver's certificate, orally as to his qualifications for a certificate, and the oral examination may be accepted by the Board on the report of the Surveyor in place of a written examination.

(5) The Secretary, on the recommendation of the Board, may grant or refuse a certificate upon any grounds that the Board deems advisable.

(6) No certificate, other than a certificate granted in respect of a stationary engine, shall be granted under this section unless the applicant produces to the Secretary a certificate in writing signed by a registered medical practitioner to the effect that the applicant's eyesight and hearing are satisfactory, that he is free from colour blindness, and that he is not subject to any infirmity likely to interfere with the efficient discharge of his duties.

(7) Any certificate granted under this section shall specify the kind of boiler or machinery in respect of which it is granted.

(8) Where an applicant for examination for an engine driver's certificate is unable to produce written proof of his service by reason of the loss or destruction of his papers, certificates, and discharges, or any of them, the Board may accept as evidence of his service a statutory declaration by the applicant giving particulars of his service and of the loss of papers and certificates.

43. (1) Stationary engine driver's certificates shall be of two grades, to be called first class and second class engine driver's certificates respectively:

Stationary
engine driver's
certificates.

1928, No. 17,
ss. 49, 51

Provided that the holder of a first class engine driver's certificate who has worked as an apprentice for at least five years in a workshop where engines are manufactured or repaired, or where work of a similar character is performed, shall be entitled, after passing the prescribed examination, to receive a certificate to be called an extra first class stationary engineer's certificate.

(2) For the purposes of this section—

(a) The holder of a first class steam engineer's certificate issued under the Shipping and Seamen Act, 1908, shall be deemed to be the holder of an extra first class stationary engineer's certificate:

(b) The holder of a second class steam or a third class engineer's certificate issued under the Shipping and Seamen Act, 1908, shall be deemed to be the holder of a first class certificate:

(c) The holder of a river engineer's certificate issued under the Shipping and Seamen Act, 1908, shall be deemed to be the holder of a second class certificate:

(d) The holder of a steam winding engine driver's certificate, a locomotive and traction engine driver's certificate, or a locomotive engine driver's certificate shall be deemed to be the holder of a second class certificate.

44. (1) The Secretary, on the recommendation of the Board of Examiners, may grant a stationary engine driver's certificate of the appropriate class, without examination, to the holder of a certificate either of a river engineer, or a marine engine driver, or a driver of a steam winding engine, upon the production of satisfactory evidence that the holder thereof has for not less than twelve months been in charge of a steam engine, either on land or afloat, with cylinders of the area prescribed for that class.

(2) Notwithstanding anything in this Act, any person of good repute who is the holder of a certificate under the hand of the General Manager of the New Zealand Government Railways to the effect that that person has been or is employed in the Government Railways Department in driving either a steam locomotive or a steam

See Reprint
of Statutes,
Vol. VIII,
p. 249

Holders of
certain
certificates
may be
granted
certificates
under this Act.
1928, No. 17,
ss. 53, 59

stationary engine, and has passed an examination as a driver, shall be entitled at any time to obtain a certificate under this Act, and the Secretary shall, on application therefor and without payment of any fee, grant a certificate to any such person accordingly.

(3) An applicant who has been employed as aforesaid as the driver of a steam locomotive shall be entitled to receive a locomotive and traction engine driver's certificate, and an applicant who has been so employed as the driver of a steam stationary engine shall be entitled to receive a second class engine driver's certificate.

(4) The provisions of this section shall, with the necessary modifications, extend and apply to engine drivers employed on any railway the property of the Government of any part of the British Commonwealth or on any railway in the United Kingdom.

45. On payment of the prescribed fee the Secretary may, without examination, grant any certificate required by this Act to any person of good repute who satisfies the Board of Examiners that he is the holder of a corresponding certificate of equal status granted after examination by any duly constituted and recognized authority outside New Zealand and that he can speak and write the English language sufficiently to be able to perform the duties he is required to perform as the holder of a certificate under this Act.

Certificates
from outside
New Zealand
recognized.
1928, No. 17,
s. 62

46. (1) Where it appears to the Board of Examiners that any person who is the holder of an engine driver's certificate under this Act has been guilty of any offence or misconduct which would render him unfit to be trusted to perform his duties efficiently, or has failed, on the inspection of any boiler or machinery of which he is in charge, to notify the Surveyor of any defects which he knows or believes to exist in that boiler or machinery, the Secretary may call upon that person to show cause why his certificate should not be cancelled or suspended.

Disqualification
of holder
of certificate.
Ibid., s. 63

(2) If any such person fails to show cause, the Secretary, on the recommendation of the Board, shall report the matter to the Minister, who may cancel the certificate or suspend it for such period as he thinks fit, and during any such period of suspension that person shall be deemed not to be the holder of the certificate.

(3) Every person whose certificate is cancelled or suspended as aforesaid shall deliver the certificate to the Secretary, and if he fails so to deliver it on demand by the Secretary he commits an offence against this Act.

(4) Where any engine driver's certificate has, whether before or after the commencement of this Act, been suspended or cancelled, the Minister may in his discretion reduce the period of suspension, or may direct the issue of a new certificate without examination to the former holder of the cancelled certificate.

Provision
for gold
dredges.

1928, No. 17,
s. 52

47. Where a gold dredge is worked in shifts and is worked by a steam engine there shall be a person in general charge of the engine who is the holder of a certificate as required by this Act, and every other person in charge during any shift shall be the holder of a second class certificate, or one of a superior grade.

Engine driver
to be in
effective
charge.

Ibid., s. 55

48. (1) Every certificated engine driver in charge of a steam engine or its boiler, or of a boiler which has no machinery attached thereto, shall be in effective charge thereof while the engine is running or steam is being raised in the boiler or being taken from the boiler for any purpose.

(2) Every such engine driver who, while in charge of an engine or boiler, absents himself from his charge in breach of the provisions of this section, and every owner of an engine or boiler who requires him so to absent himself, commits an offence against this Act.

In certain
cases engine
and boilers
to be in charge
of different
persons.

Ibid., s. 56

49. (1) If on the report of a Surveyor the Chief Surveyor is of opinion that it is impracticable or dangerous for any certificated engine driver to take sole charge of any steam engine and its boilers at the same time, the Chief Surveyor may by notice in writing to the owner of the engine and boilers require that, on and after a date to be stated in the notice, the boilers, if over fifteen horsepower, shall be in charge of some certificated engine driver other than the certificated engine driver in charge of the engine.

(2) Every person on whom any such notice has been served who fails to comply therewith commits an offence against this Act.

50. (1) No person who has suffered the loss of a hand or a foot shall act as the driver of a locomotive steam engine or winding engine.

Certain maimed persons not to act as engine drivers.

(2) Every person who acts as the driver of any such engine contrary to the provisions of this section, and every person who employs him so to act commits an offence against this Act.

1928, No. 17, s. 58

51. Every person who acts in the capacity of engine driver in charge of any boiler or machinery to which this Act applies without a proper certificate, where a certificated driver is by law required, and every person who employs any such uncertificated driver commits an offence against this Act.

Acting without certificate. Ibid., s. 64

52. (1) Every person who obtains or attempts to obtain any certificate under this Act by fraud, and every person who gives to any person any false testimonial as to service or character for the purpose of obtaining any certificate under this Act commits an offence against this Act.

Obtaining certificate improperly. Ibid., s. 65

(2) Every certificate improperly obtained, whether obtained before or after the commencement of this Act, may be cancelled by the Secretary; and the holder thereof shall, when called upon by the Secretary, return any such certificate.

(3) Every person who, after notice by the Secretary that any such certificate has been cancelled, uses the certificate, or fails to return it to the Secretary, commits an offence.

General

53. Nothing in this Act, or in any certificate granted under its provisions, shall relieve any owner of a boiler or machinery from liability to any action or suit, or from liability to any civil or criminal proceedings; but all rights of parties and all liabilities of owners of boilers or machinery, or of any other person or persons in respect thereof, shall remain unaffected by this Act.

Responsibility of owners, &c., maintained. Ibid., s. 68

54. Where a notice, summons, or other process is required to be served upon any owner under the provisions of this Act, service on the manager, foreman, or agent of the owner shall be good and lawful service.

Service of notices, &c. Ibid., s. 69

55. (1) Every person who fails to comply with any requirement, obligation, or provision imposed or required to be observed by this Act commits an offence.

General penalty. Ibid., s. 70

(2) Except where otherwise expressly provided by this Act, every person who commits an offence against this Act shall be liable on summary conviction to a fine not exceeding one hundred pounds.

Application of
part of fine to
person injured.
1928, No. 17,
s. 71

56. Any Magistrate or Justice imposing any fine under this Act may, if he thinks fit, direct that a part not exceeding a half thereof shall be applied to compensate any person for any bodily injury or damage sustained by him by reason of the default in respect of which the fine is imposed.

No certiorari.
Ibid., s. 74

57. A summary conviction or adjudication under this Act, or an adjudication made on appeal therefrom, shall not be quashed for want of form or be removed into the Supreme Court by certiorari or otherwise.

Regulations.
Ibid., s. 75

58. (1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:—

- (a) Prescribing the fees payable under this Act:
- (b) Prescribing the forms required under this Act:
- (c) Regulating examinations to be conducted by the Board of Examiners.

(3) All regulations under this Act shall be laid before Parliament within twenty-eight days after the making thereof if Parliament is then in session, and if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session.

Provisions as
to steam
motor cars and
steam wagons.
Ibid., s. 76

59. (1) Subject to the exemptions mentioned in section four of this Act, and save as provided in subsection two of this section, all the provisions of this Act with respect to boilers and machinery shall apply to—

- (a) Motor cars driven by steam, unless they are so constructed as not to emit smoke, steam, or visible vapour, except from any temporary or accidental cause; and
- (b) Steam wagons,—

and for the purpose of those provisions all such vehicles shall be deemed to be boilers and machinery subject to this Act.

(2) The provisions of this Act with respect to engine drivers shall not apply to drivers of the vehicles mentioned in paragraph (a) of subsection one of this section while the vehicles are being driven or moved from place to place by their own motive power and machinery; but shall apply to drivers of steam wagons, and every person who is in charge of any such wagon while it is being so driven or moved shall be the holder of a traction engine driver's certificate or of a locomotive and traction engine driver's certificate.

(3) The decision of the Chief Surveyor as to whether or not a vehicle is a steam wagon shall be final.

60. (1) The Inspection of Machinery Act, 1928, and the Inspection of Machinery Amendment Act, 1931, are hereby repealed.

Repeals and savings.
See Reprint of Statutes, Vol. V, pp. 527, 552

(2) All Orders in Council, certificates, appointments, orders, regulations, approvals, registers, requirements, records, instruments, and generally all acts of authority that originated under any of the enactments hereby repealed, that relate to any boiler or machinery to which this Act applies, and are subsisting or in force at the commencement of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

(3) All matters and proceedings that relate to any boiler or machinery to which this Act applies commenced under any such enactment, and pending or in progress at the commencement of this Act, may be continued and completed under this Act.

(4) All references in any enactment in force at the commencement of this Act to the Inspection of Machinery Act, 1928, shall hereafter be read as references to this Act.

(5) All references in any enactment in force at the commencement of this Act to Inspectors appointed under the Inspection of Machinery Act, 1928, shall hereafter be read as references to Surveyors appointed under this Act.