

[AS REPORTED FROM THE LABOUR AND MINING COMMITTEE]

House of Representatives, 21 October 1970

Words struck out by the Committee are shown with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. Mr McCready

SHIPPING AND SEAMEN AMENDMENT (NO. 2)

ANALYSIS

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A BILL INTITULED

An Act to amend the Shipping and Seamen Act 1952

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

1. Short Title—This Act may be cited as the Shipping and Seamen Amendment Act (No. 2) 1970, and shall be read together with and deemed part of the Shipping and Seamen Act 1952* (hereinafter referred to as the principal Act).

*Reprinted 1965, Vol. 3, p. 1631

Amendments: 1966, No. 84; 1967, No. 119; 1968, No. 55; 1969, Nos. 4, 25

No. 16—2

Price 10c

New

1A. Meaning of “gross tons”, “gross tonnage”, “register tons”, and “register tonnage”—(1) Section 2 of the principal Act is hereby amended by repealing the definition of the terms “gross tons” and “gross tonnage” in subsection (1), and substituting the following definition: 5

“‘Gross tons’ or ‘gross tonnage’, in relation to any ship, means—

“(a) The gross tonnage of that ship determined in accordance with the tonnage regulations of this Act; or 10

“(b) Where under those regulations a ship has been assigned alternative gross tonnages, the higher of those gross tonnages:

“Provided that where by any provision of this Act or of any rules or regulations under this Act it is provided that the gross tonnage of the ship shall be the lower of those gross tonnages, then, for the purposes of that provision, the gross tonnage of the ship shall be the lower of those tonnages:” 15
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(2) Section 2 of the principal Act is hereby further amended by repealing the definition of the terms “register tons” and “register tonnage” in subsection (1), and substituting the following definition:

“‘Register tons’ or ‘register tonnage’, in relation to any ship, means— 25

“(a) The register tonnage of that ship determined in accordance with the tonnage regulations of this Act; or

“(b) Where under those regulations a ship has been assigned alternative register tonnages, the higher of those register tonnages: 30

“Provided that where by any provision of this Act or of any rules or regulations under this Act it is provided that the register tonnage of the ship shall be the lower of those register tonnages, then, for the purposes of that provision, the register tonnage of the ship shall be the lower of those register tonnages:” 35

2. Definition of “hovercraft” repealed—Section 2 of the principal Act is hereby amended by repealing the definition of the term “hovercraft” in subsection (1) (which definition was inserted by section 9 (1) of the Shipping and Seamen Amendment Act 1968). 40

3. Meaning of “inshore fishing boat”—(1) Section 2 of the principal Act is hereby further amended by inserting in subsection (1), after the definition of the term “in bulk” (as inserted by section 15 (3) of the Shipping and Seamen Amendment Act 1965), the following definition:

“‘Inshore fishing boat’ means a New Zealand fishing boat of less than 50 feet register length which does not in the course of any voyage or excursion go to sea beyond the outer limits of the fishing zone of New Zealand (as defined in section 8 of the Territorial Sea and Fishing Zone Act 1965):”.

(2) Section 2 of the principal Act is hereby further amended by repealing the definitions of the terms “coastal fishing boat” and “deep-sea fishing boat” in subsection (1) (which definitions were inserted by section 2 (1) of the Shipping and Seamen Amendment Act 1964), and substituting the following definitions:

“‘Coastal fishing boat’ means a New Zealand fishing boat which—

“(a) Being 50 feet or more register length, does not in the course of any voyage or excursion go to sea more than 75 miles from the coasts of the North Island or the South Island (including Stewart Island) or the Chatham Islands; or

“(b) Being less than 50 feet register length, in the course of any voyage or excursion goes to sea beyond the outer limits of the fishing zone of New Zealand (as defined in section 8 of the Territorial Sea and Fishing Zone Act 1965) but does not go more than 75 miles from the coasts of the North Island or the South Island (including Stewart Island) or the Chatham Islands:

“‘Deep-sea fishing boat’ means a New Zealand fishing boat which is not a coastal fishing boat or an inshore fishing boat:”.

4. Ships to have certificated officers—Section 17 of the principal Act is hereby amended by repealing paragraph (b) of subsection (7), and substituting the following paragraph:

“(b) Whether knowingly or negligently or not, employs any such person as aforesaid in any such capacity as aforesaid:

“Provided that it shall be a defence in proceedings for an offence against this paragraph (b) if the defendant proves that the person employed produced to him the appropriate certificate but the defendant did not know and had no reasonable opportunity of ascertaining that the certificate or any material part of it was a forgery or that the person employed was not the person named therein as the holder.” 5

5. Restriction on employment of aliens—Section 17A of the principal Act (as inserted by section 3 of the Shipping and Seamen Amendment Act 1964) is hereby amended—

- (a) By inserting in paragraph (a) of subsection (2), after the words “fishing boat”, the words “or as engineer of any fishing boat to which paragraph (b) of subsection (1) of this section applies”:
- (b) By inserting in paragraph (b) of subsection (2), after the words “skipper of coastal fishing boat”, the words “or as inshore fishing skipper”:
- (c) By adding to paragraph (b) of subsection (2) the words “or, as the case may be, of an inshore fishing boat”.

6. Certificates granted out of New Zealand—Section 18 of the principal Act is hereby amended by adding, as subsection (2), the following subsection: 25

“(2) Where the Secretary is satisfied that a certificate of competency in respect of a fishing boat granted in any country (whether a Commonwealth country or not) other than New Zealand is of a like standard and has been granted under like conditions of service and examination as a certificate of competency in respect of a fishing boat granted under this Act, the Secretary may, subject to such conditions and for such period as he thinks fit, permit the holder of that certificate to act as master or mate or, as the case may require, engineer of any specified New Zealand fishing boat.” 30 35

7. Certificates of competency—(1) Section 19 of the principal Act is hereby amended by inserting in subsection (1) (as substituted by section 4 (1) of the Shipping and Seamen Amendment Act 1964), after paragraph (g), the following paragraph: 40

“(gg) Mate of deep-sea fishing boat:”.

(2) Section 19 of the principal Act is hereby further amended by adding to subsection (1A) (as substituted by section 4 (1) of the Shipping and Seamen Amendment Act 1964) the following paragraph:

“(g) Certificates of competency as inshore fishing skipper endorsed with the names of one or more specified fishing boats and the plying limits within the fishing zone of New Zealand for which the certificates are valid.”

8. Regulations as to accommodation of seamen—Section 148 of the principal Act is hereby amended by adding the following subsection:

“(5) In this section and in sections 149 and 150 of this Act and in any regulations made under this section, whether before or after the commencement of this subsection, the terms ‘crew’ and ‘seamen’ include and shall be deemed always to have included a master.”

9. Offences against discipline—Section 164 of the principal Act is hereby amended—

(a) By omitting from subsection (1) the words “the next succeeding subsection”, and substituting the words “subsection (2) of this section”:

(b) By omitting from paragraph (a) of subsection (2), and also from paragraphs (b), (c), (d), (e), (f), and (g), the words “the last preceding subsection”, and substituting in each case the words “subsection (1) of this section”.

10. Matters to be entered in log—(1) Section 178 of the principal Act is hereby amended by inserting in paragraph (b), after the words “forfeiture or fine”, the words “or for which, pursuant to the provisions of the agreement with the crew, it is intended not to provide him with a free passage back to the port at which he was engaged or not to pay him wages up to the time he would arrive at that port”.

Struck Out

(2) Section 178 of the principal Act is hereby further amended by inserting in the proviso to paragraph (d) (as substituted by section 31 of the Shipping and Seamen Amendment Act 1959), after the words “such an opinion”, the words “on the conduct of a seaman”.

New

(2) Section 178 of the principal Act is hereby amended by repealing the proviso to paragraph (d) (as substituted by section 31 of the Shipping and Seamen Amendment Act 1959), and substituting the following proviso: 5

“Provided that—

“(a) The master shall not enter a statement that he declines to give an opinion as to the conduct of a seaman, unless there is entered in the official log book an offence committed by the seaman, or unless the seaman has been censured by the master for misconduct and this fact has been entered in the official log book: 10

“(b) The master shall not enter a statement that he declines to give an opinion as to the ability of a seaman, unless the seaman has been found by the master to be inefficient and that fact has been entered in the official log book;” 15

Struck Out

11. Fees in respect of ships built in New Zealand—(1) Section 196 of the principal Act is hereby amended by inserting in paragraph (c) of subsection (1), after the words “under this section”, the words “and for the attendance of and inspection by Surveyors during the construction of a ship”. 20

(2) Section 196 of the principal Act is hereby further amended by inserting, after subsection (1), the following subsection: 25

“(1A) Where plans and specifications of a ship (not being a ship to which subsection (1) of this section applies) are submitted to the Department, there shall be payable for the examination of those plans and specifications and for any attendance of and inspection by Surveyors during the construction of the ship such fees as the Minister from time to time directs.” 30

New

11. Ships built in New Zealand—(1) The principal Act is hereby further amended by repealing section 196, and substituting the following section:

5 “196. (1) The following provisions shall apply with respect to ships built in New Zealand:

“(a) The building of a ship shall not be commenced until—

“(i) The plans and specifications (in duplicate) of the ship have been approved by the Minister; and

10 “(ii) The builder has notified the Secretary of the date on which the building of the ship is intended to be commenced and the place at which the ship is to be built:

15 “(b) If a ship is built without compliance with this section or without compliance with the plans and specifications approved under this section, the Minister may order her to be detained either absolutely or until the performance of such conditions with respect to alterations as he thinks fit:

20 “(c) There shall be payable for the examination of the plans and specifications of a ship under this section and for the attendance of and inspection by Surveyors during the construction of a ship such fees as the Minister from time to time prescribes by notice in the *Gazette*:

25 “(d) A Surveyor may at all reasonable times enter any land on which any ship is being built for the purpose of inspecting the ship.

30 “(2) Every person who commits a breach of this section commits an offence against this Act.

“(3) Section 14 of the Summary Proceedings Act 1957 and section 481 of this Act shall not apply with respect to any prosecution for an offence under this section.

35 “(4) The provisions of subsection (1) of this section shall not apply to—

“(a) Ships not exceeding 50 ft register length intended to be used as pleasure yachts:

“(b) Ships not exceeding 20 ft register length intended to be used as fishing boats:

New

- “(c) Ships not exceeding 50 ft register length which, being built by or for a person engaged in some agricultural or pastoral pursuit or in fish or shellfish farming or in transporting game, are intended to be employed in carrying the produce or other goods of the owner and are not intended to carry passengers or cargo for hire or reward: 5
- “(d) Ships not exceeding 16 ft register length, not being ships propelled by mechanical power which are ferries and are intended to carry passengers for hire or reward: 10
- “(e) Barges, lighters, and other like vessels not exceeding 50 ft register length which are not intended to carry any persons on board, whether as crew or passengers, while under way. 15
- “(5) Where plans and specifications of a ship (not being a ship to which subsection (1) of this section applies) are submitted to the Department, there shall be payable for the examination of those plans and specifications and for any attendance of and inspection by Surveyors during the construction of the ship such fees as the Minister from time to time prescribes by notice in the *Gazette*. 20
- “(6) Fees prescribed pursuant to subsection (1) or subsection (5) of this section shall be payable— 25
- “(a) In the case of fees for the approval of plans and specifications, by the person submitting them for approval:
- “(b) In the case of fees for the attendance of and inspection by Surveyors, by the builder of the ship.” 30
- (2) The following enactments are hereby consequentially repealed:
- (a) Section 34 of the Shipping and Seamen Amendment Act 1959:
- (b) Section 14 of the Shipping and Seamen Amendment Act 1963. 35

12. Transmission of certificates—(1) Section 218 of the principal Act is hereby amended—

- (a) By adding to subsection (1) the words “or to be transmitted to the owner or his agent addressed to him at the address specified in his application for the certificate”: 40

(b) By adding to subsection (3) the words “or, as the case may be, that it was transmitted to the owner or his agent addressed to him at the address specified in his application for the certificate”.

5 (2) Section 218 of the principal Act is hereby further amended by repealing subsection (2), and substituting the following subsection:

“(2) On completion of any survey carried out under this Part of this Act, the Secretary shall cause to be sent to the
10 owner or his agent a statement, addressed to him at the address specified in the application for the certificate, of the proper fees and other sums (if any) mentioned in this Act as payable in that behalf. If the owner or his agent, as the case may be, fails to pay those fees and other sums to the Secretary
15 within 30 days after the date on which that statement is sent to him, he commits an offence against this Act.”

13. Duration of cargo ship safety construction certificates—

(1) Section 224 of the principal Act is hereby amended—

20 (a) By omitting from subsection (1) (as substituted by section 44 of the Shipping and Seamen Amendment Act 1959 and amended by section 8 (4) (d) of the Shipping and Seamen Amendment Act 1965) the words “a cargo ship safety construction certificate”:

25 (b) By adding to subsection (1) (as so substituted) the words “A cargo ship safety construction certificate shall be in force for a period not exceeding 5 years from the date of its issue.”

(2) Section 8 of the Shipping and Seamen Amendment Act 1965 is hereby consequentially amended by repealing para-
30 graph (d) of subsection (4).

14. Control of foreign-going pleasure yachts—(1) Section 246B of the principal Act (as inserted by section 50 (1) of the Shipping and Seamen Amendment Act 1959) is hereby amended by omitting from subparagraph (iii) of paragraph
35 (a) of subsection (2) the word “or” and substituting the word “and”, and by adding to that paragraph the following subparagraph:

“(iv) The master has obtained a certificate of clearance under the Customs Act 1966; or”.

40 (2) Section 246B of the principal Act (as so inserted) is hereby further amended by inserting in subsection (7), after the words “subparagraph (iii)”, the words “and subparagraph (iv)”.

(3) Section 246B of the principal Act (as so inserted) is hereby further amended by repealing subsections (8A) and (8B) (as inserted by section 14 of the Shipping and Seamen Amendment Act 1969), and substituting the following subsection:

“(8A) Section 14 of the Summary Proceedings Act 1957 and section 481 of this Act shall not apply with respect to an offence against subsection (8) of this section, being an offence committed in respect of a voyage to a port beyond New Zealand.”

(4) Section 14 of the Shipping and Seamen Amendment Act 1969 is hereby consequentially repealed.

15. Accidents to be reported to Superintendent—(1) Section 297 of the principal Act (as amended by section 58 (1) of the Shipping and Seamen Amendment Act 1959 and section 19 of the Shipping and Seamen Amendment Act 1969) is hereby further amended—

- (a) By omitting from subsection (1) the words “or has been lost or abandoned or stranded”, and substituting the words “or has been lost or abandoned or stranded or has had a fire on board”:
- (b) By omitting from subsection (1) the words “or loss or abandonment or stranding” wherever they occur, and substituting in each case the words “or loss or abandonment or stranding or fire”:
- (c) By omitting from subsection (2) the words “or has been lost or abandoned or stranded”, and substituting the words “or has been lost or abandoned or stranded or has had a fire on board”:
- (d) By omitting from subsection (2) the words “or loss or abandonment or stranding” wherever they occur, and substituting in each case the words “or loss or abandonment or stranding or fire”:
- (e) By inserting in paragraph (c) of subsection (3), after the words “to have occurred”, the words “or which has had a fire on board”.

(2) Section 19 of the Shipping and Seamen Amendment Act 1969 is hereby consequentially amended by repealing paragraphs (a) to (d).

16. Cases where shipping casualty deemed to occur—

(1) Section 323 of the principal Act is hereby amended—

(a) By adding to paragraph (a) the words “or has had a fire on board”:

5 (b) By omitting from paragraph (c) the words “or casualty”, and substituting the words “casualty, or fire”:

10 (c) By omitting from paragraph (d) the words “or casualty”, and substituting the words “casualty, or fire”.

(2) Section 333 of the principal Act is hereby amended by inserting in paragraph (b) of subsection (1), after the words “loss of life”, the words “or the fire on board”.