

SHIPPING AND SEAMEN AMENDMENT BILL (NO. 2)

EXPLANATORY NOTE

THIS Bill is in the same form as the Shipping and Seamen Amendment Bill, introduced by the Hon. Mr Gair, which was before the Labour and Education Select Committee when the General Assembly was dissolved. It amends the Shipping and Seamen Act 1952 relating to standards of competency for seafarers.

The principal Act deals with these matters in a host of separate sections. Significant among these are sections 19 (relating to the different types of certificate that may be granted), 20 (examinations for certificates), 23 (certificates of service for naval officers), 50 (certification of able seamen), 50A (certification of fishing deckhands), 54 (rating of engine room attendants on ships other than coal-burning steamships), 136 (certificates of competency of ships' cooks), and 253 (manning of ships in restricted limits and inland waters). Most of these provisions do little more than empower the making of regulations, although some also include substantive provisions.

The Bill replaces all these provisions with one composite empowering section (the proposed *section 19* set out in *clause 2*). The proposed *subsections (3) and (4)* are of particular importance. Matters of competency are largely covered by international conventions and agreements, and those provisions expressly authorise the making of regulations to give effect in New Zealand to any such convention or agreement. (The immediate effect will be to empower the making of all necessary regulations to enable New Zealand to ratify the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978.) The proposed *subsection (4)* makes it clear that such regulations may be made before the date on which the convention or agreement has effect in New Zealand, so long as they do not come into force before that date. This approach follows that adopted in section 3 of the Shipping and Seamen Amendment Act 1982 in relation to the International Convention on the Safety of Life at Sea 1974.

The remaining provisions of the Bill are of a consequential and transitional nature.

Hon. R. W. Prebble

SHIPPING AND SEAMEN AMENDMENT (NO. 2)

ANALYSIS

Title	2. Training, certification, licensing, and watchkeeping for seafarers
1. Short Title and commencement	3. Repeals and consequential amendments
	4. Consequential repeals
	5. Savings

A BILL INTITULED

An Act to amend the Shipping and Seamen Act 1952 relating to standards of competency

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

1. Short Title and commencement—(1) This Act may be cited as the Shipping and Seamen Amendment Act (No. 2) 1984, and shall be read together with and deemed part of the
10 Shipping and Seamen Act 1952* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 28th day after the date on which it receives the Governor-General's assent.

2. Training, certification, licensing, and watchkeeping for seafarers—
15 The principal Act is hereby amended by repealing sections 19 and 20, and substituting the following section:

*R.S. Vol. 4, p. 275
Amendment: 1982, No. 99

“19. (1) For the purposes of granting certificates of competency or service, or licences as officers or seamen, examinations shall be held at such times and places, and by such examiners, as the Secretary from time to time appoints; and every such examiner shall adhere strictly to the requirements of any regulations made pursuant to this section. 5

“(2) Without limiting the general power to make regulations conferred by section 504 of this Act, regulations may be made under that section for all or any of the following purposes:

“(a) Prescribing principles to be observed in keeping a navigational or an engineering watch on board a ship at sea or in port: 10

“(b) Prescribing certificates of competency or service of different kinds or grades as officers or seamen, to be issued by the Secretary: 15

“(c) Prescribing licences of different kinds or grades as officers or seamen, to be issued by the Secretary:

“(d) Providing for the endorsement of certificates or licences by the Secretary to authorise the holder to act on board a ship in any prescribed capacity: 20

“(e) Prescribing the qualifications as to age, character, training, service, eyesight, and medical fitness, or otherwise for the issue of certificates or licences, or the endorsement of certificates or licences, by the Secretary; and providing for the Secretary to determine how any periods of service or training are to be computed for the purposes of the regulations: 25

“(f) Providing for the suspension of any licence where the eyesight or medical fitness of the holder is in doubt or is unsatisfactory: 30

“(g) Empowering the Secretary to prescribe syllabuses for examinations for certificates or licences, and to prescribe the conditions under which such examinations are to be conducted: 35

“(h) Providing for the re-examination of candidates who have failed an examination, and prescribing conditions as to service or otherwise to be met by candidates for re-examination:

“(i) Prescribing the period for which licences shall be valid, and providing for the renewal of licences subject to such conditions as may be prescribed: 40

“(j) Authorising the Secretary to exempt candidates from any prescribed requirement if he is satisfied that there has been substantial compliance in any case or that compliance with any prescribed requirement is unnecessary: 45

“(k) Providing for the replacement of certificates or licences that have been lost or damaged or defaced:

“(l) Prescribing fees to be paid in respect of examinations, certificates, licences, and endorsements:

5 “(m) Providing for such other matters as are necessary or desirable to ensure adequate standards of competency among seafarers.

“(3) Without limiting anything in the foregoing provisions of this section or the general power to make regulations conferred
10 by section 504 of this Act, regulations may be made under that section for the purposes of implementing any international convention or agreement relating to standards of training, certification, or watchkeeping for seafarers, and any amendment or protocol to any such agreement.

15 “(4) Any regulations may be made pursuant to **subsection (3)** of this section before or after the date on which the convention or agreement enters into force with respect to New Zealand; but, except in so far as the making of those regulations is authorised by any provision of this Act other than that
20 subsection, no such regulations shall come into force before that date.”

3. Repeals and consequential amendments—(1) Sections 23, 50, 50A (as inserted by section 5 of the Shipping and Seamen Amendment Act 1964), 54, 136, and 253 of the principal Act
25 are hereby repealed.

(2) Section 21 of the principal Act is hereby amended by omitting the word “Minister” in both places where it occurs, and substituting in each case the word “Secretary”.

(3) Section 24 of the principal Act is hereby amended—

30 (a) By inserting in subsection (1), after the words “or service”, the words “and all licences as officers or seamen”:

(b) By inserting in that subsection, after the words “the certificate”, the words “or licence”:

35 (c) By inserting in subsection (2), after the words “the certificate”, the words “or licence”:

(d) By inserting in that subsection, after the word “certificates” in both places where it occurs, the words “and licences”:

40 (e) By inserting in subsection (3), after the word “certificate”, the words “or licence”.

(f) By inserting in subsection (4), after the word “certificate” in both places where it occurs, the words “or licence”.

(4) Section 25 of the principal Act (as substituted by section 9 of the Shipping and Seamen Amendment Act 1959) is hereby amended—

- (a) By inserting, after the word “certificates” wherever it occurs, the words “and licences”: 5
- (b) By inserting in subsection (1)(b), after the word “certificate” in both places where it occurs, the words “or licence”.

(5) Section 26 of the principal Act is hereby amended—

- (a) By inserting, after the words “or service” wherever they occur in paragraphs (a), (b), and (d), the words “or licence as an officer or a seaman”: 10
- (b) By inserting in paragraph (a), and in paragraph (b), after the words “such certificate” in each case, the words “or licence”: 15
- (c) By inserting in paragraph (c), after the words “or service”, the words “, or a licence or copy of a licence as an officer or a seaman,”.

(6) Section 40A of the principal Act (as inserted by section 5 (1) of the Shipping and Seamen Amendment Act 1971) is hereby amended by inserting, after subsection (10), the following subsection: 20

“(10A) While any person is a suspended person pursuant to any of the provisions of this section, any licence issued to that person in accordance with any regulations made pursuant to **section 19** of this Act shall be deemed to be suspended; but nothing in this subsection shall prevent that person being engaged to be entered on board any ship in accordance with subsection (6), or the proviso to subsection (10), of this section.” 25

(7) Section 51 of the principal Act is hereby amended by omitting the words “the last preceding section” wherever they occur, and substituting in each case the words “**section 19** of this Act”. 30

(8) Section 137 (5) (a) of the principal Act is hereby amended by omitting the words “the last preceding section”, and substituting the words “**section 19** of this Act”. 35

(9) Section 246 (2) (d) of the principal Act is hereby repealed.

(10) Section 6 of the Shipping and Seamen Amendment Act (No. 2) 1969 is hereby amended by omitting the expression “1965”, and substituting the expression “1973”. 40

4. Consequential repeals—The following enactments are hereby consequentially repealed:

- (a) Sections 7, 15, 24, and 52 of the Shipping and Seamen Amendment Act 1959:

- (b) Sections 4 and 5 of the Shipping and Seamen Amendment Act 1964:
- (c) Sections 16 and 17 of the Shipping and Seamen Amendment Act 1965:
- 5 (d) Section 10 of the Shipping and Seamen Amendment Act 1968:
- (e) Section 18 of the Shipping and Seamen Amendment Act 1969:
- 10 (f) Section 3, and subsections (2) (d) and (3) of section 13, of the Shipping and Seamen Amendment Act (No. 2) 1969:
- (g) Section 8 of the Shipping and Seamen Amendment Act (No. 2) 1970:
- (h) The Shipping and Seamen Amendment Act 1976.

15 **5. Savings**—(1) Without limiting anything in section 20 (d) of the Acts Interpretation Act 1924, all regulations made pursuant to any enactment repealed by this Act and in force immediately before the commencement of this Act shall continue in force with the like operation and effect as if they had been made
20 pursuant to **section 19** of the principal Act (as substituted by **section 2** of this Act).

(2) Any regulations made pursuant to **section 19** of the principal Act (as so substituted) may declare any type of certificate, licence, or endorsement referred to in **subsection (3)**
25 of this section to be equivalent to and to have the same effect as any type of certificate, licence, or endorsement issued, granted, or recognised under those regulations.

(3) All certificates of competency or service, and all licences, and all endorsements of any such certificates or licences, issued,
30 granted, or recognised under any enactment repealed by this Act or any regulations made pursuant to any such enactment, and in force immediately before the commencement of this Act, shall continue to have effect as if they had been issued, granted, or recognised pursuant to regulations made under
35 **section 19** of the principal Act (as so substituted).