

MARINE ACT, 1936.

No. 2337 of 1936-7.

An Act to consolidate and amend the law relating to merchant shipping, and for other purposes.

[*Reserved 19th November, 1936.*
[*Royal Assent Proclaimed 24th March, 1937.*]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

PART I.

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the " Marine Act, 1936 " .

Commence-
ment and
reservation.

2. This Act shall not come into operation until His Majesty's pleasure therein has been publicly signified in South Australia, but after the signification of the said pleasure the Governor may, by proclamation, appoint a day on which this Act shall come into operation.

Repealing
provision.

3. The Acts mentioned in the first schedule are hereby repealed.

Arrangement
of Act.

4. The provisions of this Act are arranged as follows :—

PART I.—Preliminary.

PART II.—General provisions.

Part III.—Certificates of masters, mates, and engineers.

PART IV.—Safety and prevention of accidents : Courts of survey.

DIVISION I.—Application :

DIVISION II.—Unseaworthy ships :

DIVISION III.—Scientific referees :

- DIVISION IV.—Cables and anchors :
- DIVISION V.—Ship's draught and freeboard :
- DIVISION VI.—Deck and load lines :
- DIVISION VII.—Equipment :
- DIVISION VIII.—Regulations for preventing collisions,
&c. ; light signals, &c. :
- DIVISION IX.—Inspection of ships :
- DIVISION X.—Equipment of steamships :
- DIVISION XI.—Survey of ships :
- DIVISION XII.—Appeal on refusal of certificate as to
equipment, &c. :
- DIVISION XIII.—Carriage of dangerous goods :
- DIVISION XIV.—Grain cargoes :
- DIVISION XV.—Deck cargoes :
- DIVISION XVI.—Misconduct by passengers.

PART V.—Investigations and inquiries into casualties,
incompetency, and misconduct.

- DIVISION I.—Application :
- DIVISION II.—Notice of casualties, &c. :
- DIVISION III.—Preliminary inquiries :
- DIVISION IV.—Court of Marine Inquiry :

PART VI.—Miscellaneous.

PART VII.—Commonwealth Navigation Act and possible
transfer of powers.

5. In this Act unless inconsistent with the context or subject-matter—

Interpretation.
237, 1881,
s. 3.

“board” means The South Australian Harbors Board :

“Board of Trade” means the Board of Trade of the
United Kingdom :

“boat” means every vessel not a ship as herein defined
which is used in navigation :

- “casualty” includes the loss, abandonment, collision, grounding, of and any accident, injury by fire, or damage to any ship :
- “coast-trade ship” means any ship employed in trading or going between any port or place in South Australia and any other port or place in South Australia :
- “equipment” includes boats, tackle, pumps, apparel, furniture, life-saving appliances of every description, spars, masts, rigging and sails, fog signals, sound signals, lights, and signals of distress, medicines and medical and surgical stores and appliances, and every thing or article belonging to or to be used in connection with, or necessary for the navigation and safety of, the ship, including apparatus for preventing or extinguishing fires, buckets, compasses, charts, axes, lanterns, and loading and discharging gear and apparatus of all kinds :
- “foreign ship” means any ship not being a British ship within the meaning of the Merchant Shipping Act :
- “foreign-going ship” means any ship which not being a coast-trade ship or river ship is employed in trading or going by sea between any port within South Australia and any port beyond the limits thereof :
- “go to sea” includes to proceed beyond the limits of any port in South Australia ; “sea-going” and “going to sea” have a corresponding meaning :
- “master” includes every person, except a pilot, having command or charge of any ship :
- “Merchant Shipping Act” means the Act of the United Kingdom, the Merchant Shipping Act, 1894, and any Act amending the same or in substitution therefor :
- “Minister” means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor :
- “misconduct” used in reference to masters or mates includes reckless or careless navigation :
- “Navigation Act” means the Commonwealth Act, the Navigation Act, 1912-1935, and any Act amending the same or in substitution therefor :
- “passengers” includes all persons carried in a ship except the master and crew and the owner, his family, and servants, and except persons carried by any ship

or yacht used solely for pleasure and not engaged in trade unless such persons are carried for hire :

“ port ” includes harbour, haven, roadstead, channel, and navigable creek, river, or lake :

“ river ship ” includes any ship plying within any port or on any lake or river within South Australia :

“ seaman ” includes every person (except masters and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship :

“ secretary ” means the secretary to the board, and includes any officer for the time being duly authorised to act in that capacity :

“ ship ” includes every description of vessel used in navigation not propelled by oars :

“ steamship ” means any ship propelled by steam :

“ tidal water ” means any part of the sea or river within the ebb and flow of the tide at ordinary spring tides :

“ tonnage ” means tonnage calculated in accordance with the provisions of the Merchant Shipping Act :

“ vessel ” includes any ship or boat or any description of vessel used in navigation.

6. (1) Any provisions of this Act applying to steamships shall apply to ships propelled by electricity or other mechanical power.

Application of provisions relating to steamship.

U.K. 57 and 58
Vict. c. 60,
s. 743.

(2) The Governor on the recommendation of the board may make regulations prescribing modifications of the said provisions for the purpose of the adaptation of the said provisions to such ships.

7. (1) This Act shall not apply to ships belonging to His Majesty's Navy, or the Navy of the Commonwealth, or of any British possession, or to the Navy of any foreign Government.

Exemptions.
U.K. 57 and
58 Vict. c. 60,
s. 741.

(2) None of the provisions of this Act shall, in the absence of express provision, extend or apply to foreign ships.

8. All regulations and rules made or continued in force under or by any Act repealed by this Act shall, to the extent to which they are not inconsistent with this Act, continue in force until expressly or impliedly repealed by regulations or rules made or adopted under this Act.

Continuance of certain regulations.

PART II.

PART II.

GENERAL PROVISIONS.

Administra-
tion of Act.

9. This Act shall be administered by the board.

Sealed deed
instrument or
writing to be
evidence.
237, 1881,
s. 21.

10. (1) All courts, judges, and persons acting judicially shall take judicial notice of the common seal of the board affixed to any deed, instrument, or writing, and shall presume that the seal was properly affixed thereto.

(2) Any such deed, instrument, or writing when sealed, whether the deed, instrument, or writing is required to be sealed or not, shall be received in evidence without any other or further proof of the making of the deed, instrument, or writing.

(3) Every document purporting to be an official copy of any such deed, instrument, or writing so sealed shall, if signed by the secretary, be received in evidence and, until the contrary is shown, be deemed a true copy of the original of which it purports to be a copy.

Penalty for
obstructing
inspectors in
the execution
of their duty.
U.K. 57 and
58 Vict. c. 60,
s. 730.

11. Any person who—

- (a) wilfully assaults, resists, obstructs, or impedes any inspector, member, officer, or servant of the board or member of the court of marine inquiry or member of the court of survey in the execution of his duty ;
or
- (b) disobeys his lawful requisitions or orders ; or
- (c) uses abusive or offensive language to any such inspector, member, officer, or servant or member of such court while so executing his duty ; or
- (d) aids or incites any person so to assault, resist, obstruct, impede, or disobey such requisition or order or use such language as aforesaid,

whether on board any ship or elsewhere shall be guilty of an offence against this Act, and liable to a penalty of not more than twenty pounds, and may be seized and detained by the inspector, member, officer, or servant or member of such court or by any person or persons whom he may call to his assistance until the offender can be conveniently taken before some justice or other officer having proper jurisdiction.

Penalty on
persons offering
bribes or
receiving them.

12. Any person who gives or offers any sum of money or other thing whatsoever by way of reward or bribe to any officer or servant of the board for the purpose of inducing him to give an undue preference in the execution of his office, or to do or

omit to do any act, matter, or thing whatsoever in breach of his duty, or any such officer or servant who receives any such sum of money or other thing by way of reward or bribe as aforesaid, shall be guilty of an offence against this Act, and liable to a penalty of not more than one hundred pounds.

13. Subject to the provisions of this Act, the board—

- (a) shall cause examinations to be held as provided by Part III. of persons desirous of receiving certificates of competency as masters, mates, and engineers of ships, and may after examination or otherwise issue certificates of competency to masters, mates, and engineers of ships and may cancel or suspend any such certificates ; and
- (b) may cancel or suspend certificates of service issued under the provisions of any Act heretofore in force ; and
- (c) shall in manner hereinafter provided cause the requirements of this Act for the preservation of life and property and the prevention of accidents at sea to be fulfilled ; and
- (d) may make preliminary inquiries or may direct the same to be made by some person or persons in that behalf appointed into the causes of casualties and also into the conduct of masters, mates, and engineers ; and
- (e) may direct the court of marine inquiry to hold formal investigations into the causes of casualties and into charges of incompetency or misconduct on the part of masters, mates, and engineers ; and
- (f) may cause unseaworthy ships to be detained and ships to be inspected ; and
- (g) may issue and revoke certificates that ships have complied with the law with respect to surveys ; and
- (h) shall furnish to the Governor lists of persons eligible for appointment as assessors of the court of marine inquiry ; and
- (i) may appoint eligible persons as scientific referees.

Powers and duties of board.
Cf. 237, 1881,
s. 26.

14. Subject to the provisions of this Act, the Governor, on the recommendation of the board, may make regulations for the following purposes :—

Regulations.

- i. For the control, supervision, and guidance of the inspectors, officers, and servants over whom by virtue of this Act the board has control, and for

- prescribing the form of notices, certificates, returns, statements, declarations, licences, and other documents to be given, made, or issued under this Act :
- II. For prescribing the equipments of coast-trade ships and river ships :
 - III. For prescribing what boats, life-buoys, life-jackets, and other means of saving life at sea shall be carried by coast-trade ships and river ships, and for regulating the use thereof :
 - IV. For the prevention of the overloading of coast-trade ships and river ships either with passengers or with cargo ; for securing the safety of the passengers on board such ships, and their proper accommodation, and generally for regulating all matters relating to the protection of life and of the property of passengers and others :
 - V. For the carriage of animals on coast-trade ships and river ships and the provision of shelter for deck passengers on board any coast-trade or river ship :
 - VI. For prescribing the number and description of persons to be carried as the crew of any class or kind of coast-trade ship or river ship and providing for the granting of exemptions from any such regulations :
 - VII. For prescribing the accommodation to be provided for the crew on any class or kind of coast-trade ship or river ship, and providing for the granting of exemptions from any such regulations :
 - VIII. For the adjustment of compasses and the transmission of deviation tables :
 - IX. For the survey of ships by engineer surveyors and ship surveyors, for fixing and appointing the time, places, and manner of making such surveys, for fixing the fees, travelling, or other expenses to be paid in respect of such surveys, and for determining the persons by whom and the conditions under which such payments shall be made :
 - X. For the conduct of examinations under Part III. of persons desiring to obtain certificates of competency as masters, mates, and engineers, and as to the qualifications to be possessed by such persons, and prescribing the fees to be paid by applicants for examination :
 - XI. For regulating the appointment of persons to conduct such examinations, and for prescribing the qualifications to be possessed by such persons :

- XII. For the issue of certificates of competency to masters, mates, and engineers :
- XIII. For the issue of certificates of competency to persons holding limited certificates of competency or service from the Board of Trade or any other authority either after examination or otherwise :
- XIV. For regulating the issue of certificates to ships :
- XV. For fixing the fees and charges to be taken or made in respect of the various matters under the jurisdiction of the board and authorised by this Act :
- XVI. For directing to what officer of the board any fees, rates, dues, charges, and other moneys payable under the authority of this Act and not herein directed to be paid to any particular officer shall be paid :
- XVII. For prescribing the mode in which and times at which lists of persons eligible for appointment as assessors of the court of marine inquiry shall be prepared, and prescribing the qualifications of persons eligible to be appointed as assessors :
- XVIII. For prescribing the qualification of persons eligible to be appointed as scientific referees :
- XIX. For the purchase, custody, and sale of Admiralty and other authorised charts :
- XX. For imposing penalties for any breach of any regulation not exceeding for any such breach the sum of fifty pounds (except in cases of continuing offences when a penalty of ten pounds for every day after notice of the offence may be affixed) except in those cases where this Act affixes a special penalty in respect of any specific offence :
- XXI. And generally for duly administering this Act and carrying out the powers conferred upon the board by this Act.

15. (1) Where under any provision of this Act the Governor is empowered to make rules or regulations with respect to any matter, the Governor may by proclamation made on the recommendation of the board declare that any rules, regulations, orders, instructions, proclamations, or subordinate legislation applicable to the said matter made under or pursuant to or adopted or enacted by the Merchant Shipping Act or the Navigation Act shall apply within South Australia and South Australian waters.

Power to adopt regulations.

PART II.

(2) Any such proclamation may be revoked by proclamation made by the Governor on the recommendation of the board.

(3) During the time any such proclamation applying any such rules, regulations, orders, instructions, proclamations, or subordinate legislation remains in force, the rules, regulations, orders, instructions, proclamations, or subordinate legislation shall, *mutatis mutandis*, apply to South Australia and South Australian waters as if the same had been made as rules or regulations, as the case may be, by the Governor under this Act.

PART III.

PART III.

CERTIFICATES OF MASTERS MATES AND ENGINEERS.

16. This Part shall not apply to ships used as pleasure yachts and not engaged in trading or plying for hire.

17. (1) Examinations shall be instituted for persons who wish to obtain certificates hereinafter termed certificates of competency to the effect that they are competent to become—

- (a) masters or mates of coast-trade ships ; or
- (b) masters or mates of river ships ; or
- (c) first-class engineers of coast-trade ships or river ships ;
or
- (d) second-class engineers of coast-trade ships or river ships ; or
- (e) third-class engineers of coast-trade ships or river ships,

and such examinations shall be held at such places as the board directs.

(2) The board may appoint times for such examinations, and may subject to the regulations appoint examiners to conduct the same.

(3) The examiners shall be paid such fees as are fixed by the board from time to time.

(4) No person shall be examined as aforesaid unless he is a British subject.

Limit of application of this Part.
Cf. 237, 1881, s. 4.

Examinations to be instituted for masters mates and engineers.
237, 1881, s. 324.
Cf. U.K. 57 and 58 Vict. c. 60, ss. 93 and 94.

18. The examiners shall report upon the result of every such examination to the board, who shall thereupon issue to every applicant who is duly reported by the examiners to have passed the examination satisfactorily and to have given satisfactory evidence as to his sobriety, experience, ability, and general good conduct a certificate of competency to the effect that he is competent to act as master or as mate of a coast-trade ship or as master or as mate of a river ship or as first-class engineer, second-class engineer, or third-class engineer of a coast-trade ship or a river ship: Provided that in every case in which the board has reason to believe the report to have been unduly made, the board may remit the case either to the same or any other examiner and may require a re-examination of the applicant or a further inquiry as to his testimonials or character before granting him a certificate.

Certificates of competency to be granted to those who pass.
237, 1881,
s. 325.
U.K. 57 and
58 Vict. c. 60,
s. 98.

19. (1) No coast-trade ship or river ship shall go to sea or ply or trade in South Australian waters or in any port or place in South Australia unless the ship is provided with officers holding valid certificates of competency or service, that is to say certificates issued by the board under this Act or any Act repealed by this Act, or equivalent certificates or certificates of a higher grade granted by the Board of Trade or granted by any competent authority recognised as such by the Governor (other than certificates granted by the Board of Trade or other authority which are limited in their application to any place outside South Australia) according to the scale required by the laws of the United Kingdom or British possession in which she is registered or, if she is registered in South Australia, according to the following scale (that is to say) :—

Certain ships to carry certificated masters and mates.
237, 1881,
s. 326.
814, 1902 s. 28.
Cf. U.K. 57
and 58 Vict.
c. 60, s. 92.

- i. If the ship is a coast-trade ship or river ship of fifteen tons gross registered tonnage or upwards, she shall be provided with a duly certificated master :
- ii. If the ship is a coast-trade ship—
 - (a) of over one hundred but not exceeding three hundred tons net registered tonnage she shall also be provided with a duly certificated first mate :
 - (b) of over three hundred tons net registered tonnage she shall also be provided with a duly certificated first mate and a duly certificated second mate :
- iii. If the ship is a river ship of over one hundred tons net registered tonnage she shall also be provided with a duly certificated first mate.

(2) If any such ship goes to sea or plies or engages in trade in South Australian waters or in any port or place in South Australia without being so provided, the owner of the ship shall be guilty of an offence against this Act and liable to a penalty of not more than one hundred pounds.

(3) This section shall not extend or apply to any lighter, barge, or hulk possessing no independent motive power or means of propelling itself unless the lighter, barge, or hulk goes to sea in which case the lighter, barge, or hulk shall, if of fifteen tons gross registered tonnage or upwards, be provided with a duly certificated master.

Steamships to carry certificated engineers. 237, 1881, s. 327. Cf. U.K. 57 and 58 Vict. c. 60, s. 92.

20. (1) No coast-trade steamship or river steamship shall ply or trade in South Australian waters or in any port or place in South Australia unless the steamship in addition to fulfilling the requirements of the last preceding section, is provided with an engineer or engineers holding valid certificates under this Act or equivalent certificates or certificates of a higher grade, granted by the Board of Trade or granted by any competent authority recognised as such by the Governor, according to the scale required by the laws of the United Kingdom or British possession in which she is registered, or, if she is registered in South Australia, according to the following scale, that is to say:—

- i. Every coast-trade steamship of one hundred nominal horse power or upwards shall have as her first and second engineers two certificated engineers, the first possessing a first-class engineer's certificate, and the second possessing a second-class engineer's certificate, or a certificate of a higher grade :
- ii. Every coast-trade steamship of less than one hundred nominal horse power shall have as her engineer an engineer possessing a second-class engineer's certificate, or a certificate of a higher grade :
- iii. Every river steamship of fifty nominal horse power or upwards shall have as her engineer an engineer possessing a second-class engineer's certificate, or a certificate of a higher grade ; and
- iv. Every river steamship of less than fifty nominal horse power shall have as her engineer an engineer possessing a third-class engineer's certificate, or a certificate of a higher grade.

(2) If any such steamship goes to sea or plies or engages in trade in South Australian waters or in any port or place in South Australia without being so provided, the owner of the steamship shall be guilty of an offence against this Act, and liable to a penalty of not more than one hundred pounds.

21. Every certificate of competency or of service for foreign-going ships shall be deemed to be of a higher grade than the corresponding certificate for coast-trade ships, and every certificate of competency or of service for coast-trade ships shall be deemed to be of a higher grade than the corresponding certificate for river ships; but no certificate for a coast-trade ship or river ship shall entitle the holder to go to sea as master or mate of foreign-going ships, and no certificate for a river ship shall entitle the holder to go to sea as master or mate of a coast-trade ship.

Certificates for foreign-going and coast-trade ships available for coast-trade and river ships respectively.
Cf. U.K. 57 and 58 Vict. c. 60, s. 93.

22. (1) (a) Every person not possessed of a valid certificate appropriate to his grade who suffers himself to be engaged or acts as master, mate, or engineer in contravention of this Act; and

Penalties on fraudulent use of certificates &c.
237, 1881, s. 328.

(b) every person who employs or suffers any person to serve as master, mate, or engineer in contravention of this Act without using all reasonable means (proof whereof shall lie on him) to ascertain that the person so serving is duly certificated; and

(c) every person who fraudulently engages or employs or suffers to be engaged or employed any duly certificated master, mate, or engineer to serve on board any ship for the purpose only of enabling any ship to go to sea and not for the purpose of the whole voyage, and every master, mate, or engineer who fraudulently engages himself for such purpose,

shall be guilty of an offence against this Act, and liable to a penalty of not more than fifty pounds.

(2) If any certificated master, mate, or engineer is engaged to serve on board any ship and quits the ship before or upon the commencement of her voyage, he shall be deemed, unless the contrary is shown, to have been fraudulently engaged and employed as aforesaid.

23. Where any certificate has been or has been directed to be cancelled or suspended by a competent authority in the United Kingdom or in any British possession or elsewhere, the same shall not be a valid certificate for the purposes of this Act. If any certificate has been temporarily suspended only, the same shall at the end of the period for which it was so suspended become as valid as it was before such suspension.

Cancelled and suspended certificates.

24. (1) All certificates of competency granted by the board shall be made in duplicate and in proper form, and one part shall be delivered to the person entitled to receive the certificate and the other shall be kept and recorded by the secretary or by such other officer as the board appoints for the purpose.

Form of certificates grants cancellation & to be recorded
237, 1881, s. 329.
U.K. 57 and 58 Vict. c. 60, s. 100.

PART III.

(2) The secretary or other officer as aforesaid shall make an entry in the record of such certificates of all orders made for cancelling, suspending, altering, or otherwise affecting any certificate in pursuance of the powers contained in this Act.

(3) A copy purporting to be certified by the secretary or other officer as aforesaid of any certificate shall be *prima facie* evidence of the certificate, and a copy purporting to be so certified as aforesaid of any entry made as aforesaid in respect of any certificate shall be *prima facie* evidence of the truth of the matters stated in the entry.

In case of loss
a copy to be
granted.

237, 1881,
s. 330.
U.K. 57 and
58 Vict. c. 60,
s. 101.

25. Whenever any master, mate, or engineer proves to the satisfaction of the board that he has without fault on his part lost or been deprived of any certificate already granted to him by the board, the board shall upon payment of such fee (if any) as the board directs cause a copy of the certificate to which by the record so kept as aforesaid he appears to be entitled to be made out and certified as aforesaid and to be delivered to him. Any copy which purports to be so made and certified as aforesaid shall have all the effect of the original.

Cancellation of
certificate &c.
on conviction
of holder.

26. If any master, mate, or engineer holding a certificate granted by the board is convicted of any felony or misdemeanour, the board may cancel the certificate.

PART IV.

PART IV.

SAFETY AND PREVENTION OF ACCIDENTS:
COURTS OF SURVEY.

DIVISION I.

DIVISION I.—APPLICATION.

Application of
this Part of
Act.
Cf. 237, 1881,
s. 173.

27. The provisions contained in this Part shall (except where it is otherwise specially provided) apply to all British coast-trade ships and river ships being in South Australian waters or in any port or place in South Australia and to no others: Provided that the Governor may, on the recommendation of the board, from time to time by proclamation declare that any particular provision or provisions of this Part shall not apply to ships or to steamships trading solely on any particular river or rivers within South Australia and may, on the recommendation of the board, at any time revoke any such proclamation.

DIVISION II.—UNSEAWORTHY SHIPS.

DIVISION II.

Court of survey.

28. For the purpose of carrying out the provisions of this Act the court of marine inquiry hereinafter constituted shall when so directed by the board sit as the court of survey for the purposes of this Act and shall have all the powers conferred upon and perform all the duties imposed upon the said court of survey by this Act.

29. The board may from time to time whenever it seems expedient to it so to do appoint some officer of the board or with the approval of the Minister appoint any person as an inspector to report to it upon the following matters (that is to say):—

Power to
appoint
inspectors to
report.
237, 1881,
s. 30.
U.K. 57 and
58 Vict. c. 60,
s. 728.

- I. Upon the nature and causes of any accident or damage which any ship has sustained or caused or is alleged to have sustained or caused :
- II. Whether the provisions of this Act or any regulations made or in force under or by virtue of this Act have been complied with :
- III. Whether the hull, machinery, or any part of any ship, or any of the equipments or articles on board thereof to which the provisions of this Act apply are sufficient and in good condition :
- IV. Upon such other matters as the board may deem necessary to insure the carrying out of the provisions of this Act.

30. (1) Every such inspector as aforesaid—

Powers of
inspectors.
237, 1881,
s. 31.
U.K. 57 and
58 Vict. c. 60,
s. 729.

- (a) may go on board any ship and inspect the same or any part thereof or any of the equipments or articles on board thereof to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage ; and
- (b) may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make ; and
- (c) may by summons under his hand require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make ; and
- (d) may require and enforce the production of all books, papers, or documents which he considers important for the purpose of his report ; and

PART IV.
DIVISION II.

(e) may administer oaths or may in lieu of requiring or administering an oath require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Sending unseaworthy ship to sea a misdemeanour.
237, 1881, s. 174.
U.K. 57 and 58 Vict. c. 60, s. 457.

31. (1) Any person who sends or attempts to send or is party to sending or attempting to send a ship to sea from any port in South Australia, in such an unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of a misdemeanour, and liable to imprisonment for not more than two years, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in such an unseaworthy state was in the circumstances reasonably justifiable.

(2) Any master of a ship who knowingly takes the same to sea from any port in South Australia in such an unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of a misdemeanour, and liable to imprisonment for not more than two years, unless he proves that her going to sea in such an unseaworthy state was in the circumstances reasonable and justifiable.

(3) A prosecution under this section shall not be instituted except by or with the consent of the board or of the Minister.

(4) This section shall not apply to any ship employed exclusively in trading or going from place to place in any river or inland water.

Obligation of shipowner to crew with respect to use of reasonable efforts to secure seaworthiness.
U.K. 57 and 58 Vict. c. 60, s. 455.

32. (1) In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship, that the owner of the ship, and the master, and every agent charged with the loading of the ship, or the preparing of the ship for sea, or the sending of the ship to sea, shall use all reasonable means to insure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep her in a seaworthy condition for the voyage during the same.

(2) Nothing in this section—

(a) shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending of the ship to sea is reasonable and justifiable ; or

(b) shall apply to any ship employed exclusively in trading or going from place to place in any river or inland water.

33. Any master who arrives at any port or place within South Australia from any other port or place in South Australia in charge of any ship in such an unseaworthy condition that the life of any person might, had the ship been at sea in that condition, thereby be endangered, shall, unless he proves—

- (a) that he used all reasonable means to insure her being sent to sea in a seaworthy state ; or
- (b) that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable ; or
- (c) that she became unseaworthy whilst at sea after leaving the last port of call, in consequence of circumstances over which he had no control,

be guilty of an offence against this Act, and liable to a penalty of not less than fifty pounds nor more than one hundred pounds.

34. Any person who—

- (a) sends or takes, or attempts to send or take any ship from any port or place in South Australia ; or
- (b) departs from or arrives at any port or place in South Australia in charge of any ship,

Penalty for
departing from
or arriving at
any port with-
out hatches on.
917, 1906,
s. 10.

without the hatches of the ship being properly battened down and secured, or in such a position and condition that they can be so battened down and secured without delay, shall be guilty of an offence against this Act, and liable to a penalty of not more than one hundred pounds.

35. (1) Whenever a ship being at any place within South Australia is an unsafe ship, that is to say, is by reason of the defective condition of her hull, equipments, or machinery, or by reason of undermanning, or by reason of overloading or improper loading, unfit to go to sea without serious danger to human life, having regard to the nature of the service for which she is intended, the ship may be provisionally detained for the purpose of being surveyed or for ascertaining the sufficiency of her crew and either finally detained or released as follows :—

Power to
detain unsafe
ships and
procedure for
such detention.
237, 1881,
s. 175.
U.K. 57 and
58 Vict. c. 60
s. 459.
U.K. 60 and
61, Vict. c. 59,
s. 1 (1).

- I. The board if it has reason to believe on complaint or otherwise that a ship is unsafe may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed :
- II. When a ship has been provisionally detained, there shall be forthwith served on the master of the ship a written statement of the grounds of her detention, and the board may if it thinks fit, appoint some competent officer or officers of the

board or with the consent of the Minister any competent person or persons to survey the ship and report thereon to the board :

- III. The board on receiving the report may either order the ship to be released or if in its opinion the ship is unsafe may order her to be finally detained, either absolutely or until the performance of such conditions with respect to the execution of repairs or alteration or the unloading or reloading of cargo, or the manning of the ship, as the board thinks necessary for the protection of human life, and the board may from time to time vary or add to any such order :
- IV. Before the order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master of the ship may appeal to the court of survey :
- V. Where a ship has been provisionally detained, the owner or master of the ship at any time before the person appointed under this section to survey the ship makes such survey may require that he shall be accompanied by such qualified person as the owner or master may select, and, in that case if the surveyor and the said person agree, the board shall cause the ship to be detained or released accordingly, but if they differ, the board may act as if the requisition had not been made, and the owner and master shall have the like appeal touching the report of the surveyor as is before provided by this section :
- VI. Where a ship has been provisionally detained, the board may at any time if it thinks it expedient refer the matter to the court of survey :
- VII. The board may at any time, if satisfied that a ship detained under this Act is not unsafe, order her to be released either upon or without any conditions.

(2) Officers may be appointed by the board to be detaining officers, and such detaining officers shall have the same power as the board has under this section of ordering the provisional detention of a ship for the purpose of being surveyed and of appointing a person or persons to survey her ; and if any such detaining officer thinks that a ship so detained by him is not unsafe, he may order her to be released.

(3) A detaining officer shall forthwith report to the board any order made by him for the detention or release of a ship.

(4) An order for the detention of a ship, provisional or final, shall be served as soon as may be on the master of the ship.

(5) A detaining officer and a person authorised to survey a ship under this section shall for that purpose have the same powers as a person appointed by a court of survey to survey a ship, and the provisions of this Act with respect to the person so appointed shall apply accordingly.

36. (1) Where under this Act any ship is authorised or ordered to be detained, any officer of the board may detain the ship.

Enforcing detention.
237, 1881,
s. 176.
U.K. 57 and
58 Vict. c. 60,
s. 692.

(2) If the ship after detention or after service on the master of any notice of or order for detention goes to sea before it is released by competent authority, the master of the ship and also the owner and any person who sends the ship to sea, if such owner or person is party or privy to the offence, shall be guilty of an offence against this Act and liable to a penalty of not more than one hundred pounds.

37. Where a ship so going to sea takes to sea when on board thereof in the execution of his duty any officer authorised to detain the ship, the owner and master of the ship shall each be guilty of an offence against this Act and liable to a penalty of not more than one hundred pounds and also to pay all expenses of and incidental to the officer being so taken to sea until the officer returns or until such time as would enable him after leaving the ship to return to the port from which he is taken. Any such expenses may be recovered in a summary way.

Penalty on taking detaining officer to sea.
237, 1881,
s. 177.
U.K. 57 and
58 Vict. c. 60,
s. 692.

38. (1) Whenever the court of marine inquiry is to be summoned to sit as the court of survey the board shall determine whether assessors of nautical or engineering or other special skill and experience are required to sit on the court, and such persons shall be summoned in the same manner as is in this Act provided in the case of an investigation by the court of marine inquiry.

Constitution of court of survey for appeals.
231, 1881,
s. 178.
U.K. 57 and
58 Vict. c. 60,
s. 487.

(2) The clerk of the court shall on receiving notice of an appeal or a reference from the board, immediately summon the court to meet as soon as conveniently may be.

39. With respect to the court of survey the following provisions shall have effect :—

Power and procedure of court of survey.
231, 1881,
s. 179.
Cf. U.K. 57
and 58 Vict.
c. 60, s. 488.

1. The case shall be heard in open court :

- II. The court may survey the ship and shall have all the powers of an inspector appointed by the board under this Act :
- III. The court may appoint any competent person or persons to survey the ship and report thereon to the court :
- IV. The court shall have the same power as the board has to order the ship to be released or finally detained :
- V. The owner and master of the ship and any person appointed by the owner or master and also any person appointed by the board may attend at an inspection or survey made in pursuance of this section :
- VI. The president of the court shall send to the board a report, and each of the other members of the court shall either express his concurrence in the report by signing the same or report to the board the reasons for his dissent.

Rules of practice,
237, 1881,
s. 180.
U.K. 57 and
58 Vict. c. 60,
s. 489.

40. The Governor, on the recommendation of the board, may make general rules to carry into effect the provisions of this Act with respect to the court of survey, and in particular with respect to the summoning of and procedure before the court, the requiring on an appeal security for costs and damages, and the amount and application of fees.

Liability of board and shipowner for costs and damages.
237, 1881,
s. 181.
U.K. 57 and
58 Vict. c. 60,
s. 460.

41. (1) If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of the ship under this Part as an unsafe ship, the board shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

(2) If a ship is finally detained under this Part or if it appears that a ship provisionally detained was at the time of the detention an unsafe ship within the meaning of this Part, the owner of the ship shall be liable to pay to the board the costs of and incidental to the detention and survey of the ship. The said costs shall without prejudice to any other remedy be recoverable summarily by the board.

(3) For the purposes of this Act, the costs of and incidental to any proceeding before the court of survey, and a reasonable amount in respect of the remuneration of the surveyor or officer of the board, shall be part of the costs of the detention and survey of the ship; and any dispute as to the amount of such costs may be referred to the Master of the Supreme Court, who on request made to him for that purpose by the board shall ascertain and certify the proper amount of the costs.

42. (1) Where a complaint is made to the board or a detaining officer that a ship is unsafe, the board or officer may, if it or he thinks fit, require the complainant to give security to the satisfaction of the board for the costs and compensation which he may become liable to pay as hereinafter mentioned.

Power to require from complainants security for costs.
237, 1881, s. 182.
U.K. 57 and 58 Vict. c. 60, s. 461.

(2) Where the complaint is made by one-fourth, being not less than two of the seamen belonging to the ship, and is not in the opinion of the board or detaining officer frivolous or vexatious, the security shall not be required; and the board or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

(3) Where a ship is detained in consequence of any complaint, and the circumstances are such that the board is liable under this Act to pay to the owner of the ship any costs or compensation, the board may by notice in writing given to the complainant require the complainant to pay to the board all such costs and compensation as the board incurs or is liable to pay in respect of the detention and survey of the ship. Any such notice may be given by post.

DIVISION III.—SCIENTIFIC REFEREES.

DIVISION III.

43. (1) If the board is of opinion that an appeal under this Part involves a question of construction or design or of scientific difficulty or important principle, it may refer the matter to such one or more scientific referees as may appear to the board to possess the special qualifications necessary for the particular case, and thereupon the appeal shall be determined by the referee or referees instead of by the court of survey.

Reference in difficult cases to scientific referees.
237, 1881, s. 186.
U.K. 57 and 58 Vict. c. 60, s. 490.

(2) The board, if the appellant in any appeal so requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer that appeal to a referee or referees so to be appointed as aforesaid.

(3) The referee or referees shall have the same powers as the court of survey.

PART IV.

DIVISION IV.

DIVISION IV.—CABLES AND ANCHORS.

No chain cable or anchor exceeding one hundred and sixty-eight pounds to be sold without being tested.
237, 1881,
s. 137.
U.K. 62 and
63 Vict. c. 23
s. 1.

44. (1) A maker of or dealer in anchors and chain cables shall not sell or contract to sell nor shall any person purchase or contract to purchase for the use of any ship any chain cable or any anchor exceeding in weight one hundred and sixty-eight pounds which has not been previously tested and stamped in accordance with the Act of the United Kingdom, the Anchors and Chain Cables Act, 1899, or any Act amending or substituted for that Act.

(2) Any person who acts in contravention of this section shall be deemed to be guilty of a misdemeanour, and liable to imprisonment for not more than two years. The onus of proving that any chain cable was tested and stamped in accordance with the provisions of the said Act shall in all cases lie upon the person charged with an offence against this section.

Contract for sale to imply a warranty.
U.K. 62 and
63 Vict. c. 23,
s. 2.

45. Every contract for the sale of a chain cable or of an anchor exceeding in weight one hundred and sixty-eight pounds shall in the absence of an express stipulation to the contrary (proof whereof shall lie on the seller) be deemed to imply a warranty that the anchor or cable has been before delivery tested and stamped in accordance with the said Act. In case of dispute, the onus of proving that the chain cable or anchor was so tested and stamped shall be on the seller.

Cables and anchors of alleged unseaworthy ships.
237, 1881,
s. 188.
U.K. 62 and
63 Vict. c. 23,
s. 4.

46. Whenever any ship is surveyed or detained under this Act on the ground of alleged unseaworthiness, the board may direct an inquiry into the condition of the cables and anchors, and if they have not been tested according to the said Act may make such further order as it thinks requisite previous to her release.

DIVISION V.

DIVISION V.—SHIP'S DRAUGHT AND FREEBOARD.

Ship's draught of water and clear side to be recorded.
237, 1881,
s. 189.
U.K. 57 and
58 Vict. c. 60,
s. 436.
U.K. 22 Geo.
5, c. 9, s. 62.

47. (1) The board may, in any case or class of cases in which it thinks it expedient so to do, direct any officer of the board to record, in such manner and with such particulars as it directs, the draught of water of any sea-going ship as shown on the scale of feet on her stem and stern post and the extent of her clear side in feet and inches upon her leaving any wharf or port in South Australia for the purpose of going to sea. The officer shall thereupon keep the record, and shall from time to time forward the same or a copy thereof to the board.

(2) That record or any copy thereof if produced out of the custody of the board shall be admissible in evidence of the draught of water and extent of freeboard of the ship at the time specified in the record.

(3) The master of a sea-going ship shall, upon her leaving any wharf or port for the purpose of going to sea, record her draught of water and the extent of her freeboard in feet and inches in the official log book (if any) and shall produce the record to any officer of the board whenever required by him so to do, and if he fails without reasonable cause to produce the record, shall be guilty of an offence against this Act, and be liable to a penalty of not more than twenty pounds.

(4) The master of a sea-going ship shall, upon the request of any officer of the board directed to record the ship's draught of water or freeboard, permit the officer to enter the ship and to make such inspections and take such measurements as may be requisite for the purpose of the record, and every master who fails so to do or impedes or suffers any one under his control to impede any such officer in the execution of his duty shall be guilty of an offence against this Act, and liable to a penalty of not more than five pounds.

(5) In this section the expression "freeboard" means, in the case of any ship which is marked with a deck-line, the height from the water to the upper edge of the deck-line, and, in the case of any other ship, the height amidships from the water to the upper edge of the deck from which the depth of hold as stated in the register is measured.

DIVISION VI.—DECK AND LOAD LINES.

DIVISION VI.

48. (1) Every coast-trade ship and river ship (except coast-trade ships under fifteen tons gross registered tonnage employed solely in that trade, river ships employed solely in that trade, and ships employed solely in fishing or as pleasure yachts not engaged in trading or plying for hire) shall be permanently and conspicuously marked with lines (in this Act called deck lines) of not less than twelve inches in length and one inch in breadth, painted longitudinally on each side amidships or as near thereto as is practicable, and indicating the position of each deck which is above water.

Marking of
deck lines.
614, 1894,
s. 3.
Cf. U.K. 57
and 58 Vict.
c. 60, s. 437.

(2) The upper edge of each of the deck lines must be level with the upper side of the deck plank next the waterway at the place of marking.

(3) The deck lines must be white or yellow on a dark ground or black on a light ground.

(4) In this Division the expression "amidships" means the middle of the length of the load water-line as measured from the foreside side of the stem to the aftside of the stern post.

PART IV.
DIVISION VI.

Marking of
load line.
614, 1894,
s. 4.
U.K. 57 and
58 Vict. c. 60,
ss. 437-441.

49. (1) With respect to the marking of a load line, the following provisions shall have effect :—

- I. The owner of every coast-trade ship (except ships under fifteen tons gross registered tonnage employed solely in that trade and ships employed solely in fishing or as pleasure yachts not engaged in trading or plying for hire) shall before going to sea from any port mark upon each of her sides amidships within the meaning of section 48, or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter with a horizontal line eighteen inches in length drawn through its centre :
- II. The centre of this disc shall be placed at such level below the deck line marked under the provisions of this Act as may be approved by the board, and shall indicate the maximum load line in salt water to which it shall be lawful to load the ship :
- III. When a ship has been marked as by this section required, she shall be kept so marked until notice is given of an alteration :
- IV. The said owner shall also once in every twelve months immediately before the ship goes to sea, send or deliver to the board a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the deck lines which is above that centre, and he shall also at the same time forward a copy of such statement to the secretary :
- V. The owner before the ship goes to sea after any renewal or alteration of the disc shall send or deliver to the board notice in writing of the renewal or alteration, together with such statement in writing as before mentioned, of the distance between the centre of the disc and the upper edge of each of the deck lines.

(2) If default is made in sending or delivering any statement or notice required by this section to be sent or delivered, the owner shall be guilty of an offence against this Act, and liable to a penalty of not more than one hundred pounds.

Method of
marking
load line.
614, 1894,
s. 4 (3).
U.K. 57 and
58 Vict. c. 60,
s. 438 (3).

50. The position of the disc in the last preceding section mentioned shall be in accordance with the appropriate tables adopted by the Board of Trade from time to time, subject to such allowance as may be made necessary by any difference between the position of the deck line marked

under the provisions of this Act, and the position of the line from which freeboard is measured under the said tables.

51. The Governor may appoint any corporation or association for the survey or registry of shipping approved by the board or any other competent authority approved by the board or may appoint any officer of the board specially selected by the board for that purpose to approve and certify on its behalf from time to time the position of any such disc as aforesaid and any alteration thereof, and may appoint fees to be taken in respect of any such approval or certificate.

Appointment
of officers &c.
614, 1894,
s. 8;
U.K. 57 and
58 Vict. c. 60,
s. 443 (1).

52. (1) The Governor, on the recommendation of the board, may make regulations—

Regulations.
614, 1894,
s. 9;
U.K. 57 and
58 Vict. c. 60,
s. 443 (2).

(a) determining the lines or mark to be used in connection with the disc in order to indicate the maximum load line under different circumstances and at different seasons, and declaring that the provisions of this Division are to have effect as if any such line were drawn through the centre of the disc :

(b) as to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship whether by painting cutting or otherwise :

(c) as to the mode of application for and form of certificates under this Division ; and

(d) requiring the entry of such certificates and other particulars as to the draught of water and freeboard of the ship in the official log book of the ship or other publication thereof on board the ship, and as to delivering copies of such entries.

(2) Any person who makes default in complying with any such regulation shall be guilty of an offence against this Act, and liable to a penalty of not more than one hundred pounds.

53. Any ship marked with a load line in accordance with the provisions of the Merchant Shipping Act or marked by any authority recognised as competent for the purpose by any Order in Council made under the power contained in the said Act shall be deemed to be marked in accordance with this Act.

Ship marked
under Imperial
Act to be
taken as
marked under
this Act.
Cf. 614, 1894,
s. 11.
U.K. 57 and
58 Vict. c. 60,
s. 444.

PART IV.

DIVISION VI.

Ships with submerged load lines to be deemed to be unsafe.

614, 1894, s. 5.
U.K. 57 and 58 Vict. c. 60, s. 439.

Penalty for offences in relation to marks on ships.

614, 1894, s. 10.
U.K. 57 and 58 Vict. c. 60, s. 442.

54. If a ship is so loaded as to submerge in salt water the centre of the disc indicating the load-line, the ship shall be deemed to be an unsafe ship within the meaning of this Part, and such submersion shall be a reasonable and probable cause for the detention of the ship.

55. (1) If—

(a) any owner or master of a ship fails without reasonable cause to cause his ship to be marked as by this Division required, or to keep her so marked, or allows the ship to be so loaded as to submerge in salt water the centre of the disc indicating the load-line ; or

(b) any person conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy,

he shall be guilty of an offence against this Act, and liable to a penalty of not more than one hundred pounds.

(2) If any mark required by this Division is in any respect inaccurate so as to be likely to mislead, the owner of the ship shall be guilty of an offence against this Act, and liable to a penalty of not more than one hundred pounds.

Load-line certificates.
2142, 1933, s. 27.

56. Every certificate or approval given under this Division, or under any Act repealed by this Act, shall continue in force for four years and no longer, or for such less period as the board in any case determines : Provided that any certificate or approval given as aforesaid before the eleventh day of April, nineteen hundred and thirty-four, shall continue in force until the expiration of four years after the giving thereof, or until the expiration of such time (if any) for which it was granted, whichever first occurs.

DIVISION VII.

DIVISION VII.—EQUIPMENT.

Ships to be properly equipped.
Cf. 237, 1881, s. 195.
Cf. U.K. 57 and 58 Vict. c. 60, ss. 285, 427, 428, 432, 435.

57. (1) It shall be the duty of the owner of every ship or, if there is no owner in South Australia, of his agent to see that the ship is properly equipped.

(2) No sea-going ship shall be deemed to be properly equipped unless—

(a) she is provided with the necessary equipments ; and

s. 55. *STAPLE V. STEPHENS* (1883) 17 S.A.L.R. 130. Held that the offence contemplated by the latter part of paragraph (a) of subsection (1) is the loading at the port where the cargo is put on board, and not the port of arrival.

(b) she is provided with compasses properly adjusted from time to time to the satisfaction of the board and in accordance with the regulations.

58. In any of the following cases, that is to say—

(a) if any ship goes to sea without being equipped as provided by this Act or if any of such equipments are lost or rendered unfit for service in the course of the voyage through the wilful fault or negligence of the owner or master ; or

Penalties on masters and owners &c. neglecting to provide equipments. 237, 1881, s. 196. U.K. 57 and 58 Vict. c. 60, s. 430.

(b) if in case of any such equipments being accidentally lost or injured in the course of the voyage, the master wilfully neglects to replace or repair the same on the first opportunity ; or

(c) if such equipments are not kept so as to be at all times fit and ready for use,

then every owner or, if there is no owner in South Australia, the agent who appears to be in fault shall be guilty of an offence against this Act, and liable to a penalty of not more than one hundred pounds, and every master who appears to be in fault shall be guilty of an offence against this Act, and liable to a penalty of not more than fifty pounds.

DIVISION VIII.—REGULATIONS FOR PREVENTING COLLISIONS, &C., LIGHTS, SIGNALS, &C.

DIVISION VIII.

59. (1) The regulations contained in the first part of the second schedule shall come into operation and be of the same force as if they were enacted in the body of this Act and shall apply to all coast-trade ships and river ships in South Australian waters and in any port or place in South Australia.

Regulations concerning lights fog-signals and sailing rules. 237, 1881, s. 198.

(2) The Governor on the recommendation of the board may from time to time make regulations relating to the matters provided for in the first part of the said schedule and may annul or modify any of the said regulations or make new regulations in addition thereto or in substitution therefor.

60. (1) The regulations contained in the second part of the second schedule shall apply to all river ships in South Australia on the River Murray and to all ships on the South Australian tributaries of the said river.

Enactment of regulations concerning lights fog-signals and sailing rules.

(2) The Governor on the recommendation of the board may make regulations to annul or modify any of the said regulations or may make new regulations in addition thereto or in substitution therefor.

PART IV.
DIVISION VIII.

Owners and masters bound to obey regulations.

237, 1881, s. 200.
U.K. 57 and 58 Vict. c. 60, s. 419 (1).

61. All owners and masters of coast-trade ships and river ships shall be bound to take notice of all regulations for the time being in force for preventing collisions at sea or applying to ships belonging to South Australia on the River Murray, and shall so long as the same continue in force be bound to obey them and to carry and exhibit no other lights which may be mistaken for the lights prescribed by the said regulations and to use no other fog-signals than such as are required by the said regulations.

Breach of regulations to imply wilful default of person in charge.

237, 1881, s. 201.
U.K. 57 and 58 Vict. c. 60, s. 419 (3).

62. If, by reason of the non-observance by any ship of any of such regulations, any damage to person or property is caused or contributed to, the damage shall be deemed to have been occasioned by the default of the person in charge of the deck of the ship at the time, unless it is shown to the satisfaction of the court before which the case is tried that the circumstances of the case made a departure from the regulation necessary.

Duties of masters in case of collision.

237, 1881, s. 203.
U.K. 57 and 58 Vict. c. 60, s. 422.
U.K. 1 and 2 Geo. 5 c. 57, s. 4.

63. (1) In every case of collision between two ships it shall be the duty of the master or person in charge of each ship if and so far as he can do so without danger to his own ship, crew, and passengers (if any)—

(a) to stay by the other ship until he has ascertained that she has no need of further assistance, and to render to the other ship, her master, crew, and passengers (if any) such assistance as may be practicable and as may be necessary in order to save them from any danger caused by the collision; and

(b) to give to the master or person in charge of the other ship the name of his own ship and of her port of registry or of the port or place to which she belongs and also the names of the ports or places from which she comes and to which she is bound.

(2) If the master or person in charge fails without reasonable cause to comply with this section, he shall be guilty of a misdemeanour, and liable to imprisonment for not more than two years, and, if he is a certificated officer an inquiry into his conduct may be held and his certificate may be cancelled or suspended.

(3) Notwithstanding anything contained in subsection (2) of section 422 of the Merchant Shipping Act, in case of a collision between two ships, the collision shall not be deemed to have been caused by the wrongful act, neglect, or default of the

master or person in charge of the ship, who failed to comply with the provisions of that section, solely by reason of the fact that he has not complied with the provisions of that section.

64. (1) Every ship shall be provided with the means for making such signals of distress as may from time to time be prescribed by the said regulations, or by or under the Merchant Shipping Act.

Signals of distress.
237, 1881,
s. 205.
U.K. 57 and
58 Vict. c. 60,
s. 434.

(2) Any master of a ship who uses or displays or causes or permits any person under his authority to use or display any of the said signals of distress except in the case of a ship being in distress shall be liable to pay compensation for any labour undertaken, risk incurred, or loss sustained in consequence of such signal having been supposed to be a signal of distress. The said compensation may be recovered in any court of competent jurisdiction.

65. (1) No person on any ship shall when the ship is going ahead, give a helm or steering order containing the word "starboard" or "right" or any equivalent of "starboard" or "right", unless he intends that the head of the ship shall move to the right, or give a helm or steering order containing the word "port" or "left", or any equivalent of "port" or "left", unless he intends that the head of the ship shall move to the left.

Method of giving helm orders.
U.K. 22
Geo. 5 c. 9,
s. 29.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence against this Act, and liable to a penalty of not more than fifty pounds.

DIVISION IX.—INSPECTION OF SHIPS.

DIVISION IX.

66. (1) The surveyors of the board or such other officers of the board as the board may appoint for the purpose, may go on board any ships at all reasonable times and inspect the same for the purpose of seeing that the same are properly provided with the necessary equipments and other articles on board thereof in accordance with the requirements of this Act and the regulations and that the same are in a fit state for use, and shall for that purpose have the powers given to inspectors appointed by the board under this Act.

Inspection for enforcing regulations.
237, 1881,
s. 204.
U.K. 57 and
58 Vict. c. 60,
s. 420.

(2) If any such surveyor or officer finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency and also what is in his opinion requisite in order to remedy the same.

DIVISION X.

DIVISION X.—EQUIPMENT OF STEAMSHIPS.

Equipment of steamships.

Cf. 237, 1881, s. 206.
Cf. U.K. 57 and 58 Vict. c. 60, s. 285.

67. (1) Steamships shall in addition to the equipments by this Act prescribed for ships generally, be provided as follows, that is to say :—

- I. Every steamship of which a survey is hereby required shall be provided with a safety-valve on each boiler so constructed as to be out of the control of the engineer when the steam is up, and provided with the proper lifting gear ; and if the valve is in addition to the ordinary valve, it shall be so constructed as to have an area not less, and a pressure not greater, than the area of and pressure on that valve :
- II. Every seagoing steamship shall be provided with a hose adapted for the purpose of extinguishing fire in any part of the ship and capable of being connected with a suitable engine which shall be carried by the steamship, and with such other fire-fighting appliances as are requisite :
- III. Any steering chains or blocks liable to interfere with or endanger the passengers or crew shall be protected by portable but properly secured guards.

(2) If any steamship to which this Part extends plies in or goes to sea from any port in South Australia without being so provided as hereinbefore required, then for each default in any of the above requisites the owner shall (if he appears to be in fault) be guilty of an offence against this Act, and liable to a penalty of not more than one hundred pounds and the master shall (if he appears to be in fault) be guilty of an offence against this Act and liable to a penalty of not more than fifty pounds.

Penalty for improper weight on safety-valve.

237, 1881, s. 207.
U.K. 57 and 58 Vict. c. 60, s. 433.

68. Any person who places an undue weight on the safety-valve of any steamship or in the case of steamships surveyed as hereinafter mentioned increases such weight beyond the limits fixed by the engineer surveyor as hereinafter mentioned, shall, in addition to any other liabilities he may incur by so doing, be guilty of an offence against this Act and liable to a penalty of not more than one hundred pounds.

DIVISION XI.—SURVEY OF SHIPS.

DIVISION XI.

69. (1) The following ships shall be surveyed at least once in every twelve months in the manner hereinafter mentioned :—

Annual survey
of ships.
2142, 1933,
s. 12.
Cf. U.K. 57
and 58 Vict.
c. 60, s. 271.

- I. Every coast-trade steamship and river trade steamship engaged in trade for the conveyance of passengers for hire :
- II. Every coast-trade steamship and river trade steamship which is above fifteen tons gross registered tonnage and is engaged in trade for hire or plies for hire (other than for the conveyance of passengers) :
- III. Every coast-trade ship and river ship (not being a steamship) which is above fifteen tons gross registered tonnage and is engaged in trade (whether for the conveyance of passengers or otherwise) for hire or plies for hire.

(2) In this Division “ship” means any steamship or other ship of any kind mentioned in subsection (1).

70. The board may—

- (a) appoint such number of fit and proper persons to be ship surveyors or engineer surveyors or both, for the purposes of this Act, at such ports and places as the board thinks fit ; and
- (b) from time to time fix and alter the rates of remuneration to be received by such surveyors.

Appointment
of surveyors.
237, 1881,
s. 209.
U.K. 57 and
58 Vict. c. 60,
s. 724.
U.K. 6 Edw. 7
c. 48, s. 75.

71. (1) The engineer surveyors and ship surveyors of the board may, in addition to the powers hereinbefore given to them in the execution of their duties, go on board any ship at all reasonable times and inspect the same or any part thereof or any of the equipments, safety-valves, or articles on board thereof, or any certificate of registry or any certificates of the master, mates, or engineers to which the provisions of this Act or any of the regulations apply, not unnecessarily detaining or delaying the ship from going on any voyage, and if in consequence of any accident to any such ship, or for any other reason they consider it necessary so to do, may require the ship to be taken into dock or placed on a slip for the purpose of surveying the hull thereof.

Surveyors to
have power to
inspect.
237, 1881,
s. 210.

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(2) Any person who hinders any such surveyor from going on board any such ship or otherwise impedes him in the execution of his duty under this Act shall be guilty of an offence against this Act and liable to a penalty of not more than five pounds.

Penalty on surveyors receiving fees unlawfully. 237, 1881, s. 211.

72. Every surveyor who demands or receives directly or indirectly from the owner or master of any ship surveyed by him under the provisions of this Act any fee or remuneration whatsoever for or in respect of the survey otherwise than as the officer and by the direction of the board shall be guilty of an offence against this Act and liable to a penalty of not more than fifty pounds.

Mode of survey and declaration of survey. 237, 1881, s. 212. 2142, 1933, s. 14. U.K. 57 and 58 Vict. c. 60, s. 272. U.K. 4 and 5 Geo. 5 c. 50, s. 7 (4).

73. (1) The owner of every steamship to which this Division applies shall cause the same to be surveyed by a ship surveyor and an engineer surveyor, and the owner of any other ship to which this Division applies shall cause the same to be surveyed by a ship surveyor, the ship surveyor being, in the case of an iron ship, a person properly qualified in the opinion of the board to survey an iron ship.

(2) The surveyors, if satisfied on the survey that they can with propriety do so, shall deliver to the owner declarations of survey in a form approved by the board.

(3) The declaration of the ship surveyor shall contain statements of the following particulars :—

- I. That the hull of the ship is sufficient for the service intended and in good condition :
- II. That the boats, life-buoys, lights, signals, signalling apparatus, compasses, and shelter for deck passengers, are such, and in such condition, as are required by this Act :
- III. The time (if less than twelve months) for which the hull and equipments will be sufficient :
- IV. The limits (if any) beyond which, as regards the hull and equipments, the ship is in the surveyor's judgment not fit to ply :
- V. The number of passengers which the ship is in the judgment of the surveyor fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins ; those

numbers to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried, or other circumstances, as the case requires :

vi. That the certificates of the master and mate or mates are such as are required by this Act.

(4) The declaration of the engineer surveyor shall contain statements of the following particulars, namely :—

- i. That the machinery of the ship is sufficient for the service intended, and in good condition :
- ii. The time (if less than twelve months) for which the machinery will be sufficient :
- iii. That the safety valves and fire hose are such and in such condition as are required by this Act :
- iv. The limit of the weight to be placed on the safety valves :
- v. The limits (if any) beyond which, as regards the machinery, the ship is in the surveyor's judgment not fit to ply :
- vi. That the certificates of the engineer or engineers of the ship are such as are required by this Act.

74. (1) In all cases where it is possible the said yearly surveys shall be made while a certificate in respect of the ship is still current.

Time for
surveys.
237, 1881,
s. 214.

(2) If the owner of a ship is unable to have the same surveyed within the time hereinbefore prescribed either by reason of the ship being absent from South Australia or by reason of the ship or the machinery thereof being under construction or repair or of the ship being laid up on a slip or in dock or for any other reason satisfactory to the board, then he shall have the same surveyed as aforesaid as soon thereafter as possible.

75. (1) Upon the receipt of the said declarations the board shall, if satisfied that the provisions of this Act have been complied with, cause a certificate in duplicate to be prepared and issued to the effect that the provisions of the law with respect to the survey of the ship have been complied with.

Issue of
certificates.
237, 1881,
s. 215.
U.K. 57 and
58 Vict. c. 60,
s. 274.

(2) The certificate shall state the limits (if any) within which according to the declarations of the surveyors the ship is fit to ply, and shall also contain a statement of the number of passengers which according to the declaration of the surveyor

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the ship is fit to carry, distinguishing if necessary between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins, such number to be subject to such conditions and variations according to the time of year, the nature of the voyage, the cargo carried, and other circumstances as the case requires.

Transmission of certificates.

Cf. 237, 1881, s. 216.
Cf. U.K. 57 and 58 Vict. c. 60, s. 276.

76. The secretary shall deliver or send by post the certificate to the master or owner or the agent of the master or owner.

Fees to be paid for certificates.

U.K. 57 and 58 Vict. c. 60, s. 277.

77. The owner of every ship requiring a certificate under this Part shall pay for every certificate granted by the board such fees (if any) as the board directs.

Power to cancel certificates and require fresh declarations.

237, 1881, s. 218.
U.K. 57 and 58 Vict. c. 60, s. 279.

78. (1) The board may cancel the certificate in any case in which it has reason to believe—

- (a) that any declaration of survey has been fraudulently or erroneously made ; or
- (b) that the certificate has been issued upon false or erroneous information ; or
- (c) that since the making of the declarations the hull, equipments, or machinery of the ship have been materially altered or have sustained any injury or are otherwise insufficient.

(2) In every such case the board may require the owner to have the hull, equipments, or machinery of the ship again surveyed, and to transmit a further declaration or declarations of the sufficiency and good condition thereof before re-issuing any certificate or granting a fresh one in lieu thereof.

How long certificates to continue in force.

237, 1881, s. 217.
U.K. 57 and 58 Vict. c. 60, ss. 278 and 280.

79. (1) Except as hereinafter provided, no certificate shall be in force beyond the date fixed for the expiration of the certificate ; and no certificate shall be in force after notice is given by the board to the owner, agent, or master of the ship to which the same relates that the board has cancelled the same.

(2) The board may require any certificate which has expired or been cancelled to be delivered up as it directs. Any owner or master who without reasonable cause neglects or refuses to comply with any such requirement shall be guilty of an offence against this Act and liable to a penalty of not more than ten pounds.

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80. (1) The owner or master of every ship shall forthwith on the delivery of any such certificate as aforesaid to him or his agent cause it to be put up in some conspicuous part of the ship so as to be visible to all persons on board the same, and shall cause it to be so continued so put up so long as the certificate remains in force and the ship is in use.

Certificate to be placed in conspicuous part of ship.

237, 1881, ss. 219 and 220.

U.K. 57 and 58 Vict. c. 60, s. 281.

(2) If the owner or master fails without reasonable excuse to comply with this section he shall be guilty of an offence against this Act, and liable to a penalty of not more than ten pounds.

(3) If any ship goes to sea or goes upon any voyage or excursion or plies with or without any passengers on board without having such certificate as aforesaid (being a certificate then in force and applicable as aforesaid) so put up as aforesaid in some conspicuous part of the ship, the owner thereof shall be guilty of an offence against this Act, and liable to a penalty of not more than one hundred pounds, and the master of the ship shall also be guilty of an offence against this Act, and liable to a penalty of not more than twenty pounds.

81. When a certificate of survey issued by the board in respect of any ship has expired or is about to expire, the board may, if it thinks fit, extend the term of the certificate for a period not exceeding one month from the day upon which the certificate of survey expires upon payment of a fee of two pounds two shillings.

Power of board to extend certificates granted by them.

814, 1902, s. 26.
2142, 1933, s. 31.

82. If the owner or master of any ship receives on board thereof or on or in any part thereof any number of passengers which, having regard to the time, occasion, and circumstances of the case, is greater than the number of passengers allowed by the certificate, the owner or master shall be guilty of an offence against this Act, and liable to a penalty of not more than twenty pounds, and also an additional penalty of not more than five shillings for every passenger or person over and above the number allowed by the certificate, or, if the fare of any of the passengers on board exceeds five shillings, not exceeding double the amount of the fares of all the passengers or persons who are over and above the number so allowed as aforesaid, and such fares shall be estimated at the highest rate of fares payable by any passenger on board.

Penalty where ship carries passengers in excess of number specified in certificate.

237, 1881, s. 221.
U.K. 57 and 58 Vict. c. 60, s. 283.

83. (1) The surveyors appointed by the board shall from time to time make such returns to the board as it requires with respect to the build, dimensions, draught, burden, rate of sailing, room for fuel, and the nature and particulars of machinery and equipments of the ships surveyed by them.

Surveyors to make returns of the build and other particulars of ships.

237, 1881, s. 224.

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(2) Every owner, master, and engineer of any such ship shall on demand give to such surveyors all such information and assistance within his power as they require for the purpose of such returns.

(3) Any such owner, master, or engineer who on being applied to for that purpose wilfully refuses or neglects to give such information or assistance shall be guilty of an offence against this Act and liable to a penalty of not more than five pounds.

Ships with Board of Trade certificates, 237, 1881, s. 225. Cf. U.K. 57 and 58 Vict. c. 60, s. 284.

84. (1) In every case where a certificate has been granted to any ship by the Board of Trade or pursuant to the Navigation Act, which remains still in force, it shall not be requisite that the ship be again surveyed under this Act during such time as the certificate remains in force.

(2) In the case of a ship having a certificate issued by the properly constituted authority of any British possession or foreign country recognised by the Governor, if the board is satisfied that the certificate remains still in force and is to the like effect and is granted after a like survey and in such manner as to be equally efficient with a certificate granted under this Act, it may dispense with the survey required under this Act during such time as the certificate remains in force.

Permit exempting certain ships from provisions as to survey &c. 237, 1881, ss. 226 and 227.

85. (1) Notwithstanding anything herein contained the board may, by writing under the hand of the secretary, grant to the master or the owner or the agent of the owner of any ship subject to this Part and not carrying passengers, a permit exempting the ship from the operation of the provisions of this Act relating to the survey of the hull, equipments, and machinery of such ship.

(2) Any such permit may be absolute or limited in any particular, and may at any time be revoked and cancelled by the board.

(3) If the master or the owner or the agent of the owner of any ship in respect of which a permit has been granted receives on board or carries passengers, the master or owner or agent shall be guilty of an offence against this Act and liable to a penalty of not more than fifty pounds, and, in addition, the permit granted in respect of the ship shall be absolutely forfeited.

DIVISION XII.—APPEAL ON REFUSAL OF CERTIFICATE
AS TO EQUIPMENT, ETC.

DIVISION XII.

86. (1) If a shipowner feels aggrieved—

Appeal to
court of
survey.
237, 1881,
s. 185.
U.K. 57 and
58 Vict. c. 60,
s. 275.

(a) by a declaration of a ship surveyor or an engineer surveyor respecting a ship under this Part or by the refusal of a ship surveyor or an engineer surveyor to give the declaration hereinbefore required respecting a ship ; or

(b) by the refusal of a certificate as to equipments or safety-valves, under the provisions hereinbefore contained respecting ships,

he may appeal in the prescribed manner to the court of survey.

(2) On any such appeal the president of the court shall report to the board on the question raised by the appeal, and the board when satisfied that the requirements of the report and the other provisions of the said enactments have been complied with may—

(a) in the case of a ship, give its certificate in lieu of the certificate hereinbefore required ; and

(b) in the case of a refusal of a certificate as to equipments or safety-valves, as aforesaid of any ship, give or direct the secretary or a surveyor or other person appointed by them to give a certificate in lieu of the certificate hereinbefore required.

(3) Subject to any order made by the president of the court, the costs of and incidental to an appeal under this section shall follow the event.

(4) The provisions of this Act with respect to the court of survey and appeals thereto, so far as consistent with the tenor thereof, shall apply to the court of survey when acting under this section, and to appeals under this section.

(5) Where the survey of a ship is made for the purpose of a declaration or certificate under the before-mentioned provisions, the person appointed to make the survey shall, if so required by the owner, be accompanied on the survey by some person appointed by the owner, and in such case if the said two persons agree there shall be no appeal under this section to the court of survey.

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DIVISION XIII.—CARRIAGE OF DANGEROUS GOODS.

Dangerous goods defined.
U.K. 57 and 58 Vict. c. 60, s. 446 (3).

87. For the purposes of this Division the expression "dangerous goods" means aquafortis, vitriol, naphtha, benzine, explosives, lucifer matches, petroleum, and any goods prescribed by regulation made by the Governor on the recommendation of the board.

Restrictions on carriage of dangerous goods.

Cf. 237, 1881, s. 358.
U.K. 57 and 58 Vict. c. 60, s. 446.

88. (1) A person shall not send or attempt to send by any ship, and a person not being the master or owner of the ship, shall not carry or attempt to carry in any ship from any port in South Australia any dangerous goods without distinctly marking their nature on the upper side of the outside of the package containing the same, and giving written notice of the nature of the goods and of the name and address of the sender or carrier thereof to the master or owner of the ship at or before the time of sending the same to be shipped or taking the same on board the ship.

(2) If any person fails without reasonable cause to comply with this section, he shall be guilty of an offence against this Act, and liable to a penalty of not more than one hundred pounds; or if he shows that he was merely an agent in the shipment of any such goods as aforesaid, and was not aware and did not suspect and had no reason to suspect that the goods shipped by him were of a dangerous nature, the penalty shall not be more than ten pounds.

Penalty for misdescription of dangerous goods.

Cf. 237, 1881, s. 359.
U.K. 57 and 58 Vict. c. 60, s. 447.

89. Any person who knowingly sends or attempts to send by or carries or attempts to carry in any ship from any port in South Australia any dangerous goods under a false description, or who falsely describes the sender or carrier thereof, shall be guilty of an offence against this Act, and liable to a penalty of not more than five hundred pounds.

Power to refuse to carry goods suspected of being dangerous.

Cf. 237, 1881, ss. 360 and 361.
U.K. 57 and 58 Vict. c. 60, s. 448.

90. (1) The master or owner of any ship may refuse to take on board at any port in South Australia any package or parcel which he suspects to contain dangerous goods, and may require it to be opened to ascertain the fact.

(2) When any dangerous goods, or any goods, which, in the judgment of the master or owner of the ship are dangerous goods, have been sent or brought aboard any ship without being marked as aforesaid, or without such notice having been given as aforesaid, the master or owner of the ship may cause the goods to be thrown overboard, with any package or receptacle in which they are contained; and neither the master nor the owner of the ship shall be subject to any liability, civil or criminal, in any court for so throwing the goods overboard.

91. (1) Where any dangerous goods have been sent or carried or attempted to be sent or carried on board any ship at any port in South Australia without being marked as aforesaid, or without such notice having been given as aforesaid, or under a false description, or with a false description of the sender or carrier thereof, any court having Admiralty jurisdiction may declare those goods and any package or receptacle in which they are contained, to be, and they shall thereupon be forfeited, and when forfeited shall be disposed of as the court directs.

Forfeiture of dangerous goods improperly sent.

Cf. 237, 1881, s. 362, U.K. 57 and 58 Vict. c. 60, s. 449.

(2) The court shall have, and may exercise, the aforesaid powers of forfeiture and disposal notwithstanding that the owner of the goods has not committed any offence under the provisions of this Act relating to dangerous goods, and is not before the court, and has not notice of the proceedings, and notwithstanding that there is no evidence to show to whom the goods belong; nevertheless the court may in its discretion require such notice as it may direct to be given to the owner or shipper of the goods before the same are forfeited.

92. (1) If, in the opinion of the board, the carriage of any particular cargo or goods in any ship would endanger her safety or interfere with the comfort of her passengers or crew, the board may notify the master or owner accordingly, and the carriage in the ship of the cargo or goods specified in the notice shall be prohibited, and, after receiving such notice, the master shall not take the ship to sea and the owner shall not permit the ship to go to sea with the prohibited cargo or goods therein or thereon.

Power to prohibit carriage of any cargo.

Cf. U.K. 57 and 58 Vict. s. 60, s. 301. Com. 4, 1913, s. 254.

(2) Any master who takes any ship to sea and any owner who permits any ship to go to sea contrary to the provisions of this section shall be guilty of an offence against this Act and liable to a penalty of not more than one hundred pounds.

93. The Governor, on the recommendation of the board, may make regulations prescribing all matters necessary or convenient to be prescribed in regard to the carriage of dangerous goods in ships, and in particular in relation to—

Regulations as to dangerous goods.

U.K. 22 Geo. 5 c. 9, s. 28, Com. 49, 1934, s. 38.

- (a) the classes of ships in which dangerous goods may be carried :
- (b) the quantities of dangerous goods that may be carried from any port in South Australia in such ships :
- (c) the precautions to be observed in connection with the loading and unloading of dangerous goods at any port in South Australia ; and

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(d) the conditions as to packing and stowage of dangerous goods, and the ventilation of holds containing dangerous goods, loaded at any port in South Australia.

(2) Any person who sends by, or carries in, any ship any dangerous goods which do not, or the packing, stowage or carriage of which does not, comply with such conditions as are prescribed, shall be guilty of an offence against this Act, and liable to a penalty of not more than three hundred pounds.

Explosives on
ships carrying
passengers.
237, 1881,
ss. 356 and 357.
1416, 1919,
ss. 14 and 15.

94. (1) If any ship carrying passengers carries any explosives, the explosives shall be protected in manner directed by the board.

(2) This section shall not apply—

(a) to explosives required for the purpose of making signals; or

(b) to explosives not exceeding five hundred pounds in weight which are kept in properly constructed magazines.

(3) The master or owner of any ship on which any explosives are carried contrary to this section shall be guilty of an offence against this Act and liable to a penalty of not more than one hundred pounds.

(4) The board may seize without warrant any explosives found on board any ship contrary to this section. All such explosives may be forfeited on the order of a court of summary jurisdiction and disposed of as such court directs.

DIVISION XIV.

DIVISION XIV.—GRAIN CARGOES.

Stowage of
grain cargo.
Cf. 237, 1881,
s. 230
U.K. 57 and
58 Vict. c. 60,
ss. 452 and 456.

95. (1) Where a grain cargo is laden on board any ship all necessary and reasonable precautions shall be taken to prevent the grain cargo from shifting.

(2) If those precautions are not taken in the case of any ship, the master of the ship and any agent of the owner who was charged with the loading of the ship or the sending of her to sea, shall each be guilty of an offence against this Act, and liable to a penalty of not more than three hundred pounds, unless he shows that he took all reasonable means to enforce the observance of this section, and was not privy to the breach thereof.

(3) For the purpose of this section “grain” means any corn, rice, paddy, pulse, seeds, nuts, or nut kernels.

DIVISION XV.—DECK CARGOES.

DIVISION XV.

96. (1) No horses, cattle, goats, sheep, pigs, or other animals shall be carried on the upper deck of any ship going to sea unless properly secured in stalls or pens properly constructed and erected for the purpose with the approval of a surveyor or other person appointed by the board, who may grant a general certificate for any such ship of the number of horses, cattle, goats, sheep, pigs, or other animals which in his opinion may be safely and conveniently carried on the deck thereof without encroaching on the deck space and accommodation required for the number of passengers specified in the certificate required under this Act.

Description of deck cargo that may be carried.
237, 1881, s. 232.

(2) No part of the cargo shall be so placed as to impede light or ventilation or interfere with the comfort of the passengers.

(3) If a greater number of animals than is certified as aforesaid is carried on deck, or if any cargo be carried contrary to this Act, the master or owner of the ship carrying the same shall be guilty of an offence against this Act, and liable to a penalty of not more than fifty pounds.

DIVISION XVI.—MISCONDUCT BY PASSENGERS.

DIVISION XVI.

97. The master of any ship may refuse to receive on board thereof any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause annoyance to other passengers on board, and if any such person is on board, may put him on shore at any convenient place. A person so refused admittance or put on shore shall not be entitled to the return of any fare he has paid.

Power to refuse or remove passengers who are drunk or misconduct themselves.
237, 1881, s. 385.
U. K. 57 and 58 Vict. c. 60, s. 288.

98. Any person who—

- (a) being drunk or disorderly has been on that account refused admission into any ship by the owner or any person in his employ and nevertheless persists in attempting to enter the ship; or
- (b) after having been refused admission into any ship by the owner or any person in his employ on account of the ship being full and after having had the amount of his fare (if he has paid the same) returned or tendered to him nevertheless persists in attempting to enter the ship; or
- (c) being drunk or disorderly on board any ship upon being requested by the owner or any person in his employ to leave the same at any place in South

Penalties on drunken or disorderly persons persisting in going on board ship.
237, 1881, s. 381.
U. K. 57 and 58 Vict. c. 60, s. 287.

Australia at which he can conveniently so do, and, after having the amount of his fare (if he has paid it) returned or tendered to him, refuses to comply with the request ; or

- (d) being on board any ship after warning by the master or any other officer of the ship molests or continues to molest any passenger ; or
- (e) having got on board any ship upon being requested by the owner or any person in his employ on account of the ship being full to leave the same before she has quitted the place at which the person got on board and upon having the full amount of his fare (if he has paid the same) returned or tendered to him refuses to comply with such request ; or
- (f) travels or attempts to travel in any ship without having previously paid his fare and with intent to avoid payment thereof ; or
- (g) having paid his fare for a certain distance knowingly and wilfully proceeds in any ship beyond that distance without previously paying the additional fare for the additional distance and with intent to avoid payment thereof ; or
- (h) knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit any ship ; or
- (i) being on board any ship does not when required by the master or other officer of such ship either pay his fare or exhibit such ticket or other receipt (if any) showing the payment of his fare as is usually given to persons travelling by and paying their fare for the ship,

shall be guilty of an offence against this Act, and liable to a penalty of not more than five pounds ; but that liability shall not affect the right to recover any fare payable by him.

99. Any person who on board any ship wilfully does or causes to be done anything in such a manner as to obstruct impede, or molest the crew or any of them in the navigation or management of the ship, or otherwise in the execution of their duty upon or about the ship, or to obstruct or injure any part of the machinery or tackle of the ship, shall be guilty of an offence against this Act, and liable to a penalty of not more than twenty pounds.

Penalty for
injuring ship or
molesting
crew.
237, 1881,
s. 382.
U.K. 57 and
58 Vict. c. 60,
s. 287.

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100. The master or other officer of any ship and all persons called by him to his assistance may, without any warrant, detain any person who has committed any offence against any of the provisions of the two last preceding sections of this Act, and whose name or address is unknown to the master or officer, and may convey the offender with all convenient despatch before some justices without any warrant or other authority than this Act. The justices shall have jurisdiction to try the case, and shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

Manner of apprehending offenders.
237, 1881,
s. 383.
U.K. 57 and
58 Vict. c. 60
s. 287.

101. Any person who, having committed any offence in this Division mentioned, refuses on the application of the master of any ship or of any other person in the employ of the owner of the ship to give his name and address, or who on such application gives a false name or address, shall be guilty of an offence against this Act, and liable to a penalty of not more than twenty pounds.

Penalty on persons refusing to give their name and address.
237, 1881,
s. 381.
U.K. 57 and
58 Vict. c. 60,
s. 287.

PART V.

PART V.

INVESTIGATIONS AND INQUIRIES INTO
CASUALTIES, INCOMPETENCY, AND MISCONDUCT.

DIVISION I.—APPLICATION.

DIVISION I.

102. Nothing in this Act contained shall authorise the making of a preliminary inquiry or the holding of a formal investigation into the matter of any casualty occurring to any foreign ship (save so far as the same affects any British coast trade or river ship or any certificate of a master, mate, or engineer granted by the board or the Board of Trade or other authority within His Majesty's dominions), and save as aforesaid nothing in this Act contained shall authorise the making of a preliminary inquiry or the holding of a formal investigation into the matter of any incompetency or misconduct on the part of any master, mate, or engineer of any foreign ship.

This Part not to apply to foreign ships.

DIVISION II.—NOTICE OF CASUALTIES, ETC.

DIVISION II.

103. (1) In any of the cases following, that is to say—

(a) whenever any casualty happens to any British coast-trade ship or river ship on or near the coasts or within any tidal water or on any navigable river of South Australia :

Collisions and casualties on voyages to be reported to board.
237, 1881,
s. 233.
U.K. 57 and
58 Vict. c. 60,
s. 425.

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- (b) whenever any such ship sustains damage affecting her seaworthiness or her efficiency, either in her hull or (in the case of a steamship) in any part of her machinery on or near the coasts or within any tidal water or on any navigable river of South Australia :
- (c) whenever any such ship causes the loss of or damage to any other ship on or near the coasts or within any tidal water or on any navigable river of South Australia :
- (d) whenever by reason of any casualty happening to or on board of any such ship on or near the coasts or within any tidal water or any navigable river of South Australia, loss of life or any serious injury to any person ensues,

the master of the ship or the owner shall within twenty-four hours after the happening of any one of the above events, or as soon thereafter as possible, send to the board by letter signed by the master or owner a report containing full particulars of the event, and of the probable occasion thereof, stating the name and official number (if any) of the ship, the port to which she belongs, the names of the master and mates, and the numbers and other particulars of their certificates (if any), and, if practicable, the place where she is.

(2) Any such master or owner who neglects so to do shall be guilty of an offence against this Act, and liable to a penalty of not more than fifty pounds.

DIVISION III.

DIVISION III.—PRELIMINARY INQUIRIES—INVESTIGATIONS.

Preliminary inquiries.

237, 1881,
s. 236.
Cf. U.K. 57
and 58 Vict.
c. 60 s. 465.

104. (1) Whenever the board has reason to believe—

- (a) that any casualty has occurred to any British coast-trade ship or river ship on or near the coasts or within any tidal water or on any navigable river of South Australia ; or
- (b) that any incompetency or misconduct has occurred on the part of any certificated master, mate, or engineer, on any British coast-trade ship or river ship on or near the coasts or within any tidal water or on any navigable river of South Australia ;

and that the court of marine inquiry has jurisdiction in the matter of the casualty, incompetency, or misconduct, and in the opinion of the board it is expedient so to do, the board or some person or persons appointed for the purpose by the board shall make a preliminary inquiry respecting the casualty, incompetency, or misconduct.

(2) The board or any such person or persons (as the case may be) shall for such purpose have all the powers and remedies given by this Act to inspectors appointed by the board.

105. If it appears to the board that a formal investigation into any such casualty, incompetency, or misconduct is requisite or expedient, the board shall, either upon or without any preliminary inquiry as aforesaid, refer the matter of the casualty to the court of marine inquiry and, if the board thinks fit, prefer or cause or permit to be preferred a charge of incompetency or misconduct, or both, before the said court, which shall thereupon hold a formal investigation.

Formal investigations.
237, 1881,
s. 237.
Cf. U.K. 57
and 58 Vict.
c. 60, s. 466 (1).

DIVISION IV.—COURT OF MARINE INQUIRY.

DIVISION IV.

106. (1) For the purposes of this Act there shall be a court to be called the "Court of Marine Inquiry".

Constitution of court of marine inquiry.
237, 1881,
ss. 134, 135
and 142.

(2) The court shall be a court of record and shall have and use as occasion may require a seal such as the Governor may order.

(3) All summonses and other process issuing out of the said court shall be sealed or stamped with the seal of the court.

(4) The court shall be held at such times and places as may be convenient.

107. (1) The court of marine inquiry shall consist of the special magistrates of South Australia and assessors.

Constitution of court.
Cf. 237, 1881,
s. 137,
2142, 1933,
s. 8.
Cf. U.K. 57
and 58.
Vict. c. 60,
s. 466 (3).

(2) The assessors shall be persons of nautical, engineering, or other special skill or knowledge.

108. (1) The Governor on the recommendation of the board may from time to time appoint as assessors a list of persons possessing qualifications as aforesaid.

List of assessors.
U.K. 57 and 58
Vict. c. 60,
s. 467.

(2) Every such list shall remain in force for three years only, but persons whose names are on any such list may be appointed by the Governor on the recommendation of the board for any subsequent list.

(3) The Governor may at any time on the recommendation of the board, add or withdraw the name of any person to or from the list.

(4) The list of assessors in force at the commencement of this Act shall, subject to subsection (3), continue in force until the expiration of three years after the said commencement.

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DIVISION IV.

Summoning
assessors.
Cf. 681, 1897,
s. 2.

109. (1) The list of assessors appointed as aforesaid shall be kept by the secretary as follows:—

- I. The list shall be arranged in alphabetical order according to the surnames of the persons included therein :
- II. Opposite the name of each such person the nature of the special skill possessed by him, whether nautical, engineering, or otherwise, shall be specified.

(2) Whenever a court of marine inquiry is to be constituted, the secretary by notice in writing shall summon a sufficient number of persons appearing from the list of assessors to possess skill of the particular nature likely to be required in the investigation and standing next in order for duty to attend for the purposes of the investigation.

(3) No person shall be summoned to attend as aforesaid or be eligible to act as assessor in any formal investigation if he is interested in the charge or matter to be inquired into.

(4) Any summons to any person to attend as aforesaid may be withdrawn by the secretary by notice in writing at any time up to the time fixed for the inquiry and the secretary shall summon another person to attend the investigation in manner provided by subsection (2).

(5) An assessor shall not attend the court of marine inquiry as a member thereof save for the purpose of that investigation until he is again notified by the secretary to attend the said court for the purpose of another investigation.

(6) No assessor who has been granted leave of absence by the board with the approval of the Minister on account of ill health or for any other reason shall be required to attend a meeting of the said court during such leave of absence.

110. (1) The court of marine inquiry, when requested by the board in writing so to do, is hereby authorised—

- (a) to hold formal investigations into casualties to British coast-trade ships and river ships occurring on or near the coasts or within any tidal water or on any navigable river of South Australia :
- (b) to hold formal investigations for the purpose of hearing and determining any charge of incompetency or misconduct on the part of masters, mates and engineers of British coast trade ships and river ships holding certificates of competency or service in respect of incompetency or misconduct on any such ship on or near the coasts or within any tidal water or navigable river of South Australia.

Powers and
duties of court
of marine
inquiry.

237, 1881,
s. 136.
2142, 1933,
s. 6.
U.K. 57 and
58 Vict. c. 60,
ss. 470 and
478.

(2) For the purposes of subsection (1), the court of marine inquiry is hereby invested with all the powers conferred by the Merchant Shipping Act or authorised by that Act to be conferred upon the court or tribunal authorised by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates, or engineers of ships or as to shipwrecks or other casualties affecting ships.

(3) The court of marine inquiry may suspend or cancel or order to be suspended or cancelled the certificate of any master, mate, or engineer whom it—

- (a) finds guilty of any gross act of misconduct, drunkenness, or tyranny ;
- (b) finds to be incompetent ;
- (c) finds guilty of occasioning by his default or wrongful act the loss, abandonment of, or serious damage to any ship, or loss of life.

(4) The provisions of this section shall apply to casualties and incompetency and misconduct occurring before or after the commencement of this Act : Provided that any formal investigation commenced before the said commencement shall be continued as if the provisions of the Acts repealed by this Act were still in force and for that purpose the said provisions shall be deemed to continue in force.

(5) No formal investigation shall be held under this Act into any matter or charge in respect of which a formal investigation has once been made and which has been reported on by any competent court or tribunal in any other part of His Majesty's dominions or into any charge against any master, mate, or engineer in respect of which a formal investigation has been made in South Australia. But this provision shall not apply to cases in which the board is in this Act expressly authorised to direct a re-hearing.

(6) Where a formal investigation has been held into any casualty generally and not into a charge against any person, or where at a formal investigation there has been a charge against some person, the fact of such formal investigation having been held shall not prevent the holding of a formal investigation into any charge against any person not specifically charged in that investigation although the charge arises out of the matter in respect of which the formal investigation was held.

111. A court of marine inquiry shall be constituted by one or more special magistrates and two assessors, the assessors to be nautical or engineering or other specially skilled assessors,

Quorum of
court of
marine
inquiry.
237, 1881,
s. 137.
Cf. U.K. 57
and 58 Vict.
c. 60, s. 466 (3).

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according as the investigation is into a charge against a master or mate, or engineer, or into some matter requiring other special skill or experience respectively.

President of court of marine inquiry.
237, 1881,
s. 138.

112. At any sitting of the court of marine inquiry the special magistrate if only one is present, or if more than one is present the special magistrate of longest standing present shall be the president of the court.

Decision of court.
237, 1881, s.
139 (part).

113. The decision of the court of marine inquiry shall be the decision of the majority of the court, and for the purpose of ascertaining such majority the president of the court shall have a casting as well as a deliberative vote.

Report to board.
U.K. 57 and
58 Vict. c. 60,
s. 466 (6) and
(7).

114. (1) The court of marine inquiry after hearing the case shall make a report to the board containing a full statement of the case and of the opinion of the court thereon, accompanied by such reports of, or extracts from, the evidence, and such observations as the court thinks fit.

(2) Each assessor shall either sign the report or state in writing to the board his dissent therefrom and the reasons for that dissent.

Powers as to certificate.
U.K. 57 and
58 Vict. c. 60,
s. 470.

115. (1) Where any case before the court of marine inquiry involves a question as to the cancelling or suspending of a certificate, the court shall, at the conclusion of the case or as soon afterwards as possible, state in open court the decision to which it has come with respect to the cancelling or suspending thereof.

(2) The court shall in all cases send a full report on the case with the evidence to the board, and shall also, if it determines to cancel or suspend any certificate, and the certificate is delivered to the court, send the certificate cancelled or suspended to the board with its report.

(3) A certificate shall not be cancelled or suspended by the court, unless a copy of the report, or a statement of the case, on which the investigation has been ordered, has been furnished before the commencement of the investigation to the holder of the certificate.

Delivery of certificate.
Cf. 237, 1881,
s. 144 (part).
U.K. 57 and
58 Vict. c. 60,
s. 473.

116. (1) A master, mate, or engineer whose certificate is cancelled or suspended by any court or by the board, shall deliver his certificate—

(a) if cancelled or suspended by the court of marine inquiry or the Supreme Court to that court on demand :

(b) if not so demanded, or if it is cancelled or suspended by the board, to the board, or as the board directs.

(2) If a master, mate, or engineer fails to comply with this section, he shall be guilty of an offence against this Act, and liable to a penalty of not more than fifty pounds.

117. (1) Where any formal investigation is held by the court of marine inquiry, it shall be the duty of the board to superintend the management of the case, and to render such assistance to the court as is in its power.

Conduct of case.

U.K. 57 and 58, Vict. c. 60, s. 466 (5) and (11).

(2) Every formal investigation into a casualty shall be conducted in such manner that if a charge is made against any person, that person shall have an opportunity of making a defence.

118. The court of marine inquiry shall, for the purposes of any investigation—

Powers of court.

237, 1881, s. 140.

2142, 1933, s. 10.

U.K. 57 and 58, Vict., c. 60, s. 466 (10).

(a) have all the powers given by this Act to an inspector appointed by the board ; and

(b) have all the powers of a court of summary jurisdiction under the Justices Act, 1921.

119. (1) The court of marine inquiry may make such order as the court thinks fit respecting the costs of any formal investigation, or any part thereof.

Costs.

237, 1881, s. 239.

U.K. 57 and 58 Vict., c. 60, s. 466 (8).

(2) Upon production of an order for the payment of costs under the hand of the clerk of the court of marine inquiry and the seal of the said court any justice may issue any warrant or process for the recovery of the said costs or for the enforcement of the said order as if the order for the payment of costs had been made by a court of summary jurisdiction and the provisions of the Justices Act, 1921, *mutatis mutandis*, shall apply to every such warrant or process.

120. The board may, if in any case it thinks fit so to do, pay the costs of any formal investigation.

Payment of costs by board.

U.K. 57 and 58 Vict., c. 60, s. 466 (8).

121. (1) The secretary shall be the clerk of the court of marine inquiry, and shall have the custody of the common seal thereof.

Clerk of court of marine inquiry.

237, 1881, s. 141.

(2) All summonses, whether to witnesses or parties, notices, and documents issued under the hand of the clerk of the court of marine inquiry and sealed with the seal thereof shall be deemed to be issued by and under the authority of the said court.

(3) The secretary may with the approval of the board from time to time or at any time depute some other person to

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act as his deputy as clerk of the said court, and such deputy shall have the same powers and the same effect shall be given to all documents signed by him as though he were the clerk.

Sitting to be
in open court.

122. The place where the court of marine inquiry is sitting shall be an open court, but the said court may nevertheless at any time order witnesses out of court.

Re-hearing of
inquiries and
investigations.

Cf. 237, 1881,
s. 241.
U.K. 57 and
58 Vict. c. 60,
s. 475.
U.K. 6 Edw.
7, c. 48,
s. 66.

123. (1) In any case where under this Part, a formal investigation as aforesaid into a casualty or into the conduct of a master, mate, or engineer has been held, the board may order the case to be re-heard either generally or as to any part thereof if new and important evidence which could not be produced at the investigation has been discovered.

(2) The board may in any such case order the case to be re-heard by the court of marine inquiry, and the case shall be so re-heard accordingly.

(3) Where on any such formal investigation a decision has been given with respect to the cancelling or suspension of the certificate of a master, mate, or engineer, and an application for a re-hearing under this section has not been made or has been refused, an appeal shall lie from the decision to the Supreme Court.

(4) Where on any such investigation the court of marine inquiry finds that a casualty has been caused or contributed to by the wrongful act or default of any person, and an application for re-hearing has not been made, or has been refused, the owner of the ship, or any other person who, having an interest in the investigation has appeared at the hearing and is affected by the decision of the court, may appeal from the decision to the Supreme Court.

(5) On the hearing of any appeal from any decision of a court of marine inquiry the Supreme Court may, should it so desire, call any expert witness to give evidence before it upon any relevant technical matter. The said witness may be cross-examined by any of the parties, and any of the parties shall be at liberty to call expert evidence in rebuttal of the evidence of such witness should he desire to do so.

(6) The court before which any re-hearing or appeal is heard shall, in addition to any other powers or duties vested in the court, have the same powers and duties as the court of marine inquiry by which the formal investigation was heard. Without limiting the preceding provisions of this subsection, the court shall have the same powers as the court of marine inquiry as to the suspension and cancellation of certificates of masters, mates and engineers, and shall have power to order

the re-issue of any certificate suspended or cancelled by the court of marine inquiry and to shorten the time for which any certificate was suspended.

(7) Any re-hearing or appeal under this section shall be subject to and in accordance with such conditions and regulations as may be prescribed by rules in relation thereto.

124. The Governor on the recommendation of the board may make general rules for carrying into effect the enactments relating to formal investigations, and to the re-hearing of, and appeals from formal investigations held under this Part, and in particular with respect to the procedure, the parties, the persons allowed to appear, the notice to those parties or persons, or to persons affected, the constitution of the court for the purpose of such appeals, the appointment and summoning of assessors for the purpose of such appeals, and the amount and application of fees,

Rules.
U.K. 57 and 58
Vict. c. 60,
s. 479.

125. Every assessor shall for every day or portion of a day during which he is engaged as a member of the court of marine inquiry, or is in attendance waiting to perform his duties as a member of the court be paid such sum as is fixed by the board from time to time.

Remuneration
of assessors.

PART VI.

PART VI.

MISCELLANEOUS.

126. (1) The board, with the approval of the Minister, may establish mercantile marine offices at such ports as the board thinks fit, and appoint any person or persons to be superintendents of such offices with any necessary deputies, clerks, and other officers.

Superintendents of
mercantile
marine offices.
237, 1881,
s. 39.
Cf. U.K. 57
and 58 Vict.
c. 60, s. 246.

(2) The superintendents shall have and perform the same duties in all respects as are performed by superintendents of mercantile marine offices established under the Merchant Shipping Act.

127. (1) Subject to this Act, the provisions of Divisions 4, 6, 8, 9, 10 (except sections 69 to 74 inclusive), 12, 13 (except section 121), 14 (except sections 127, 128, 132, and 133), 16, 17, 18, 20, and 21 of Part II. of the Navigation Act and all rules and regulations made under that Act with respect to any of the said provisions shall, so far as the same are applicable to limited coast-trade ships, river and bay ships, and ships engaged in the coasting trade within the meaning of the said Act, apply with such

Application of certain
portions of
Navigation
Act relating
to seamen.

alterations, modifications, and substitutions as are necessary to all British coast-trade ships and river ships of more than fifteen tons gross registered tonnage in South Australian waters or in any port or place in South Australia, and the owners, masters, and crews thereof.

(2) For the purposes of subsection (1) of this section—

- (a) any reference in the provisions of the Navigation Act mentioned in subsection (1) to “a limited coast-trade ship” or to “a ship engaged in the coasting trade”, shall be deemed a reference to a “coast-trade ship” within the meaning of this Act;
- (b) any reference in the said provisions to a “river and bay ship” shall be deemed a reference to a “river ship” within the meaning of this Act;
- (c) any reference in the said provisions to the “Minister” or the “Director” or the “Deputy-Director” shall be deemed a reference to the “board” within the meaning of this Act;
- (d) any reference in the said provisions to the “Consolidated Revenue Fund” shall be deemed a reference to the general revenue of South Australia;
- (e) the provisions of section 39 of the Navigation Act shall be read as if the words “fifteen tons” were inserted therein in lieu of “thirty tons”;
- (f) the provisions of sections 46, 61 and 65 of the Navigation Act shall be read as if the words “one hundred tons” were inserted therein in lieu of “fifty tons”; and
- (g) the provisions of section 76 of the Navigation Act shall not apply to coast-trade ships or river ships of less than one hundred tons gross registered tonnage.

(3) Subject to this Act, the provisions of Part VII. (except section 329) of the Navigation Act and all rules and regulations made under that Act with respect to the said provisions shall apply, with such alterations, modifications, and substitutions as are necessary to and in respect of all coast-trade ships and river ships in South Australian waters or in any port or place in South Australia.

(4) For the purposes of subsection (3) of this section—

- (a) every reference in the provisions of the Navigation Act mentioned in subsection (3) to “the Minister”

or to the "State Collector of Customs" shall, except in subsection (3) of section 301 thereof, be deemed a reference to the board within the meaning of this Act :

- (b) every reference in the said provisions to "the Commonwealth" shall be deemed a reference to the State of South Australia :
- (c) every reference in the said provisions to the "Governor-General" shall be deemed a reference to the Governor of South Australia :
- (d) every reference in the said provisions to the "Consolidated Revenue Fund" shall be deemed a reference to the general revenue of the State :
- (e) every reference in the said provisions to a "Customs-house" shall be deemed a reference to an office of the board.

(5) The Governor may by proclamation, made on the recommendation of the board, declare that any of the provisions, rules, or regulations mentioned in subsection (1) or subsection (3) shall not apply as aforesaid or shall apply with such alterations, modifications, or substitutions as are specified in the proclamation. Any such proclamation may be revoked by the Governor by proclamation made on the recommendation of the board.

(6) Where in the said provisions of the Navigation Act, any reference is made to any particular officer or class of officers, the board may from time to time designate the officer or officers who are in South Australia to perform the duties and stand in place of the officer or officers so referred to.

128. If any master, seaman, or apprentice belonging to a coast-trade ship or river ship is injured or becomes ill and is left on shore at any port other than the port at which he is shipped, the expense of his conveyance from the first-mentioned port to the port at which he was shipped after he is cured or recovered shall be borne by the owner of the ship.

Provision for seamen left behind.
Cf. 237, 1881, s. 116.
Cf. U.K. 6. Edw. 7 c. 48, s. 35.

129. In every agreement for the engagement of any seamen in any coast-trade ship or river ship the name of the master of the ship shall be stated.

Name of master in agreement.

130. (1) The master of any coast-trade ship or river ship of over fifteen tons, but less than one hundred tons gross registered tonnage, who engages any seaman, shall enter into an agreement with him in the prescribed form.

Engagement and discharge of seamen.

(2) When a seaman is discharged from any such ship, the master shall sign and give to the seaman a discharge in the prescribed form.

(3) The master of any such ship shall as soon as conveniently may be after the engagement or discharge of any such seaman, give notice thereof in writing to the board. Any such notice may be given by post.

(4) Any master who fails to comply with any requirement of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding five pounds.

Repeal in part of certain provisions of Merchant Shipping Act.

131. Parts II. and V. of the Merchant Shipping Act shall be, and the same are hereby repealed so far as regards coast-trade ships and river ships in South Australian waters or in any port or place in South Australia, and the owners, masters, and crews thereof, where such ships are within the jurisdiction of the Government of South Australia.

Private signals.
U.K. 57 and
58 Vict. c. 60,
s. 733.

132. (1) Any shipowner who is desirous of using for the purposes of a private code any lights or other similar signals may register such signals with the board, and the board shall give public notice at the expense of the shipowner of the signals so registered in such manner as it thinks requisite for preventing the signals from being mistaken for signals of distress or signals for pilots.

(2) The board may refuse to register any signals which in its opinion cannot easily be distinguished from signals of distress or signals for pilots.

(3) When a signal has been so registered the use or display thereof by any person acting under the authority of the shipowner in whose name it is registered shall not subject any person to any of the penalties or liabilities by this Act imposed upon persons using or displaying signals improperly.

Service to be good if made personally or at abode or on board ship &c.
Cf. 237, 1881,
s. 376.
Cf. U.K. 57
and 58 Vict.
c. 60, s. 696.

133. Service of any summons or other process in any legal proceeding under this Act shall be deemed good service if made personally on the person to be served, or if made at his last-known place of abode or business, or if made on board any ship to which he belongs (accompanied with a statement of the purport thereof) to the person in command or charge, or appearing to be in command or charge of the ship.

Burden of proof that a ship is exempted.

134. If in any legal proceeding under this Act any question arises whether any ship is or is not within the provisions of this Act or of some particular provision thereof, the ship shall be taken to be within such provisions unless proof to the contrary is adduced.

Witnesses to
be allowed
expenses.
237, 1881,
s. 32.
U.K. 57 and 58
Vict. c. 60, s.
729 (2) and (3).

135. (1) Every person duly summoned by any inspector, tribunal, court, body, or person under the authority of this Act to attend as a witness upon any examination, investigation, or inquiry whatsoever under this Act shall be allowed such expenses as would be allowed to any witness attending on subpoena to give evidence before the Supreme Court.

(2) In case of any dispute as to the amount of such expenses the same shall be referred by the inspector, tribunal, court, body, or person to a taxing officer of the said court, who on a request made to him for that purpose under the hand of such inspector, tribunal, court, body, or person shall ascertain and certify the proper amount of the expenses.

(3) Any person who—

(a) refuses or neglects to attend as a witness for examination or upon any investigation or inquiry after having been lawfully required so to do and after having had a tender made to him of the expenses (if any) to which he is entitled as aforesaid ; or

(b) refuses or neglects to make any answer or to give any return or to produce any book, paper, or document in his possession or under his control or to make or subscribe any declarations which any such inspector, tribunal, court, body, or person is by this Act empowered to require,

shall be guilty of an offence against this Act, and liable to a penalty of not more than ten pounds.

136. If it is established upon oath to the satisfaction of any justice that any person who has been duly summoned by any inspector, tribunal, court, body, or person to attend as a witness as aforesaid upon any examination, investigation, or inquiry is about to quit South Australia or neglects or refuses to attend for examination or upon such investigation or inquiry or that any person believed to be a material witness upon any examination, investigation, or inquiry is evading service of any summons, the justice may issue his warrant for the apprehension of that person, and afterwards on being satisfied that the ends of justice would be otherwise defeated may commit that person to gaol there to be kept pending the completion of the examination, investigation, or inquiry or the taking of his evidence therein unless he in the meantime enters into a recognisance with sureties sufficient in the opinion of the justice to secure his appearance thereat.

Power to enforce attendance of witnesses.
237, 1881,
s. 33.

PART VI.

Forgery and fraudulent alteration to documents and false representations &c. 237, 1881, s. 25.

137. Any person who with a view to evading the provisions of this Act or any of the regulations made or in force hereunder—

- (a) forges, assists in forging, or procures to be forged the common seal or other distinguishing mark of the board or any certificate or any official copy of a certificate or any document issued by the board ; or
- (b) fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered any certificate or any official copy of a certificate or any document issued by the board or any declaration or any form ; or
- (c) fraudulently makes use of any such certificate, official copy of a certificate, document, or form, which is forged, altered, cancelled, or suspended, or to which he is not justly entitled ; or
- (d) fraudulently lends his certificate of competency or of service or allows the same to be used by any other person ; or
- (e) makes or procures to be made, or assists in making, any false representation for the purpose of obtaining for himself or any other person a certificate of competency or of service ; or
- (f) knowingly or wilfully makes or assists in making or procures to be made a false or fraudulent declaration,

shall be guilty of a misdemeanour and liable to imprisonment for any term not exceeding two years.

Sums ordered to be paid leviable by distress on ship. U.K. 57 and 58 Vict.c. 60, s. 693.

138. When a conviction, order, judgment, or adjudication of any court or justices has been made directing the payment of any penalties, costs, or other sums of money recoverable summarily under this Act and the party so directed to pay the same is the master, owner, or charterer of a ship, and if the same is not paid at the time and in the manner prescribed in the conviction, order, judgment, or adjudication, the court or justices who made the same may, in addition to any other powers it or they may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture, and apparel.

Recovery by Minister or board of expenses.

139. Whenever the Minister or board does anything under this Act which he or it is hereby authorised to do at the expense of any person, or any expenses are under this Act payable to the Minister or board by any person, the amount of the expense

shall be recoverable by the Minister or board by action in any court of competent jurisdiction.

140. In any legal proceeding under this Act to which the Minister or board is a party, any court may make in the case of the Minister or board any order as to the payment of the costs, charges, and expenses of and incidental to the proceeding which the court could have made in the case of a private person.

Costs to be payable by the Minister or board.

141. All costs and expenses incurred by the board or any of its inspectors, surveyors, or other officers in carrying out the provisions of this Act shall be paid out of the moneys voted by Parliament for the purposes of this Act or for the purposes of the board under any other Act.

Provision for costs and expenses of board.

142. Where any ship has been registered at a port in the United Kingdom, the amount of tonnage contained in the certificate of registry shall for the purposes of this Act be considered to be the tonnage of the ship.

Tonnage of British ships. 237, 1881, s. 390

143. To ascertain the tonnage of any ship as to which any question arises, any person appointed, whether generally or specially by the board may measure the ship, and the officer or person so appointed in measuring the ship shall follow the regulations contained in the Merchant Shipping Act.

Tonnage of foreign ships how to be calculated. 237, 1881, s. 391.

144. All proceedings for offences against this Act (not being felonies or misdemeanours) shall be disposed of summarily.

Summary proceedings.

145. (1) Section 47 of the Harbors Act, 1936, is repealed.

Amendment of Harbors Act, 1936.

(2) Section 114 of the Harbors Act, 1936, is amended so as to read as follows:—

114. (1) The duty of a pilot shall be to pilot the ship subject to the authority of the master, but the master shall not be relieved, by reason of the ship being under pilotage, from responsibility for the conduct and navigation of the ship.

Liability of owner and master. U.K. 2 and 3, Geo. 5 c. 31, s. 15.

(2) The owner or master of a ship navigating under circumstances in which pilotage is compulsory shall be answerable for any loss or damage caused by the ship or by any fault of navigation of the ship in the same manner as he would if pilotage were not compulsory.

(3) Section 116 of the Harbors Act, 1936, is amended by striking out subsection (1) thereof, and by inserting in lieu thereof the following subsection:—

(1) The board may grant a certificate of exemption from pilotage at any port to which this Part applies to

PART VI.

the master of any British ship registered at any place in the United Kingdom, or any British possession which ship trades solely between ports in the Commonwealth.

(4) Section 121 of the Harbors Act, 1936, is amended by adding thereto the following subsection (the preceding portion of the said section being read as subsection (1) thereof):—

(2) The Governor may by proclamation revoke any proclamation made under subsection (1).

(5) Paragraphs (15) and (16) of section 144 of the Harbors Act, 1936, are repealed.

PART VII.

PART VII.

COMMONWEALTH NAVIGATION ACT AND POSSIBLE TRANSFER OF POWERS.

Effect of
Navigation
Act.

146. It is hereby declared notwithstanding anything in this Act that as on, from, and after the commencement (whether before or after the commencement of this Act) of any Part, Division, or section of, or any schedule to the Navigation Act, any provisions of this Act or any corresponding previous enactment or of any regulations under this Act or any such enactment (so far only as such provisions are inconsistent with the law of the Commonwealth and relate to matters within the powers of the Commonwealth) shall to the extent of the inconsistency be and be deemed to have been invalid, and shall cease and be deemed to have ceased to be in operation.

Power to
agree with
Commonwealth
as to dis-
charge of
duties &c.

147. (1) Subject to this Part the Governor may arrange with the Governor-General of the Commonwealth for the exercise and discharge by the Government of the Commonwealth on behalf of the Government of South Australia of any powers, duties, or authorities under this Act remaining within the powers of the State of South Australia and exercisable by the Government of South Australia or any authority constituted under any law of South Australia.

(2) Any agreement relating to such an arrangement may make provision for all or any matters necessary or convenient to be provided for or incidental to carrying out the arrangement, including the transfer of officers from the service of the Government of South Australia to the service of the Commonwealth, and their re-transfer from the service of the Commonwealth to the service of the Government of South Australia, and the rights and obligations of such officers.

(3) Any agreement under this section shall be valid and effectual for all purposes.

148. Where in any of the provisions of this Act a reference is made to any particular officer or class of officers the Minister whenever it becomes necessary to do so may designate the officer or officers who are to exercise the powers and perform the duties and stand in the place of the officer or officers so referred to.

Power of
Minister to
designate
officers &c.

SCHEDULES.

THE FIRST SCHEDULE.

SCHEDULE OF ACTS REPEALED.

Number and Year of Act.	Title or Short Title.
No. 8 of 1852	An Act to extend the Provisions of the Passengers Act, 1849.
No. 237 of 1881	Marine Board and Navigation Act, 1881.
No. 563 of 1893	An Act to amend the Marine Board and Navigation Act, 1881.
No. 614 of 1894	Marine Board and Navigation Act Amendment Act, 1894.
No. 681 of 1897	An Act to amend the law relating to Courts of Marine Inquiry.
No. 691 of 1897	The Marine Board and Navigation Act Amendment Act, 1897.
No. 814 of 1902	The Marine Board and Navigation Act Amendment Act, 1902.
No. 917 of 1906	The Marine Board and Navigation Act Further Amendment Act, 1906.
No. 1416 of 1919	Marine Board and Navigation Act Further Amendment Act, 1919.
No. 1661 of 1924	Marine Board and Navigation Act Amendment Act, 1924.
No. 2142 of 1933	Marine Board and Navigation Act Amendment Act, 1933.

Section 59.

THE SECOND SCHEDULE.

FIRST PART.

REGULATIONS FOR PREVENTING COLLISIONS AT SEA.

Preliminary.

In the following regulations every steam vessel which is under sail and not under steam is to be considered a sailing vessel, and every vessel under steam, whether under sail or not, is to be considered a steam vessel.

The word "steam vessel" shall include any vessel propelled by machinery.

A vessel is "under way" within the meaning of these regulations when she is not at anchor, or made fast to the shore or aground.

Regulations concerning Lights, &c.

The word "visible" in these rules, when applied to lights, shall mean visible on a dark night with a clear atmosphere.

Article 1. The regulations concerning lights shall be complied with in all weathers from sunset to sunrise, and during such time no other lights which may be mistaken for the prescribed lights shall be exhibited.

Article 2. A steam vessel when under way shall carry—

- (a) on or in front of the foremast, or if a vessel without a foremast, then in the fore part of the vessel, at a height above the hull of not less than 20ft., and if the breadth of the vessel exceeds 20ft., then at a height above the hull not less than such breadth, so, however, that the light need not be carried at a greater height above the hull than 40ft., a bright white light, so constructed as to show an unbroken light over an arc of the horizon of 20 points of the compass, so fixed as to throw the light 10 points on each side of the vessel, viz., from right ahead to 2 points abaft the beam on either side, and of such a character as to be visible at a distance of at least 2 miles :
- (b) on the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right ahead to 2 points abaft the beam on the starboard side, and of such a character as to be visible at a distance of at least 2 miles :
- (c) on the port side a red light so constructed as to show an unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right ahead to 2 points abaft the beam on the port side, and of such a character as to be visible at a distance of at least 2 miles :
- (d) the said green and red side lights shall be fitted with inboard screens projecting at least 3ft. forward from the light, so as to prevent these lights from being seen across the bow :
- (e) a steam vessel when under way may carry an additional white light similar in construction to the light mentioned in subdivision (a). These two lights shall be so placed in line with the keel that one shall be at least 15ft. higher than the other, and in such a position with reference to each other that the lower light shall be forward of the upper one. The vertical distance between these lights shall be less than the horizontal distance.

Article 3. A steam vessel when towing another vessel shall, in addition to her side lights, carry two bright white lights in a vertical line one over the other, not less than 6ft. apart, and when towing more than one vessel shall carry an additional bright white light 6ft. above or below such lights, if the length of the tow, measuring from the stern of the towing vessel to the stern of the last vessel towed, exceeds 600ft. Each of these lights shall be of the same construction and character, and shall be carried in the same position as the white light mentioned in Article 2 (a) except the additional light, which may be carried at a height of not less than 14ft. above the hull.

Such steam vessel may carry a small white light abaft the funnel or aftermast for the vessel towed to steer by, but such light shall not be visible forward of the beam.

Article 4. (a) A vessel which from any accident is not under command shall carry at the same heights as the white light mentioned in Article 2 (a), where they can best be seen, and, if a steam vessel, in lieu of that light, two red lights, in a vertical line one over the other, not less than 6ft. apart, and of such a character as to be visible all round the horizon at a distance of at least 2 miles ; and shall by day carry in a vertical line one over the other, not less than 6ft. apart, where they can best be seen, two black balls or shapes, each 2ft. in diameter.

(b) A vessel employed in laying or in picking up a telegraph cable shall carry in the same position as the white light mentioned in Article 2 (a), and, if a steam vessel, in lieu of that light, three lights in a vertical line one over the other, not less than 6ft. apart.

SECOND SCHEDULE—*continued.*

The highest and lowest of these lights shall be red, and the middle light shall be white, and they shall be of such a character as to be visible all round the horizon, at a distance of at least 2 miles. By day she shall carry in a vertical line one over the other, not less than 6ft. apart, where they can best be seen, three shapes not less than 2ft. in diameter, of which the highest and lowest shall be globular in shape and red in colour, and the middle one diamond in shape, and white

(c) The vessels referred to in this Article, when not making way through the water, shall not carry the side lights, but when making way shall carry them.

(d) The lights and shapes required to be shown by this article are to be taken by other vessels as signals that the vessel showing them is not under command, and cannot therefore get out of the way.

These signals are not signals of vessels in distress and requiring assistance.

Article 5. A sailing vessel under way, and any vessel being towed, shall carry the same lights as are prescribed by Article 2 for a steam vessel under way, with the exception of the white lights mentioned therein, which they shall never carry.

Article 6. Whenever, as in the case of small vessels under way during bad weather, the green and red side lights cannot be fixed, these lights shall be kept at hand lighted and ready for use; and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such a manner as to make them most visible, and so that the green light shall not be seen on the port side nor the red light on the starboard side, nor, if practicable, more than 2 points abaft the beam on their respective sides.

To make the use of these portable lights more certain and easy, the lanterns containing them shall each be painted outside with the colour of the light they respectively contain, and shall be provided with proper screens.

Article 7. Steam vessels of less than 40, and vessels under oars or sails of less than 20 tons gross tonnage, respectively, and rowing boats, when under way, shall not be obliged to carry the lights mentioned in Article 2 (a) (b) and (c), but if they do not carry them they shall be provided with the following lights:—

1. Steam vessels of less than 40 tons shall carry—

(a) in the fore part of the vessel, or on or in front of the funnel, where it can best be seen, and at a height above the gunwale of not less than 9ft., a bright white light constructed and fixed as prescribed in Article 2 (a), and of such a character as to be visible at a distance of at least 2 miles:

(b) green and red side lights constructed and fixed as prescribed in Article 2 (b) and (c), and of such a character as to be visible at a distance of at least 1 mile, or a combined lantern showing a green light and a red light from right ahead to 2 points abaft the beam on their respective sides. Such lantern shall be carried not less than 3ft. below the white light.

2. Small steamboats, such as are carried by sea-going vessels, may carry the white light at a less height than 9ft. above the gunwale, but it shall be carried above the combined lantern mentioned in subdivision 1 (b).

3. Vessels under oars or sails, of less than 20 tons, shall have ready at hand a lantern with a green glass on one side and a red glass on the other, which on the approach of or to other vessels, shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side nor the red light on the starboard side.

4. Rowing boats, whether under oars or sail, shall have ready at hand a lantern showing a white light, which shall be temporarily exhibited in sufficient time to prevent collision.

The vessels referred to in this article shall not be obliged to carry the lights prescribed by Article 4 (a), and Article 11, last paragraph.

Article 8. Pilot vessels, when engaged on their station on pilotage duty, shall not show the lights required for other vessels, but shall carry a white light at the masthead, visible all round the horizon, and shall also exhibit a flare-up light or flare-up lights at short intervals, which shall never exceed fifteen minutes.

On the near approach of or to other vessels they shall have their side lights lighted, ready for use, and shall flash or show them at short intervals, to indicate the direction in which they are heading, but the green light shall not be shown on the port side, nor the red light on the starboard side.

A pilot vessel of such a class as to be obliged to go alongside of a vessel to put a pilot on board, may show the white light instead of carrying it at the masthead, and may, instead of the coloured lights above mentioned, have at hand ready for use a lantern

SECOND SCHEDULE—*continued.*

with a green glass on the one side and a red glass on the other, to be used as prescribed above.

Pilot vessels, when not engaged on their station on pilotage duty, shall carry lights similar to those of other vessels of their tonnage.

A steam pilot vessel exclusively employed for the service of licensed pilots, when engaged on her station on pilotage duty, and not at anchor, shall, in addition to the lights required for all pilot boats, carry at a distance of 8ft. below her white masthead light, a red light, visible all round the horizon, and of such a character as to be visible on a dark night with a clear atmosphere at a distance of at least 2 miles, and also the coloured side lights required to be carried by vessels when under way.

When engaged on her station on pilotage duty, and at anchor, she shall carry, in addition to the light required for all pilot boats, the red light above mentioned, but not the coloured side lights.

When not engaged on her station on pilotage duty she shall carry the same lights as other steam vessels.

Article 9. Fishing vessels and fishing boats, when under way, and when not required by this article to carry or show the lights hereinafter specified, shall carry or show the lights prescribed for vessels of their tonnage under way—

- (a) Open boats, by which is to be understood boats not protected from the entry of sea water by means of a continuous deck when engaged in any fishing at night with outlying tackle extending not more than 150ft. horizontally from the boat into the seaway shall carry one all-round white light.

Open boats, when fishing at night with outlying tackle extending more than 150ft. horizontally from the boat into the seaway, shall carry one all round white light, and, in addition, on approaching or being approached by other vessels, shall show a second white light at least 3ft. below the first light, and at a horizontal distance of at least 5ft. away from it in the direction in which the outlying tackle is attached.

- (b) Vessels and boats, except open boats, as defined in subdivision (a), when fishing with drift nets, shall, so long as the nets are wholly or partly in the water, carry two white lights where they can best be seen. Such lights shall be placed so that the vertical distance between them shall be not less than 6ft. and not more than 15ft., and so that the horizontal distance between them, measured in a line with the keel, shall be not less than 5ft. and not more than 10ft. The lower of these two lights shall be in the direction of the nets, and both of them shall be of such a character as to show all round the horizon, and to be visible at a distance of not less than 3 miles.
- (c) Vessels and boats, except open boats as defined in subdivision (a), when line-fishing with their lines out and attached to or hauling their lines, and when not at anchor or stationary within the meaning of subdivision (b), shall carry the same lights as vessels fishing with drift nets. When shooting lines, or fishing with towing lines, they shall carry the lights prescribed for a steam or sailing vessel under way respectively.
- (d) Vessels when engaged in trawling, by which is meant the dragging of an apparatus along the bottom of the sea—

1. If steam vessels, shall carry, in the same position as the white light mentioned in Article 2 (a), a tri-coloured lantern, so constructed and fixed as to show a white light from right ahead to two points on each bow, and a green light and a red light over an arc of the horizon, from two points on each bow to two points abaft the beam on the starboard and port sides respectively; and not less than 6ft. nor more than 12ft. below the tri-coloured lantern, a white light in a lantern, so constructed as to show a clear uniform and unbroken light all round the horizon.

2. If sailing vessels, shall carry a white light in a lantern, so constructed as to show a clear uniform and unbroken light all round the horizon, and shall also, on the approach of or to other vessels, show, where it can best be seen, a white flare-up light or torch in sufficient time to prevent collision.

All lights mentioned in subdivision (d) 1 and 2 shall be visible at a distance of at least 2 miles.

- (e) Oyster dredgers and other vessels fishing with dredge-nets shall carry and show the same lights as trawlers.

SECOND SCHEDULE—*continued.*

- (f) Fishing vessels and fishing boats may at any time use a flare-up light in addition to the lights which they are by this article required to carry and show, and they may also use working lights.
- (g) Every fishing vessel and every fishing boat under 150ft. in length, when at anchor, shall exhibit a white light visible all round the horizon at a distance of at least 1 mile.

Every fishing vessel of 150ft. in length or upwards, when at anchor, shall exhibit a white light, visible all round the horizon at a distance of at least 1 mile, and shall exhibit a second light as provided for vessels of such length by Article 11.

Should any such vessel, whether under 150ft. in length or of 150ft. in length or upwards, be attached to a net or other fishing gear, she shall on the approach of other vessels, show an additional white light at least 3ft. below the anchor light, and at a horizontal distance of at least 5ft. away from it in the direction of the net or gear.

- (h) If a vessel or boat when fishing becomes stationary in consequence of her gear getting fast to a rock or other obstruction, she shall in daytime, haul down the day signal required by subdivision (k); at night, show the light or lights prescribed for a vessel at anchor; and, during fog, mist, falling snow, or heavy rainstorms, make the signal prescribed for a vessel at anchor. (See subdivision (d), and the last paragraph of Article 15.)
- (i) In fog, mist, falling snow, or heavy rainstorms, drift-net vessels attached to their nets, and vessels when trawling, dredging, or fishing with any kind of drag net, and vessels line fishing with their lines out, shall, if of 20 tons gross tonnage or upwards, respectively, at intervals of not more than one minute, make a blast; if steam vessels, with the whistle or siren, and, if sailing vessels, with the fog horn, each blast to be followed by ringing the bell. Fishing vessels and boats of less than 20 tons gross tonnage shall not be obliged to give the above-mentioned signals; but, if they do not, they shall make some other efficient sound signal at intervals of not more than one minute.
- (k) All vessels or boats fishing with nets, lines, or trawls, when under way, shall, in daytime, indicate their occupation to an approaching vessel by displaying a basket or other efficient signal where it can best be seen. If vessels or boats at anchor have their gear out, they shall, on the approach of other vessels, show the same signal on the side on which those vessels can pass.

The vessels required by this article to carry or show the lights hereinbefore specified shall not be obliged to carry the lights prescribed by Article 4 (a), and the last paragraph of Article 11.

Article 10. A vessel which is being overtaken by another shall show from her stern to such last-mentioned vessel a white light or a flare-up light.

The white light required to be shown by this Article may be fixed and carried in a lantern, but in such case the lantern shall be so constructed, fitted, and screened that it shall throw an unbroken light over an arc of the horizon of 12 points of the compass, viz., from 6 points from right aft on each side of the vessel so as to be visible at a distance of at least 1 mile. Such light shall be carried as nearly as practicable on the same level as the side lights.

Article 11. A vessel under 150ft. in length, when at anchor, shall carry forward, where it can be best seen, but at a height not exceeding 20ft. above the hull, a white light, in a lantern so constructed as to show a clear uniform and unbroken light visible all round the horizon at a distance of at least 1 mile.

A vessel of 150ft. or upwards in length, when at anchor, shall carry in the forward part of the vessel, at a height of not less than 20ft., and not exceeding 40ft. above the hull, one such light, and at or near the stern of the vessel, and, at such a height that it shall be not less than 15ft. lower than the forward light, another such light.

The length of a vessel shall be deemed to be the length appearing in her certificate of registry.

A vessel aground in or near a fairway shall carry the above light or lights and the two red lights prescribed by Article 4 (a).

Article 12. Every vessel may, if necessary, in order to attract attention, in addition to the lights which she is by these rules required to carry, show a flare-up light, or use ny detonating signal that cannot be mistaken for a distress signal.

SECOND SCHEDULE—*continued.*

Article 13. Nothing in these regulations shall interfere with the operation of any special rules made by the Government of any nation with respect to additional station and signal lights for two or more ships of war or for vessels sailing under convoy, or with the exhibition or recognition signals adopted by shipowners which have been authorised by their respective Governments and duly registered and published.

Article 14. A steam vessel proceeding under sail only, but having her funnel up, shall carry in daytime, forward, where it can best be seen, one black ball or shape 2ft. in diameter.

SOUND SIGNALS FOR FOG, ETC.

Article 15. All signals prescribed by this Article for vessels under way shall be given—

1. By "steam vessels" on the whistle or siren.
2. By "sailing vessels and vessels towed" on the fog horn.

The words "prolonged blast" used in this Article shall mean a blast of from four to six seconds' duration.

A steam vessel shall be provided with an efficient whistle or siren sounded by steam, or some substitute for steam, so placed that the sound may not be intercepted by any obstruction, and, with an efficient fog horn, to be sounded by mechanical means, and also with an efficient bell. A sailing vessel of 20 tons gross tonnage or upwards shall be provided with a similar fog horn and bell.

In fog, mist, falling snow, or heavy rain storms, whether by day or night, the signals described in this article shall be used as follows, viz. :—

- (a) A steam vessel having way upon her shall sound, at intervals of not more than two minutes, a prolonged blast.
- (b) A steam vessel under way, but stopped and having no way upon her, shall sound, at intervals of not more than two minutes, two prolonged blasts, with an interval of about one second between them.
- (c) A sailing vessel under way shall sound, at intervals of not more than one minute, when on the starboard tack one blast, when on the port tack two blasts in succession, and when with the wind abaft the beam three blasts in succession.
- (d) A vessel, when at anchor, shall, at intervals of not more than one minute ring the bell rapidly for about five seconds.
- (e) A vessel, when towing, a vessel employed in laying or in picking up a telegraph cable, and a vessel under way, which is unable to get out of the way of an approaching vessel through being not under command, or unable to manœuvre as required by these regulations shall, instead of the signals prescribed in subdivisions (a) and (c) of this Article, at intervals of not more than two minutes, sound three blasts in succession, viz. : one prolonged blast followed by two short blasts. A vessel towed may give this signal and she shall not give any other.

Sailing vessels and boats of less than 20 tons gross tonnage shall not be obliged to give the above-mentioned signals, but, if they do not, they shall make some other efficient sound signal at intervals of not more than one minute.

SPEED OF SHIPS TO BE MODERATE IN FOG, ETC.

Article 16. Every vessel shall, in a fog, mist, falling snow, or heavy rain storms, go at moderate speed, having careful regard to the existing circumstances and conditions.

A steam vessel hearing, apparently forward of her beam, the fog signal of a vessel the position of which is not ascertained, shall, so far as the circumstances of the case admit, stop her engines, and then navigate with caution until danger of collision is over.

STEERING AND SAILING RULES.

PRELIMINARY—RISK OF COLLISION.

Risk of collision can, when circumstances permit, be ascertained by carefully watching the compass bearing of an approaching vessel. If the bearing does not appreciably change, such risk should be deemed to exist.

Article 17. When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other, as follows, viz. :—

- (a) A vessel which is running free shall keep out of the way of a vessel which is close hauled.
- (b) A vessel which is close hauled on the port tack shall keep out of the way of a vessel which is close hauled on the starboard tack.

SECOND SCHEDULE—*continued.*

- (c) When both are running free with the wind on different sides, the vessel which has the wind on the port side shall keep out of the way of the other.
- (d) When both are running free, with the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward.
- (e) A vessel which has the wind aft shall keep out of the way of the other vessel.

Article 18. When two steam vessels are meeting end on, or nearly end on, so as to involve risk of collision, each shall alter her course to starboard, so that each may pass on the port side of the other.

This article only applies to cases where vessels are meeting end on, or nearly end on in such a manner as to involve risk of collision, and does not apply to two vessels which must, if both keep on their respective courses, pass clear of each other.

The only cases to which it does apply are when each of the two vessels is end on, or nearly end on, to the other; in other words, to cases in which, by day, each vessel sees the masts of the other in a line, or nearly in a line, with her own; and by night, to cases in which each vessel is in such a position as to see both the side lights of the other.

It does not apply by day to cases in which a vessel sees another ahead crossing her own course; or by night to cases where the red light of one vessel is opposed to the red light of the other, or where the green light of one vessel is opposed to the green light of the other, or where a red light without a green light, or a green light, without a red light, is seen ahead, or where both green and red lights are seen anywhere but ahead.

Article 19. When two steam vessels are crossing, so as to involve risk of collision, the vessel which has the other on her own starboard side shall keep out of the way of the other.

Article 20. When a steam vessel and a sailing vessel are proceeding in such directions as to involve risk of collision, the steam vessel shall keep out of the way of the sailing vessel.

Article 21. Where by any of these regulations one of two vessels is to keep out of the way, the other shall keep her course and speed.

NOTE.—When, in consequence of thick weather or other causes, such vessel finds herself so close that collision cannot be avoided by the action of the giving-way vessel alone, she also shall take such action as will best aid to avert collision. (See Articles 27 and 29.)

Article 22. Every vessel which is directed by these regulations to keep out of the way of another vessel shall, if the circumstances of the case admit, avoid crossing ahead of the other.

Article 23. Every steam vessel which is directed by these regulations to keep out of the way of another vessel shall, on approaching her, if necessary, slacken her speed or stop or reverse.

Article 24. Notwithstanding anything contained in these regulations, every vessel overtaking any other, shall keep out of the way of the overtaken vessel.

Every vessel coming up with another vessel from any direction more than two points abaft her beam, *i.e.*, in such a position with reference to the vessel which she is overtaking that at night she would be unable to see either of that vessel's side lights, shall be deemed to be an overtaking vessel; and no subsequent alteration of the bearing between the two vessels shall make the overtaking vessel a crossing vessel within the meaning of these regulations, or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

As by day the overtaking vessel cannot always know with certainty whether she is forward of or abaft this direction from the other vessel, she should, if in doubt, assume that she is an overtaking vessel and keep out of the way.

Article 25. In narrow channels every steam vessel shall, when it is safe and practicable, keep to that side of the fairway or mid channel which lies on the starboard side of such vessel.

Article 26. Sailing vessels under way shall keep out of the way of sailing vessels or boats fishing with nets, or lines, or trawls. This regulation shall not give to any vessel or boat engaged in fishing the right of obstructing a fairway used by vessels other than fishing vessels or boats.

Article 27. In obeying and construing these regulations, due regard shall be had to all dangers of navigation and collision, and to any special circumstances which may

SECOND SCHEDULE—*continued.*

render a departure from the above regulations necessary in order to avoid immediate danger.

SOUND SIGNALS FOR VESSELS IN SIGHT OF ONE ANOTHER.

Article 28. The words "short blast" used in this article shall mean a blast of about one second's duration.

When vessels are in sight of one another, a steam vessel under way, in taking any course authorised or required by these regulations, shall indicate that course by the following signals on her whistle or siren, viz.:

One short blast to mean, "I am directing my course to starboard."

Two short blasts to mean, "I am directing my course to port."

Three short blasts to mean, "My engines are going full speed astern."

NO VESSEL UNDER ANY CIRCUMSTANCES TO NEGLECT PROPER PRECAUTIONS.

Article 29. Nothing in these regulations shall exonerate any vessel, or the owner, or master, or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper look-out, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

RESERVATION OF RULES FOR HARBOURS AND INLAND NAVIGATION.

Article 30. Nothing in these regulations shall interfere with the operation of a special rule, duly made by local authority, relative to the navigation of any harbour, river, or inland waters.

DISTRESS SIGNALS.

Article 31. When a vessel is in distress and requires assistance from other vessels or from the shore, the following shall be the signals to be used or displayed by her, either together or separately, viz.:-

In the daytime—

1. A gun or other explosive signal fired at intervals of about a minute:
2. The International Code signal of distress; indicated by N.C.
3. The distant signal, consisting of a square flag, having either above or below it a ball or anything resembling a ball:
4. A continuous sounding with any fog-signal apparatus.

At night—

1. A gun or other explosive signal fired at intervals of about a minute:
2. Flames on the vessel (as from a burning tar-barrel, oil-barrel, &c.):
3. Rockets or shells, throwing stars of any colour or description, fired one at a time, at short intervals:
4. A continuous sounding with any fog-signal apparatus.

SECOND PART.

REGULATIONS TO APPLY TO RIVER MURRAY.

Section 60.

1. In these regulations, unless the contrary intention appears—
 - "prolonged blast" means a blast of from four to six seconds' duration:
 - "short blast" means a blast of about one second's duration:
 - "steamship" includes every vessel propelled by steam and every vessel over five tons gross register propelled by other mechanical power:
 - "under way", in relation to a steamship, includes all times when she is not at anchor, or made fast to the shore, or aground:
 - "visible" when applied to lights, means visible on a dark night with a clear atmosphere.
2. These regulations shall apply to all steamships used in navigation on the River Murray, or any of its tributaries.
3. The lights prescribed by these regulations, and no others, shall be carried and exhibited in all weathers from sunset to sunrise, and during such time, no other lights, which may be mistaken for the prescribed lights, shall be exhibited.
4. The lanterns containing the lights prescribed by these regulations, shall be suitable for the purpose for which they are carried and exhibited, and shall be used only for that purpose.

SECOND SCHEDULE—*continued.*

5. (1) Every steamship, when under way, shall carry and exhibit from some conspicuous place on each side of the vessel, a bright white light in a globular lantern not less than six inches in diameter.

(2) The lights required to be carried by this regulation shall—

(a) in the case of vessels under twenty tons gross register, be visible at a distance of not less than two miles; and

(b) in the case of vessels of twenty tons gross register and upwards, be visible at a distance of not less than three miles:

Provided that, when a steamship is under way, an electric searchlight may also be used from a position between the two white lights prescribed in this regulation, but it shall be shut off or screened off on approaching, or being approached by, another vessel in sufficient time to prevent inconvenience to that vessel.

6. Every steamship towing a barge or barges, whether astern or alongside, or pushing a barge, shall, in addition to the lights prescribed in the last preceding regulation, carry and exhibit on the fore part of the funnel or steam pipe, or, in the case of a motor vessel, in a position corresponding thereto, a bright white light in a globular lantern not less than six inches in diameter, and visible at a distance of not less than two miles.

7. The master of every steamship having a barge or barges in tow, or pushing a barge, shall cause a bright white light, visible at a distance of not less than two miles to be, carried and exhibited from a conspicuous place on the fore part of each barge.

8. A steamship or barge, when at anchor in a fairway, or when moored to the bank at a place where vessels do not load or discharge cargo or lay up, shall carry and exhibit in a position at least ten feet above the deck, and so arranged as to be visible in all directions, a bright white light, in a globular lantern not less than six inches in diameter and visible at a distance of not less than two miles.

9. Steamships meeting in narrow waters shall keep out of the way of each other, and reduce speed until well clear of each other.

10. Each steamship meeting another, shall keep on her own right-hand side of the river.

11. A steamship bound upstream shall give way to a steamship bound downstream.

12. A steamship overtaking another, shall, in passing, keep the overtaken steamship on her own right-hand side.

13. When vessels are in sight of one another, a steam vessel under way, in taking any course authorized or required by these regulations, shall indicate that course by the following signals on her whistle or siren, viz.—

One short blast to mean, "I am directing my course to the right."

Two short blasts to mean, "I am directing my course to the left."

Three short blasts to mean, "My engines are going full speed astern."

14. On approaching a bend in the river, a steamship shall give one prolonged blast on the whistle or siren.

15. If aground or disabled in a fairway, a steamship shall, on the approach of another steamship, give four short blasts on the steam whistle or siren:

Provided that, if no steam is available on the first-mentioned steamship, the master shall be responsible for taking such other action, by day or night, as will best serve to avert collision by passing vessels.

16. Nothing in these regulations shall exonerate any vessel or her owner or master from the consequences of any neglect or any precaution required by the ordinary practice of navigation in the River Murray or its tributaries, or by the special circumstances of the case.

17. Nothing in these regulations shall interfere with the operation of any special rule, duly made by any competent authority, as to navigation in any lock, or in the immediate vicinity of any lock or bridge, on the River Murray or any of its tributaries.

Regulations and Rules.

The following regulations and rules under the Marine Board and Navigation Acts, 1881 to 1933, and relating to matters provided for by this Act, were in force on 17th May, 1937:—

RIVER MURRAY NAVIGATION—

Gazette—30th October, 1884, p. 1641.
26th January, 1893, p. 157.
4th October, 1906, p. 714.

ADJUSTMENT OF COMPASSES—

Gazette—9th August, 1900, p. 367.
30th May, 1935, p. 1433.

ENGAGEMENT AND DISCHARGE OF SEAMEN—

Gazette—16th April, 1883, p. 1429.
4th August, 1887, p. 246.
26th September, 1889, p. 1354.

RECEIVER OF WRECK—

Gazette—26th April, 1883, p. 1429.

SURVEY, ETC., OF VESSELS—

Gazette—15th April, 1880, p. 1259.
26th April, 1883, p. 1429.
1st July, 1886, p. 2.
30th November, 1899, p. 1197.
9th October, 1913, p. 815.
23rd June, 1921, p. 1318.
30th May, 1935, p. 1433.
8th August, 1935, p. 237.

EXPLOSIVES—

Gazette—25th September, 1902, p. 625.
18th August, 1904, p. 336.
5th May, 1910, p. 802.
27th April, 1911, p. 729.
12th February, 1914, p. 386.
20th November, 1919, p. 1288.

Regulations and Rules—continued.**COLLISION REGULATIONS—**

Gazette—16th February, 1899, p. 301.

EXAMINATION OF MASTERS AND MATES—

Gazette—22nd October, 1903, p. 839.

7th December, 1905, p. 1214.

9th December, 1926, p. 1470.

EXAMINATION OF ENGINEERS—

Gazette—16th October, 1902, p. 763.

16th July, 1908, p. 95.

COURT OF SURVEY (RULES)—

Gazette—19th November, 1885, p. 1328.

COURT OF MARINE INQUIRY (RULES)—

Gazette—27th February, 1936, p. 506.

MISCELLANEOUS—

Gazette—11th November, 1897, p. 1446.

15th February, 1900, p. 302.

2nd November, 1911, p. 911.

30th November, 1911, p. 1184.

22nd August, 1912, p. 466.

10th April, 1913, p. 680.

8th May, 1913, p. 1002.

22nd January, 1914, p. 198.

Other regulations made under the Marine Board and Navigation Acts, 1881 to 1933, and relating to matters provided for by the Explosives Act, 1936, and the Harbors Act, 1936, are shown in the tables of regulations at the end of those Acts.

Certain of the regulations in the above table and relating to River Murray navigation and collisions at sea are superseded by the regulations in the second schedule to this Act.