



ANALYSIS

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1975, No. 29

An Act to amend the Shipping and Seamen Act 1952
[1 September 1975]

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

1. Short Title and commencement—(1) This Act may be cited as the Shipping and Seamen Amendment Act 1975, and shall be read together with and deemed part of the Shipping and Seamen Act 1952 (hereinafter referred to as the principal Act).

(2) Section 8 of this Act shall come into force on the date of the commencement of section 13 of the Shipping and Seamen Amendment Act (No. 2) 1969.

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the date of its passing.

2. Meaning of "dangerous goods"—Section 2 (1) of the principal Act is hereby amended by repealing the definition of the expression "dangerous goods", and substituting the following definition:

“‘Dangerous goods’ means goods which, by reason of their nature, quantity, or mode of stowage, are liable either singly or collectively, to endanger the lives or health of persons on or near any ship, or to imperil any ship; and includes goods which belong to any of the classes specified in section 305A of this Act, and any other goods which are declared by rules made under section 307 of this Act, or by the Minister by notice in the *Gazette*, to be dangerous goods for the purposes of this Act:”.

3. Functions of Shipping Industry Tribunal—The principal Act is hereby further amended by repealing section 151c (as inserted by section 9 of the Shipping and Seamen Amendment Act 1971), and substituting the following section:

“151c. (1) The Shipping Industry Tribunal shall have the following functions:

“(a) To mediate, to make all such suggestions, and to do all such things as appear to it to be right and proper to encourage and assist the settlement by amicable agreement of questions to which the functions of the Tribunal extend under paragraph (c) of this subsection:

“(b) To issue an interim decision directing any action to be taken or refrained from by any specified person or class of persons or any specified organisation, whether incorporated or not, pending the hearing or, as the case may be, the further hearing by the Tribunal of any question, being a question to which the functions of the Tribunal extend under paragraph (c) of this subsection:

“(c) To decide any question—

“(i) Referred to it under section 151A of this Act; or

“(ii) Which, being a question relating to any act or refusal of the master or owner of any ship or of any one or more seamen, has led to delay in the sailing of a ship or impeded the business of a ship; or

“(iii) Which has involved refusal on the part of any one or more seamen to carry out duties customarily associated with the preparing of a ship for sea, or the loading or unloading of cargo or passengers.

“(2) Any decision of the Tribunal made pursuant to subsection (1) (c) of this section may include a direction that any specified person or class of persons or any specified organisation, whether incorporated or not, shall take any specified action whatsoever or refrain from any specified action whatsoever.

“(3) Without limiting the powers of the Tribunal in any way whatsoever, any decision of the Tribunal made pursuant to paragraph (b) or paragraph (c) of subsection (1) of this section may include a direction imposing any requirement relating to the ship or crew, whether or not that requirement is in excess of any minimum requirement (whether relating to a manning scale or otherwise) whatsoever prescribed by or pursuant to this Act.

“(4) Every member of the Tribunal may exercise the functions of the Tribunal either jointly or independently.

“(5) The functions of the Tribunal may be exercised in respect of—

“(a) Any New Zealand ship (including a New Zealand Government ship), whether or not the ship is outside the territorial limits of New Zealand, and the Tribunal may exercise its functions in respect of any such ship, whether in New Zealand or elsewhere:

“(b) Any ship engaged in the home trade:

“(c) Any ship (other than a New Zealand ship or a ship engaged in the home trade) where—

“(i) The ship is within the territorial limits of New Zealand; and

“(ii) The agreement with the crew for the time being in force has been entered into in New Zealand:

“(d) Any Commonwealth ship (other than a New Zealand ship or a ship engaged in the home trade) where—

“(i) The ship is outside the territorial limits of New Zealand; and

“(ii) The agreement with the crew for the time being in force has been entered into in New Zealand; and

“(iii) Pursuant to an Order in Council made under subsection (6) of this section, this section applies to the ship while she is outside those limits.

“(6) Where the Governor-General is satisfied that the Government of any Commonwealth country other than New Zealand desires that the provisions of this section shall, subject to any limitation, apply in respect of foreign-going ships registered in or belonging to that country while they are outside the territorial limits of New Zealand (being ships where the agreement with the crew has been entered into in New Zealand), or any specified such ships, the Governor-General may, by Order in Council, declare that the provisions of this section shall (subject to any limitation set out in the order) so apply.

“(7) The Tribunal may exercise any of its functions and powers of its own motion, where it is satisfied that other processes of settlement available to the parties involved in the question have not been implemented or have not been effective.

“(8) The Tribunal shall exercise its functions and powers—

“(a) On the application in writing of an owner or charterer or master of a ship to which this section applies, or the agent of any owner or charterer or of an organisation, whether incorporated or not, representing masters or seamen employed on ships to which this section applies; or

“(b) If a question is referred to it pursuant to subsection (5) or subsection (8) or subsection (9) of section 151A of this Act.”

4. Procedure of Tribunal—Section 151D of the principal Act (as inserted by section 9 of the Shipping and Seamen Amendment Act 1971) is hereby amended by adding the following subsection:

“(7) The Tribunal shall not, before issuing a decision under section 151c (1) (b) of this Act, be bound to afford any party or any person or class of persons or organisation affected by the decision any opportunity to be heard. If the Tribunal makes such a decision without affording any party or any such person or class of persons or organisation an opportunity to be heard, it shall afford the parties and any such person or class of persons or organisation an opportunity to be heard as soon as reasonably practicable, and the Tribunal shall thereafter either issue a further interim decision under the said section 151c (1) (b) confirming, modifying, or rescinding its previous interim decision or issue a final decision under section 151c (1) (c) of this Act.”

5. Particular powers of Tribunal—Section 151E of the principal Act (as inserted by section 9 of the Shipping and Seamen Amendment Act 1971) is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) Give advice or a direction in advance of or to facilitate any hearing, including an interim direction relating to any or all of the matters in question:”.

6. Decisions of Tribunal—(1) Section 151F of the principal Act (as inserted by section 9 of the Shipping and Seamen Amendment Act 1971) is hereby amended—

(a) By omitting from subsection (1) the words “its decision on any question or in any proceedings”, and substituting the words “any decision made pursuant to paragraph (b) or paragraph (c) of section 151c (1) of this Act”:

(b) By repealing subsection (2):

(c) By omitting from subsection (5) the words “under this section”, and substituting the words “made pursuant to section 151c of this Act”.

(2) Section 151F of the principal Act (as so inserted) is hereby further amended by repealing subsection (3), and substituting the following subsection:

“(3) The decision of the Tribunal made pursuant to paragraph (b) or paragraph (c) of section 151c (1) of this Act shall be binding on and be complied with by every party or person or organisation to whom or to which it is directed and every member of every such organisation.”

7. Remuneration and travelling expenses—(1) Section 151I of the principal Act (as inserted by section 9 of the Shipping and Seamen Amendment Act 1971) is hereby amended by adding, as subsection (2), the following subsection:

“(2) The Tribunal may direct that there shall be paid, out of money appropriated by Parliament, to the representatives of any party to any proceedings before the Tribunal attending those proceedings (not being a person representing that party as a barrister or solicitor), to the number determined by the Tribunal as being necessary to enable that party to be adequately represented, travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply as if those representatives were members of a statutory Board within the meaning of that Act.”

(2) Section 151b of the principal Act (as inserted by section 9 of the Shipping and Seamen Amendment Act 1971) is hereby amended by inserting in subsection (5), before the words "The cost of", the words "Subject to section 151i (2) of this Act".

8. Manning of restricted-limit ships—(1) While it continues in force, section 17 of the principal Act (as originally enacted and amended by section 6 of the Shipping and Seamen Amendment Act 1959 and by section 4 (3) of the Shipping and Seamen Amendment Act 1963) shall have effect as if it had been further amended—

(a) By inserting in subsection (1), after the words "fishing boat", the words "or a restricted-limit ship":

(b) By repealing the proviso to subsection (1):

(c) By inserting in subsection (10), after the words "fishing boats", the words "or restricted-limit ships".

(2) While it continues in force, section 55 of the principal Act (as originally enacted and amended by section 16 (1) of the Shipping and Seamen Amendment Act 1959 and by section 4 (3) of the Shipping and Seamen Amendment Act 1963) shall have effect as if it had been further amended—

(a) By inserting in subsection (1), after the words "fishing boat", the words "or a restricted-limit ship":

(b) By repealing the second proviso to subsection (1):

(c) By inserting in subsection (2), after the words "fishing boats", the words "or restricted-limit ships".

(3) While it continues in force, the First Schedule to the principal Act (as substituted by section 6 (2) of the Shipping and Seamen Amendment Act 1959) shall have effect as if it had been amended by repealing clause 3 of Part I and clauses 3 and 7 of Part II.

(4) While it continues in force, the Second Schedule to the principal Act shall not apply with respect to restricted-limit ships.

(5) As from the commencement of this section the First Schedule to the principal Act (as originally enacted), to the extent that it has not been repealed by section 6 (2) of the Shipping and Seamen Amendment Act 1959, shall not apply with respect to restricted-limit ships.

9. Classes of dangerous goods—The principal Act is hereby further amended by inserting, after section 305, the following section:

“305A. For the purposes of this Act and any rules and regulations made hereunder, dangerous goods shall belong to the following classes:

- Class 1 —Explosives.
- Class 2 —Gases: compressed, liquefied, or dissolved under pressure.
- Class 3 —Inflammable liquids.
- Class 4 (a)—Inflammable solids, or substances, liable to spontaneous combustion.
- Class 4 (b)—Inflammable solids, or substances, which in contact with water emit inflammable gases.
- Class 5 (a)—Oxidising substances.
- Class 5 (b)—Organic peroxides.
- Class 6 (a)—Poisonous (toxic) substances.
- Class 6 (b)—Infectious substances.
- Class 7 —Radioactive substances.
- Class 8 —Corrosives.
- Class 9 —Miscellaneous dangerous substances.”

10. Rules as to carriage of dangerous goods—Section 307 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Rules made pursuant to this section may require that such dangerous goods as are specified in the rules shall be stowed, packaged, marked, labelled, and documented in accordance to the requirements, standards, and recommendations relating to those dangerous goods, or to the classes of dangerous goods to which they belong, contained in the Code published by the Inter-Governmental Maritime Consultative Organisation, as from time to time amended or substituted.”

11. Commencement of section 9 of Shipping and Seamen Amendment Act (No. 2) 1969—Section 9 of the Shipping and Seamen Amendment Act (No. 2) 1969 shall be deemed to have come into force on the 1st day of July 1974.