

Merchant Shipping Act, 1948.

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CHAPTER 44.

An Act to amend the provisions of the Merchant Shipping Acts relating to matters affected by certain International Conventions adopted at Seattle in the year nineteen hundred and forty-six.

[13th July 1948.]

WHÈREAS at a session of the International Labour Conference held at Seattle in the year nineteen hundred and forty-six certain Conventions were adopted, dealing respectively with crew accommodation on board ship, the certification of able seamen, food and catering for crews on board ship, the certification of ships' cooks, and social security for seafarers :

And whereas it is expedient to make such amendments in the law relating to merchant shipping as will enable effect to be given to those Conventions or certain parts thereof, and otherwise to amend the Merchant Shipping Acts with respect to matters dealt with by those Conventions :

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Crew Accommodation and Food and Catering.

1.—(1) The Minister may, after consultation with such Accommodation organisation or organisations as appear to him to be representative both of owners of British ships and of seamen employed therein, make regulations with respect to the crew accommodation to be provided in ships of any class specified in the regulations, being ships in respect of which such regulations are authorised to be made by the next following section.

(2) Without prejudice to the generality of the foregoing subsection, regulations made thereunder may, in particular—

- (a) prescribe the minimum space per man which must be provided in any ship to which the regulations apply by way of sleeping accommodation for seamen and apprentices, and the maximum number of persons by whom any specified part of such sleeping accommodation may be used ;
- (b) regulate the position in any such ship in which the crew accommodation or any part thereof may be located, and the standards to be observed in the construction, equipment and furnishing of any such accommodation ;
- (c) require the submission to a surveyor of ships of plans and specifications of any works proposed to be carried out for the purpose of the provision or alteration of any such accommodation, and authorise the surveyor to inspect any such works ;
- (d) provide for the maintenance and repair of any such accommodation, and prohibit or restrict the use of any such accommodation for purposes other than those for which it is designed ;

and may make different provision in respect of different classes of ships and in respect of crew accommodation provided for different classes of persons.

(3) In this Act the expression " crew accommodation " includes sleeping rooms, mess rooms, sanitary accommodation, hospital accommodation, recreation accommodation, store rooms and catering accommodation provided for the use of seamen and apprentices, not being accommodation which is also used by or provided for the use of passengers :

Provided that regulations made under this section may provide that any store rooms comprised in the crew accommodation of a ship shall, to such extent as may be prescribed by the regulations, be disregarded in estimating the space to be deducted from the tonnage of the ship under section seventy-nine of the principal Act in respect of crew accommodation.

(4) If the provisions of any regulations made under this section are contravened in the case of a ship, the owner or master of the ship shall be liable to a fine not exceeding one hundred pounds.

Application of
section one.

2.—(1) Subject to the provisions of this section, regulations made under section one of this Act may apply—

- (a) to any British ship for the time being registered in the United Kingdom, whether so registered before or after the date on which the regulations come into force ; and

- (b) to any ship which, at any time after that date, is being constructed to the order of a person qualified under the principal Act to be the owner of a British ship and has not been registered in the United Kingdom or elsewhere,

not being a fishing boat or a ship being constructed for use as a fishing boat :

Provided that, subject to the provisions of any Order in Council made under section nine of this Act, such regulations shall not apply to any ship under construction which is being constructed at any place in His Majesty's dominions outside the United Kingdom or in any foreign country or territory in which His Majesty has for the time being jurisdiction, or is intended on her first registration to be registered at any such place.

(2) Where any ship to which regulations made under section one of this Act apply was a British ship registered in the United Kingdom immediately before the date on which those regulations came into force, then, unless and until, after that date, the ship is re-registered in the United Kingdom or undergoes substantial structural alterations or repairs (not being repairs carried out in consequence of damage or in an emergency)—

- (a) any requirements of the regulations (including any subsequent regulations amending or substituted for those regulations) relating to matters specified in paragraph (a) or paragraph (b) of subsection (2) of section one of this Act (in this section referred to as "the construction requirements") shall be deemed to be complied with in the case of the ship if the corresponding requirements of the law in force immediately before that date are so complied with ; and
- (b) any requirements of any such regulations relating to matters specified in paragraph (c) of the said subsection (2) (in this section referred to as "the survey requirements") shall not apply to any works other than works proposed to be carried out for the purpose of any such alterations or repairs as aforesaid.

(3) Where regulations made under section one of this Act become applicable—

- (a) to a ship under construction of which the keel was laid before the date on which those regulations came into force ;
- (b) to a ship registered as a British ship in the United Kingdom after that date, not being a ship to which

such regulations applied while she was under construction,

or where any such ship as is mentioned in the last foregoing subsection is re-registered, altered or repaired as mentioned in that subsection, then, if, upon application made to him by the owner of the ship, the Minister is satisfied, after consultation with the owner of the ship or an organisation which appears to him to be representative of owners of British ships, and with an organisation which appears to him to be representative of seamen employed in British ships, that such steps if any as are reasonable and practicable have been taken for securing compliance with the construction requirements of the regulations in the case of the ship, he shall certify accordingly.

(4) In determining for the purposes of the last foregoing subsection what steps for securing compliance with the construction requirements of any regulations are reasonable and practicable, the Minister shall have regard to the age of the ship, to the purpose for which she is or is intended to be used and to the nature of any alterations or repairs which are carried out, or to the extent to which the construction of the ship had been completed before the date on which the regulations came into force, as the case may be.

(5) Where any such certificate is issued by the Minister as aforesaid, then, subject to compliance with such conditions, if any, as may be specified in the certificate—

- (a) the construction requirements of the regulations (including any subsequent regulations amending or substituted for those regulations) shall be deemed to be complied with in the case of the ship ; and
- (b) the survey requirements of any such regulations shall not apply to any works other than works proposed to be carried out for the purpose of any such alterations or repairs as are mentioned in subsection (2) of this section :

Provided that on the occurrence of any such event as is mentioned in the said subsection (2), the provisions of this subsection shall cease to have effect in relation to the ship, but without prejudice to the issue of a further certificate under subsection (3) of this section.

Inspections
of crew
accommoda-
tion.

3.—(1) Whenever a ship to which regulations made under section one of this Act apply is registered or re-registered in the United Kingdom, whenever a complaint in respect of the crew accommodation in any such ship is duly made in accordance with the regulations, and on such other occasions as may be prescribed by the regulations, a surveyor of ships shall inspect the crew accommodation.

(2) If, upon any such inspection, the surveyor is satisfied that the crew accommodation complies with the regulations, he shall (except where the inspection is made in consequence of a complaint) give to the registrar of British ships a certificate specifying as space deductible under section seventy-nine of the principal Act the whole of the space comprised in that accommodation, except any part thereof required by the regulations to be disregarded in estimating the space so to be deducted.

(3) If, upon any such inspection, it appears to the surveyor that the accommodation does not comply in all respects with the regulations, he may give to the registrar a certificate specifying as space deductible as aforesaid such part of the space comprised in the accommodation as he considers appropriate having regard to the extent to which it complies with the regulations, but if he does not give such a certificate he shall report to the registrar that no space is deductible as aforesaid :

Provided that the surveyor shall not be required to make such a report as aforesaid—

- (a) if the inspection is made on the occasion of the registration or re-registration of the ship ; or
- (b) if it appears to him that the failure to comply with the regulations is not substantial and will be remedied within a reasonable time.

(4) Where any certificate is given or report made under the foregoing provisions of this section in respect of a ship already registered, any certificate previously given thereunder in respect of that ship shall cease to have effect, and the registered tonnage of the ship shall be altered accordingly.

(5) In respect of any inspection of a ship carried out by a surveyor for the purposes of this section, there shall be paid such fees as may be prescribed by regulations made under section one of this Act.

(6) Regulations made under section one of this Act may require the master of any ship to which the regulations apply, or any officer authorised by him for the purpose, to carry out such inspections of the crew accommodation as may be prescribed by the regulations, and to record in the official log such particulars of any such inspection as may be so prescribed.

4.—(1) In relation to ships to which regulations made under section one of this Act apply, section seventy-nine of the principal Act (which authorises certain deductions in ascertaining the register tonnage of ships) shall have effect as if in sub-paragraph (a) (i) of subsection (1) for the words “ any space occupied by seamen or apprentices and appropriated to their use, which is

Amendments
consequential
on s. 1.

certified under the regulations scheduled to this Act with regard thereto" there were substituted the words "any space provided by way of crew accommodation which is certified under the Merchant Shipping Act, 1948, to be space deductible under this section".

(2) In relation to a ship of any foreign country, being a ship to which regulations made under section one of this Act would apply if she were a British ship and were registered in the United Kingdom, subsection (1) of section eighty-four of the principal Act (which as amended by section fifty-five of the Merchant Shipping Act, 1906, provides for the ascertainment of the tonnage of certain foreign ships) shall have effect subject to the following modifications, that is to say:—

(a) for the words "shall be deemed to have been certified under this Act and to comply with the provisions of this Act which apply to such a space in the case of British ships" there shall be substituted the words "shall be deemed to have been specified in a certificate issued under the Merchant Shipping Act, 1948, and to comply with regulations made under section one of that Act";

(b) for the words "the standard required under this Act in the case of a British ship" there shall be substituted the words "the standard which would be required under or for the purposes of those regulations if she were a British ship registered in the United Kingdom".

(3) Section two hundred and ten of the principal Act and the Sixth Schedule to that Act, and section sixty-four of the Merchant Shipping Act, 1906, shall not apply to any ship to which regulations made under section one of this Act apply (but without prejudice to the provisions of subsection (2) of section two of this Act); and the proviso to paragraph (a) of subsection (2) of section five hundred and three of the principal Act shall cease to have effect:

Provided that any certificate given in relation to any such ship as aforesaid, under paragraph (3) of the said Sixth Schedule before the date on which the regulations apply thereto shall have effect for the purposes of this Act and of the principal Act as if it had been given under the last foregoing section.

Certification of Able Seamen.

5.—(1) After such date as may be prescribed by regulations made under the following provisions of this section, a seaman engaged in any British ship registered in the United Kingdom shall not be rated as A.B. unless he is the holder of a certificate of competency granted in pursuance of those regulations.

(2) The Minister may make regulations providing for the grant of certificates of competency as A.B. for the purposes of this section ; and such regulations shall in particular direct that no such certificate shall be granted to any person unless—

- (a) he has reached such minimum age as may be prescribed by the regulations ; and
- (b) he has performed such qualifying service at sea as may be so prescribed ; and
- (c) he has passed such examination as may be so prescribed ;

Provided that the regulations may authorise the grant of a certificate thereunder to any person, notwithstanding that he has not complied with the conditions aforesaid, if he shows, in such manner as may be prescribed by the regulations, that he was serving as A.B., or in an equivalent or superior deck rating, on the date on which the regulations came into force, or had so served at any time before that date.

(3) Regulations made under this section may make such consequential provisions as appear to the Minister to be necessary or expedient, including provision—

- (a) for the payment of such fees as may be prescribed by the regulations in respect of any application for the grant or replacement of a certificate thereunder ;
- (b) for applying to certificates granted under the regulations, subject to such adaptations and modifications as may be so prescribed, the provisions of section one hundred and four of the principal Act (which relates to forgery and other offences relating to certificates of competency of ships' officers granted under that Act).

(4) Where provision is made by the law of any part of His Majesty's dominions outside the United Kingdom for the grant of certificates of competency as A.B., and the Minister reports to His Majesty that he is satisfied that the conditions under which such a certificate is granted require standards of competency not lower than those required for the grant of a certificate in pursuance of regulations made under this section, His Majesty may by Order in Council direct that certificates granted in that part of His Majesty's dominions shall have the same effect for the purposes of this section as if they had been granted in pursuance of such regulations as aforesaid ; and any such Order may apply to any such certificate any of the provisions of the regulations relating to certificates granted thereunder.

(5) Any superintendent or other officer before whom, at any time after such date as may be prescribed by regulations made under this section, a seaman is engaged in any British ship registered in the United Kingdom, shall refuse to enter the

seaman as A.B. on the agreement with the crew unless the seaman produces a certificate of competency granted in pursuance of the regulations or such other proof that he is the holder of such a certificate as may appear to the superintendent or other officer to be satisfactory.

(6) As from such date as may be prescribed by regulations made under this section, section one hundred and twenty-six of the principal Act and section fifty-eight of the Merchant Shipping Act, 1906, shall cease to have effect in relation to any seamen for the time being engaged in a British ship registered in the United Kingdom.

Certification of Ships' Cooks.

6.—(1) Where provision is made by the law of any part of His Majesty's dominions outside the United Kingdom for the issue of certificates of competency as ship's cook, and the Minister reports to His Majesty that he is satisfied that the conditions under which such certificates are granted require standards of competency not lower than those required for the grant of certificates of competency in cooking for the purposes of section twenty-seven of the Merchant Shipping Act, 1906, His Majesty may by Order in Council direct that the holders of such certificates granted in that part of His Majesty's dominions shall be deemed to be duly certificated within the meaning of the said section twenty-seven.

(2) If the Minister reports to His Majesty that he is satisfied that it is the wish of such organisation or organisations as appear to him to be representative both of owners of British ships and of seamen employed therein that the provisions of the said section twenty-seven should, with such exceptions, adaptations and modifications, if any, as may be specified in such report, apply—

- (a) to such classes of British ships, other than the class mentioned in the said section, as may be specified in the report, or
- (b) to British ships going to sea from such places, other than places mentioned in the said section, as may be so specified,

and that it is expedient that the provisions of the said section should so apply, His Majesty may by Order in Council direct that the said provisions shall, with such exceptions, adaptations and modifications as aforesaid, apply to that class of ships or to ships going to sea from those places :

Provided that nothing in this subsection shall authorise the said provisions to be applied to ships registered in any Dominion within the meaning of the Statute of Westminster, 1931 (other than Newfoundland) or in India, Pakistan or Ceylon.

(3) His Majesty may by Order in Council direct that the provisions of the said section twenty-seven shall extend, with such exceptions, adaptations and modifications, if any, as may be specified in the Order, to any country or territory to which, under the following provisions of this Act, any of the provisions of this Act can be extended.

Social Security.

7. Subject as hereinafter provided, the expenses which, under subsection (1) of section thirty-four of the Merchant Shipping Act, 1906, are to be defrayed by the owner in the case of a master or seaman or apprentice who receives any hurt or injury in the service of a ship or suffers from any illness shall include the expenses of his maintenance during any period during which he is unemployed after he has been cured and before he has been returned to a proper return port and of his conveyance to the port :

Expenses of maintenance in case of injury or illness.

Provided that an owner shall not be liable by virtue of this section to pay the expenses of the maintenance of any person during any period or of his conveyance to a proper return port if he shows that that person had failed to accept suitable employment on board a British ship proceeding within a reasonable time to a proper return port, or had failed to comply with any other reasonable arrangements made for his return to a proper return port.

Supplemental.

8. Any fees received by the Minister under this Act or regulations made thereunder shall be paid into the Exchequer.

Payment of fees into the Exchequer.

9.—(1) His Majesty may by Order in Council direct that any of the provisions of this Act (including any enactments for the time being in force amending or substituted for the said provisions) shall extend, with such exceptions, adaptations and modifications, if any, as may be specified in the Order, to the Isle of Man, any of the Channel Islands, Newfoundland or any colony.

Application to British possessions, etc.

(2) The Foreign Jurisdiction Act, 1890, shall have effect as if the provisions of this Act were included among the enactments which, by virtue of section five of that Act, may be extended by Order in Council to foreign countries in which for the time being His Majesty has jurisdiction.

53 & 54 Vict. c. 37.

(3) His Majesty may by Order in Council direct that any provision of this Act shall apply, subject to such exceptions, adaptations and modifications, if any, as may be specified in the Order, to ships registered in any country or territory to which the provisions of this Act can be extended by virtue of subsection (1) or subsection (2) of this section, or under construction in any such country or territory, or to be registered on first

registration in any such country or territory, as it applies to ships registered, under construction or to be registered on first registration, as the case may be, in the United Kingdom.

Commence-
ment.

10.—(1) This Act shall come into operation on such date as the Minister may by order appoint, and different dates may be appointed for the purposes of different provisions of this Act.

(2) The date or dates to be appointed for the purposes of the coming into operation of the provisions of this Act hereinafter mentioned shall be the date or dates on which the relevant Conventions come into force for the United Kingdom, that is to say—

- (a) in respect of sections one to four of this Act, the Conventions dealing with crew accommodation on board ship and with food and catering for crews on board ship ;
- (b) in respect of section five, the Convention dealing with the certification of able seamen ;
- (c) in respect of section six, the Convention dealing with the certification of ships' cooks ; and
- (d) in respect of section seven, the Convention dealing with social security for seafarers :

Provided that if the Minister is satisfied that it is the wish of such organisation or organisations as appear to him to be representative both of owners of British ships and of seamen employed therein, that any such provision of this Act as aforesaid should come into operation on a date earlier than the date aforesaid, and that it is expedient that it should come into operation on that date, he may appoint that date as the date on which that provision is to come into operation.

Regulations
and orders.

11.—(1) Any power of the Minister to make regulations or orders under the foregoing provisions of this Act shall be exercisable by statutory instrument.

(2) Any Order in Council made under the foregoing provisions of this Act and any instrument containing regulations made under section one of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation,
construction
and citation.

12.—(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say—

- “ crew accommodation ” has the meaning assigned to it by section one of this Act ;
- “ Minister ” means the Minister of Transport ;
- “ owner ”, in relation to a ship under construction, means the person to whose order she is constructed ;
- “ principal Act ” means the Merchant Shipping Act, 1894.

(2) Except so far as the context otherwise requires, any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment, including this Act.

(3) This Act shall be construed as one with the Merchant Shipping Acts, 1894 to 1938, and without prejudice to the generality of this provision, references in those Acts to the Merchant Shipping Acts shall be construed as including references to this Act.

(4) This Act may be cited as the Merchant Shipping Act, 1948, and the Merchant Shipping Acts, 1894 to 1938, and this Act may be cited together as the Merchant Shipping Acts, 1894 to 1948.

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