



## ANALYSIS

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| <p>Title.</p> <ol style="list-style-type: none"> <li>1. Short Title.</li> <li>2. Amending provisions as to carriage of certificated officers.</li> <li>3. Amending provisions as to certificates.</li> <li>4. Recovery by seamen of difference between wages paid and wages fixed by award.</li> <li>5. Deserters may be deported.</li> <li>6. Amending provisions as to general business of Superintendents.</li> <li>7. Amending provisions as to preliminary inquiries on occurrence of shipping casualty.</li> </ol> | <ol style="list-style-type: none"> <li>8. Amending provisions as to ships propelled by mechanical power other than steam. Repeal.</li> <li>9. Amending provisions as to carriage of deck cargo.</li> <li>10. Amending provisions as to determination of disputes as to salvage.</li> <li>11. Amending provisions as to payments to seamen discharged on account of illness.</li> <li>12. Exemption of small fishing-boats from certain provisions. Repeal.</li> <li>13. Authorizing imposition of fines for breach of regulations.</li> </ol> |
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## 1948, No. 10

Title.

AN ACT to amend the Shipping and Seamen Act, 1908.  
[3rd December, 1948

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

1. This Act may be cited as the Shipping and Seamen Amendment Act, 1948, and shall be read together with and deemed part of the Shipping and Seamen Act, 1908 (hereinafter referred to as the principal Act).

2. Section twenty-one of the principal Act is hereby amended by inserting in paragraph (r) of subsection one, after the words "If the ship", the words "exceeds six tons register and".

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

Amending  
provisions as to  
carriage of  
certificated  
officers.

3. Section twenty-two of the principal Act is hereby amended by inserting in subsection one, after the words "Master of fishing-boat or of a cargo-vessel under twenty-five tons register:", the words "Master of a ship not exceeding six tons register propelled by mechanical power other than steam and plying in a harbour or within other restricted limits:".

Amending provisions as to certificates.

4. Where any payment of wages has been made to and accepted by a seaman at a lower rate than that which is fixed by any award or industrial agreement, he may, within two years after the day on which the wages claimed became due and payable, bring an action against his employer to recover the difference between the wages so actually paid and the wages legally payable, notwithstanding that he may have signed a release under section sixty-four of the principal Act without excepting from that release any claim or demand in respect of the wages claimed in the action.

Recovery by seamen of difference between wages paid and wages fixed by award.

REFER 19  
No. 2.

5. Section one hundred and thirty-two of the principal Act is hereby amended by adding the following subsections as subsections two, three, and four thereof:—

Deserters may be deported.

"(2) Every person (other than a seaman who has been engaged in New Zealand) convicted of an offence under paragraph (a) of the last preceding subsection may at any time within two years after the commission of that offence be arrested without warrant by any constable and placed and detained on board the ship by which he arrived in New Zealand or on board any other ship belonging to the same owner and about to leave New Zealand, but may, pending his removal to any such ship, be released from custody on his giving security to the satisfaction of the Minister of Justice in a sum not exceeding fifty pounds with not more than two sureties approved by the said Minister, each in a sum not exceeding fifty pounds, to leave New Zealand within a time specified in the document of security.

"(3) If any person released from custody under the last preceding subsection fails to leave New Zealand within the time specified in the document of security he may be re-arrested under that subsection and, pending his removal to any such ship as aforesaid, may be detained in such custody and in such place as the Minister of Justice may direct.

“(4) If the owner, charterer, or master of any such ship having knowledge of the conviction refuses to permit the person convicted to remain on board the ship when placed on board under subsection two of this section, or refuses to receive him on board the ship when brought thereto in custody in accordance with that subsection, or connives at or is privy to the escape of that person from the ship, that owner, charterer, or master commits an offence against this Act and shall be liable on summary conviction to a fine not exceeding one hundred pounds.”

Amending provisions as to general business of Superintendents

6. Section one hundred and fifty-seven of the principal Act is hereby amended by inserting in subsection two, after the words “To facilitate the making of apprenticeships to the sea service;”, the words “To hold a preliminary inquiry where a shipping casualty has occurred;”.

Amending provisions as to preliminary inquiries on occurrence of shipping casualty.

7. Section two hundred and thirty-four of the principal Act is hereby amended by inserting in subsection one, after the words “Collector of Customs”, the words “or by any Superintendent,”.

Amending provisions as to ships propelled by mechanical power other than steam.  
See Reprint of Statutes, Vol. VIII, p. 438  
Ibid., p. 465

8. (1) Section one hundred and eighty-eight of the principal Act, as amended by section thirty of the Shipping and Seamen Amendment Act, 1909, and by section three of the Shipping and Seamen Amendment Act, 1925, is hereby further amended as follows:—

(a) By repealing paragraph (a), and substituting the following new paragraph:—

“(a) If the ship does not exceed six tons register, and carries passengers or freight for hire or engages in towing for hire, she shall carry a duly certificated master; and where more than fifty passengers are carried for hire within extended river limits, she shall carry in addition one or more seamen”:

(b) By inserting, after paragraph (ab), the following new paragraph:—

“(ac) If a ship to which a restricted-limit certificate is issued does not exceed six tons register and engages solely in towing for hire, the Secretary may in his discretion extend the certificate of the master thereof

by adding an endorsement authorizing him to navigate that ship within the restricted limits set out in the certificate issued to the ship:”.

(2) Nothing contained in this section shall in any way affect the authority held by any person immediately before the commencement of this Act to navigate any ship to which paragraph (a) of section one hundred and eighty-eight of the principal Act, as amended by section thirty of the Shipping and Seamen Amendment Act, 1909, then applied.

See Reprint  
of Statutes.  
Vol. VIII,  
p. 438

(3) Section thirty of the Shipping and Seamen Amendment Act, 1909, is hereby repealed.

Repeal.

9. Section two hundred and twenty-three of the principal Act is hereby amended as follows:—

Amending  
provisions as  
to carriage of  
deck cargo.

(a) By omitting from subsection one the words “Minister may from time to time”, and substituting the words “Governor-General may from time to time by Order in Council”:

(b) By adding the following new subsection:—

“(4) Every master who proceeds to sea carrying any cargo or live-stock on the deck without first obtaining a permit in accordance with the provisions of subsection one of this section commits an offence against this Act.”.

10. Section two hundred and seventy-two of the principal Act is hereby amended by omitting from paragraph (b) of subsection one, and also from subsection two, the words “three hundred pounds”, and substituting in each case the words “five hundred pounds”.

Amending  
provisions as to  
determination  
of disputes as  
to salvage.

11. Section six of the Shipping and Seamen Amendment Act, 1911, is hereby amended as follows:—

Amending  
provisions as  
to payments to  
seamen  
discharged on  
account of  
illness.

(a) By omitting from subsection one the words “unless the term of his engagement expires sooner, in which case he shall be entitled to wages to the end of his engagement, or if the engagement expires within one month after the seaman is left on shore as aforesaid, then to wages for one month”:

Ibid., p. 449

(b) By omitting from subsection four the words “instead of complying with the foregoing provisions of this section”, and substituting the words “in addition to complying with the foregoing provisions of this section”:

(c) By omitting from subsection four the words “and if such passage is so provided, and upon payment of all wages payable up to the arrival of that seaman at such port, the liability of the owner or master in respect of such seaman shall be deemed to have determined”.

Exemption of  
small fishing-  
boats from  
certain  
provisions.  
1946, No. 46

**12.** (1) Except as may be provided in rules or regulations made by the Minister under section seven of the principal Act or under section three of the Shipping and Seamen Amendment Act, 1946, a fishing-boat which does not exceed ten tons register shall not be subject to the provisions of the principal Act relating to survey and to carrying certificated officers.

(2) This section is in substitution for section twenty-seven of the Shipping and Seamen Amendment Act, 1909, and that section is accordingly repealed.

Repeal.

See Reprint  
of Statutes,  
Vol. VIII,  
p. 438

**13.** Section three of the Shipping and Seamen Amendment Act, 1946, is hereby amended by adding to subsection one the following new paragraph:—

“(d) Prescribing fines for the breach of any rule made under this section not exceeding one hundred pounds in any case.”

Authorizing  
imposition of  
fines for  
breach of  
regulations.

1946, No. 46