

NAVIGATION.

No. 109 of 1952.

An Act to amend the *Navigation Act 1912-1950*.

[Assented to 8th December, 1952.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1.—(1.) This Act may be cited as the *Navigation Act 1952*.

Short title
and citation.

(2.) The *Navigation Act 1912-1950** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Navigation Act 1912-1952*.

2.—(1.) Subject to this section, the several sections of this Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

(2.) Paragraph (b) of section four and sections thirteen and thirty of this Act shall come into operation on such dates as are respectively fixed by Proclamation.

(3.) Each section inserted in the Principal Act by a section of this Act shall come into operation on the date on which that last-mentioned section comes into operation.

3. Section five of the Principal Act is amended by inserting after the words— Parts.

“ Part X.—Legal Proceedings, ss. 378-405.”

the words—

“ Part XA.—Industrial Matters, ss. 405A-405Q.”.

4. Section six of the Principal Act is amended—

Definitions.

(a) by omitting from the definition of “ Australian-trade ship ” the words “ the islands of the Pacific ” and inserting in their stead the words “ the islands of the Pacific Ocean south of the Equator and west of the one hundred and eightieth meridian of longitude ”;

(b) by omitting the definition of “ Limited coast-trade ship ” and inserting in its stead the following definition :—

“ ‘ Limited coast-trade ship ’ means a sea-going ship engaged in making voyages from and to a port in Australia within such limits as are prescribed in relation to that port : ” ; and

(c) by omitting the definition of “ Desertion ” and inserting in its stead the following definition :—

“ ‘ Desertion ’ means—

(a) the absence of a seaman or apprentice from his ship with the intention of not returning to the ship ; or

(b) the absence of a seaman or apprentice from his ship for a continuous period exceeding forty-eight hours without leave, lawful cause or reasonable excuse : ”.

5. Section nine of the Principal Act is repealed and the following section inserted in its stead :—

“ 9.—(1.) The Minister may, in relation to a matter or class of matters, or in relation to a particular part of, or port in, Australia, by writing under his hand, delegate all or any of his powers or functions Delegation.

* Act No. 4, 1913, as amended by No. 32, 1919 ; No. 1, 1921 ; No. 8, 1925 ; No. 8, 1926 ; No. 49, 1934 ; No. 30, 1935 ; No. 1, 1943 ; and No. 80, 1950.

under this Act (except this power of delegation), so that the delegated powers and functions may be exercised or performed by the delegate, with respect to the matter or class of matters, or the part of, or port in, Australia, specified in the instrument of delegation.

“(2.) A delegation under the last preceding sub-section is revocable at will and does not prevent the exercise or performance of a power or function by the Minister.”

Headings.

6. The list of headings to Divisions appearing immediately after section nine of the Principal Act is amended—

(a) by inserting after the words—

“ Division 7.—The Crew, ss. 43–45.”

the words—

“ Division 7A.—Approval of Engagements of Seamen, ss. 45A–45B.”; and

(b) by omitting the words—

“ Division 15.—Accommodation, ss. 135–138.”

and inserting in their stead the words—

“ Division 15.—Accommodation, ss. 135–138B.”.

7. Section fourteen of the Principal Act is repealed and the following section inserted in its stead :—

Complement of ship's officers.

“ 14.—(1.) Subject to sub-section (10.) of this section—

(a) the owner of a ship registered in Australia or engaged in the coasting trade shall not suffer the ship to go to sea unless the ship carries a duly certificated master and the prescribed complement of officers for that ship ;

(b) the master of a ship registered in Australia or engaged in the coasting trade shall not take the ship to sea unless the ship carries the prescribed complement of officers for that ship ; and

(c) the master of a British ship (not being a ship registered in Australia or engaged in the coasting trade) shall not take the ship to sea from a place in Australia unless he is a duly certificated master and the ship carries such duly certificated officers as are, by the law of the part of the Queen's dominions in which the ship is registered, necessary for that ship when going to sea from a place in that part of the Queen's dominions.

Penalty : One hundred pounds.

“(2.) Subject to sub-sections (3.), (4.), (5.) and (C.) of this section, the prescribed complement of officers for a ship registered in Australia or engaged in the coasting trade is—

(a) where the complement of officers for that ship was not, immediately before the commencement of this section, prescribed by the regulations in force at that time—the complement of officers, specified in Schedule I. to this Act, for the class of ships in which that ship is included ; or

(b) where the complement was so prescribed—the complement of officers so prescribed for that ship.

“(3.) The regulations may prescribe that, from and including a date specified in the regulations, the prescribed complement of officers for a ship is the complement specified in the regulations for that ship.

“(4.) Where application is made as prescribed to the Minister for a variation of the prescribed complement of officers for a ship, the Minister may, by order published in the *Gazette*, direct that, from and including a date specified in the order, the prescribed complement of officers for that ship shall be the complement of officers specified in the order.

“(5.) The Minister shall not make an order under the last preceding sub-section unless the application has been referred for advice to a Committee appointed under section four hundred and twenty-four of this Act and that Committee has furnished advice to the Minister on the application.

“(6.) An order made under sub-section (4.) of this section shall not be deemed to be a Statutory Rule within the meaning of the *Rules Publication Act 1903-1939*.

“(7.) Where, after an order has been made in relation to a ship under sub-section (4.) of this section, regulations come into force under sub-section (3.) of this section in relation to that ship, the order ceases to be in force.

“(8.) Where the number of officers included in a class of officers specified in the prescribed complement of officers for a ship has not been obtained and the master or owner of the ship satisfies a Deputy Director that the master or owner has made all reasonable efforts to obtain that number of officers (including the seeking of the assistance of the organization of which officers included in that class are members), the Deputy Director may, by writing under his hand, authorize the master to take the ship to sea with not less than the complement of officers specified in the authority.

“(9.) Where the number of duly certificated officers included in the prescribed complement of officers for a ship has not been obtained, a Deputy Director shall not authorize the taking to sea of a ship unless he is satisfied that the officers to be carried on the ship are able to perform all the duties to be performed by the duly certificated officers included in the prescribed complement of officers for that ship.

“(10.) The master of a ship who has received an authority under sub-section (8.) of this section may take the ship to sea with not less than the complement of officers specified in the authority and for that purpose may command the officers and crew of the ship to take the ship to sea.

“(11.) Such a command is, for the purposes of this Act, a lawful command.”

8. After section fourteen of the Principal Act the following section is inserted :—

Authority to take ship to sea where ordinary complement of officers has not been obtained.

“ 14A. Where—

- (a) a ship registered in Australia or engaged in the coasting trade ordinarily carries a number of officers of any class greater than the number of officers specified in that class of officers included in the prescribed complement of officers for that ship ; and
- (b) the master or owner has not obtained the number of officers included in that class ordinarily carried on that ship, the master shall not command the officers and crew to take the ship to sea unless—
- (c) the master or owner satisfies a Deputy Director that the master or owner has made all reasonable efforts to obtain that number of officers (including the seeking of the assistance of the organization of which officers included in that class are members) ; and
- (d) the Deputy Director authorizes the master to take the ship to sea.”

Rating of A.B.

9. Section thirty-nine of the Principal Act is amended by omitting the proviso to sub-section (1.) and inserting in its stead the following sub-section :—

“ (1A.) Notwithstanding anything contained in the last preceding sub-section, a seaman who has been rated as A.B. before the commencement of this sub-section shall continue to be entitled to be so rated.”

Minimum age for employment at sea.

10. Section forty a of the Principal Act is amended by omitting the word “fourteen” and inserting in its stead the word “fifteen”.

11. Sections forty-three and forty-four of the Principal Act are repealed and the following sections inserted in their stead :—

Requirements as to crew before going to sea.

“ 43.—(1.) Subject to sub-section (9.) of this section, the owner of a ship registered in Australia or engaged in the coasting trade shall not suffer the ship to go to sea, and the master of the ship shall not take the ship to sea, unless the ship carries the prescribed crew for that ship.

Penalty : One hundred pounds.

“ (2.) Subject to sub-sections (3.), (4.), (5.) and (6.) of this section, the prescribed crew of a ship registered in Australia or engaged in the coasting trade is—

- (a) where the number and description of persons to be carried as crew was not, immediately before the commencement of this section, prescribed by the regulations in force at that time for that ship or specified by the Minister for that ship—the number of persons (not including boys and apprentices) specified in the scales set out in Schedule II. to this Act of each of the descriptions so specified for the class of ships in which that ship is included ; or

(b) where the number and description of persons to be carried as crew was so prescribed or specified—the number of persons (not including boys and apprentices) of each of the descriptions so prescribed or specified, as the case requires.

“(3.) The regulations may prescribe that, from and including a date specified in the regulations, the prescribed crew for a ship is the number specified in the regulations of persons of each of the descriptions so specified for that ship.

“(4.) Where application is made as prescribed to the Minister for a variation of the prescribed crew for a ship, the Minister may, by order published in the *Gazette*, direct that, from and including a date specified in the order, the prescribed crew for that ship shall be the number specified in the order of persons of each of the descriptions so specified for that ship.

“(5.) The Minister shall not make an order under the last preceding sub-section unless the application has been referred for advice to a Committee appointed under section four hundred and twenty-four of this Act and the Committee has furnished advice to the Minister on the application.

“(6.) An order made under sub-section (4.) of this section shall not be deemed to be a Statutory Rule within the meaning of the *Rules Publication Act 1903–1939*.

“(7.) Where, after an order has been made in relation to a ship under sub-section (4.) of this section, regulations come into force under sub-section (3.) of this section in relation to that ship, the order ceases to be in force.

“(8.) Where the prescribed crew for a ship has not been obtained and the master or owner of the ship satisfies a Deputy Director that the master or owner has made all reasonable efforts to obtain the prescribed crew for the ship (including the seeking of the assistance of the organization of which seamen of the description of seamen who have not been obtained are members), the Deputy Director may, by writing under his hand, authorize the master to take the ship to sea with such crew as is specified in the authority, being a crew of not less than four-fifths of the engine room staff, and four-fifths of the deck complement, of the ship.

“(9.) The master of a ship who has received an authority under the last preceding sub-section may take the ship to sea with not less than the crew specified in the authority and, for that purpose, may command the officers and crew of the ship to take the ship to sea.

“(10.) Such a command is, for the purposes of this Act, a lawful command.

“(11.) It is a defence to a prosecution for an offence against this section if the defendant satisfies the Court that the ship went to sea with not less than four-fifths of the engine-room staff, and with not less than four-fifths of the deck complement, of the ship and that the failure to obtain the prescribed crew for the ship was not due to any default or neglect on his part.

“(12.) For the purposes of this section—

‘engine-room staff’ means the number of persons which a ship is required to carry for employment in the engine-room, stoke-hold and boiler-room of the ship;

‘deck complement’ means the number of persons which a ship is required to carry as boatswains, able seamen and ordinary seamen, and, where apprentices, cadets or deck boys with not less than three months’ sea service are carried on board, includes the number of those apprentices, cadets or deck boys.

Authority to take ship to sea where ordinary complement of seamen has not been obtained.

“44. Where—

(a) a ship registered in Australia or engaged in the coasting trade ordinarily carries a number of seamen of any description greater than the number of seamen of that description specified in the prescribed crew for that ship; and

(b) the master or owner has not obtained the number of seamen of that description ordinarily carried on that ship, but has obtained not less than four-fifths of that number of seamen,

the master shall not command the officers and crew to take the ship to sea unless—

(c) the master or owner satisfies a Deputy Director that the master or owner has made all reasonable efforts to obtain that number of seamen (including the seeking of the assistance of the organization of which seamen of that description are members); and

(d) the Deputy Director authorizes the master to take the ship to sea.”

12. After Division 7 of Part II. of the Principal Act the following Division is inserted:—

“DIVISION 7A.—APPROVAL OF ENGAGEMENTS OF SEAMEN.

Approval by superintendent.

“45A.—(1.) Except as provided by section forty-eight of this Act, the engagement of a seaman to be entered on board a ship shall be subject to the approval of a superintendent, but a superintendent shall not refuse to approve of an engagement except in accordance with this Act.

“(2.) Where the approval of a superintendent of the engagement of a seaman is sought and—

(a) the conduct or character of that seaman has, in three or more reports furnished under section sixty-seven of this Act within the period of five years immediately preceding the date on which the approval is sought, been shown as ‘bad’; and

(b) the approval is sought within six months after the date of delivery of the most recent of those reports,

the superintendent may refuse to approve the engagement of that seaman.

“(3.) Where the period between the dates of delivery of the last two of the reports referred to in the last preceding sub-section exceeds two years and the seaman in respect of whom those reports were delivered served regularly as a seaman during that period of two years, a superintendent may approve the engagement of that seaman.

“(4.) Where a seaman deserts a ship, or, while he is bound by an agreement to serve in a ship, refuses or fails, without reasonable cause, to join that ship, to go to sea in that ship or to take that ship to sea, the master shall report the fact to a superintendent.

“(5.) Such a report shall, for the purposes of this section, be deemed to be a report under section sixty-seven of this Act showing the conduct or character of the seaman as ‘bad’.

“(6.) Where a seaman refuses or fails as specified in sub-section (4.) of this section, and, before the ship is taken to sea after that refusal or failure, again so refuses or fails (whether once or more than once), that sub-section operates as if the last report delivered by the master under that sub-section in respect of any of those refusals or failures were the only report so delivered by him in respect of those refusals or failures.

“(7.) A superintendent may refuse to approve the engagement of a seaman who has, during the period of two years immediately preceding the date on which the approval of the superintendent is sought, served as a seaman but has not, during the period of six months immediately preceding that date, served as a seaman for at least one hundred and twenty-five days unless the seaman satisfies the superintendent that the reason for his not having served for at least one hundred and twenty-five days during that period of six months was—

- (a) accident, illness, injury, leave or other reasonable cause; or
- (b) the operation of sub-section (2.) of this section.

“(8.) A superintendent shall refuse to approve the engagement of a person who, at the date of commencement of this section, was a person whom the Maritime Industry Commission constituted under the National Security (Maritime Industry) Regulations has directed be not engaged as a seaman.

“(9.) Where the Marine Council or a Committee appointed under section four hundred and twenty-four of this Act (or a majority of the members of that Council or of such a Committee) has advised the Minister that the character of a person is such, or the conduct of a person has been such, that that person is, during a period specified in the advice, unsuitable for engagement as a seaman, a superintendent shall, during that period, refuse to approve the engagement of that person as a seaman.

“(10.) Where the character of a seaman is such, or the conduct of a seaman has been such, that the seaman is, in the opinion of a master, unsuitable for engagement as a seaman, the master shall report the circumstances to a superintendent.

“(11.) A superintendent shall be deemed to have approved the engagement of a seaman when the superintendent attests the agreement between the seaman and the master under paragraph (d) of sub-section (3.) of section forty-six of this Act.

“(12.) A superintendent who refuses to approve of the engagement of a seaman under this Division shall furnish to the seaman a statement specifying the grounds on which the superintendent has refused to approve the engagement.

Appeal
against refusal
of
superintendent.

“45B.—(1.) Where a superintendent has refused to approve an engagement of a person under the last preceding section (otherwise than under sub-section (9.)), that person may, within fourteen days after the refusal, make application to the Commonwealth Court of Conciliation and Arbitration for an order directing the superintendent to approve an engagement of that person.

“(2.) The person making the application shall, within seven days after the making of the application, furnish to the superintendent a copy of the application.

“(3.) The Court has jurisdiction to hear and determine an application under sub-section (1.) of this section.

“(4.) The powers of the Court under this section shall be exercised by a single Judge.

“(5.) The Court may make an order directing the superintendent to approve an engagement of the person making the application—

(a) where the superintendent has refused under sub-section (2.) of the last preceding section to approve an engagement—
if the Court is satisfied—

(i) that the conduct or character of that person has not been shown as ‘bad’ on three reports furnished under section sixty-seven of this Act within the period referred to in that sub-section ; or

(ii) that the conduct or character of that person has been shown as ‘bad’ on three reports so furnished but one or more of those reports was not, in the circumstances, justified and that, apart from that report or those reports, the conduct or character of that person has not been shown as ‘bad’ on three reports so furnished ;

(b) where the superintendent has refused, under sub-section (7.) of the last preceding section, to approve an engagement of that person—if the Court is satisfied that accident, illness, injury, leave or other reasonable cause was the reason for that person not having served for at least one hundred and twenty-five days in the period of six months immediately preceding the date on which the superintendent’s approval of an engagement of that person was sought ;

- (c) where the superintendent has refused to approve an engagement of that person under sub-section (8.) of the last preceding section—if the Court is satisfied that the seaman's conduct and character do not justify the continuance of the direction; and
- (d) in any other case—if the Court is satisfied that the refusal of the superintendent is not justified.”.

13. Section forty-six of the Principal Act is amended by inserting after sub-section (3.) the following sub-sections:—

Agreement to be entered into.

“(3A.) The form of agreement prescribed for the purposes of sub-section (1.) of this section shall include a provision that, if the seaman commits a breach of discipline specified in the form of agreement, that breach shall be a breach of the agreement and the master shall impose on the seaman a fine of the amount specified in the form of agreement in relation to that breach of discipline.

“(3B.) The regulations may prescribe the manner and circumstances in which fines so imposed may be reduced or remitted.”.

14. Section forty-seven A of the Principal Act is amended by omitting sub-sections (2.) and (3.).

Employment of aliens.

15. Section fifty-four of the Principal Act is amended by inserting after the word “happens,” the words “and the master of an Australian-trade ship or of a limited coast-trade ship of more than fifty tons gross registered tonnage shall, upon the discharge of the crew,”.

Agreement to be delivered to superintendent.

16. Section seventy of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

Allotment notes.

“(1.) A seaman who is engaged in Australia for service in a foreign-going ship for a voyage which would ordinarily exceed a period of one month or in a ship registered in Australia for a voyage to a place in Australia which is north of the twenty-fifth parallel of south latitude or to a place outside Australia may, before the commencement of the voyage, make, subject to the approval of the superintendent of the terms and conditions, stipulations for the allotment and payment, during his absence, of portion of the wages which he earns on the voyage, to—

- (a) his grandparent, parent, wife, brother, sister, child or grand-child or to more than one of those persons; or
- (b) a bank.”.

17. Section seventy-three of the Principal Act is amended by omitting the words “Savings Bank” and inserting in their stead the word “bank”.

Allotment to banks.

18. Section seventy-four of the Principal Act is amended by omitting the words “Savings Bank” and inserting in their stead the word “bank”.

Payments by banks.

19. After section seventy-five of the Principal Act the following section is inserted:—

Computation of wages.

“75A.—(1.) Where the wages of a seaman are payable at a rate per month, a month shall, for the purposes of this Act, be deemed to be—

- (a) the period from and including a day in one calendar month to and including the day before the numerically corresponding day in the next succeeding month; or
- (b) where there is not in the next succeeding month a day numerically corresponding to the day in the first-mentioned month, the period from and including the first-mentioned day to and including the last day of that next succeeding month.

“(2.) In the calculation of the wages of a seaman for a period of less than a month, each day in that period shall, for the purposes of this Act, be deemed to be one-thirtieth part of a month.”

Time for payment of wages on foreign-going ships.

20. Section seventy-seven of the Principal Act is amended by omitting the words “banking institution” (wherever occurring) and inserting in their stead the word “bank”.

21. Section eighty-five of the Principal Act is repealed and the following section inserted in its stead:—

Right to wages in case of termination of services by loss or wreck.

“85.—(1.) Where the service of a seaman belonging to a ship (other than a river or bay ship) registered in Australia is terminated, before the time contemplated in his agreement, by reason of the wreck or loss of the ship, the seaman is, subject to this section, entitled to—

- (a) conveyance, by or at the cost of the owner, to the port of engagement, or at the option of the master, to the port of discharge mentioned in the agreement, or to such other port as is agreed upon, with the approval of the proper authority, between the master and the seaman; and
- (b) wages, at the rate payable on the day of the termination of his services, in respect of each day during the period commencing on the day after the day of the termination of his service to the day on which he reaches the port to which he is so conveyed and for a period of one month after he reaches that port.

“(2.) A seaman is not entitled to wages in respect of a day on which his conveyance is delayed by his own act, default or neglect.

“(3.) Where—

- (a) the period for which a seaman is entitled to wages under sub-section (1.) of this section is less than two months; and
- (b) he is unemployed after he reaches the port to which he is conveyed under that sub-section,

the seaman is entitled to wages, at the rate payable on the day of the termination of his service, for each day on which he is so unemployed, not being a day which is more than two months after the day on which his services were terminated.

“(4.) A seaman is not entitled to wages under the last preceding sub-section—

- (a) where the owner shows that the unemployment was not due to the wreck or loss of the ship ; or
- (b) for a day in respect of which the owner shows that the seaman was able to obtain suitable employment.

“(5.) Where a seaman whose service is terminated by the wreck or loss of the ship was engaged by the run, the seaman is entitled to the wages to which he would have been entitled if the agreement had not been terminated until the end of the run, subject to all just deductions.

“(6.) In this section—

‘ seaman ’ includes a person employed or engaged in any capacity on board the ship, but, in the case of a ship which is a fishing boat, does not include a person who is entitled to be remunerated only by a share in the profits or the gross earnings of the working of the boat ;

‘ wages ’ includes such allowances as are prescribed.”.

22. Section eighty-six of the Principal Act is amended by inserting in paragraph (c), after the word “illness”, the words “, hurt or injury ”. Wages not to accrue in certain circumstances.

23. Section one hundred of the Principal Act is amended—

- (a) by omitting all the words from and including the words “The acts specified in Column 1” to and including the words “Column 2 hereunder:—” and inserting in their stead the words “Each of the acts and omissions specified in Column 1 of this section is an offence against discipline, and a seaman or apprentice who commits an offence so specified is liable on conviction to a punishment not exceeding the punishment specified in Column 2 of this section opposite to that offence.”; and
- (b) by omitting from Column 2 the words “Twenty pounds” (first and second occurring) and inserting in their stead the words “Forty pounds”.

Offences against discipline.

24. Section one hundred and three of the Principal Act is repealed.

Inciting to breach of agreement.

25. Section one hundred and nine of the Principal Act is repealed.

Payment of wages when imprisoned.

26. Section one hundred and eleven of the Principal Act is amended by omitting from paragraph (a) the words “the mate” and inserting in their stead the words “an officer”.

Entry in the log of offences and offender's defence.

27. Section one hundred and fifteen of the Principal Act is repealed and the following section inserted in its stead :—

Provisions relating to deductions for breaches of discipline.

“ 115.—(1.) Where, in pursuance of the provisions included in an agreement by reason of sub-section (3.) or sub-section (3A.) of section forty-six of this Act, a fine is imposed on a seaman—

- (a) the amount of the fine shall be deducted from the wages payable to the seaman after the date on which the fine is imposed and shall be retained by the master until the seaman is discharged ; and
- (b) the amount of the fine shall be shown on the account of wages delivered to the seaman before his discharge.

“(2.) If, at the time of the discharge of the seaman, the superintendent before whom the seaman is discharged approves the fine, the amount of the fine shall be paid by the master or owner to the superintendent.

“(3.) If, at the time of the discharge of the seaman, the superintendent before whom the seaman is discharged does not approve the fine, the amount of the fine shall be paid by the master or owner to the seaman.

“(4.) A master or owner shall not, without reasonable cause, fail to make promptly a payment which he is required to make under either of the last two preceding sub-sections.

Penalty : Five pounds.

“(5.) Where a fine referred to in sub-section (1.) of this section has been deducted from the wages of a seaman and the fine has been approved by the superintendent, the seaman is not liable to be otherwise punished for the act or omission in respect of which the fine was imposed.”

Owner liable for medical attendance, &c.

28. Section one hundred and twenty-seven of the Principal Act is amended by omitting from paragraph (b) of sub-section (1.) the words “ venereal disease, or ”.

Seamen left on shore sick or injured.

29. Section one hundred and thirty-two of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “ in any manner authorized by law, by reason of illness or accident in the service of the ship ” and inserting in their stead the words “ by reason of illness, hurt or injury in the service of the ship or of the owner of the ship ” ;
- (b) by omitting from the proviso to paragraph (a) of that sub-section the word “ engagement ” and inserting in its stead the word “ agreement ” ;
- (c) by omitting from the proviso to sub-section (5.) the words “ the illness is due to his own wilful act or default or to

his misbehaviour, or is a venereal disease" and inserting in their stead the words "the illness, hurt or injury is due to his own wilful act or default or to his misbehaviour"; and

(d) by inserting in sub-regulation (6.), after the word "master", the words "owner and agent".

30. Division 15 of Part II. of the Principal Act is repealed and the following Division inserted in its stead :—

" DIVISION 15.—ACCOMMODATION.

" 135. This Division applies subject to an order or award made by virtue of Part XA. of this Act.

Application of
this Division.

" 136.—(1.) The Governor-General may make regulations prescribing the accommodation to be provided for the master, officers and crew of a ship and, without limiting the generality of the foregoing, prescribing matters for or in relation to—

Regulations
relating to
accommodation

- (a) the minimum amount of space to be provided for each person ;
- (b) the maximum number of persons to be accommodated in a specified part of a ship ;
- (c) the part of a ship in which the whole or a part of the accommodation is to be provided ;
- (d) the requirements to be observed in the construction, furnishing and equipment of the accommodation, including heating, lighting and ventilation ;
- (e) the maintenance and repair of the accommodation ;
- (f) the prohibition or restriction of the use of accommodation for a purpose other than that specified ;
- (g) the provision of hot and cold fresh water ;
- (h) the provision of bedding, mess utensils, towels and toilet requisites ;
- (i) the inspection of the accommodation ;
- (j) the submission to the Director of plans and specifications relating to the provision or alteration of accommodation ; and
- (k) the modification of the regulations in their application to a ship the keel of which was laid before the coming into operation of the regulations or the exemption of such a ship from the application of the regulations.

" (2.) The power to make regulations for the purposes of this section includes power to prescribe different requirements to be complied with in respect of the accommodation in ships included in different classes of ships and for persons included in different classes of persons.

**Provision of
ventilation and
wheel-houses.**

“ 137. The Director may require the owner of a ship registered in Australia or engaged in the coasting trade to provide—

- (a) such ventilation of the machinery and boiler spaces of the ship as the Director considers necessary ; and
- (b) a wheel-house, or such other shelter, as the Director considers adequate for the protection of the helmsman.

**Accommoda-
tion.**

“ 138.—(1.) The Minister may, for the purposes of this Division, appoint a committee to be known as the Crew Accommodation Committee.

“ (2.) The Committee shall consist of a Chairman and such other members as the Minister determines.

“ (3.) The Chairman and the members shall be appointed by the Minister.

“ (4.) The Minister shall, in appointing the members of the Committee other than the Chairman, appoint not less than two members to represent the owners of ships and the same number of members to represent masters, officers and seamen, of whom not less than one shall represent seamen.

“ (5.) The Committee—

- (a) shall consider plans for accommodation in new ships and alterations in accommodation in existing ships ; and
- (b) may make recommendations to the Minister as to the requirements to be prescribed in relation to accommodation.

“ (6.) Where a question arises as to the accommodation which ought to be provided by an owner, either generally or for particular persons in, or in particular parts of, a ship and the owner or an organization of seamen registered under the *Conciliation and Arbitration Act 1904-1952* requests the Committee to hear and determine the question, the Committee shall inquire into the question and make such order as it considers to be proper in the circumstances.

“ (7.) The Committee shall, in addition to matters specified in the last two preceding sub-sections, have such powers and functions, including the power to summon witnesses and to take evidence on oath, as are prescribed.

“ (8.) Members of the Committee shall be paid such fees and allowances as are prescribed.

“ (9.) An order made under this section by the Committee—

- (a) shall be in writing ;
- (b) shall not be deemed to be a Statutory Rule within the meaning of the *Rules Publication Act 1903-1939* ;
- (c) shall have effect from such date as is specified in the order ; and
- (d) shall have effect notwithstanding anything to the contrary in the regulations in force at the date of the order

“ 138A. The owner of a ship registered in Australia or engaged in the coasting trade shall not suffer the ship to go to sea unless the ship is provided with the accommodation, wheel-house or other shelter, and ventilation, with which the ship is required, under this Division, to be provided.

Ships not to go to sea without required accommodation.

Penalty : One hundred pounds.

“ 138B. In this Division—

Definitions.

‘ accommodation ’ includes sleeping rooms, mess rooms, recreation rooms, store rooms, sanitary and lavatory accommodation, hospital accommodation, office accommodation and catering accommodation ;

‘ the Committee ’ means the Committee appointed under section one hundred and thirty-eight of this Act.”

31. Section one hundred and seventy-one of the Principal Act is amended by omitting sub-section (7.) and inserting in its stead the following sub-section :—

Official log to be kept.

“ (7.) An entry in the official log-book of a ship is, in all Courts, admissible in evidence.”

32. Section one hundred and seventy-three of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section :—

Delivery of official log.

“ (2.) The master of an Australian-trade ship, or a limited coast-trade ship of fifty tons or more gross registered tonnage, shall—

(a) on each occasion on which a seaman is discharged before a superintendent during the currency of the agreement with the crew, produce the official log-book to the superintendent for inspection ; and

(b) within twenty-four hours after the termination of the agreement with the crew or upon the discharge of the crew, whichever first happens, deliver the official log-book to the superintendent.

Penalty : Ten pounds.”

33. Section two hundred and eighty-six of the Principal Act is amended by omitting from sub-section (5.) the words “ any permit ” and inserting in their stead the words “ a continuing permit ”.

Permits to unlicensed ships.

34. Section two hundred and eighty-eight of the Principal Act is amended by omitting from sub-section (1.) the words “ No ship shall ” and inserting in their stead the words “ Subject to this Act, a ship shall not ”.

Licensing of ships to engage in coasting trade.

35. Section three hundred and eighty-seven of the Principal Act is repealed and the following sections are inserted in its stead :—

“ 387. A person who—

(a) by violence, threat or intimidation, hinders or interferes with the master or an officer of a ship in the performance of his duty in relation to the maintenance of discipline on board the ship ; or

Obstructing or interfering with officials or officers.

(b) resists or wilfully obstructs, assaults, molests or endeavours to intimidate a person performing a duty or function imposed on him, or exercising a right or power conferred on him, by this Act,

is guilty of an indictable offence.

Persuading or
inciting, breach
of agreement.

“387A. A person shall not persuade or incite a master, seaman or apprentice to commit a breach of his agreement.

Penalty : One hundred pounds.

Harbouring
or secreting
deserting
seamen or
apprentices.

“387B. A person shall not wilfully harbour or secrete a seaman or apprentice—

(a) who has deserted his ship ;

(b) who has wilfully failed to join his ship ; or

(c) who has absented himself from his ship in wilful disobedience of a lawful command of the master or of an officer of the ship.

Penalty : Twenty pounds.”

Admissibility
of documents
in evidence.

36. Section four hundred and three of the Principal Act is amended by adding at the end thereof the following sub-sections :—

“(3.) Where a document is by this Act declared to be admissible in evidence, a copy of, or an extract from, the document certified by a proper authority, by writing under his hand, to be a copy of, or an extract from, that document is, in all Courts, admissible in evidence without further proof or production of the original.

“(4.) Unless the contrary is proved, a certificate purporting to have been signed by a proper authority shall be deemed to have been signed by the person by whom it purports to be signed and that person shall be deemed to be a proper authority.”

37. After Part X. of the Principal Act the following Part is inserted :—

“PART XA.—INDUSTRIAL MATTERS.

Definitions.

“405A. In this Part, unless the contrary intention appears—

‘industrial dispute’ means—

(a) a dispute (including a threatened, impending or probable dispute) as to industrial matters which extends beyond the limits of any one State ; and

(b) a situation which is likely to give rise to a dispute as to industrial matters which so extends ;

‘industrial matters’ means all matters in relation to the salaries, wages, rates of pay or other terms and conditions of service ; or employment of masters, pilots or seamen ;

‘industrial question’ means—

(a) an industrial dispute ;

(b) such a dispute so far as it relates to a matter in dispute ;

(c) an industrial matter; and

(d) a question arising in relation to such a matter;

'the Chief Judge' means the Chief Judge of the Court and includes a Judge of the Court acting as Chief Judge by virtue of section twenty of the *Conciliation and Arbitration Act 1904-1952*;

'the Court' means the Commonwealth Court of Conciliation and Arbitration;

'the Full Court' means the Court constituted by not less than three Judges.

"405B. Sub-section (1.) of section two of this Act does not apply in relation to this Part. Application.

"405c.—(1.) Subject to this Part, the powers of the Court under this Part shall be exercised by a single Judge. Jurisdiction of Court may be exercised by a single Judge.

"(2.) Where the hearing of an industrial dispute or industrial matter has been commenced before a Judge exercising the powers of the Court under this Part, another Judge may complete the hearing and determine the industrial dispute or industrial matter and for that purpose shall have regard to the evidence given and arguments adduced before the first-mentioned Judge.

"405D.—(1.) The Court has power to prevent or settle industrial disputes by conciliation or arbitration. Settlement of industrial disputes and determination of industrial matters.

"(2.) The Court has power to hear and determine industrial matters submitted to it in so far as those matters relate to trade and commerce with other countries or among the States or in a Territory of the Commonwealth, whether or not an industrial dispute exists in relation to those matters.

"405E. In the exercise of its powers under the last preceding section, the Court has, subject to section four hundred and five of this Act, power to make orders and awards. Power to make orders and awards.

"405F. The Court has power to give an interpretation of—

(a) an order or award of the Court under this Part; or

(b) an order or award of the Court or of a Conciliation Commissioner under the *Commonwealth Conciliation and Arbitration Act 1904*, or under that Act as amended, applicable to masters, pilots or seamen. Interpretation of orders and awards.

"405G. Except as provided by this Part—

(a) the Court or a Conciliation Commissioner is not empowered to make an order or award in relation to industrial matters; and Limitation of jurisdiction of Court and Conciliation Commissioner.

(b) the Court is not empowered to give an interpretation of an order or award referred to in paragraph (b) of the last preceding section.

Reference of
industrial
questions to the
Full Court.

“ 405H.—(1.) Upon application by a party to proceedings before him in relation to an industrial question, a Judge exercising the powers of the Court under this Part may, if he is of opinion that the industrial question is of such importance that the industrial question should, in the public interest, be dealt with by the Full Court and, if that Judge is not the Chief Judge, with the concurrence of the Chief Judge, refer the industrial question to the Full Court.

“ (2.) An appeal lies to the Chief Judge from a refusal of a Judge (not being the Chief Judge) to grant an application under the last preceding sub-section.

“ (3.) An appeal under the last preceding sub-section shall be instituted within fourteen days after the date of the refusal of the Judge.

“ (4.) The Chief Judge may hear the appeal and, if he is of opinion that the industrial question is of such importance that the industrial question should, in the public interest, be dealt with by the Full Court, shall refer the industrial question to the Full Court.

Hearing by
the Full Court.

“ 405J.—(1.) Subject to this section, the Full Court shall hear and determine an industrial question which has been referred to it under the last preceding section and for that purpose may make such order or award as might have been made by a Judge exercising the powers of the Court under this Part.

“ (2.) Where an industrial question, being an industrial dispute, has been referred to the Full Court under the last preceding section, the Full Court may refer the industrial question, so far as it relates to a matter in dispute, back to a Judge exercising the powers of the Court under this Part, who shall hear and determine the industrial question so far as it relates to that matter.

“ (3.) Where an industrial question, being an industrial matter, has been referred to the Full Court under the last preceding section, the Full Court may refer a question arising in relation to that matter back to a Judge exercising the powers of the Court under this Part, who shall hear and determine the industrial question so far as it relates to that question.

“ (4.) The Full Court shall hear and determine the industrial question so far as it relates to matters and questions not referred back to a Judge exercising the powers of the Court under this Part.

Appeals to the
Full Court.

“ 405K.—(1.) Upon application by a person aggrieved by an order or award made by a Judge exercising the powers of the Court under the preceding provisions of this Part, the Chief Judge may grant leave to that person to appeal against the order or award and may, on such terms and conditions as he thinks fit, make an order that the operation of the whole or a part of the order or award be stayed pending the determination of the appeal or until further order of the Chief Judge.

“(2.) An application under the last preceding sub-section for leave to appeal shall be made within fourteen days after the date of the order or award.

“(3.) Leave to appeal shall not be granted under sub-section (1.) of this section unless, in the opinion of the Chief Judge, the order or award deals with a matter of such importance that leave to appeal should, in the public interest, be granted.

“(4.) The Full Court shall hear and determine an appeal with respect to which leave has been granted under this section.

“(5.) Upon the hearing of an appeal under this section, the Full Court may admit further evidence and shall—

- (a) confirm, quash or vary the order or award under appeal ; or
- (b) make an order or award dealing with the subject-matter of the order or award under appeal.

“405L.—(1.) A Judge exercising the powers of the Court under this Part may, if he thinks fit, refer a question of law arising in proceedings before him for the opinion of the Full Court. Reference to Full Court.

“(2.) The Full Court shall hear and determine a question referred to it under the last preceding sub-section.

“(3.) Notwithstanding the reference under sub-section (1.) of this section of a question of law for the opinion of the Full Court, a Judge exercising the powers of the Court under this Part may make an order or award in relation to the matter in connexion with which the question arose.

“(4.) Upon the determination by the Full Court of a question of law referred to it under sub-section (1.) of this section, a Judge exercising the powers of the Court under this Part may make an order or award not inconsistent with the opinion of the Full Court or may vary an existing order or award in such a way as will make it consistent with that opinion.

“405M. The Court has, in relation to industrial disputes and other proceedings before it under this Part, the same powers, duties and functions as the Court or a Conciliation Commissioner has under the *Conciliation and Arbitration Act 1904–1952* in relation to industrial disputes and other proceedings before it or him under that Act. Powers of Court.

“405N.—(1.) The provisions of the *Conciliation and Arbitration Act 1904–1952* which apply to or in relation to judgments, orders and awards of the Court under that Act apply to and in relation to judgments, orders and awards of the Court under this Part. Application of certain provisions of Conciliation and Arbitration Act.

“(2.) The provisions of section twenty-seven of the *Conciliation and Arbitration Act 1904–1952* have effect as if the reference in that section to awards and proceedings under that Act included a reference to awards and proceedings under this Part.

“(3.) The provisions of sub-section (3.) of section twenty-nine and sub-section (5.) of section seventy-eight of the *Conciliation and Arbitration Act 1904–1952* have effect as if the reference in those

sub-sections to orders or awards made by the Court under the *Stevedoring Industry Act* 1949 included a reference to orders or awards made by the Court under this Part.

“(4.) The provisions of section forty-six of the *Conciliation and Arbitration Act* 1904–1952 extend to proceedings before the Court under this Part.

Commencement
of orders and
awards.

“405P. An order or award made by a Judge exercising the powers of the Court under this Part shall not, unless all the parties to the industrial question who appear or are represented before the Judge consent or the order or award otherwise provides, have effect until after the expiration of twenty-one days from the date of the order or award.

Limitation of
the powers of
the Court.

“405Q. An order or award under this Part does not have effect to the extent (if any) to which it is inconsistent with a law of the Commonwealth other than Division 15 of Part II. of this Act.”

Regulations.

38. Section four hundred and twenty-five of the Principal Act is amended by inserting after paragraph (g) the following paragraphs:—

- “(ga) the constitution of a Committee appointed under this Act;
- “(gb) the number of members of a Committee appointed under this Act which shall constitute a quorum of that Committee;
- “(gc) the manner in which a Committee appointed under this Act may exercise its powers and functions;
- “(gd) the manner in which the business and meetings of a Committee appointed under this Act shall be conducted;
- “(ge) the payment of fees and expenses to witnesses appearing before the Marine Council or a Committee appointed under this Act;”

Pending
proceedings

39.—(1.) Where, immediately before the commencement of this section, an industrial dispute was pending, under the *Conciliation and Arbitration Act* 1904–1952, before a Conciliation Commissioner, that industrial dispute shall, subject to this section, be heard and determined in accordance with Part XA. of the Principal Act as amended by this Act, and the Judge exercising the powers of the Court under that Part in relation to that industrial dispute shall have regard to the evidence given and arguments adduced before the Conciliation Commissioner.

(2.) The Chief Judge may, if he is of opinion that it is desirable to do so, direct that an industrial dispute the hearing of which has been commenced before a Conciliation Commissioner before the date of commencement of this section shall be continued as if this Act had not been passed and, where such a direction has been given, the *Conciliation and Arbitration Act* 1904–1952 applies in relation to that industrial dispute as if the Principal Act had not been amended by this Act.

(3.) Where, before the date of commencement of this section, an order or award has been made by a Conciliation Commissioner and the time within which an application for leave to appeal against the order or award under section thirty-one A of the *Conciliation and Arbitration Act 1904-1952* has not expired, that section continues to apply to that order or award as if the Principal Act had not been amended by this Act.

(4.) Expressions used in this section have the same respective meanings as they have in Part XA. of the Principal Act as amended by this Act.