

SHIPPING AND SEAMEN AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Shipping and Seamen Act 1952.

Clause 1 relates to the Short Title.

Clause 2 defines the terms “coastal fishing boat”, “New Zealand fishing boat”, and “unlimited fishing boat”. These definitions will be required for the purposes of the provisions of *clause 4* providing for the issue of new certificates of competency and of any notice by the Minister of Marine under section 17 (1A) of the principal Act (as inserted by section 4 (1) of the Shipping and Seamen Amendment Act 1963) prescribing manning scales for fishing boats.

The definition of “New Zealand ship” is amended so that it now includes a “New Zealand fishing boat”.

This clause and the Schedule to this Bill are to come into force on a date to be fixed for the commencement thereof by the Governor-General by Order in Council.

Clause 3 provides that no alien may act as master or as first or only mate of any registered New Zealand ship or as master of a New Zealand fishing boat which is required to carry a certificated master, or as chief or only engineer of a registered New Zealand ship exceeding 300 brake horsepower which proceeds beyond restricted limits.

This is subject to the proviso that—

- (a) An alien may act as master of any such fishing boat with the written consent of the Minister and subject to such conditions as the Minister may impose; and
- (b) An alien may act as master of a coastal fishing boat if he is granted a service certificate equivalent to the new certificate of competency as skipper of a coastal fishing boat.

Clause 4 establishes four new certificates of competency, those of skipper of coastal fishing boat, skipper of unlimited fishing boat, first-class diesel trawler engineer, and second-class diesel trawler engineer. The new certificates are intended for the purpose of proposed new manning scales for fishing boats to be prescribed by the Minister under section 17 (1A) of the principal Act.

No more certificates as master of foreign-going fishing boat or as skipper of home-trade fishing boat will be issued.

Provision is also made for the granting of voluntary certificates of different grades as master of a pleasure yacht.

This clause is to come into force on a date to be fixed by Order in Council.

Clause 5 will enable regulations to be made providing for the issue of certificates of competency as fishing deck hands. These certificates also are intended for the purpose of the proposed manning scales for fishing boats.

Clause 6: By section 55A of the principal Act, the provisions of Part II of that Act relating to the number and qualifications of the officers and crew to be carried do not apply to certain ships under tow or to certain ships engaged in towing, but the manning scale in such cases is to be prescribed by the Minister. This clause makes it an offence for any such ship to proceed to sea without carrying the officers and crew that she is required to carry pursuant to the scale prescribed by the Minister under section 55A.

Clause 7: By section 58 (4) of the principal Act (as substituted by section 18 of the Shipping and Seamen Amendment Act 1959), where a seaman is discharged, the master is to make and sign a report of character of the seaman or may state in the report that he declines to give any opinion as to character, and the Superintendent before whom the discharge is made shall enter on the certificate of discharge a copy of the report and the seaman must allow the entry to be made.

This clause omits the provision that the master's report is to be entered on the certificate of discharge, and restores the position to what it was before the 1959 Amendment, so that the master's report will be endorsed on the certificate of discharge only if the seaman requests it, and the seaman will have an option to have a report of character separately from his certificate of discharge. This amendment is necessary because of provisions of the ILO Seamen's Articles of Agreement Convention 1926, to which New Zealand is a party.

Clause 8: Section 253 (2A) (e) of the principal Act (as enacted by section 52 (1) of the Shipping and Seamen Amendment Act 1959) enables regulations to be made providing for the issue of local launchmen's licences permitting the holder to act as master or as both master and engineer of a specified launch in specified river limits or inland waters.

This clause will enable such a licence to apply with respect to more than one specified launch, and the waters that may be specified will not be restricted to river limits or inland waters.

Clauses 9 to 12 provide for the introduction of a new system of collecting coastal light dues. Under the new system these dues may be required to be paid yearly in advance or at one port on each voyage instead of at each port as at present.

Clause 13: By section 451 (1) of the principal Act the tonnage of any space occupied by deck cargo on any foreign-going ship is to be added to the ship's register tonnage for the purpose of calculating the amount of any dues payable in respect of that ship.

The effect of this clause will be that section 451 will not apply with respect to coastal light dues. The clause is to come into force on a date to be fixed for the commencement thereof by the Governor-General by Order in Council.

Hon. Mr Scott

SHIPPING AND SEAMEN AMENDMENT

ANALYSIS

Title	7. Report of character on certificate of discharge
1. Short Title	8. Local launchmen's licences
2. Interpretation	9. Coastal light dues
3. Restriction on employment of aliens	10. Payment of light dues
4. Certificates of competency	11. Recovery of light dues
5. Regulations as to certification of fishing deck-hands	12. Ship may be detained till dues paid
6. Crew of ships under tow or engaged in towing	13. Liability to dues of space occupied by deck cargo
	Schedule

A BILL INTITULED

An Act to amend the Shipping and Seamen Act 1952

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

1. Short Title—This Act may be cited as the Shipping and Seamen Amendment Act 1964, and shall be read together with and deemed part of the Shipping and Seamen Act 1952* (hereinafter referred to as the principal Act).

*1957 Reprint, Vol. 14, p. 1
Amendments: 1959, No. 102; 1961, No. 100; 1962, No. 101; 1963, No. 129

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by inserting in subsection (1), in their appropriate alphabetical order, the following definitions:

“‘Coastal fishing boat’ means a New Zealand fishing boat which does not in the course of any voyage or excursion go to sea more than seventy-five miles from the coasts of the North Island or the South Island (including Stewart Island) or from the Chatham Islands: 5

“‘New Zealand fishing boat’ means a fishing boat registered under the provisions of Part I of the Fisheries Amendment Act 1963: 10

“‘Unlimited fishing boat’ means a New Zealand fishing boat which is not a coastal fishing boat.”

(2) Subsection (1) of section 2 of the principal Act is hereby further amended as follows: 15

(a) By adding to the definition of the term “cargo ship” the words “or a New Zealand fishing boat”:

(b) By inserting in the definition of the term “foreign going ship”, after the words “home trade ship”, the words “or a New Zealand fishing boat”: 20

(c) By inserting in the definition of the term “home trade ship”, after the words “means a ship”, the words “(other than a New Zealand fishing boat)”:

(d) By repealing paragraph (b) of the definition of the term “load line ship”, and substituting the following paragraph: 25

“(b) A fishing boat; or”:

(e) By adding to the definition of the term “New Zealand ship” the following paragraph: 30

“(c) A New Zealand fishing boat”:

(f) By adding to paragraph (b) of the definition of the term “New Zealand ship” the word “or”:

(g) By inserting in the definition of the term “restricted limit ship”, after the words “a ship”, the words “(other than a New Zealand fishing boat)”. 35

(3) The principal Act is hereby consequentially amended in the manner indicated in the Schedule to this Act.

(4) This section and the Schedule to this Act shall come into force on a date to be fixed for the commencement thereof by the Governor-General by Order in Council. 40

3. Restriction on employment of aliens—The principal Act is hereby further amended by inserting, after section 17, the following section:

“17A. (1) No alien shall—

5 “(a) Act as master or as first or only mate of any registered New Zealand ship (whether engaged in the home trade or in the foreign trade) or as master of any New Zealand fishing boat which is required to carry a certificated master; or

10 “(b) Act as chief or only engineer of a registered New Zealand ship exceeding three hundred brake horsepower which plies or proceeds beyond restricted limits.

“(2) Notwithstanding anything in subsection (1) of this section,—

15 “(a) An alien may act as master of any such fishing boat with the written consent of the Minister and subject to such conditions as the Minister may impose; and

20 “(b) An alien who is granted a service certificate of like effect to the appropriate certificate of competency as skipper of a coastal fishing boat in accordance with regulations made pursuant to subsection (1A) of section 19 of this Act may act as master of a coastal fishing boat.

25 “(3) If any alien acts in breach of the provisions of subsection (1) of this section, or fails to comply with any condition imposed by the Minister pursuant to paragraph (a) of subsection (2) of this section, he and also the owner and the master of the ship each commits an offence against this Act.

“(4) In this section—

30 “‘Alien’ has the same meaning as in the Aliens Act 1948:

“‘Brake horsepower’, in relation to any ship, means the aggregate power developed by the propelling engines, as shown on the ship’s certificate of registry.”

35 **4. Certificates of competency**—(1) Section 19 of the principal Act is hereby amended by repealing subsection (1) (as amended by section 7 of the Shipping and Seamen Amendment Act 1959 and by section 2 of the Shipping and Seamen Amendment Act 1961) and subsection (1A) (as inserted by section 7 (3) of the Shipping and Seamen Amendment Act 40 1959), and substituting the following subsections:

“(1) Certificates of competency shall be granted, in accordance with this Act, for each of the following kinds and grades, that is to say:

- “(a) Master of foreign-going ship: 5
- “(b) First mate of foreign-going ship: 5
- “(c) Second mate of foreign-going ship: 5
- “(d) Master of home-trade ship: 5
- “(e) Mate of home-trade ship: 5
- “(f) Master of small home-trade ship: 5
- “(g) Skipper of unlimited fishing boat: 10
- “(h) Skipper of coastal fishing boat: 10
- “(i) Master of river ship: 10
- “(j) Master of restricted-limit launch: 10
- “(k) First-class steam engineer: 15
- “(l) Second-class steam engineer: 15
- “(m) Third-class steam engineer: 15
- “(n) River engineer: 15
- “(o) Marine-engine driver: 15
- “(p) First-class motor engineer: 20
- “(q) Second-class motor engineer: 20
- “(r) First-class coastal motor engineer: 20
- “(s) First-class diesel trawler engineer: 20
- “(t) Second-class coastal motor engineer: 20
- “(u) Engineer of local motor ship: 25
- “(v) Second-class diesel trawler engineer: 25
- “(w) Engineer of restricted-limit motor ship: 25
- “(1A) Nothing in this section shall be deemed to prevent the granting, in accordance with regulations made under this Act, of—
- “(a) Voluntary certificates as extra master or as extra first-class engineer or as compass adjuster: 30
- “(b) Voluntary certificates of different grades as master of a pleasure yacht: 30
- “(c) Endorsements to authorise holders of certificates of competency as skipper of coastal fishing boat to serve as mate of an unlimited fishing boat: 35
- “(d) Service certificates of like effect to the appropriate certificate of competency as skipper of a coastal fishing boat to persons who at the commencement of the Shipping and Seamen Amendment Act 1964 can prove to the satisfaction of the Secretary that they have served for at least two years as master of a coastal fishing boat: 40

“(e) Continuous service record certificates as evidence of experience in fishing boats where the requirement of the regulations is sufficient experience therein:

5 “(f) Local launchmen’s licences issued under regulations made pursuant to subsection (2A) of section 253 of this Act.”

(2) Section 7 of the Shipping and Seamen Amendment Act 1959 is hereby amended by inserting in subsection (6), after the words “marine-engine driver”, the words “or as master of
10 a foreign-going fishing boat or as skipper of a home-trade fishing boat”.

(3) The following enactments are hereby repealed, namely:

(a) Subsection (3) of section 7 of the Shipping and Seamen Amendment Act 1959:

15 (b) Section 2 of the Shipping and Seamen Amendment Act 1961.

(4) This section shall come into force on a date to be fixed for the commencement thereof by the Governor-General by Order in Council.

20 **5. Regulations as to certification of fishing deck-hands—**
The principal Act is hereby further amended by inserting, after section 50, the following section:

“50A. (1) Without limiting the general power to make regulations conferred by section 504 of this Act, regulations
25 may be made under that section providing for the grant of certificates of competency as qualified fishing deck-hand; and those regulations shall in particular direct that no such certificate shall be granted to any person unless—

30 “(a) He has reached such minimum age as may be prescribed by the regulations; and

“(b) He has performed such qualifying service at sea as may be so prescribed; and

“(c) He has passed such examinations as may be so prescribed.

35 “(2) Without prejudice to the generality of subsection (1) of this section, regulations made pursuant to this section may—

“(a) Provide for the holding and conduct of examinations of candidates for certificates of competency as qualified fishing deck-hand; and

40 “(b) Make such consequential provision as appears to the Governor-General to be necessary or expedient.

“(3) The Secretary shall, on payment of any fee which may be prescribed by regulations made pursuant to section 501 of this Act, cause to be delivered to every applicant who possesses
45 the necessary qualifications and has passed the examination a certificate of competency as qualified fishing deck-hand.

“(4) Every such certificate shall be in a form approved by the Minister, and shall be in duplicate, one part to be delivered to the person entitled to the certificate and one to be preserved.

“(5) Any such certificate shall be admissible in evidence in the manner provided by this Act. 5

“(6) If any person proves to the satisfaction of the Secretary that he has, without fault on his part, lost or been deprived of a certificate of competency as qualified fishing deck-hand granted to him under this section, the Secretary shall, and in any other case may, upon payment of such fee (if any) as may be prescribed by regulations made pursuant to section 501 of this Act, cause a copy of that certificate to be certified by the officer directed to keep the record and to be delivered to him; and a copy purporting to be so certified shall have all the effect of the original. 10 15

“(7) Every person is guilty of a crime who—

“(a) Forges or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any certificate of competency as qualified fishing deck-hand or an official copy of any such certificate; or 20

“(b) Makes, or assists in making, or procures to be made, any false representation for the purpose of procuring, either for himself or for any other person, any such certificate; or 25

“(c) Fraudulently uses such a certificate or a copy thereof which has been forged or altered or to which he is not entitled; or

“(d) Fraudulently lends any such certificate held by him, or allows it to be used by any other person.” 30

6. Crew of ships under tow or engaged in towing—Section 55A of the principal Act (as inserted by section 17 of the Shipping and Seamen Amendment Act 1959) is hereby amended by inserting, after subsection (5), the following subsection: 35

“(5A) A ship to which this section applies shall not proceed to sea without any officer or other member of the crew with whom the ship is, by notice of the Minister pursuant to subsection (4) or subsection (5) of this section, required to be provided. If in the case of any such ship there is failure to comply with the provisions of this subsection, the owner and the master shall each be deemed to commit an offence against this Act.” 40

7. Report of character on certificate of discharge—Section 58 of the principal Act is hereby amended by omitting from subsection (4) (as substituted by section 18 of the Shipping and Seamen Amendment Act 1959) the words “enter on the certificate of discharge a copy of the report, and the seaman shall allow the entry to be made”, and substituting the words “if the seaman so desires, give to him or endorse on his certificate of discharge a copy of the report”.

8. Local launchmen’s licences—Section 253 of the principal Act is hereby amended by repealing paragraph (e) of subsection (2A) (as enacted by section 52 (1) of the Shipping and Seamen Amendment Act 1959), and substituting the following paragraph:

“(e) The issue of local launchmen’s licences permitting the holder to act, according to specified circumstances, as master or as both master and engineer of a specified motor launch or of specified motor launches when the launch is used or, as the case may be, those launches are used in accordance with the terms of the licence and within the waters specified in the licence:”.

9. Coastal light dues—Section 375 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Any Order in Council made under this section may make provision for coastal light dues to be assessed on an annual flat rate and paid yearly in advance in a lump sum. Any such Order in Council may also make provision for the refund, in whole or in part, of any of those dues paid in advance in respect of any such ship.”

10. Payment of light dues—(1) Section 376 of the principal Act is hereby amended by omitting from paragraph (c) of subsection (1) the word “incurred”, and substituting the word “payable”.

(2) Section 376 of the principal Act is hereby further amended by repealing subsection (3), and substituting the following subsection:

“(3) Coastal light dues shall be paid in the following manner:

“(a) In the case of any ship in respect of which those dues are required to be paid yearly in advance, to the Secretary:

“(b) In the case of any other ship, to the Collector of Customs at the port where the dues are incurred or at such other port as is prescribed by any Order in Council made under section 375 of this Act,— and the dues so paid shall from time to time be paid by the persons who receive them into the Public Account.” 5

11. Recovery of light dues—Section 377 of the principal Act is hereby amended by omitting from subsection (1) the words “have been incurred in respect of that ship”, and substituting the words “are payable in respect of that ship either to the Secretary or to the Collector of Customs”. 10

12. Ship may be detained till dues paid—The principal Act is hereby amended by repealing section 378, and substituting the following section:

“378. (1) A receipt for coastal light dues shall be given to every person paying the same to the Secretary or to a Collector of Customs. 15

(2) Where any such dues are payable in respect of any ship that ship may be detained at any port until the receipt for those dues is produced to the Collector of Customs at that port.” 20

13. Liability to dues of space occupied by deck cargo—(1) Section 451 of the principal Act is hereby amended by inserting in subsection (1), after the words “dues payable on the ship’s tonnage”, the words “(not being coastal light dues under Part XI of this Act)”. 25

(2) This section shall come into force on a date to be fixed for the commencement thereof by the Governor-General by Order in Council.

Section 2 (3)

SCHEDULE

AMENDMENTS CONSEQUENTIAL ON INSERTION OF DEFINITIONS OF
"COASTAL FISHING BOAT", "NEW ZEALAND FISHING BOAT", AND
"UNLIMITED FISHING BOAT"

Section of Principal Act Amended	Amendment
Section 25 (as substituted by section 9 of the Shipping and Seamen Amendment Act 1959)	By adding, as subsection (2), the following subsection: “(2) The master of every New Zealand fishing boat shall, whenever so required by a Superintendent, produce to him the certificates which the master and other officers are by this Act or by any regulations under this Act or by any notice by the Minister under this Act required to hold.”
Section 202A (as inserted by section 37 (1) of the Shipping and Seamen Amendment Act 1959)	By omitting from subsection (1) the words “foreign-going”.
Section 222	By inserting in subsection (1), after the word “ship” where it first occurs, the words “(other than a New Zealand fishing boat)”.
Section 246	By omitting from the second proviso to paragraph (a) of subsection (2) (which paragraph was substituted by section 18 (1) of the Shipping and Seamen Amendment Act 1963) the words “a foreign-going ship”, and substituting the words “an unlimited fishing boat”.
Section 246A (as inserted by section 13 of the Shipping and Seamen Amendment Act 1957)	By omitting from paragraph (b) of subsection (1) (as substituted by section 2 (4) of the Shipping and Seamen Amendment Act 1962) the words “a foreign-going ship”, and substituting the words “an unlimited fishing boat”.
Section 284 (as amended by section 14 of the Shipping and Seamen Amendment Act 1957)	By omitting from subsection (3) (as amended by section 2 (5) of the Shipping and Seamen Amendment Act 1962) the words “a foreign-going ship”, and substituting the words “an unlimited fishing boat”. By omitting from the proviso to paragraph (c) of subsection (1) (which paragraph was substituted by section 2 (6) of the Shipping and Seamen Amendment Act 1962) the words “a foreign-going ship”, and substituting the words “an unlimited fishing boat”.