

SEAMEN.

Act No. 46, 1898.

An Act to consolidate the Acts relating to
Seamen. [29th December, 1898.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

Preliminary.

1. This Act may be cited as the "Seamen's Act, 1898," and is divided into parts and divisions, as follows:—

PART I.—*Preliminary*—ss. 1-5.

PART II.—*Shipping offices and masters*—ss. 6-12.

PART III.—*Apprenticeship*—ss. 13-16.

PART

Seamen.

PART IV.—*Engagement of seamen.*

DIVISION 1.—*Generally*—ss. 17-30.

DIVISION 2.—*Islanders*—ss. 31-34.

PART V.—*Discharges*—ss. 35-39.

PART VI.—*Wages.*

DIVISION 1.—*Accrual and payment*—ss. 40-48.

DIVISION 2.—*Forfeiture*—ss. 49-52.

DIVISION 3.—*Allotment notes*—ss. 53, 54.

DIVISION 4.—*Remedies*—ss. 55-57.

PART VII.—*Property of deceased*—ss. 58-68.

PART VIII.—*Protection*—ss. 69-80.

PART IX.—*Discipline*—ss. 81-91.

PART X.—*Vessels in port.*

DIVISION 1.—*Duties of masters*—ss. 92.-100

DIVISION 2.—*Offences by seamen and other persons*—ss. 101-104.

DIVISION 3.—*Powers of justices and constables*—s. 105.

DIVISION 4.—*Procedure*—ss. 106-111.

PART XI.—*Miscellaneous matters*—ss. 112-119.

2. (1) The Acts mentioned in the First Schedule to this Act are to the extent therein expressed hereby repealed.

(2) All persons appointed under the Acts hereby repealed and holding office at the time of the passing of this Act shall be deemed to have been appointed hereunder.

(3) All regulations made under the authority of any Act hereby repealed and being in force at the time of the passing of this Act shall be deemed to have been made under the authority of this Act.

3. In this Act, unless the context or subject matter otherwise indicates or requires,—

“Agreement” includes the ship’s articles whether written or printed, or partly written or partly printed.

“Apprentice” means every person bound by indenture for the sea service to any owner or master.

“Desertion” means the absence of a seaman or apprentice from his ship without leave for a period of forty-eight hours without lawful cause or excuse, or any unlawful departure or absence from his ship with the intention of not returning thereto.

“Discharge” means the certificate of the discharge of a seaman from the last ship in which he served.

“Foreign-trade

Repeal.
First Schedule.
Officers under Acts hereby repealed.
Regulations under Acts hereby repealed.
Interpretation.
4 Vic. No. 17, s. 30.
17 Vic. No. 36, s. 46.
27 Vic. No. 13, s. 2.
43 Vic. No. 6, s. 6.

Seamen.

“Foreign-trade ship” means any ship trading to any part of the world not comprehended in the term “intercolonial.”

“Intercolonial ship” means every ship engaged in trading between any port in New South Wales and any other such port, or any other Australasian Colony including Tasmania and New Zealand.

“Justice” means any justice of the peace.

“Master” means every person except pilots having charge or command of a ship.

“Owner” means every person to whom any ship, or part of, or share in a ship, belongs.

“Port or harbour” means every port, harbour, haven, roadstead, channel, creek, and navigable river.

“Seaman” means every person employed or engaged in any capacity on board any ship, except masters, pilots, apprentices, and persons temporarily employed on board any ship in port.

“Ship” means every description of vessel used in navigation, not ordinarily propelled by oars.

“Shipping Master” means—

(a) every officer duly authorised for any specified duties of shipping master under this Act, and where not otherwise provided the shipping master for the port where the ship in reference to which he is acting is; and

(b) any deputy of such shipping master in respect of any acts or duties which such deputy may be authorised to perform.

To what ships this
Acts extends.
27 Vic. No. 13, s. 90.
28 Vic. No. 5, s. 1.

4. This Act, in addition to its general application according to its subject matter to all persons within the jurisdiction of New South Wales, shall extend and apply as follows, that is to say:—

(1) As to ships registered in or belonging to New South Wales (except pleasure yachts), and the owners, masters, and crews of such ships, wherever the same may be—the whole Act, except so far as other provisions are made in respect thereof, when such ships are out of the jurisdiction of New South Wales, by the Imperial Act, the Merchant Shipping Act, 1894, or any other Imperial Act;

(2) As to pleasure yachts registered in or belonging to New South Wales, and the owners, masters, and crews thereof—so much of section eighteen as directs that no seaman shall be hired or engaged to serve in any ship of any tonnage whatever, unless he produces and delivers up to the shipping master, or the owner or master engaging him, his discharge or license to ship, and that in all cases where any such discharge or license to ship shall be delivered to any such owner or master
the

Seamen.

the same shall be forthwith delivered or sent by such owner or master to the shipping master, to be by him kept and preserved in his office—the whole of section thirty-five and so much of section thirty-six as dispenses with the production or giving of discharges or licenses to ship by or to seamen who immediately re-engage to serve in the same ship, and as requires the master in such cases to send to the shipping master a written statement signed by him setting forth the fact of such re-engagements being so entered into.

- (3) As to ships registered in or belonging to the United Kingdom, or any of Her Majesty's dominions other than New South Wales, and the owners, masters, and crews of such ships, when such ships are within the jurisdiction of New South Wales—the whole Act, except so far as other provisions are made in respect thereof by the Imperial Act, the Merchant Shipping Act, 1894, or any other Imperial Act.

5. Nothing herein contained shall extend or apply to any of Her Majesty's ships of war or to any ship of war of any foreign State or power. Not to apply to ships of war.
27 Vic. No. 13, s. 91.

PART II.

Shipping offices and masters.

6. (1) The Governor may establish shipping offices at Sydney and at any other ports; and may appoint a shipping master to each such office, who shall himself or by such deputies, clerks, and servants as may also be so appointed, perform all duties required by this Act to be performed by a shipping master. Appointment of shipping master, &c.
Ibid. s. 5.

(2) Each such shipping master shall, before entering upon his duties, give such security for the due performance thereof as may be required by the Minister, and shall make and subscribe before a justice a solemn declaration in the form of the Second Schedule hereto. Shipping master to give security, &c.
Second Schedule.

7. The following shall be the general duties of shipping masters:— Duties of shipping masters.

- (a) To facilitate the making of apprenticeships to the sea service. *Ibid.* s. 6.
- (b) To facilitate the engagement and discharge of seamen, and to keep a registry thereof and of their names and characters in all cases of their engagement and discharge in New South Wales.
- (c) To perform such other duties relating to merchant ships and seamen as are expressly committed to them by this Act.

8.

Seamen.

Fees on engagements
and discharges.
Third Schedule.
27 Vic. No. 13, s. 7.
Table of fees.

8. (1) The fees specified in the Third Schedule hereto shall be payable to the shipping masters upon all engagements and discharges effected under the provisions of this Act.

(2) The Minister shall cause tables of such fees to be conspicuously placed in the shipping offices; and the shipping masters may refuse to proceed with any engagements or discharges until the fees are paid.

Owner may pay fees.

(3) The owner or master engaging or discharging any seaman shall pay the whole of such fees, and may for the purpose of reimbursing himself deduct, in respect of each such engagement or discharge, from the wages of all seamen so engaged or discharged, and retain any sums not exceeding the sums specified in that behalf in the said Third Schedule.

Remedies.

(4) All such fees may be sued for and recovered with costs by the shipping master from the owner or master in the summary manner in which seamen are by this Act enabled to sue for and recover wages not exceeding fifty pounds.

Shipping master to
pay over fees.

(5) All fees payable to the shipping master under this Act shall be accounted for and paid by him to the Treasurer, and by the said Treasurer be carried over to the Consolidated Revenue Fund.

Shipping master
may decide questions
which parties
refer to him.
Ibid. s. 34.

9. Every shipping master shall hear and decide any question whatever between a master or owner and any seaman which both parties agree in writing to submit to him; and every award made by him shall be binding on both parties, and shall, in any legal proceeding which may be taken in the matter before any court, be deemed to be conclusive as to the rights of the parties. Any document purporting to be such submission or award shall be evidence thereof.

Master and others
to produce ship's
papers to shipping
master and give
evidence.
Ibid. s. 35.

10. (1) In any proceeding relating to wages, claims, or discharge of any seamen, so referred to any shipping master, he may call upon the owner or his agent, or upon the master, or mate, or any member of the crew, to produce any log-book, paper, or other document in their possession or power relating to any matter in question in such proceeding, and may call before him and examine on any such matter any of such persons being then at or near the place of inquiry.

Penalty.

(2) Every owner, agent, master, mate, or other member of the crew, who, when called upon by the shipping master, does not produce any such paper or document as aforesaid, if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable cause for his default, incur for every such offence a penalty not exceeding five pounds.

Penalty for taking
other remuneration.
Ibid. s. 8.

11. Any shipping master, or any deputy clerk or servant in any shipping office, who demands or receives, directly or indirectly, for hiring or supplying any seaman for any ship or for the discharge of any seaman, any remuneration whatever beyond the lawful fees, shall for every such offence, incur a penalty not exceeding twenty pounds, and may be dismissed by the Minister.

12.

Seamen.

12. By direction of the Minister, at any place where there is no shipping office the whole or any part of the business of such office may be conducted at the custom-house; and the officer of customs there conducting such business shall for all purposes be deemed a shipping master.

Shipping business may be done at custom houses.
27 Vic. No. 13, s. 9.

PART III.

Apprenticeship.

13. All indentures of apprenticeship to the sea service shall be executed by the apprentice and the person to whom he is to be bound, in the presence of a justice, who shall attest the same, and shall, before such execution, satisfy himself—

How indentures to be executed and attested.
Ibid. s. 10.

- (a) that the intended apprentice has freely consented to be bound; has attained the age of twelve years; and is of sufficient health and strength; and if under twenty-one years of age is not acting against the will of his parent or other lawful guardian; and
- (b) that the master to whom he is to be bound is a proper person for the purpose:

Provided that all such indentures whereby any person under the age of twenty-one years is bound without the concurrence of his parent or guardian shall, in all cases where by law the consent of such parent or guardian is necessary to make the same binding upon him, be voidable by such parent or guardian.

14. (1) All such indentures of apprenticeship shall be in duplicate, and every person to whom any apprentice is so bound in New South Wales shall, within seven days after the execution of the indentures, take or transmit the same to the shipping master.

Indentures to be in duplicate.
Ibid. s. 11.

(2) The shipping master shall record and keep and preserve one copy in his office, and indorse a memorandum of such recording on the other copy, and redeliver it to the master of the apprentice.

Record, &c., by shipping master.

(3) Whenever any such indentures are assigned or cancelled, or any such apprentice dies or deserts, his master shall, if such assignment, cancellation, death, or desertion happens in New South Wales, within seven days thereafter, or if elsewhere, so soon afterwards as circumstances permit, notify the same to the shipping master, to be also recorded.

Assignment, &c., of indentures.

(4) Every such master of an apprentice failing to comply with this section shall incur a penalty not exceeding ten pounds.

Penalty.

15.

Seamen.

Apprentices from
charitable institu-
tions.
27 Vic. No. 13, s. 12.

15. All such apprenticeships made by the authorised officers of public or charitable institutions shall (subject as nearly as may be to the foregoing provisions) be made in the same manner and be subject to the same laws and regulations as other apprenticeships made by the same persons, the form of the indentures being appropriately altered to meet each case.

Apprentices in ships
going out of New
South Wales.
Ibid. s. 13.

16. (1) The master of every ship, except ships of less than eighty tons registered tonnage exclusively engaged in trading or going to places within or on the coast of New South Wales, shall before carrying any apprentice to sea from any place in New South Wales, cause him to appear before, and shall produce to, the shipping master the indentures by which such apprentice is bound and every assignment thereof.

Entry on ship's
articles.

(2) The name of such apprentice, with the date of such indentures and of every such assignment, and the name of every port at which the same have been registered, shall be entered on the ship's articles.

Penalty.

(3) The master shall, for every default in obeying any provision of this section, incur a penalty not exceeding five pounds.

Proviso as to inter-
colonial ships.

(4) Provided that in the case of intercolonial ships it shall not be necessary to cause the apprentice to appear before the shipping master more frequently than once in twelve months.

PART IV.

*Engagement of seamen.*DIVISION 1.—*Generally.*

Agreements to be
made with seamen
containing certain
particulars.

Ibid. s. 15.
Fourth Schedule.

17. (1) The master of every ship, except ships of less than eighty tons registered tonnage exclusively engaged in trading or going to places within or on the coast of New South Wales, who engages any seaman in New South Wales shall enter into an agreement with him in the form of the Fourth Schedule hereto, and dated at the time of the first signature thereof, and signed by the master before any seaman signs the same.

Stipulations.

(2) Every such agreement shall be so framed as to admit of stipulations being introduced therein at the joint will of the master and seaman in each case as to advance and allotment of wages or any other stipulations not contrary to law.

Agreement to be in
duplicate.

(3) Every such agreement shall be filled up by the shipping master, and shall be prepared and signed in duplicate, and shall in all cases be signed by the master, in the presence of and attested by such shipping master, and one of such duplicates shall in all cases be left with or delivered or sent to the shipping master, and be kept and preserved by him in his office.

18.

Seamen.

18. The master of every ship, except as aforesaid, when engaging seamen in New South Wales, shall engage them either before the shipping master or on board the ship in which they are to be employed.

Seamen to be engaged before the shipping master or on board the ship in which they are to serve.

Provided that the signature of each seaman shall be attested by the shipping master or by some other witness, and before being signed the agreement shall be read over and explained to such seaman.

27 Vic. No. 13, s. 16.
47 Vic. No. 1, s. 1.

Provided also that no seaman shall be hired or engaged to serve in any ship of any tonnage whatever unless he produces and delivers up to the shipping master, or the owner or master engaging him, his discharge or license to ship; and in all cases where any such discharge or license to ship is delivered to any such owner or master the same shall be forthwith delivered or sent by such owner or master to the shipping master.

19. In the case of all ships except as aforesaid the following in addition to the rules prescribed by the last two preceding sections shall be observed with respect to agreements:—

Further rules for agreements.

27 Vic. No. 13, s. 17.
47 Vic. No. 1, s. 1.

- (a) Where the agreement is signed by any seaman in the presence of a shipping master, the seaman's discharge or license to ship shall be produced and delivered to the shipping master.
- (b) Except in the cases hereinafter provided, where the agreement is signed by any seaman otherwise than in the presence of a shipping master, one of the duplicates thereof, certified and attested as such duplicate by the owner or master or other officer engaged on board the ship, shall, together with the discharges or licenses to ship of each seaman so signing the same, be forthwith delivered or sent to the shipping master; and such duplicate shall be by him kept and preserved in his office.
- (c) When the crew is first engaged the duplicate of the agreement retained by the master shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship.
- (d) If the master of any ship not registered in or belonging to New South Wales has an agreement with his crew, made in due form according to the law of the place to which such ship belongs or in which his crew were engaged, and engages single seamen in New South Wales, such seamen may sign the agreement so made, and it shall not be necessary for them to sign an agreement in the form of the Fourth Schedule hereto, or to have the same filled up by the shipping master or prepared and signed in duplicate; but in all such cases the master shall observe and conform to all the other directions herein contained relative to the engagement of seamen, and shall forthwith leave with or deliver or send to the shipping master

Provision as to ships not belonging to New South Wales.

Seamen.

master a true copy, attested as such by the master under his hand, of the agreement signed by such seamen with the names of the seamen signing the same and of the witnesses attesting their signatures; and such copy shall be kept and preserved by the shipping master in his office.

To regulate fees payable on running agreements.
27 Vic. No. 13, s. 18.

20. For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-trade and intercolonial ships which have running agreements, the crew shall be considered to be engaged when the agreement is first signed and to be discharged when the agreement finally terminates, and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

Duplicates of running agreements how to be dealt with.
Ibid. s. 19.

21. In cases in which such running agreements are made, the duplicate agreement retained by the shipping master upon the first engagement of the crew shall be kept by the shipping master until the expiration of the agreement, and thereafter dealt with according to any regulations in that behalf duly made as hereinafter enacted.

Special agreements for intercolonial ships belonging to same owners.
Ibid. s. 20.

22. (1) In cases where several intercolonial ships belong to the same owner, the agreement with the seamen may, notwithstanding anything herein contained, be made by the owner instead of by the master, and the seamen may be engaged to serve in any two or more of such ships, but the names of the ships and of the masters and the nature of the service shall be specified in the agreement; and with the foregoing exception, all provisions herein contained which relate to ordinary agreements for intercolonial ships shall be applicable to agreements made in pursuance of this section.

Seamen to be allowed interval on change of ship.

(2) No seaman having served in any ship which has entered any port of New South Wales on completion of a voyage, shall be compellable under any engagement or agreement to go on board any other ship until after the expiration of twenty-four hours from the completion of such voyage.

Penalty for shipping seamen without agreement duly executed.
Ibid. s. 21.

23. (1) Any master of a foreign-trade ship who carries any seaman to sea without having entered into an agreement with him in accordance with this Act, shall for every such offence incur a penalty not exceeding five pounds.

On intercolonial ship.

(2) If any master of an intercolonial ship carries any seaman to sea without having entered into such agreement with him, such master or the owner shall for every such offence incur a penalty not exceeding five pounds.

Changes in crew to be reported.
Ibid. s. 22.

24. The master of every intercolonial or foreign-trade ship shall before leaving New South Wales sign and send to the shipping master a full and accurate statement of every change which takes place in his crew before finally so leaving New South Wales.

Every

Seamen.

Every such master shall for every offence against this section incur a penalty not exceeding five pounds.

25. (1) Every erasure, interlineation, or alteration in any agreement with seamen, except additions for shipping substitutes or persons engaged subsequently to the first departure of the ship, shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation, or alteration.

Alterations to be void unless attested to have been made with the consent of all parties.

27 Vic. No. 13, s. 23.

(2) Such consent shall be proved by the written attestation of—

Consent how proved.

- (a) the witness attesting the signature of the person so interested; or
- (b) some justice; or
- (c) if made out of New South Wales, a British consular officer; or, if none such, two British merchants.

26. Whosoever—

Penalty for falsifying agreement.
Ibid. s. 24.

- (a) fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered any agreement; or
- (b) makes or assists in making, or procures to be made any false entry in any agreement; or
- (c) delivers, assists in delivering, or procures to be delivered a false copy of any agreement

shall for every such offence be deemed guilty of a misdemeanour.

27. Any seaman may, upon any civil or criminal proceeding by or against him, bring forward evidence to prove the contents of any agreement, or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof.

Seamen not to be bound to produce agreement.
Ibid. s. 25.

28. The master shall at the commencement of every voyage or engagement cause a legible copy of the agreement, omitting the signatures, to be placed or posted up in some part of the ship which is accessible to the crew.

Copy of agreement to be made accessible to crew.
Ibid. s. 26.

Every master shall for every neglect of this enactment incur a penalty not exceeding five pounds.

29. Any seaman who, after having signed an agreement, is discharged before the termination of his agreement without fault on his part justifying such discharge, and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation not exceeding one month's wages; and may, on adducing such evidence of his having been so improperly discharged as the court deems satisfactory, recover such compensation in the same manner as if it were wages duly earned.

Seamen discharged before end of agreement to have compensation.
Ibid. s. 27.

30. (1) Whosoever in New South Wales not being—

- (a) the owner or master or mate of the ship; or

Penalty for unlawfully supplying seamen, or employing others to do so;

(b) *Ibid.* s. 14.

Seamen.

(b) the bona fide servant, and in the constant employ of the owner;
or

(c) a shipping master,

engages, or supplies, or employs any person, other than persons so excepted, to engage or supply, any seaman or apprentice to be entered on board any ship, shall for each seaman or apprentice so engaged or supplied incur a penalty not exceeding twenty pounds.

or for receiving
seamen unlawfully
supplied;

(2) Whosoever knowingly receives or accepts to be entered on board any ship, any seaman, or apprentice engaged, or supplied, contrary to the next preceding enactment, shall, for every seaman or apprentice so engaged or supplied, incur a penalty not exceeding twenty pounds.

or for receiving
remuneration from
seamen for shipping
them.

(3) Whosoever contrary to this Act demands or receives, directly or indirectly, from any seaman, or apprentice, or from any person seeking employment as such, or from any person on his behalf, any remuneration whatever for providing him with employment other than the fees hereby authorised, shall for every such offence incur a penalty not exceeding five pounds.

DIVISION 2.—*Islanders.*

Islanders to be
engaged before
shipping masters.
43 Vic. No. 6, s. 2.

31. (1) Notwithstanding anything to the contrary in this Act, no master of a ship or other person shall engage as a seaman any aboriginal native of any of the islands of the Pacific Ocean (herein termed "islander") at any port or place in New South Wales unless such engagement is entered into as hereinafter provided before the shipping master of such port or place.

Certain agreements
unenforceable.

(2) No agreement with any such islander made out of New South Wales, not made and appearing to have been made before either a shipping master or a consul, shall be enforceable against such islander in any court, unless a shipping master certifies that in his opinion such agreement reasonably provides for the victualling and remuneration of such islander.

It shall be the duty of such shipping master, when applied to for that purpose, to express in writing his opinion whether such agreement does or does not so provide.

How agreements to
be made with
islanders.
Ibid. s. 3.
Fifth Schedule.

32. (1) The master of any ship, of any tonnage whatever, and in whatever trade engaged, who engages any islander as a seaman at any port or place in New South Wales shall enter into an agreement with him in the form of the Fifth Schedule hereto.

Stipulations.

(2) Every such agreement shall be so framed as to admit of stipulations being introduced therein at the joint will of the master and islander in each case as to advance and allotment of wages, or any other stipulations not contrary to law.

(3)

Seamen.

(3) Every such agreement shall be prepared and signed in duplicate, and be filled up by the shipping master, and in all cases shall be signed by the master in the presence of, and attested by, such shipping master, and one of such duplicates shall in every case be left with the shipping master, and be retained by him in his office. Agreement to be in duplicate.

(4) Before any such agreement is signed by such islander, the shipping master, or some person authorised by him, shall read over and explain the same to such islander, and the shipping master shall thereupon attest the signature (or mark, if the islander is unable to write); and no islander shall be allowed by the shipping master to sign or affix his mark to any such agreement unless in the shipping master's opinion such islander appears fully to comprehend the nature and effect of such agreement and of the remuneration, whether by wages, lay, or otherwise therein stipulated for. Shipping master to read and explain agreement.

33. (1) If any master engages or enters into an agreement with any islander in contravention of the provisions of either of the preceding sections of this Division, he shall be liable to a penalty not exceeding fifty pounds and not less than five pounds. Penalty. 43 Vic. No. 6, s. 4

(2) Proceedings under this section shall be commenced within either six months from the expiration or other determination of such engagement or agreement, or within six months from the time of such master's return to New South Wales. Period of limitation.

34. (1) All islanders, being seamen in intercolonial or foreign trade ships discharged in New South Wales, shall be discharged and receive their wages in the presence of a shipping master. Islanders to receive wages before shipping master. Ibid. s. 5.

(2) Any master or owner discharging any such islander or paying him his wages in New South Wales in any other manner shall incur a penalty not exceeding fifty pounds. Penalty.

PART V.

Discharges.

35. (1) In every case of a seaman discharged in New South Wales from any ship of any tonnage whatever, either— Mode of discharging seamen. 27 Vic. No. 13, s. 31.

- (a) such seaman shall be discharged before the shipping master, in which case the master shall thereupon sign and give to the seaman in the presence of such shipping master a discharge in the form of the Sixth Schedule hereto, and the shipping master shall attest the same; or Sixth Schedule.

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(b)

Seamen.

(b) the master shall sign and forthwith deliver or send to the shipping master a discharge of such seaman in the form aforesaid, attested by some witness.

Shipping master to keep discharge.

(2) The shipping master shall on receipt of such discharge take charge thereof and keep the same in his office until the seaman whose discharge is thereby certified applies for the same, and upon such application by such seaman shall deliver the same to him.

Penalty.

(3) Any master who fails to sign and give to the seaman, or to sign and deliver or send to the shipping master, such discharge in conformity with the provisions of this section shall for every such offence be liable to a penalty not exceeding ten pounds.

No discharge necessary on immediate re-engagements.
27 Vic. No. 13, s. 32.

36. When the crew of a ship or any of them, immediately upon the expiration of their agreement, enter into a new agreement to serve in the same ship, then it shall not be necessary for the master to sign or give or send to the shipping master a discharge to any seaman so re-engaging, or for any seaman so re-engaging to produce or deliver a discharge or license to ship.

In all such cases the master shall forthwith deliver or send to the shipping master, with the duplicate of the agreement to be delivered or sent to him as hereinbefore directed, a written statement signed by such master, setting forth the fact of such re-engagement being so entered into immediately upon the expiration of the former agreement. The shipping master shall keep and preserve such written statement in his office with such duplicate.

On discharge of seaman master to deliver account of wages.
Ibid. s. 30.

37. (1) Every master shall at the time of or before paying off or discharging any seaman deliver to him a full and true account of his wages and of all deductions to be made therefrom on any account whatever, and in default shall for every offence incur a penalty not exceeding five pounds.

Deduction not allowed unless in account.

(2) No deduction from the wages of any seaman, except in respect of any matter happening after such delivery, shall be allowed unless it is included in the account so delivered.

Master to keep book.

(3) The master shall during the voyage enter the various matters in respect of which such deductions are made with the amounts of the respective deductions as they occur in a book to be kept for that purpose; and shall, if required, produce such book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to such payments.

Loss of discharge, and licenses to ship.
Ibid. s. 33.

38. In case—

(a) any seaman has lost his discharge or from any other cause is unable to produce the same; or

(b)

Seamen.

(b) any other person desires to engage as a seaman;

any shipping master, on being satisfied of the fact of such loss, inability, or desire, as the case may be, may grant and deliver to such seaman or other person a license to ship, which license shall be in writing and signed by the shipping master.

39. (1) Upon every discharge effected in New South Wales from any foreign-going ship, the master shall make and sign, in the form of the Seventh Schedule hereto, and forthwith deliver or send to the shipping master a report of the conduct, character, and qualifications of the seamen discharged; or may as to any of such seamen state in the column for that purpose in the said form that he declines to give any opinion upon such particulars or upon any of them.

Master to make reports of character. Eighth Schedule. 27 Vic. No. 13, s. 37. Seventh Schedule.

The shipping master shall, if desired so to do by any seaman, indorse on his certificate of discharge the substance of so much of such report as concerns him.

(2) Whosoever—

- (a) makes, assists in making, or procures to be made, any false certificate of discharge or report of the conduct, character, or qualifications of any seaman knowing the same to be false; or
- (b) forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered any such certificate or report; or
- (c) fraudulently makes use of any certificate or report or of any copy of any certificate or report which is forged or altered or does not belong to him

Penalty for false discharge or report.

shall for every such offence be deemed guilty of a misdemeanour.

PART VI.

Wages.

DIVISION I.—*Accrual and payment.*

40. A seaman's right to wages and provisions shall be taken to commence at the time specified in the agreement for his commencement of work, or presence on board, whichever first happens.

Right to wages and provisions when to begin. *Ibid.* s. 38.

41. (1) No seaman shall by any agreement be deprived of any remedy for the recovery of his wages, or forfeit his lien upon a ship for such recovery.

Seamen not to give up certain rights. *Ibid.* s. 39.

(2)

Seamen.

Certain stipulations.
to be void.

(2) Every stipulation in any agreement inconsistent with any provision of this Act, or by which any seaman consents to abandon his right to wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be to that extent void.

Exception of
salvage service.

(3) Nothing in this section shall apply to the case of any stipulation made by any seaman belonging to any ship, which according to the terms of the agreement is to be employed on salvage service, with respect to the remuneration to be paid to him for salvage service to be rendered by that ship to any other ship.

Wages not to be
dependent on the
earning of freight.
27 Vic. No. 13, s. 40.

42. No right to wages shall be dependent on the earning of freight; and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same notwithstanding that freight has not been earned.

But in all cases of wreck or loss of ship proof that any seaman has not exerted himself to the utmost to save the ship, cargo, and stores shall bar his claim to wages.

Sale of and charge
upon salvage on
wages invalid.
Ibid. s. 65.

43. (1) No assignment or sale of any salvage or wages made by any seaman or apprentice prior to the accrual thereof shall bind the person making the same; and no power of attorney or authority for the receipt of any such salvage or wages shall be irrevocable.

Payment good as
against assignment.

(2) Every payment in respect of salvage or wages to the seaman or apprentice himself shall be valid as against any previous sale, or assignment, or any attachment, incumbrance, or arrestment thereon.

Right to wages in
case of termination
of service by wreck
or illness.
Ibid. s. 41.

44. In cases where the service of any seaman terminates before the period contemplated in his agreement by reason of—

(a) the wreck or loss of the ship; or

(b) his being left on shore at any place abroad under a certificate of his unfitness or inability to proceed on the voyage,

such seaman shall be entitled to wages for the time of service only prior to such termination as aforesaid.

Wages not to accrue
during refusal to
work or imprison-
ment.
Ibid. s. 46.

45. No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work; nor, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Period within which
wages are to be paid.
Ibid. s. 47.

46. (1) The master or owner of every ship (except ships of less than eighty tons registered tonnage exclusively engaged in trading or going

Seamen.

going to places within or on the coast of New South Wales) shall pay to every seaman his wages:—

- (a) in the case of an intercolonial ship: within two days after the termination of the agreement, or at the time when such seaman is discharged whichever first happens;
- (b) in the case of all other ships: within three days after the cargo has been delivered, or at the time of the seaman's discharge whichever first happens.

Provided that this shall not apply to the cases of ships employed in the whale fishery, or on other voyages for which seamen by the terms of their agreement are wholly compensated by shares in the profits of the adventure.

(2) Every master or owner who, without sufficient cause, Penalty. neglects or refuses to make payment in manner aforesaid, shall pay to the seaman a sum not exceeding the amount of two days pay for each of the days, not exceeding ten days, during which payment is delayed beyond the respective periods aforesaid, and such sum shall be recoverable in the same manner as wages.

47. (1) Every master of a ship who leaves any seaman or apprentice on shore at any place abroad in or out of Her Majesty's dominions under a certificate indorsed on the agreement as in section seventy-five hereof provided of his unfitness or inability to proceed on the voyage shall deliver to one of the functionaries who may sign such certificate, or, in the absence of such functionaries, to the merchant by whom such certificate is signed, or, if there is but one merchant resident at such place, to him, a full and true account of the wages due to such seaman or apprentice (such account when delivered to a consular officer to be in duplicate), and shall pay the same when practicable in money, and otherwise by a bill drawn upon the owner. Wages to be paid when seamen are left behind on ground of inability. 27 Vic. No. 13, s. 61.

(2) Such functionary or merchant as aforesaid shall by Indorsement on bill. indorsement certify on every such bill that the same is drawn for money due on account of a seaman's wages, and shall also indorse the amount for which such bill is drawn with such further particulars in respect of the case as the Minister requires.

(3) Every such master as aforesaid who refuses or neglects Penalty. to deliver a full account of such wages and pay the amount thereof in money or bill as hereinbefore required shall for every such offence or default, in addition to the payment of the wages, incur a penalty not exceeding ten pounds.

(4) Every such master who delivers a false account of such Penalty. wages shall for every such offence, in addition to the payment of the wages, incur a penalty not exceeding twenty pounds.

Seamen.

Settlement of wages. 27 Vic. No. 13, s. 36. **48.** The following rules shall be observed with respect to the settlement of wages:—

Release to be signed before and attested by shipping master.

Eighth Schedule.

To be discharge

and to be evidence.

No other receipt to be a discharge.

Voucher to be given to master and to be evidence.

(a) Upon the completion before a shipping master of any discharge, and on full payment or satisfaction of wages, the master or owner and each seaman shall respectively, in the presence of the shipping master, sign in the form of the Eighth Schedule hereto, a mutual release of all claims in respect of the past voyage or engagement, and the shipping master shall also sign and attest it, and shall retain it as herein directed. Every such release so signed and attested shall operate as a complete fulfilment of the agreement on both sides, and a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

(b) A copy of such release, certified under the hand of such shipping master to be a true copy, shall be given by him to any party thereto requiring the same; and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy.

(c) In cases in which discharge and settlement take place before a shipping master, no payment, receipt, settlement, or discharge otherwise made shall operate or be admitted as evidence of the release or satisfaction of any claim.

(d) Upon any payment being made by a master before a shipping master, the shipping master shall, if required, sign and give to such master a statement of the whole amount so paid, and such statement shall, as between the master and owner, be received as evidence that he has made the payments therein mentioned.

DIVISION 2.—*Forfeiture.*

Amount of forfeiture how ascertained when seamen contract for voyage. *Ibid.* s. 77.

49. Whenever any seaman contracts for wages by the voyage or by the run, or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act as hereinafter mentioned shall be an amount bearing the same proportion to the whole wages or share as the period for which forfeiture is adjudged bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed such period of forfeiture, the forfeiture shall extend to the whole wages or share.

Questions of forfeiture may be decided in suits for wages. *Ibid.* s. 78.

50. Any question concerning the forfeiture of or deduction from the wages of any seaman or apprentice may be determined in any proceeding lawfully instituted respecting such wages, notwithstanding that the offence as to which such question arises has not been made the subject of any criminal proceeding.

Seamen.

51. Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion, it shall be sufficient for the parties insisting on the forfeiture to show—

Facilities for proving desertion as far as concerns forfeiture of wages.

27 Vic. No. 13, s. 75.

- (a) that such seaman or apprentice was duly engaged in, or that he belonged to, the ship from which he is alleged to have deserted; and
- (b) that he quitted such ship without leave before the completion of the voyage or engagement, or, if such voyage was to be completed in New South Wales, and the ship has not returned, that he is absent from her; and
- (c) that an entry of the desertion has been duly made in the log-book.

The desertion shall thereupon so far as relates to any forfeiture of wages or emoluments under the provisions hereinafter contained, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge, or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving the ship.

52. Whenever in any proceeding relating to wages it is shown that any seaman or apprentice entitled thereto has in the course of the voyage been lawfully convicted of and rightfully punished for any offence, the Court may direct a part of such wages not exceeding two pounds to be applied in reimbursing any costs properly incurred by the master in procuring such conviction and punishment.

Costs of procuring imprisonment may be deducted from wages.

Ibid. s. 76.

DIVISION 3.—*Allotment notes.*

53. All stipulations made at the commencement of a voyage for the allotment of any part of the wages of a seaman during his absence shall be inserted in the agreement and shall state the amounts and times of the payments to be made.

Regulations as to allotment notes.

Ibid. s. 28.

All allotment notes shall be in the form of the Ninth Schedule hereto.

Ninth Schedule.

54. (1) When an allotment note of part of the wages of any seaman is made in favour of his—

Allotment notes may be sued upon summarily by certain persons on certain conditions.

Ibid. s. 29.

- (a) wife,
- (b) father or mother,
- (c) grandfather or grandmother,
- (d) child or grandchild,
- (e) brother or sister,

such wife or other person may sue for and recover the wages allotted by the note, when and as the same are made payable, with costs, from the owner or any agent who has authorised the drawing of the note.

Seamen.

Where proceedings
may be had.

(2) Such proceedings may be taken—

- (a) in the District Court; or
- (b) in the summary manner in which seamen are by this Act enabled to sue for and recover wages not exceeding fifty pounds.

Evidence

(3) In any such proceeding, it shall be sufficient for the claimant to prove that he is the person mentioned in the note, and that the note was given by the owner or master, or some authorised agent; and the seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the court, either by—

- (a) the official statement of the change in the crew caused by his absence, signed and sent to the shipping master by the master, as by this Act is required; or
- (b) a duly certified copy of some entry in the log-book to the effect that he has left the ship, or a credible letter from the master of the ship to the same effect; or
- (c) such other evidence of whatever description as the court, in its absolute discretion, considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

Provision as to
forfeiture.

(4) No recovery shall be made on an allotment note if the seaman is shown, in manner aforesaid, to have forfeited, or ceased to be entitled to the wages out of which the allotment is to be paid.

Wife deserting her
children.

(5) The wife of any seaman who deserts her children, or so misconducts herself as to be undeserving of support from her husband, shall thereby forfeit all right to further payment of any allotment of his wages made in her favour.

DIVISION 4.—*Remedies.*

Seamen may sue for
wages in a summary
manner.

Ibid. s. 48.

55. (1) Where any sum not exceeding fifty pounds is due for wages to any seaman or apprentice, he, or his duly authorised agent, may sue for and recover the same with costs in a summary manner before any two justices acting in or near to the place—

- (a) where the service has terminated; or
- (b) where the seaman or apprentice has been discharged; or
- (c) where the person from whom the wages are due is, or resides.

Amount to be paid
within a stated time.

(2) Every order for payment made under this section by such justices shall contain a direction that the person liable shall pay the amount thereby made payable within a time to be named in such order, and that in default such person shall be imprisoned for any term not exceeding three months, unless the amount is sooner paid.

No appeal.

(3) Every such order of justices shall be final.

Seamen.

56. No suit or proceeding for the recovery of wages under the sum of twenty pounds shall be instituted by or on the behalf of any seaman or apprentice in any Vice-Admiralty Court or any Court of Record in New South Wales unless—

Restrictions on suits for wages in superior Courts.
27 Vic. No. 13, s. 49.

- (a) the owner of the ship is declared insolvent; or
- (b) the ship is under arrest or is sold by the authority of any such Court as aforesaid; or
- (c) any justices, as they are hereby authorised to do, refer the case to be adjudged by such Court; or
- (d) neither the owner nor the master is or resides within twenty miles of the place where the seaman or apprentice is discharged or put ashore.

57. (1) Every master of a ship shall so far as the case permits have the same rights, liens, and remedies for the recovery of his wages as by this Act, or by any law or custom, any seaman not being a master has.

Master to have same remedies for wages as seamen.
Ibid. s. 50.

(2) If in any proceeding in any Court of Vice-Admiralty touching the claim of a master to wages, any right of set-off or counter-claim is set up, such Court may enter into and adjudicate upon all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and may direct payment of any balance found to be due.

Court of Admiralty may decide counter claims.

PART VII.

Property of deceased seamen.

58. Whenever any seaman or apprentice belonging to any ship (except ships of less than eighty tons registered tonnage exclusively employed in trading or going to places within or on the coast of New South Wales) employed on a voyage which is to terminate in New South Wales dies during such voyage, the master shall take charge of all money, clothes, and effects which he leaves on board, and may, if he thinks fit, cause all or any of the said clothes or effects to be sold by auction at the mast or other public auction, and shall thereupon sign an entry in the log-book containing the following particulars—

Master to take charge of or sell effects of deceased seaman which are on board and enter the same and wages due in log.
Ibid. s. 51.

- (a) a statement of the amount of money, and a description of the effects so left by the deceased; and
 - (b) in case of a sale, a description of each article sold, and the sum received for each; and
 - (c) a statement of the sum due to the deceased as wages, and the total amount of the deductions if any to be made therefrom;
- and shall cause such entry to be attested by a mate and by one of the crew.

Seamen.

Such effects and wages to be paid to shipping master with full accounts.
27 Vic. No. 13, s. 52.

59. In the cases provided for in the next preceding section the following rules shall be observed:—

- (a) Within forty-eight hours after the arrival of the ship at the port of destination in New South Wales, the master shall deliver any such effects as aforesaid remaining unsold, and pay any money which he has taken charge of or received from such sale as aforesaid, and also the balance of wages due to the deceased, to the shipping master at such port.
- (b) If before coming to any port in New South Wales the ship touches and remains for forty-eight hours at some foreign port or at some other port in Her Majesty's dominions, the master shall report the same to the British consular officer or officer of customs there as the case may be, and shall give to such officer any information he requires as to the destination of the ship and probable length of the voyage, and such officer shall indorse on the agreement with the crew the substance of such report and information, and the master shall within forty-eight hours after his arrival at his port of destination in New South Wales produce the same to the shipping master.
- (c) In all cases in which any seaman or apprentice dies during the progress of a voyage or engagement, the master shall give to such officer or shipping master as aforesaid an account in such form as they respectively require of the effects, money, and wages so to be delivered and paid.

No deductions claimed in such account shall be allowed unless verified by such entry in the log-book as hereinbefore required, and also by such other vouchers (if any) as may be reasonably required by the officer or shipping master to whom the account is rendered.

- (d) Upon due compliance with such of the provisions of this section as relate to acts to be done at the port of destination in New South Wales, the shipping master shall grant to the master a certificate to that effect.

No officer of customs shall clear inwards any ship comprised within this and the next preceding section without the production of such certificate.

60. (1) Any master who—

- (a) fails to take charge of the money or other effects of a seaman or apprentice dying during a voyage; or
 - (b) fails to make such entries in respect thereof, or to procure such attestation to such entries; or
 - (c) fails to make such payment or delivery of any money, wages, or effects of any seaman or apprentice dying during a voyage;
- or

(d)

Penalties for not taking charge of, remitting, or accounting for such moneys and effects.
Ibid. s. 53.

Seamen.

(d) fails to give any such account in respect thereof as hereinbefore directed,

shall be accountable for the money, wages, and effects of the seaman or apprentice to a shipping master, and shall pay or deliver the same accordingly; and every master shall, in addition for every such offence, incur a penalty not exceeding treble the value of the money or effects not accounted for, or, if such value is not ascertained, not exceeding fifty pounds.

(2) If any such money, wages, or effects are not duly paid, delivered, or accounted for by the master, the owner of the ship shall pay, deliver, and account for the same, and such money and wages and the value of such effects shall be recoverable from him accordingly; and if in such cases the owner fails to account for and pay or deliver the same, he shall, in addition to the liability for the said money and value, incur the same penalty which is hereinbefore mentioned as incurred by the master for the like offence.

(3) All money, wages, and effects of any seaman or apprentice dying during a voyage shall be recoverable by like modes of proceeding as those by which seamen are hereby enabled to recover wages due to them.

61. Whenever any seaman or apprentice dies in New South Wales, and is at the time of his death entitled to claim from the master or owner of any ship in which he has served any unpaid wages or effects, such master or owner shall pay and deliver or account for the same to the shipping master at the port where the seaman or apprentice was discharged or was to have been discharged, or as the Minister directs.

62. (1) If the money and effects of any deceased seaman or apprentice paid or delivered as aforesaid, including the moneys received for any part of the said effects which have been sold, either before delivery or by direction of the Minister, do not exceed in value the sum of fifty pounds, then, subject to the provisions hereinafter contained, and to all lawful deductions for expenses incurred in respect of the seaman or apprentice or of his said money and effects, the Minister may pay and deliver the said money and effects to any claimant who can prove himself or herself to be—

- (a) the widow or child of the said deceased; or
- (b) entitled to the effects of the deceased under his will, if any, or under any statute or at common law; or
- (c) entitled to procure probate or take out letters of administration, although no probate or letters of administration have been taken out.

Upon such payment the Minister shall thereby be discharged from all further liability in respect of the money and effects so paid and delivered.

(2)

Seamen.

Minister may require probate to be obtained.

(2) Instead of making such payment the Minister may, if he thinks fit, require probate or letters of administration to be taken out, and shall thereupon pay and deliver the said money and effects to the legal personal representatives of the deceased; and all claimants to whom such money or effects are so paid or delivered shall apply the same in due course of administration.

If such wages and effects exceed £50, to be paid to personal representatives.
27 Vic. No. 13, s. 55.

63. If such money and effects as in the last section mentioned exceed in value the sum of fifty pounds, then, subject to the provisions hereinafter contained and to deduction for expenses, the same shall be paid and delivered to the legal personal representatives of the deceased.

Mode of payment under wills made by seamen.

Ibid. s. 56.

64. In cases where the deceased seaman or apprentice has left a will the Minister shall have the following powers:—

- (a) He may in his discretion refuse to pay or deliver any such wages or effects as aforesaid to any person claiming to be entitled thereto under a will made on board ship, unless such will is in writing and is signed or acknowledged by the testator in the presence of the master or first or only mate of the ship, and is attested by such master or mate.
- (b) He may in his discretion refuse to pay or deliver any such wages or effects as aforesaid to any person (not related to the testator by blood or marriage) who claims to be entitled thereto under a will made elsewhere than on board ship, unless such will is in writing and is signed or acknowledged by the testator in the presence of and attested by two witnesses, one of whom is a shipping master or some clergyman of the place in which the same is made, or, in a place where there are no such persons, some justice or some British consular officer or officer of customs.
- (c) Whenever any claim made under a will is rejected by the Minister on account of the said will not being made and attested as hereinbefore required, the wages and effects of the deceased shall be dealt with as if no will had been made.

Provision for payment of just claims by creditors and for preventing fraudulent claims.

Ibid. s. 57.

65. The following rules shall be observed with respect to creditors of deceased seamen and apprentices:—

- (a) No such creditor shall be entitled to claim from the Minister the wages or effects of any such seaman or apprentice or any part thereof by virtue of letters of administration taken out by him.
- (b) No such creditor shall be entitled by any means whatever to payment of his debt out of such wages and effects, if the debt accrued more than three years before the death of the deceased, or if the demand is not made within two years after such death.

(c)

Seamen.

- (c) Subject as aforesaid, the steps to be taken for procuring payment of such debts shall be as follows:—Every person making a demand as creditor shall deliver to the Minister an account in writing in such form as the Minister requires, subscribed with the claimant's name, stating the particulars of his demand and the place of his abode, and verified by his declaration made before a justice.
- (d) If, before any such demand is made, any claim to the wages and effects of the deceased made by any person interested therein as his widow or child, or under a will, or under any statute, or at common law, has been allowed, the Minister shall cause notice to be given to the creditor of the allowance of such person's claim, and the creditor shall thereupon have the same rights and remedies against such person as if he had received the said wages and effects as the legal personal representative of the deceased.
- (e) If no claim by any such person has been allowed, the Minister shall proceed to investigate the creditor's account, and may for that purpose require him to prove the same and to produce all books, accounts, vouchers, and papers relating thereto; and if by such means the creditor duly satisfies the Minister of the justice of his demand, either in the whole or in part, the same shall be allowed and paid accordingly so far as the assets extend for that purpose, and such payment shall discharge the Minister from all further liability in respect of the money so paid.
- In default of such satisfaction, or if such books, accounts, vouchers, or papers as aforesaid are not produced, and no sufficient reason is assigned for not producing them, the demand shall be disallowed.
- (f) In any case, whatever, the investigation of any demand made by a creditor for the payment of his debt may be delayed for one year from the time of the first delivery of the demand; and if in the course of that time a claim to the wages and effects of the deceased is made and substantiated as hereinbefore required by any person interested therein as a widow or child, or under a will, or under any statute, or at common law, the same may be paid and delivered to such person, and thereupon the creditor shall have the same rights and remedies against such person as if he had received the same as the legal personal representative of the deceased.

66. (1) In cases where no claim to the wages or effects of deceased seamen or apprentices is substantiated within six years after their receipt, it shall be in the absolute discretion of the Minister to allow or to refuse any claim that may be subsequently made.

Mode of dealing with unclaimed wages of deceased seamen.
27 Vic. No. 13, s. 58.

Seamen.

Unclaimed moneys
to be paid to
Treasurer.

(2) All moneys arising from the unclaimed wages and effects of deceased seamen shall be paid over to the Treasurer, and such moneys shall be carried to and form part of the consolidated fund of New South Wales:

Provided that upon a certificate from the Minister of his allowance of any claim, the said Treasurer may upon a warrant under the hand of the Governor pay and satisfy the amount thereof out of the said fund.

Punishment for
forgery and false
representations in
order to obtain
wages and property
of deceased seamen,
27 Vic. No. 13, s. 59.

67. Whosoever, for the purpose of obtaining either for himself or for another any money or effects of any deceased seaman or apprentice—

- (a) forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document purporting to show or assist in showing a right to such wages or effects; or
- (b) makes use of any such forged or altered document as aforesaid; or
- (c) gives or makes, or procures to be given or made, or assists in giving or making or procuring to be given or made any false evidence or representation knowing the same to be false,

shall be deemed guilty of felony, and be liable to penal servitude for a term not exceeding four years, or to imprisonment with or without hard labour for any period not exceeding two years.

Recovery of wages,
&c., of seamen lost
with their ship,
Ibid. s. 60.

68. The wages of seamen or apprentices who are lost with the ship to which they belong shall be dealt with as follows:—

- (a) The Minister may recover the same from the owner of the ship in the same manner in which seamen's wages are recoverable.
- (b) In any proceedings for the recovery of such wages, if it is shown by some official return or other evidence that the ship has twelve months or upwards before the institution of the proceeding left a port of departure, and if it is not shown that she has been heard of within twelve months after such departure, she shall be deemed to have been lost with all hands on board either immediately after the time she was last heard of or at such later time as the Court hearing the case may think probable.
- (c) The production of any duplicate agreement or list of the crew made out at the time of the last departure of the ship from New South Wales, or of a certificate purporting to be a certificate from a consular or other public officer at any port abroad stating that certain seamen or apprentices were shipped in the ship from the said port, shall, in the absence of

Seamen.

of proof to the contrary, be sufficient proof that the seamen or apprentices therein named were on board at the time of the loss, and thereupon such wages shall be dealt with in the manner in which the wages of other deceased seamen and apprentices are to be dealt with under this Act.

PART VIII.

Protection.

69. (1) In every foreign-going ship there shall constantly be a chest of medicine, selected by a duly qualified medical practitioner, accompanied by directions for administering the same. Chest of medicine to be kept on board. 27 Vic. No. 13, ss. 42 and 43.

(2) Such medicines shall be examined by a duly qualified medical practitioner once at least in every year in which the ship is in New South Wales, and fresh medicines shall be supplied in place of such as have been used or spoiled. To be examined at least once a year.

(3) In default of having such medicine-chest so provided and kept fit for use, the master or owner of such ship— Penalty.

(a) shall supply and pay for such advice and medicine or attendance of medical practitioners as any seaman or apprentice stands in need of in case of illness, at every port or place at which such ship may trade or touch during her voyage, without any deduction from the wages of such seaman or apprentice; and

(b) shall incur a penalty not exceeding twenty pounds.

70. (1) The master or owner of every foreign-trade ship shall also provide and cause to be kept on board such ship a sufficient quantity of lime or lemon juice, or of such articles as the Minister sanctions as substitutes for lime or lemon juice, and also of sugar and vinegar; and if in any such ship such lime or lemon juice, or other article, sugar and vinegar are not so provided and kept on board the master or owner shall incur a penalty not exceeding twenty pounds. Lemon-juice, sugar, and vinegar to be kept on board; Ibid. s. 43.

(2) The master of every such ship shall serve out the lime or lemon juice or other such articles as aforesaid and sugar and vinegar to the crew whenever they have consumed salt provisions for ten days, and so long afterwards as such consumption continues, the lime or lemon juice or other articles and sugar daily at the rate of half an ounce each per day, and the vinegar weekly at the rate of half a pint per week to each member of the crew; and every such master shall for every default under this enactment incur a penalty not exceeding five pounds. and served out.

(3)

Seamen.

Default of owner.

(3) If any master is convicted in any penalty under this or the next preceding section, and it appears that the offence is owing to the act or default of the owner, such master may recover the amount of such penalty and the costs incurred by him from the owner.

Masters to keep weights and measures on board.
27 Vic. No. 13, s. 44.

71. Every master shall keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witness whenever any dispute arises about such quantities; and in default shall for every offence incur a penalty not exceeding ten pounds.

Allowance for short or bad provisions.
Ibid. s. 45.

72. If during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for is reduced (except in accordance with any regulation for reduction by way of punishment contained in the agreement, and also except for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct either on board or on shore), or if it is shown that any of such provisions are, or have been during the voyage, bad in quality and unfit for use, the seaman shall receive, by way of compensation for such reduction or bad quality according to the time of its continuance, the following sums in addition to and to be recoverable as wages—

- (a) if his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement—a sum not exceeding fourpence a day;
- (b) if his allowance is reduced by more than one-third of such quantity—a sum not exceeding eightpence a day;
- (c) in respect of such bad quality as aforesaid—a sum not exceeding one shilling a day:

Proviso.

Provided that if it is shown to the satisfaction of the court before which the case is tried that any provisions the allowance of which has been reduced could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the court shall take such circumstances into consideration and shall modify or refuse compensation as the justice of the case may require.

Expenses of medical attendance.
Ibid. s. 66.

73. The following rules shall be observed with respect to expenses attendant on illness and death:—

- (a) The expense of providing necessary surgical and medical advice, attendance, and medicine for any seaman or apprentice injured in the ship's service, unless such injury is caused by his misconduct, and of his subsistence until he is cured or dies or is brought back to New South Wales, and the expense (if any) of his burial shall be defrayed by the owner without any deduction from his wages.

(b)

Seamen.

- (b) The expense of the temporary removal of a sick seaman or apprentice from his ship to prevent infection or otherwise for the ship's convenience, and all medical expenses and subsistence as under the preceding subsection shall be defrayed in like manner.
- (c) All medical expenses as aforesaid to any seaman or apprentice while on board shall be defrayed in like manner.
- (d) In all other cases reasonable expenses incurred by the owner for any seaman in respect of illness, or the burial of any seaman or apprentice dying on service shall if duly proved be deducted from wages.

74. Any master or other person who wilfully and wrongfully leaves behind in any place on shore or at sea, in or out of Her Majesty's dominions, any seaman or apprentice belonging to any ship, before the completion of the voyage for which such seaman or apprentice was engaged or the return of the ship to New South Wales shall be deemed guilty of a misdemeanour. Leaving seamen behind a misdemeanour. 27 Vic. No. 13, s. 62.

75. Any master who—

- (a) discharges any seaman or apprentice in any place out of New South Wales without the sanction in writing indorsed on the agreement of some officer of customs, or, if out of Her Majesty's dominions, of the British consular officer or of two resident merchants there; or Master discharging or leaving seamen guilty of misdemeanour. Ibid. s. 63.
- (b) leaves behind any seaman or apprentice at any place out of New South Wales without a certificate in writing so indorsed from such functionary, officer, or person, as the case may be, stating the fact and its cause, whether unfitness or inability, desertion, disappearance, or other cause,

shall be deemed guilty of a misdemeanour.

76. Upon the trial of any information or other proceeding for so discharging or leaving behind any seaman or apprentice, it shall lie upon the accused to produce the sanction or certificate hereby required or to prove that he had obtained the same before such discharge or leaving behind, or that it was impracticable for him to do so. Proof of such certificate to be upon master. Ibid. s. 64.

77. Any person demanding or receiving from any seaman or apprentice payment for his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided as a boarder therein shall incur for every such offence a penalty not exceeding ten pounds. Penalties for overcharge by lodging-house keepers. Ibid. s. 67.

78. Any person receiving, or taking possession of or under his control any moneys, documents, or effects of any seaman, or apprentice, and— Penalty for detaining seaman's effects. Ibid. s. 68.

- (a) not returning the same or paying the value thereof when required by such seaman or apprentice, subject to any deduction lawfully due in respect of board, lodging, or otherwise; or

K

(b)

Seamen.

(b) absconding therewith, shall incur a penalty not exceeding ten pounds, to be forthwith paid to such seaman or apprentice in addition to the value of the moneys, documents, or effects aforesaid, subject to deduction as aforesaid.

Penalty for going on board before actual arrival.
27 Vic. No. 13, s. 69.

79. Every person, not in Her Majesty's service or otherwise authorised by law, going on board any ship about to arrive before her actual arrival at the place of her discharge without permission of the master, shall, for every such offence, incur a penalty not exceeding twenty pounds, and may forthwith be apprehended by the master and given into custody to be dealt with according to law.

Penalty for solicitation by lodging-house keeper.
Ibid. s. 70.

80. Whosoever—
(a) within twenty-four hours after the arrival of any ship at any port in New South Wales solicits any seaman to become a lodger at his lodging-house; or
(b) takes out of the ship any effects of any seaman, except under his direction, and by permission of the master, shall, for every such offence, incur a penalty not exceeding five pounds.

PART IX.

Discipline.

Misconduct endangering ship or life or limb a misdemeanour.
Ibid. s. 71.

81. Any master, seaman, or apprentice who—
(a) by breach or neglect of duty, or through drunkenness, does anything tending to the loss, destruction, or damage of the ship, or to endanger life or limb; or
(b) refuses or omits to do any act required to be done by him for preserving such ship from loss, destruction, or damage, or preserving any person from danger to life or limb, shall be deemed guilty of a misdemeanour.

Offences of seamen and apprentices, and their punishments.
Ibid. s. 72.
Desertion.

82. Any seaman or apprentice committing any of the following offences shall be liable to be punished summarily as follows:—

Neglect or refusal to join, &c.

- (a) For desertion: to be imprisoned for any period not exceeding three months with or without hard labour, or to forfeit all or any part of his wages or emoluments then earned.
(b) For neglecting or refusing without reasonable cause to join his ship, or to proceed to sea therein; or for absence without leave at any time within twenty-four hours of the ship's sailing from any port; or for absence at any time from his ship or duty without leave not amounting to desertion or not treated as such by the master: to be imprisoned for any period not exceeding two months with or without hard labour,
or

Seamen.

- or to forfeit out of his wages ten days' pay, and for every twenty-four hours of such absence a sum not exceeding ten days' pay.
- (e) For quitting the ship without leave after her arrival and before she is placed in security: to forfeit out of his wages a sum not exceeding one month's pay. Quitting before ship is secured.
- (d) For wilful disobedience to any lawful command or for insubordination: to be imprisoned for any period not exceeding one month with or without hard labour, or to forfeit out of his wages a sum not exceeding ten days' pay. Disobedience.
- (e) For continued wilful disobedience to lawful commands or continued wilful neglect of duty: to be imprisoned for any period not exceeding three months with or without hard labour, or to forfeit the whole or any part of his wages. Continued disobedience.
- (f) For assaulting any master or mate: to be imprisoned for any period not exceeding three months with or without hard labour. Assault on officers.
- (g) For combining with any other of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage: to be imprisoned for any period not exceeding six months with or without hard labour. Combining to disobey.
- (h) For wilfully damaging the ship or embezzling or wilfully damaging any of her stores or cargo: to forfeit out of his wages a sum equal to the loss sustained, and at the direction of the Court to be imprisoned for any period not exceeding three months with or without hard labour. Wilful damage or embezzlement.
- (i) For any act of smuggling for which he is convicted whereby loss or damage is occasioned to the master or owner: to pay such master or owner a sum sufficient to reimburse such loss or damage, and to have the whole or a proportionate part of his wages retained to meet such liability without prejudice to any further remedy. Smuggling to the loss of owner.

83. (1) Where any seaman has without leave absented himself for a period not exceeding twelve hours from his ship for the bona fide purpose of making an application for a writ of *habeas corpus* or of instituting any proceeding before justices, against the master or any officer of his ship, such absence shall not be punishable either as desertion or as absence without leave. Absence without leave for institution of legal proceedings. 37 Vic. No. 11, s. 2.

(2) Any master or officer who, knowing that any seaman is desirous of instituting any such proceeding or action, prevents him going on shore, or unreasonably refuses him leave for that purpose, shall be liable to a penalty of not less than two pounds or more than fifty pounds, recoverable in a summary way before any two justices. Penalty on master or officer.

(3)

Seamen.

Proviso as to asking
for leave.

(3) Provided that this section shall not apply to any seaman who has not asked for leave of absence for such purpose as aforesaid within seven days after the arrival of his ship in port, or, if the cause of action or prosecution accrued after such arrival, then within three days from its accrual.

Entry in the log
of offence and
offender's defence.
27 Vic. No. 13. s. 73.

84. Upon the commission of any offence aforesaid an entry thereof shall be made in the log-book and shall be signed by the master and also by the mate or one of the crew, and the offender, if still in the ship, shall be furnished with a copy of such entry or have the same read over to him, and may thereupon make such a reply thereto as he thinks fit, which shall also be entered and signed in like manner.

In any subsequent legal proceeding such entries shall be produced or proved, or in default thereof the court may, at its discretion, refuse to receive evidence of the offence.

Deserters may be
sent on board in
lieu of being
imprisoned.
Ibid. s. 74.

85. Whenever any seaman or apprentice is brought before any court on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such court may, upon proof of the offence, instead of committing the offender to prison, if the master or the owner or his agent so requires and if such seaman consents thereto, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship or the owner or his agent to be by them so conveyed; and may also, in any such case, order any costs or expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the offender, and if necessary to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

Penalty for false
statement as to last
ship or name.
Ibid. s. 79.

86. Any seaman who, on or before being engaged to serve in any ship, wilfully makes a false statement of the name of his last ship, or of his own name, shall incur a penalty not exceeding five pounds.

Such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall be paid and applied in the same manner as other penalties payable under this Act.

Penalty for enticing
to desert;
Ibid. s. 80.

87. (1) Every person who, by any means whatever, persuades, or attempts to persuade, any seaman or apprentice to neglect, or refuse to join, or to proceed to sea in, or to desert from, his ship, or otherwise to absent himself from his duty, shall for every such offence in respect of each such seaman or apprentice incur a penalty not exceeding ten pounds.

and harbouring
deserters.

(2) Every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship, or wilfully neglected

or ;

Seamen.

or refused to join, knowing or having reason to believe such seaman or apprentice to have so done, shall for every such seaman or apprentice so harboured or secreted incur a penalty not exceeding twenty pounds.

88. When any seaman who has deserted from any ship or has neglected or refused without reasonable cause to join his ship or to proceed to sea therein is not apprehended until—

- Desertion after departure of ship to be prosecuted by shipping master. 27 Vic. No. 13, s. 81.*
- (a) after the departure of such ship from New South Wales; or
 - (b) so shortly before such departure that he cannot conveniently be brought to trial prior to the same; or
 - (c) so shortly before such departure that the master cannot reasonably be expected to attend for the purpose of prosecuting him, and of producing original documentary evidence against him,

the shipping master shall prosecute such deserter; and upon the hearing of the charge verified copies of the ship's articles and of the entry in the log-book in which respectively such offender's name appears shall be admitted as evidence against him.

89. Any seaman who, having deserted from his ship, secretes himself on board any other ship, or elsewhere, with intent to evade apprehension or escape from his existing engagement as a seaman, shall incur a penalty not exceeding five pounds or be liable to imprisonment for any period not exceeding three weeks, with or without hard labour.

Penalty on seaman secreting himself on board other ship. Ibid. s. 82.

90. The master of any ship in harbour may give in charge to a constable any seaman or other person who is drunk, riotous, or disorderly on board such ship; and such seaman or other person shall for every such offence incur a penalty not exceeding forty shillings, or, in default of immediate payment, shall be imprisoned for any time not exceeding two days.

Master may give drunken or disorderly seaman, &c., into custody. Ibid. s. 83.

91. On complaint of a master, or mate, or owner (or his agent) of any ship or vessel that any other ship or vessel proceeding to sea has on board any seaman who has deserted from such first-mentioned ship or vessel, any justice, officer of customs, or constable may detain such seaman, and lodge him in safe custody until he is dealt with according to law, notwithstanding that the name of such seaman is inserted in any such list as is mentioned in section ninety-six hereof:

Provided that no seaman shall be so detained beyond such reasonable time as may be necessary to bring him before a justice to be dealt with according to law.

Seamen.

PART X.

*Vessels in port.*DIVISION I.—*Duties of masters.*

- 92.** The master of every ship, other than ships trading coastwise only, which arrives in any port or harbour where there is a shipping master shall, within twenty-four hours after such arrival deliver to the shipping master a true list in writing containing the names of the crew and passengers of such ship, or in default shall forfeit a sum not exceeding twenty pounds.
- List of crew to be delivered to shipping master on arrival of ship.*
17 Vic. No. 36, s. 15.
- 93.** (1) The master of every ship, other than ships trading coastwise, which has arrived from parts beyond seas in any port where there is a shipping master, shall, before leaving such port, deliver to the shipping master a copy of the articles of agreement under which such ship or vessel arrived, and shall produce the original thereof to the shipping master who shall compare the same with the copy, and the said master and the shipping master shall verify the said copy by their signatures.
- Masters of ships from abroad to leave verified copies of ship's articles with shipping master;*
Ibid. s. 16.
- (2) The said master shall also deliver to the shipping master, if required, a copy, to be compared and verified as aforesaid, of the entry in the ship's log of every desertion.
- and verified copies of entry of desertion.*
- (3) Any such master who refuses or neglects to comply with the provisions hereof shall, for such offence, forfeit a sum not exceeding twenty pounds.
- Penalty.*
- 94.** (1) All ships engaged in the coasting trade shall be liable to be searched by any constable or officer of police in any part of the harbour of Port Jackson for the purpose of discovering and apprehending therein any deserters from other ships of whatever description, and belonging to whatever Nation or State.
- Coasters liable to be searched for deserters.*
Ibid. s. 26.
- (2) Any master or other person in charge of such ship so liable to be searched who—
- (a) refuses to permit such officer or constable to board or thoroughly search such ship; or
- (b) does not when called upon so to do by any such officer, or when any police boat is within sight, and approaching such ship, whilst under sail or steam cause the same to be hove to as soon as conveniently may be for the purpose of enabling such boat to overtake and board such ship,
- shall upon conviction of such offence forfeit a sum not exceeding twenty pounds.
- Penalty.*
- 95.** (1) The masters of all ships in port, except such as are laid up or moored to any wharf, shall at all times as well by day as by night have at least one mate or seaman or apprentice in charge of the deck of such ship; and the person having such charge, and all persons
- Some person to be kept in charge of the deck at all times and challenges by police or customs officers to be answered.*
Ibid. s. 29.
27 Vic. No. 13, s. 3.

Seamen.

persons having the charge of or being on board of any boat within the port, shall answer to the challenge of any justice or officer of customs, or any inspector, or other member of the police force.

(2) Whosoever fails to comply with the provisions hereof shall Penalty. for every such offence upon conviction thereof forfeit a sum not exceeding five pounds.

96. (1) The master of every ship or vessel about to leave any Masters of vessels to deliver lists of crew and passengers on departure. port or harbour in New South Wales shall, before clearing out at the custom-house, deliver to the chief executive officer of the police of 4 Vic. No. 17, s. 6. such port or harbour a true and correct list in writing, containing the names of the crew and passengers, and all other persons intending to proceed to sea in such ship or vessel, and such list shall also show the disposal of such of the crew who arrived in such ship as are not then proceeding to sea in such ship.

(2) Any such master of any such ship or vessel who— Penalty.

(a) refuses or neglects so to furnish such list within the time afore- Ibid. ss. 6, 9, 34. said; or 7 Vic. No. 21, ss. 6, 19.

(b) delivers any such list with any wilful omission or misstatement of the particulars aforesaid; or

(c) suffers any person whose name is not contained in any such list to embark on board any such ship,

shall be liable for every such offence to a penalty not exceeding fifty pounds, recoverable in a summary way before any one or more justices:

Provided that no such master shall be liable to such penalty for Proviso. suffering any person whose name is not contained in such list to embark as aforesaid if the name of such person is contained in the custom-house clearance, and notice thereof has been given to the chief executive officer of the police.

97. If after the clearance of any such ship at the customs any Persons found on board vessels after clearance may be detained. person is found on board whose name is not contained in such last-mentioned list, and who is not able satisfactorily to show that he does 4 Vic. No. 17, s. 7. not intend to proceed to sea in such ship, any justice, officer of customs, or constable may, with such assistants as they respectively may require, detain such person and lodge him in safe custody until he is dealt with according to law:

Provided that no such person shall be so liable to be detained or Proviso. lodged in custody if his name is in the custom-house clearance and 7 Vic. No. 21, s. 18. notice thereof has been given to the chief executive officer of the police.

98. (1) No master of a ship about to proceed to sea from any Vessels not to put to sea till searched, nor after search to cast anchor. port or harbour in New South Wales shall weigh anchor until such ship has been duly examined and searched, and, having weighed anchor 4 Vic. No. 17, ss. 11 and 34. after such search and examination, such master shall not suffer such ship to be brought up, or laid to, or to deviate from her course 7 Vic. No. 21, s. 6. within the limits of any such port or harbour unless compelled by stress

Seamen.

stress of weather or other unavoidable cause, or to be boarded by any boat or vessel whatever (excepting pilot boats or police or customs boats, or any boat belonging to such ship), unless in cases of unavoidable necessity, the proof whereof shall lie on such master.

Penalty.

(2) Every master who offends against any of the provisions of this section shall, for every such offence, be liable to a penalty not exceeding fifty pounds, recoverable in a summary way before any one or more justices.

Proviso.

13 Vic. No. 30.

(3) Provided that nothing in this section or in any other enactment or regulation shall be construed to prohibit any ship from being brought up or anchored or laid-to in Watson's Bay, in the harbour of Port Jackson, after having weighed her anchor in the said harbour.

Penalty on master of vessel for concealing a person on board.

4 Vic. No. 17, s. 12.

7 Vic. No. 21, s. 7.

99. Any master of any ship in any port or harbour in New South Wales who knowingly and wilfully conceals or allows to be concealed any person on board such ship, shall be guilty of a misdemeanour, and on conviction thereof before any one or more justices shall forfeit a penalty not exceeding one hundred pounds.

Persons dying on board ship to be buried on shore.

4 Vic. No. 17, ss. 22, 34.

7 Vic. No. 21, s. 6.

100. Whenever any person dies on board any ship or other vessel or boat lying in any port or harbour in New South Wales, the master or other person in charge of such ship, vessel, or boat shall, as soon thereafter as conveniently may be, cause the body of such person so having died to be brought on shore and interred; and every such master or other person neglecting or failing so to do shall for every such offence be liable to a penalty not exceeding twenty pounds, to be recovered in a summary way before any one or more justices.

DIVISION II.—*Offences by seamen and other persons.*

Insubordination upon vessels in port.

4 Vic. No. 17, s. 19.

7 Vic. No. 21, s. 3.

101. Upon complaint on oath made by the master of any ship registered in New South Wales, and being within any port or harbour in New South Wales, against any seaman or any other person employed or being in or about or upon such ship for insubordination, or refusal to work, or inciting or attempting to incite any other person engaged on board such ship as aforesaid to the commission of any such offence, any justice may direct one or more constables to apprehend the party in any way so offending and bring him before such or any other justice, who shall inquire into the matter of such complaint. Upon proof of any such complaint the justice before whom it is heard may commit the offender to gaol for any term not exceeding three months, with or without hard labour.

Persons going alongside or on board ships between sunset and sunrise.

4 Vic. No. 17, s. 18.

7 Vic. No. 21, s. 6.

102. (1) If any person not being in the service of the police or customs, or being otherwise duly authorised, goes on board, or remains alongside any ship in any port or harbour in New South Wales at any time after sunset and before sunrise without the permission of the master

Seamen.

or other person then in charge of such ship, any justice, officer of customs, police officer, or constable, or the master or person in charge of such ship may lodge and keep, or cause to be lodged and kept, in safe custody such person so offending, who shall be brought before a justice on the following morning.

(2) Every person shall, on conviction for every such offence, Penalty. forfeit a sum not exceeding twenty-five pounds, unless it is made to appear to the satisfaction of the justice before whom he is convicted that such person was so on board or alongside such ship by unavoidable accident or for some lawful purpose.

103. Whosoever—

- (a) wilfully destroys or damages any vessel or boat belonging to, or hired or employed, in any port or harbour in New South Wales, by any justice, officer of customs, police officer, or constable, or by anyone acting for or under or by authority of any one of them, or the sails, oars, tackle, or other gear or furniture, or the stores or other articles contained in or belonging to any such vessel or boat, or any part thereof; or
- (b) attempts to commit, or is in anyway concerned in committing or attempting to commit, any such offence,

shall, on conviction before any two or more justices, forfeit for every such offence a penalty not exceeding ten pounds, and shall also make good the damage so done, together with the reasonable costs and charges attending the recovery of the same, or shall suffer imprisonment for any period not exceeding three months.

104. Whosoever—

- (a) resists or wilfully obstructs any justice, officer of customs, police officer, constable, or any of their respective assistants, whilst searching for or endeavouring to secure any person on board, or reasonably suspected to be on board, any ship in any port or harbour in New South Wales, or in any house or place on shore; or
- (b) rescues or assists, or attempts to rescue or assist, any such person,

shall be deemed guilty of a misdemeanour, and upon conviction thereof shall suffer such punishment by fine and imprisonment, or by fine or by imprisonment, for any term not exceeding six months, as the court before which such conviction is had shall determine.

DIVISION III.—Powers of justices and constables.

105. Any justice, police officer, or constable, with such assistants Vessels may be boarded and searched. as he may require, may board and search any ship in any port or harbour in New South Wales whenever he has reasonable ground for 4 Vic. No. 17, s. 4. believing such search to be necessary in execution of his duty under this part of this Act.

DIVISION

Penalty on persons damaging boats.

4 Vic. No. 17, s. 21.

7 Vic. No. 21, s. 6.

Penalty for obstructing or resisting

search for offenders.

4 Vic. No. 17, s. 13.

7 Vic. No. 21, s. 8.

*Seamen.*DIVISION 4.—*Procedure.*

Appropriation of penalties under this part.
4 Vic. No. 17, s. 41.

106. One moiety of all fines and penalties recovered under this part of this Act shall go to the use of the party informing and suing for the same; and the other moiety thereof, and all other the sums of money collected, levied, or received under the provisions of this part of this Act, shall be paid to the Treasurer, and be appropriated to the purposes of carrying this Act into effect.

Appeal to Quarter Sessions.
Ibid. s. 37.

107. Any person who thinks himself aggrieved by the imposition of any fine or penalty above the sum of ten pounds, or by any act done by any justice in execution of this part of this Act, may appeal against such penalty or act to any Court of Quarter Sessions holden for the district, or nearest to the district, in which such cause of appeal happened:

Proviso.

Provided that such appeal shall be prosecuted within six months from the imposition of the fine or doing of the Act appealed against, and that notice of such appeal, according to the law in force for the general regulation of appeals of the like nature, shall first be given by the appellant.

Costs.
Ibid. s. 38.

108. (1) Where any such appeal is dismissed or abandoned or the judgment so appealed against is affirmed, the Court of Quarter Sessions to which such appeal was made, or intended to be made, shall adjudge and order that the appellant shall pay to the justice to whom such notice of appeal was given such sum by way of costs as the said Court thinks reasonable. If the appellant refuses or neglects forthwith to pay such sum, the said Court may thereupon order him to be committed to any gaol, there to remain till such sum is paid.

Justices may be indemnified.

(2) In every case in which a judgment so appealed against is reversed, such Court may order that the justice whose judgment is so reversed shall be indemnified from all costs and charges to which he has been put by such appeal, and may make a recommendation to that effect to the Governor, who, upon such recommendation, may cause a sufficient sum for that purpose to be paid from the Treasury.

No certiorari.
Ibid. s. 39.

109. (1) No conviction under this part of this Act, nor any adjudication made on appeal therefrom, shall be quashed for want of form, or removed by writ of certiorari or otherwise into the Supreme Court.

Process not to be void.

(2) No writ of commitment or distress which alleges a good and valid conviction shall be held void by reason of any defect therein.

Penalty on witnesses.
Ibid. ss. 34 and 36.
7 Vic. No. 21, s. 6.

110. If any person is summoned as a witness before any justice to give evidence under this part of this Act on behalf either of the prosecution or of the person accused; and

(a) neglects or refuses to appear at the time and place appointed without a reasonable excuse to be allowed by the justice; or

(b) appearing, refuses to be examined and give evidence, such person shall forfeit a penalty not exceeding thirty pounds, recoverable in a summary way before any one or more justices.

Seamen.

111. (1) No action shall lie against any justice, officer of customs, police officer, constable, or other peace officer, or any person acting under any of them, for anything done under this Part of this Act, unless there is direct proof of corruption or malice, and unless such action is commenced within three months.

No action under this part of Act without proof of malice.
4 Vic. No. 17, s. 40.

(2) In any such action, if the plaintiff discontinues or is nonsuited, or if judgment after verdict or on demurrer is given for the defendant, the defendant shall have treble costs.

Defendant's costs.

PART XI.

Miscellaneous matters.

112. The Governor may make such regulations, not inconsistent with any provisions of this Act, as appear necessary to provide for all such matters of detail not expressly determined by enactment, and generally for the purpose of carrying this Act into full effect.

Regulations for carrying Act into full effect.
27 Vic. No. 13, s. 84.

Such regulations upon being published in the Gazette shall have the force of law; and copies thereof shall be laid before both Houses of Parliament forthwith if then sitting, or if not then within fourteen days of the opening of the next session.

113. It shall be the duty of the Inspector-General of Police to cause not less than one boat with a sufficient crew of constables to patrol the harbour of Port Jackson, for the purpose of preventing desertion and preserving order, at all hours between six o'clock in the evening and six o'clock in the morning.

Police boats to patrol Port Jackson.
17 Vic. No. 36, s. 28.

114. If any waterman licensed in Port Jackson is convicted of any felony or misdemeanour, or in any manner aids and abets any breach or evasion of this Act, or of any other Act for preventing the desertion of seamen or for regulating their engagement or discharge, any stipendiary magistrate may cancel wholly or suspend for any period of time the license of such waterman.

Power to cancel waterman's license.
Ibid. s. 45.

115. Printed forms of agreements, certificates of discharge, mutual releases, and of all other documents required to be used under this Act shall be supplied at the shipping office to all persons who apply for the same, at such reasonable prices for the purpose of covering the cost thereof as the shipping master may with the approval of the Minister determine.

Printed forms to be supplied by shipping master.
27 Vic. No. 13, s. 85.

116. Whosoever commits any offence against this Act for which no penalty is herein expressly enacted shall incur a penalty not exceeding five pounds.

Penalties for offences not specified.
Ibid. s. 86.

117. All penalties and forfeitures incurred under this Act may be recovered before any stipendiary magistrate or before any two justices; and if not hereby specifically appropriated shall be paid to the Treasurer, to be by him carried over to the Consolidated Revenue Fund.

Recovery and application of penalties.
Ibid. s. 87.

Seamen.

Document proved
without calling
attesting witnesses.
4 Vic. No. 17, s. 26.
27 Vic. No. 13, s. 88.

Sums ordered to be
paid leviable by
distress on ships.
Ibid. s. 89.

118. Any document required by this Act to be executed in the presence of or to be attested by any witness may be proved by the evidence of any person who is able to bear witness to the requisite facts without calling any attesting witness.

119. In all cases, except under section eighty-three or under Part X, in which any court or tribunal has power under this Act to direct payment of any wages, penalty, or other sum of money, and the party directed to pay the same, being master or owner of a ship, does not pay the same at the time and in the manner prescribed by the order, the court or tribunal lawfully making the order may, in addition to any other of its powers in that behalf for the purpose of compelling such payment, direct the amount or the portion thereof remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel, or a sufficient part thereof, and such sale shall be made accordingly.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

Reference to Act.	Title or short title.	Extent of repeal.
4 Vic. No. 17 ...	An Act for the further and better regulation and government of seamen within the Colony of New South Wales and its Dependencies, and for establishing a water police.	The whole unrepealed portion.
7 Vic. No. 21 ...	An Act to amend an Act intituled "An Act for the further and better regulation and government of seamen within the Colony of New South Wales and its Dependencies and for establishing a water police," and further to amend the law relating to the government of seamen in the merchant service.	The whole unrepealed portion.
13 Vic. No. 30 ...	An Act to amend the law relating to vessels about to leave the Colony of New South Wales.	The whole.
17 Vic. No. 36 ...	An Act to amend the laws relating to the engagement, discharge, and desertion of seamen, and for the regulation of seamen's lodging-houses, and for the better management of the water police department.	The whole unrepealed portion.
27 Vic. No. 13 ...	Seamen's Laws Consolidation Act of 1864 ...	The whole.
28 Vic. No. 5 ...	Seamen's Laws Amendment Act of 1865 ...	The whole.
37 Vic. No. 11 ...	Imprisonment on Civil Process Act Amendment Act of 1874.	Section two.
43 Vic. No. 6 ...	Islanders' Shipping Engagements Act...	The whole.
47 Vic. No. 1 ...	Seamen's Laws Amendment Act of 1883 ...	The whole.

SECOND

Seamen.

SECOND SCHEDULE.

Declaration to be made by shipping master.

I do solemnly and sincerely declare that I will faithfully and truly perform the office and duty of shipping master according to the true intent and meaning of the Seamen's Act, 1898, and that I will not either directly or indirectly personally or by means of any other person or persons on my behalf receive any fee, reward, or gratuity whatsoever by reason of any duty of my office as shipping master, except such as are authorised by the said Act, and that I will act without partiality, favour, or affection, and to the best of my knowledge and ability. Section 6.

THIRD SCHEDULE.

FEES to be charged for engagements and discharges of crews and seamen howsoever made, the same to be paid to the shipping master at the port where the engagements or discharges take place:— Section 8.

		1. <i>Engagement of crews.</i>					£	s.	d.
In ships under 30 tons	0	2	0	
30 to 60	„	0	4	0	
60 to 100	„	0	7	0	
100 to 200	„	0	15	0	
200 to 300	„	1	0	0	
300 to 400	„	1	5	0	
400 to 500	„	1	10	0	
500 to 600	„	1	15	0	
600 to 700	„	2	0	0	
700 to 800	„	2	5	0	
800 to 900	„	2	10	0	
900 to 1,000	„	2	15	0	

And so on for ships of larger tonnage, adding for every 100 tons above 1,000 five shillings.

2. *Engagement of seamen separately.*

Two shillings for each.

		3. <i>Discharge of crews.</i>					£	s.	d.
In ships under 60 tons	0	4	0	
60 to 100	„	0	7	0	
100 to 200	„	0	15	0	
200 to 300	„	1	0	0	
300 to 400	„	1	5	0	
400 to 500	„	1	10	0	
500 to 600	„	1	15	0	
600 to 700	„	2	0	0	
700 to 800	„	2	5	0	
800 to 900	„	2	10	0	
900 to 1,000	„	2	15	0	

And so on for ships of larger tonnage, adding for every 100 tons above 1,000 five shillings.

4. *Discharge of seamen separately.*

Two shillings for each.

SUMS TO BE DEDUCTED FROM WAGES BY WAY OF PARTIAL REPAYMENT OF ABOVE FEES.

1. *In respect of engagements and discharges of crews.*

Upon each engagement and each discharge from the wages of each seaman—sixpence.

2. *In respect of engagements and discharges of seamen separately.*

Upon each engagement and each discharge—sixpence.

FOURTH

Seamen.

Section 17.

FOURTH SCHEDULE.

AN agreement made in pursuance of the Seamen's Act 1898, between the master of the ship of the port of and of the burden of tons, and the several persons whose names are subscribed hereto :—

It is agreed by and on the part of the said persons and they severally hereby engage to serve on board the said ship in the several capacities expressed against their respective names on a voyage from the port of to [here the intended voyage is to be described as nearly as can be done and the places at which it is intended the ship shall touch, or if that cannot be done the nature of the voyage in which she is to be employed, and also when practicable the probable duration of the voyage, and if a running agreement the several voyages or trips for which the seamen are engaged, and the limits as near as may be both of time and place within which such voyages are to be comprised, and the final place of discharge] and the said crew further engage to conduct themselves in an orderly, faithful, honest, careful, and sober manner, and to be at all times diligent in their respective duties and stations, and to be obedient to the lawful commands of the master in everything relating to the said ship and the materials, stores, and cargo thereof, whether on board such ship or in boats or on shore [here may be inserted any other clauses which the parties may think proper to be introduced into the agreement, provided that the same be not contrary to or inconsistent with the provisions and spirit of this Act] in consideration of which services to be duly, honestly, carefully, and faithfully performed the said master doth hereby promise and agree to pay to the said crew by way of compensation or wages the amount expressed against their respective names. And it is hereby agreed that any embezzlement or wilful or negligent loss or destruction of any part of the ship's cargo or stores shall be made good to the owner out of the wages (so far as they will extend) of the seamen guilty of the same, and if any seaman shall have entered himself as qualified for a duty for which he shall prove not to be competent he shall be subject to a reduction of the rate of wages hereby agreed for in proportion to his incompetency. In witness whereof the said parties have hereto subscribed their names on the days mentioned against their respective signatures.

No. and date of ship's register.	The number and description of the crew, specifying how many are engaged as sailors.	Place and time of entry.			The time at which each seaman is to be on board or to begin work.	Men's names—Christian and Surnames set forth at full length.	Age.	Town or country where born.	Capacity of seaman.	Amount of wages per calendar month, run, or voyage or otherwise.	In cases of remuneration by share or lay—amount of such share or lay.	Amount of wages advanced at the time of entry.	Amount of monthly allotment.	Quantity of provisions per day.	Witness to signature.	Name of ship in which the seaman last served.	Special stipulations (if any).
		Day.	Month.	Year.													

[Special place or form in the duplicate retained by the master for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship.]

(Signature of master.)

(Shipping master's name as witness.)

Section 32.

FIFTH SCHEDULE.

SHIP'S ARTICLES OF AGREEMENT.
Intercolonial and (or) Foreign-going.

No.

Name of ship.	Official No.	Port of registry.	Port No. and date of register.	Registered tonnage.	Nominal horse-power of engines.

<i>Seamen.</i>				
Managing owner.		Master.		
Name.	Address.	Name.	No. of certificate.	Address.

Scale of provisions to be served out to the crew during the voyage.								
	Bread.	Beef.	Flour.	Rice.	Tea.	Coffee.	Sugar.	Water.
	lb.	lb.	lb.	lb.	oz.	oz.	oz.	qts.
Sunday	1	1	...	...		
Monday	1	1	...	...		
Tuesday	1	1	...	...		
Wednesday ...	1	1	...	...	½ daily.	½ daily.	2 daily.	3 daily.
Thursday	1	1	...	...		
Friday	1	1	...	...		
Saturday	1	1	...	...		

Equivalent substitutes for all or any of the above may be issued at the master's discretion, such as fish or pork for beef, yams or potatoes for flour or rice, &c.
Lime or lemon juice and sugar or other anti-scorbutics to be issued according to law.

An agreement made in pursuance of section thirty-two of the Seamen's Act, 1898, between

the

of the

all of the port of Sydney, New South Wales, of which vessel

is the present master, and the several persons whose names are subscribed hereto.

It is agreed by the said persons, and they severally hereby engage, to serve on board the said ship for the term of this agreement, in the several capacities set against their respective names, on voyage from the port of Sydney, New South Wales, to¹

And the said crew engage to conduct themselves in an orderly, faithful, honest, careful, and sober manner, and to be at all times diligent in their respective duties, and to be obedient to the lawful commands of the master in everything relating to the said ship and the materials, stores, and cargo thereof, whether on board such ship or in boats or on shore²

In consideration of which services to be performed the said master doth hereby promise to pay to the said crew, by way of wages, the amount expressed against their respective names. And it is hereby agreed that any embezzlement or wilful or negligent loss or destruction of any part of the ship's cargo or stores shall be made good to the owner out of the wages (so far as they will extend) of the seaman guilty of the same. And if any seaman shall have entered himself as qualified for a duty for which he shall not prove competent, he shall be subject to a reduction of the rate of wages hereby agreed for in proportion to his incompetency.

In witness whereof the said parties have hereto subscribed their names on the days mentioned against their respective signatures.

Signed by _____ witnessed by _____ on the _____ day of _____ 18 .
Shipping master.

¹ Here the intended voyage is to be described as nearly as can be done, and the places at which it is intended the ship shall touch, or, if that cannot be done, the nature of the voyage in which she is to be employed, and also, when practicable, the probable duration of the voyage; and if a running agreement, the several voyages or trips for which the seamen are engaged, and the limits as near as may be both of time and place within which such voyages are to be comprised, and the final port of discharge.

² Here may be inserted any other clauses which the parties may think proper to be introduced into the agreement, provided that the same be not contrary to or inconsistent with the provisions and spirit of this Act.

Name

Seamen.

Name of Ship.		Particulars of Engagement.										Particulars of Discharge, &c. <i>To be filled in by the master upon the discharge, death, or desertion of any member of his crew.</i>			Release (late M).								
Reference No.	Signatures of Crew.	Age.	Town or country where born.	State name and official No. or port she belongs to.	Ship in which he last served.	Year.	Date.	Place.	In what capacity engaged, and if master, mate, or engineer No. of his certificate.	Time at which he is to be on board.	Amount of wages per calendar month, run, or voyage. In cases of remuneration by share or lay, amounts of such share or lay.	Amount of wages advanced on entry.	Amount of weekly or monthly allotment.	Signature or initials of Superintendent, Consul, or officer of Customs.	Cause.*	Date.	Place.	Balance of wages paid on discharge.	We, the undersigned, members of the crew of this ship, do hereby release this ship and the master and owner or owners thereof from all claims for wages or otherwise in respect of this voyage, whom the	Signature or initials of Superintendent, Consul, or officer of Customs before whom the balance of wages was paid and release signed.	Reference No.		
																						14	15	16	17	18	19
1																							
2	Master to sign first.								Master.														
3																							

* If any member of the crew enters Her Majesty's Service the name of the Queen's ship into which he enters is to be stated under the head of "Cause of leaving the ship." Thus: H.M.S. "Revenge," and the other causes of leaving the ship should be briefly stated—thus: "discharged," "deserted," "left sick," "died."

Certificates or indorsements made by Consuls or by Officers in British Possessions abroad.

Seamen.

SIXTH SCHEDULE.
Certificate of discharge.

Section 35.

Name of ship.		Official number.	Port of registry.
Registered tonnage.		Description of voyage or employment.	
Name of seaman			Capacity.
Place of birth			
Date of birth			
Date of entry.	Date of discharge.	Place of discharge.	

I certify that the above particulars are correct, and that the above seaman was discharged accordingly.

Dated this _____ day of _____, 18 _____
(Signed)

Witness—

Master of the ship.

SEVENTH SCHEDULE.

Section 39.

Report of conduct, character, and qualifications.

Name of ship.	Port of registry.	Name of seaman discharged.	Place of birth.	Capacity on board.	Description or nature of voyage.	Report of			If master declines to give opinion on any particulars, here state on which.
						Conduct.	Character.	Qualification.	

I hereby certify that the above is a true report of the conduct, character, and qualifications of the several seamen above named discharged by me before _____, shipping master, this _____ day of _____, 18 _____

(Signed)

Witness—

Master.
EIGHTH

Foreign Seamen.

Section 48.

EIGHTH SCHEDULE.

Form of mutual release.

The undersigned, A.B., master of the ship _____, and C.D., a seaman, recently serving on board the same, hereby declare that the agreement entered into between them from the _____ day of _____, 18____, has been duly fulfilled on both sides, and that all wages earned by the said C.D. have been fully paid or satisfied, and that he has been and is fully discharged from his said service. And the said parties hereto do hereby mutually acquit and release each other from all further claim under the said agreement or in any other respect arising out of the engagement thereby made.

In witness whereof, we have hereto set our hands this _____ day of _____, 18____.

Witness—
 _____ (Signed) _____
 Shipping master. Master.
 Seaman.

Sections 53, 54.

NINTH SCHEDULE.

Form of allotment note.

I, A.B., a seaman, engaged to serve in the capacity of _____ on board the ship _____ C.D., master, on a voyage [*here describe the intended voyage*] do hereby allot to E.F. [*describe who it is, whether wife, child, or otherwise*] (Here state the precise sum—or the proportionate amount—of the wages to be earned by A.B., which he hereby authorises to be paid over to E.F., and the periods at which such payments are to be made.)

(*Signature of seaman.*)

Witness—A.B.

I hereby issue and give this Allotment Note.

Signature of owner, master, or authorised agent.

Witness—A.B.
