

[AS REPORTED FROM THE LABOUR AND MINING COMMITTEE]
House of Representatives, 13 November 1968.

Words struck out by the Committee are shown in italics within bold round brackets; words inserted are shown in roman underlined with a double rule.

Hon. Mr Scott

SHIPPING AND SEAMEN AMENDMENT

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A BILL INTITULED

An Act to amend the Shipping and Seamen Act 1952

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

No. 108—2

Price 10c

1. Short Title and commencement—(1) This Act may be cited as the Shipping and Seamen Amendment Act 1968, and shall be read together with and deemed part of the Shipping and Seamen Act 1952* (hereinafter referred to as the principal Act).

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(2) Except as provided in section 2, subsection (3) of section 14, and subsection (5) of section 21 of this Act, this Act shall come into force on the date of its passing.

PART I

LOAD LINES AND LOADING

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2. Commencement of this Part—This Part of this Act shall come into force on a date to be fixed by the Governor-General by Order in Council.

3. Interpretation—(1) Section 2 of the principal Act is hereby amended by repealing the definitions of the terms “conditions of assignment”, “load line certificate”, “Load Line Convention”, and “load line ship” in subsection (1), and substituting the following definitions:

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“‘Conditions of assignment’ means such of the load line rules as are made to give effect to Chapter II of Annex I of the Load Line Convention (which relates to the conditions of assignment of freeboard):

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“‘Load line certificate’ means an international load line certificate or a New Zealand load line certificate, as the case may require:

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“‘Load Line Convention’ means the International Convention on Load Lines signed in London on the fifth day of April, nineteen hundred and sixty-six, and includes the Regulations annexed thereto:

“‘Load line ship’ means any ship which is not—

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“(a) A ship to which regulations made pursuant to section 257 of this Act apply or in respect of which a certificate issued under subsection (3) of that section is in force; or

“(b) A barge, lighter, or other like vessel to which section 245A of this Act applies; or

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“(c) A fishing boat; or

“(d) A pleasure yacht; or

“(e) A ship of war.”

*Reprinted 1965, Vol. 3, p. 1631

Amendments: 1966, No. 84; 1967, No. 119

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

5 “‘Alteration’ includes, for the purposes of Part VI of this Act, deterioration:

“‘Existing ship’ means, for the purposes of Part VI of this Act, a ship that is not a new ship:

10 “‘International load line certificate’ has the meaning assigned thereto by section 259 of this Act; and ‘valid international load line certificate’ has the meaning assigned thereto by section 271 of this Act:

“‘New ship’ means, for the purposes of Part VI of this Act, a ship whose keel is laid, or which is at a similar stage of construction,—

15 “(a) In the case of a ship registered in or belonging to any country or territory to which the Load Line Convention applies, on or after the date of the commencement of the Order in Council under section 282 of this Act declaring that the Government of that country has ratified or acceded to the Load Line Convention or, as the case may be, that the Convention has been applied to that territory:

20 “(b) In the case of any other ship, on or after the date of the commencement of Part I of the Shipping and Seamen Amendment Act 1968:”.

25 (3) Section 2 of the principal Act is hereby further amended—

30 (a) By omitting from the definition of the term “Load Line Convention ship” the words “an international load line ship”, and substituting the words “a load line ship”:

(b) By repealing the definitions of the terms “Load Line Convention certificate”, “international load line ship”, and “local load line ship” in subsection (1).

35 (4) The following enactments are hereby consequentially repealed:

(a) Paragraph (a) of subsection (3) of section 2 of the Shipping and Seamen Amendment Act 1959:

40 (b) Subsection (2) of section 17 of the Shipping and Seamen Amendment Act 1963:

(c) Paragraph (d) of subsection (2) of section 2 of the Shipping and Seamen Amendment Act 1964.

4. Exemption from load line rules, and issue of exemption certificates—(1) Section 257 of the principal Act is hereby amended by inserting in subsection (1), after the words “gross tonnage”, the words “in the case of existing ships or of less than twenty-four metres register length in the case of new ships”.

(2) Section 257 of the principal Act is hereby further amended by repealing paragraph (c) of subsection (3), and substituting the following paragraphs:

“(c) Any existing home-trade ship of less than one hundred and fifty tons gross tonnage; and

“(d) Any new home-trade ship of less than twenty-four metres register length; and

“(e) Any New Zealand ship which is either an existing ship of not less than one hundred and fifty tons gross tonnage or a new ship of not less than twenty-four metres register length, if in the opinion of the Minister the ship embodies features of a novel kind such that, if the ship had to comply with all the requirements of this Part of this Act and of the load line rules, the development of those features and their incorporation in ships might be seriously impeded,—”.

(3) Section 257 of the principal Act is hereby further amended by repealing paragraph (a) of (subsection (3)) subsection (4), and substituting the following paragraph:

“(a) Shall be issued in such form, and shall be issued in such manner, as may be prescribed by the load line rules; and”.

5. Marking of deck line and load lines—(1) Section 258 of the principal Act is hereby amended by omitting from subsection (1) the words “the thirtieth day of June nineteen hundred and thirty-two”, and substituting the words “the commencement of Part I of the Shipping and Seamen Amendment Act 1968”.

(2) Section 258 of the principal Act is hereby further amended by inserting, after subsection (1), the following subsection:

“(1A) No load line ship registered in New Zealand, being a ship constructed after the thirtieth day of June, nineteen hundred and thirty-two, but before the commencement of Part I of the Shipping and Seamen Amendment Act 1968, shall proceed to sea unless—

“(a) Either the ship complies with the requirements of subsection (1) of this section or the ship has been surveyed and marked in accordance with paragraphs (a), (c), and (d) of that subsection; and

5 “(b) The ship complies with the conditions of assignment and the load lines are in the position required by such of the provisions of the Load Line Rules 1953 as were applicable to the ship immediately before the commencement of Part I of the Shipping and
10 Seamen Amendment Act 1968.”

6. Submersion lines on ships not subject to provisions as to load lines—(1) Section 284 of the principal Act is hereby amended by repealing paragraph (b) of subsection (1) (as substituted by section 14 of the Shipping and Seamen Amend-
15 ment Act 1957), and substituting the following paragraph:

“(b) A sailing ship; or”.

(2) Section 284 of the principal Act is hereby further amended by adding to paragraph (f) of subsection (1) (as so substituted) the following subparagraphs:

20 “(vii) Ships used by or on behalf of a Government Department for fishery-protection purposes or for fisheries or scientific research:

25 “(viii) Ships used by or on behalf of a Government Department or local authority or public body for servicing lighthouses or other navigational aids:”.

7. Consequential amendments—(1) Section 259 of the principal Act is hereby amended by repealing paragraphs (a) and (b) of subsection (1), and substituting the following
30 paragraphs:

“(a) In the case of an existing ship of not less than one hundred and fifty tons gross tonnage, and in the case of a new ship of not less than twenty-four metres in register length, a load line certificate (in this Act referred to as an international load line certificate):

35 “(b) In the case of any other ship, a load line certificate (in this Act referred to as a New Zealand load line certificate).”

(2) Section 264 of the principal Act is hereby amended by repealing paragraphs (a) and (b) of subsection (1), and substituting the following paragraphs:

“(a) In the case of an existing ship of not less than one hundred and fifty tons gross tonnage, and in the case of a new ship of not less than twenty-four metres in register length, an international load line certificate; or 5

“(b) In the case of any other ship, a New Zealand load line certificate.” 10

(3) The principal Act is hereby further amended—

(a) By omitting from subsection (2) of section 259, and also from subsection (3), the words “Load Line Convention certificates”, and substituting in each case the words “international load line certificates”: 15

(b) By omitting from subsection (2) of section 259 the words “having regard to the provisions of Rules IV and LXVIII of the Load Line Convention for the purpose of giving effect to Article 13 of that Convention”, and substituting the words “for the purpose of giving effect to Article 18 of that Convention”: 20

(c) By omitting from subsection (1) of section 261, and also from subsection (2) of that section, the words “a Load Line Convention certificate”, and substituting in each case the words “an international load line certificate”: 25

(d) By omitting from subsection (2) of section 261 the words “an international load line ship”, and substituting the words “a load line ship”:

(e) By omitting from section 271, and also from subsections (2) and (6) of section 272, paragraphs (a) and (b) of section 273, paragraph (a) of section 275, and paragraph (b) of section 276, the words “a valid Load Line Convention certificate”, and substituting in each case the words “a valid international load line certificate”: 30 35

(f) By omitting from paragraph (a) of subsection (1) of section 278 the words “may be issued in respect of an international load line ship as in respect of a local load line ship, so however that any such certificate issued in respect of a Load Line Convention ship”: 40

- (g) By omitting from subsection (2) of section 280 the words “paragraph 2 of Article 6 of the Load Line Convention, which requires regulations to be made in relation to the deck openings, stowage, uprights, and lashings, the protection of the crew, and access to machinery space of ships entitled to carry timber as deck cargo”, and substituting the words “the provisions of the Load Line Convention relating to the carriage of timber as deck cargo”:
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- (h) By omitting from section 281 the words “Article 20”, and substituting the words “Article 29”:
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- (i) By omitting from paragraph (b) of section 282 the words “Article 21”, and substituting the words “Article 32”.
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- 8. Transitional provision**—For the purpose of the transition from the law in force immediately before the commencement of this Part of this Act to the provisions of this Part of this Act, rules or regulations may be made under section 504 of the principal Act providing that the provisions of this Part of this
- 20 Act shall have effect subject to such transitional provisions as may be contained in the rules or regulations.

PART II

MISCELLANEOUS AMENDMENTS OF PRINCIPAL ACT

- 9. Interpretation**—(1) Section 2 of the principal Act is hereby further amended by inserting in subsection (1), in their appropriate alphabetical order, the following definitions:
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- “Hovercraft” means a contrivance propelled by mechanical power which is designed to be supported by and to move on a cushion of air created by downward
- 30 thrust of its motor:
- “Nuclear ship” means a ship provided with a nuclear power plant:”.
- (2) Section 2 of the principal Act is hereby further amended by adding to the definition of the term “pleasure yacht” in subsection (1) the words “and does not include a
- 35 ship that is used on a single voyage for pleasure if it is normally used or intended to be normally used as a fishing boat or for the carriage of passengers or cargo for hire or reward”.

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

“(ff) Tug master home-trade:”.

(2) Section 19 of the principal Act is hereby further amended by inserting in subsection (1) (as so substituted), after paragraph (h), the following paragraph:

“(hh) Inshore fishing skipper:”.

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

“(d) Inshore fishing skipper certificates to holders of other certificates of competency, whether issued in New Zealand or not, which the Secretary considers are equivalent to a certificate of competency as inshore fishing skipper:”.

(4) Section 16 of the Shipping and Seamen Amendment Act 1965 is hereby consequentially amended by repealing paragraph (b) of subsection (2).

11. Allotment in favour of Savings Bank—Section 83 of the principal Act is hereby amended by omitting from subsection (3) (as amended by section 7 (1) of the Decimal Currency Act 1964) the words “under two hundred dollars”, and substituting the words “does not exceed one thousand dollars”.

12. Appointment of Radio Surveyors—Section 212 of the principal Act is hereby amended by adding to paragraph (b) the word “and”, and by adding the following paragraph:

“(c) The Minister may recognise as a Radio Surveyor for the purposes of this Act any Radio Inspector appointed under the Post Office Act 1959.”

13. Manning of ships in restricted limits and inland waters—Section 253 of the principal Act is hereby amended by inserting in paragraph (b) of subsection (2), after the words “pastoral pursuit”, the words “or in fish or shellfish farming or in transporting game”.

14. Anchors and chain cables to be tested and marked—

(1) The principal Act is hereby further amended by repealing section 300, and substituting the following section:

5 “300. (1) Without limiting the general power to make rules conferred by section 504 of this Act, rules may be made under that section with respect to the testing and marking of anchors and chain cables for use in New Zealand ships.

10 “(2) Without prejudice to the generality of subsection (1) of this section, rules made pursuant to that subsection may—

15 “(a) Prescribe the manner in which tests of anchors and cables are to be carried out, the tensile strains and breaking strains to be employed in the tests, and the requirements to be fulfilled by equipment used for the purposes of the tests; and

“(b) Provide for the marking of anchors and cables which have passed the tests and for the issue of certificates in respect of those anchors and cables; and

20 “(c) Provide for the supervision of the tests and marking, and for the inspection of the testing equipment, by Surveyors of Ships or by such other persons as the Minister may authorise for the purpose; and

“(d) Provide for the payment of fees in respect of that supervision and inspection and in respect of the issue of certificates under the rules; and

25 “(e) Provide that the rules shall not apply to anchors or cables of such classes or descriptions as may be specified in the rules, or which are exempted therefrom by the Minister in accordance with any provision in that behalf contained in the rules.

30 “(3) No New Zealand ship shall have on board as part of her equipment an anchor or chain cable, being an anchor or cable which was first taken on board after the commencement of this section, unless—

35 “(a) The anchor or cable has been marked, and a certificate in respect of it has been issued, in accordance with rules under this section; or

“(b) The anchor or cable is one to which those rules do not apply by virtue of any provision therein made under paragraph (e) of subsection (2) of this section;—

40 and, if this subsection is contravened in respect of any ship, the owner and the master shall each be liable to a fine not exceeding five hundred dollars.

“(4) A maker of or dealer in anchors or chain cables shall not sell or contract to sell, nor shall any person purchase or contract to purchase, for use on any New Zealand ship, any anchor or chain cable, unless—

“(a) The anchor or chain cable has been marked and a certificate in respect of it has been issued in accordance with rules made under this section; or 5

“(b) The anchor or cable is one to which those rules do not apply by virtue of any provision therein made under paragraph (e) of subsection (2) of this section. 10

“(5) Every contract for the sale of an anchor or chain cable to which rules made under this section apply shall, in the absence of an expressed stipulation to the contrary, be deemed to imply a warranty that the anchor or chain cable has, before delivery, been tested and marked in accordance with the requirements of the rules. The burden of proving any such expressed stipulation and the testing and marking shall, in the case of dispute, lie with the seller. 15

“(6) In this section and in sections 301 and 302 of this Act the expressions ‘anchor’ and ‘chain cable’ include any shackle attached to or intended to be used in connection with the anchor or chain cable. 20

“(7) Any anchor or chain cable tested or marked, and any certificate issued, before the commencement of rules made under this section in accordance with the requirements of— 25

“(a) The Anchors and Chain Cables Act 1899 of the United Kingdom Parliament or the Anchors and Chain Cables Act 1967 of that Parliament; or

“(b) The provisions of the law of any other Commonwealth country or of any foreign country which the Secretary is satisfied is of like purpose and effect to the said Anchors and Chain Cables Act 1899 or the said Anchors and Chain Cables Act 1967— 30

shall be deemed to have been tested or marked, or, as the case may be, issued, in accordance with rules made under this section.” 35

(2) Section 59 of the Shipping and Seamen Amendment Act 1959 is hereby consequentially repealed.

(3) This section and sections 15 and 16 of this Act shall come into force on a date to be fixed by the Governor-General by Order in Council. 40

15. **Offences in relation to anchors and chain cables**—Section 301 of the principal Act is hereby amended by repealing paragraph (a), and substituting the following paragraphs:

5 “(a) Fails to comply with or acts in contravention of sub-section (4) of section 300 of this Act or any provision of the rules made under that section; or

10 “(aa) Places on any anchor or chain cable or other chain or cable, any mark, or delivers in relation thereto any certificate or other document of a similar character, which would be calculated to lead persons to suppose that the anchor or chain cable or other chain or cable has been tested unless it has been actually so tested; or”.

15 16. **Manufacturers to place marks on anchors**—The principal Act is hereby further amended by repealing section 302, and substituting the following section:

20 “302. (1) Every maker of anchors shall mark each anchor he makes, being an anchor to which the provisions of rules made under section 300 of this Act apply, in the manner prescribed by the rules.

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

25 17. **Settlement of disputes as to salvage**—Section 358 of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting from paragraph (b) of subsection (1) and also from subsection (2) the words “one thousand dollars”, and substituting in each case the words “two thousand dollars”.

30 18. **Apportionment of salvage**—Section 366 of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby further amended by omitting the words “one thousand dollars”, and substituting the words “two thousand dollars”.

35 19. **Coastal light dues**—Section 375 of the principal Act is hereby amended by omitting from paragraph (g) of subsection (2) the words “twenty-five register tons”, and substituting the words “seventy feet register length”.

20. Survey and measurement of ship—(1) Section 388 of the principal Act is hereby amended by repealing subsection (1A) (as inserted by section 65 of the Shipping and Seamen Amendment Act 1959), and substituting the following subsection:

“(1A) Notwithstanding anything in subsection (1) of this section, where the Minister is satisfied that—

“(a) The provisions of the law of any Commonwealth country other than New Zealand or of any foreign country are of like effect to the tonnage regulations of this Act; and

“(b) The tonnage of a ship has been ascertained by the Government of such a Commonwealth country or foreign country or by an authority recognised by the Government of such a Commonwealth country or foreign country in accordance with the law of that country,—

the Minister may direct that the tonnage so ascertained shall be accepted as if it were the tonnage of the ship ascertained in accordance with the tonnage regulations of this Act, and in every such case the provisions of this Act as to the tonnage of the ship shall apply as if the tonnage of the ship had been ascertained in accordance with the tonnage regulations of this Act.”

(2) Section 65 of the Shipping and Seamen Amendment Act 1959 is hereby consequentially repealed.

21. Rules for ascertaining register tonnage—(1) The principal Act is hereby further amended by repealing section 445, and substituting the following section:

“445. (1) Without limiting the general power to make rules conferred by section 504 of this Act, rules may be made under that section prescribing the method and procedure for ascertaining the gross and net register tonnages of ships and the method and procedure for marking the tonnages on ships. Those rules shall include such requirements as appear to the Governor-General to be necessary to implement the provisions of any international Convention on tonnage measurement to which New Zealand is for the time being a party.

“(2) The tonnage of every ship to be registered in New Zealand shall, previously to her being registered, be ascertained in accordance with the rules made under this section.

“(3) The rules under this section for the time being in force are in this Act referred to as the tonnage regulations of this Act.”

(2) The principal Act is hereby consequentially amended—

(a) By omitting from the proviso to subsection (4) of section 148 the words “section 447 of this Act”, and substituting the words “the tonnage regulations of this Act”:

(b) By omitting from subsection (2) of section 150 the words “section 447 of this Act”, and substituting the words “the tonnage regulations of this Act”.

(3) The following enactments are hereby repealed:

(a) Section 446 of the principal Act, section 446A of that Act (as inserted by section 4 (1) of the Shipping and Seamen Amendment Act 1954), sections 447, 448, and 451 of the principal Act, and the Sixth Schedule to that Act (as substituted by clause 2 (1) of the Shipping Tonnage Regulations Order 1960):

(b) Section 4 of the Shipping and Seamen Amendment Act 1954:

(c) Section 13 of the Shipping and Seamen Amendment Act 1964.

(4) The Shipping Tonnage Regulations Order 1960 is hereby revoked.

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

22. Tonnage of ships of other countries—Section 450 of the principal Act is hereby amended—

(a) By omitting from subsection (4) the words “the Governor-General” where they first occur, and substituting the words “the Minister”:

(b) By omitting from subsection (4) the words “the Governor-General may, by Order in Council”, and substituting the words “he may”.