

WESTERN AUSTRALIAN MARINE.

No. 30 of 1968.

AN ACT to amend the Western Australian Marine Act, 1948-1966.

[Assented to 4th November, 1968.]

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

1. (1) This Act may be cited as the *Western Australian Marine Act Amendment Act, 1968.*

Short title
and citation.

(2) In this Act the Western Australian Marine Act, 1948-1966 is referred to as the principal Act.

Reprinted as
approved for
reprint 13th
June, 1963.

(3) The principal Act as amended by this Act may be cited as the Western Australian Marine Act, 1948-1968.

Commence-
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

S. 17
amended.

3. Section seventeen of the principal Act is amended—

(a) by adding after paragraph (v) the following paragraph—

(va) prescribing the records to be kept of persons under the age of sixteen years employed in any capacity on harbour and river ships; ;

(b) by substituting for the words, “one hundred” in line three of paragraph (xvi), the words “two hundred”; and

(c) by substituting for the word, “twenty” in line five of paragraph (xvi), the word, “forty”.

S. 19.
amended.

4. Subsection (2) of section nineteen of the principal Act is repealed and re-enacted as follows—

(2) A person shall not be admitted to examination for a certificate unless he speaks and writes the English language intelligibly. .

S. 21
amended.

5. Section twenty-one of the principal Act is amended—

(a) by deleting the proviso to subsection (3);

(b) by substituting for the words, “one hundred” occurring in line fourteen, and again in lines twenty-one and twenty-two, of subsection (5), the words, “two hundred”, in both cases; and

(c) by adding after subsection (6) subsections as follow—

(7) Whenever any harbour and river ship is approaching, berthing at, or leaving any jetty—

- (a) the certificated master of the ship shall assume personal charge of the wheel and other navigational controls of the ship; and
- (b) the certificated engineer or engine-driver of the ship shall, unless the Department has otherwise directed in writing, assume personal charge of the engine room controls of the ship,

and, except in cases of necessity, at all other times when the ship is under way—

- (c) the certificated master shall, if he is not then in personal charge of the wheel and other navigational controls of the ship, be stationed on the bridge or in the wheelhouse of the ship; and
- (d) the certificated engineer or engine-driver shall, if he is not then in personal charge of the engine room controls of the ship, be stationed in the engine room, unless the Department has otherwise directed in writing.

(8) Any master, engineer or engine-driver who fails to comply with the provisions of subsection (7) of this section commits an offence.

Penalty: Two hundred dollars. .

6. Subsection (2) of section forty-four of the principal Act is amended—

S. 44
amended.

- (a) by substituting for the word, “forty” in line four, the words, “one hundred”; and

- (b) by substituting for the words, "fifty cents" in line five, the words, "one dollar".

S. 91A added.

7. The principal Act is amended by adding after section ninety-one a section as follows—

Report of
dangers to
navigation.

91A. (1) If the master of a coast-trade ship meets with, or is informed of, any serious danger to navigation on or near his course, he shall—

- (a) if the ship is fitted with a radio installation, send out the prescribed safety signal, followed by a message conveying such information as is required by the regulations, or, if the ship is not so fitted, communicate the information, by any other means of communication at his disposal, to ships in the vicinity; and
- (b) make a report to shore as soon as possible, to the person and in the manner prescribed.

Penalty: One hundred dollars.

(2) This section does not apply where compliance with this section would interfere with the transmission of a signal of distress.

(3) The reference in subsection (1) of this section to a serious danger to navigation shall be read as including reference to—

- (a) dangerous ice;
- (b) a dangerous derelict;
- (c) a tropical storm;
- (d) sub-freezing air temperature associated with gale force winds causing severe ice accretion on superstructures; and

- (e) winds of force 10 on the Beaufort scale for which no storm warning has been received. .

8. The principal Act is amended by adding after section ninety-two a section as follows—

S. 92A added.

92A. (1) If—

Obligation
to render
assistance.

- (a) a coast-trade ship is at sea; and
 (b) the master of the ship has reason to believe that persons on or from a vessel or aircraft are in distress,

the master shall, unless he is unable so to do or, in the special circumstances of the case, considers it unreasonable or unnecessary so to do, cause his ship to proceed with all practicable speed to the assistance of those persons and, if possible, inform them that he is so doing.

(2) The master of a vessel or aircraft in distress may, after consultation so far as possible with the masters of ships which answer his call for assistance, requisition such of those ships as he considers best able to render assistance and the master of a coast-trade ship so requisitioned shall comply with the requisition by causing his ship to proceed with all practicable speed to the assistance of persons in distress on or from the vessel or aircraft in distress.

(3) When the master of a ship which has not been requisitioned is informed of the requisition of another ship and that the requisition is being complied with by that other ship, he is released from the obligation imposed on him by subsection (1) of this section.

(4) If the master of a ship is informed by persons in distress, or by the master of another ship which has reached those persons, that

assistance is no longer necessary, he is released from any obligation imposed on him by subsection (1) or (2) of this section in relation to those persons.

(5) A person who fails to comply with subsection (1) or (2) of this section is guilty of an offence and liable to imprisonment for not more than two years.

(6) The master of a coast-trade ship shall make a record, or cause a record to be made—

(a) of any information received by him that a vessel or aircraft is in distress at sea; and

(b) if, on receipt of any such information, the master does not proceed to the assistance of persons on or from that vessel or aircraft—of his reasons for not so proceeding.

Penalty: Two hundred dollars.

(7) A record required to be made by the master of a ship under subsection (6) of this section, shall, if the ship has an official log-book, be made in that log-book.

(8) Compliance by the master of a ship with the provisions of this section does not affect his right, or the right of any other person, to salvage.

S. 98
repealed and
re-enacted.

9. Section ninety-eight of the principal Act is repealed and re-enacted with amendments, as follows—

Formal
investiga-
tions.

98. (1) Where it appears to the Department that a formal investigation into any casualty, incompetency or misconduct, or all or any of them, is necessary or desirable, the Department shall, either upon or without any preliminary

inquiry under section ninety-seven of this Act, with the approval of the Minister, refer the matter or matters for investigation to a Court of Marine Inquiry and, if the Department thinks fit, prefer, or cause or permit to be preferred, before the Court a charge or charges of incompetency or misconduct, or both.

(2) A Court of Marine Inquiry shall—

- (a) hold a formal investigation into any matter or matters referred to it for investigation pursuant to subsection (1) of this section; and
- (b) hear and determine charges preferred before it pursuant to that subsection. .

10. Subsection (1) of section one hundred and five of the principal Act is repealed and the following subsections substituted—

S. 105
amended.

(1) The Court of Marine Inquiry is hereby authorised to hold formal investigations—

- (a) into casualties to coast-trade ships, harbour and river ships, vessels licensed under the Whaling Act, 1937 and vessels licensed under the Fisheries Act, 1905, occurring in or near the jurisdiction;
- (b) for the purpose of hearing and determining a charge or charges of incompetency or misconduct, or both, on the part of masters, mates, engineers or coxswains of coast-trade ships, harbour and river ships, vessels licensed under the Whaling Act, 1937 and vessels licensed under the Fisheries Act, 1905, holding certificates of competency or service, in respect of incompetency or misconduct on any such ship in or near the jurisdiction,

referred to it, or preferred before it, as the case requires pursuant to section ninety-eight of this Act.

(1a) Where more than one matter has been referred to a Court of Marine Inquiry pursuant to subsection (1) of section ninety-eight of this Act for formal investigation pursuant to subsection (1) of this section, and it appears to the Court that any number of the matters arise out of or relate to the same incident or a number of common incidents, the Court may, if it thinks fit, at the one hearing, hold a formal investigation into such of the matters referred, and into such of the charges preferred in connection therewith whether the charges have been preferred against one or more persons, as it thinks fit.

S. 185
amended.

11. Subsection (2) of section one hundred and eighty-five of the principal Act is amended by substituting for the words, "One hundred" in line eight, the words, "Two hundred".

S. 204
amended.

12. Paragraph (x) of section two hundred and four of the principal Act is amended by substituting for the words, "forty dollars or imprisonment not exceeding one month" in lines, one, two and three, the words, "two hundred dollars or imprisonment not exceeding three months".

S. 205
amended.

13. Section two hundred and five of the principal Act is amended by substituting for the interpretation, "vessel", the following interpretation,

"vessel" means a vessel held for the purpose of pleasure privately and not for hire or reward.

S. 213
amended.

14. Section two hundred and thirteen of the principal Act is amended by substituting for the word, "twenty" in line five, the words, "one hundred".