

WESTERN AUSTRALIAN MARINE.

9° Elizabeth II., No. LXXIV.

No. 74 of 1960.

AN ACT to amend the Western Australian Marine Act, 1948-1957.

[Assented to 12th December, 1960.]

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:—

**Short title
and citation.**

1. (1) This Act may be cited as the *Western Australian Marine Act Amendment Act, 1960.*

(2) In this Act the Western Australian Marine Act, 1948-1957, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Western Australian Marine Act, 1948-1960.

2. Section three of the principal Act is amended by adding immediately below the passage, "Division 3—ss. 119-120—The crew." in line forty-eight the following passage:—

S. 3
amended.

Division 3a—ss. 120A-120G—Approval of Engagements of Seamen.

3. The principal Act is amended by adding after Division 3 of Part VII. the following Division:—

Division 3a
added in
Part VII.

Division 3a—Approval of Engagements of Seamen. Part VII.
Division 3a.

120A. The engagement, at a port in the State, of a seaman to be entered on board a ship to which this Part applies (not being an engagement to which section one hundred and twenty-two of this Act applies) is subject to the approval of the shipping master at that port, but the shipping master shall not refuse to approve of the engagement except in accordance with the provisions of this Act.

Shipping
master
to approve
engage-
ments.
Common-
wealth Act,
s. 45A.

120B. (1) A shipping master to whom application is made for his approval to the engagement of a seaman to be entered on board a ship to which this Part applies may refuse to approve the engagement of that seaman if—

Approval
may be
refused if
conduct of
seaman
shown in
reports
as "bad".
Ibid.

- (a) in at least three reports delivered as required under the provisions of section one hundred and thirty of this Act, during the period of five years immediately prior to such application, the conduct or character of the seaman is shown as "bad"; and
- (b) the application is made within six months of the date of delivery of the latest of those reports,

but where the period between the dates of delivery of the last two of those reports exceeds two years and the seaman served regularly as a seaman during that period, a shipping master may approve the engagement of the seaman.

(2) Where a seaman deserts a ship to which this Part applies, or while bound by an agreement to serve in a ship to which this Part applies, he refuses or fails without reasonable cause to join that ship, the master shall report the fact to a shipping master, and such report shall for the purposes of this section be deemed to be a report under section one hundred and thirty of this Act showing the conduct or character of the seaman as "bad".

(3) Where a seaman, while bound by an agreement to serve in a ship to which this Part applies, refuses or fails without reasonable cause to join that ship, and before the ship is taken to sea after that refusal or failure again so refuses or fails, the provisions of subsection (2) of this section have effect as if the last report delivered by the master under that subsection in respect of any of those refusals or failures were the only report so delivered by him in respect thereof.

Refusal of approval in other cases.
Ibid.

120C. In respect to an application for his approval under this Division to the engagement of a person as a seaman to be entered on board a ship to which this Part applies, a shipping master—

- (a) may refuse to approve the engagement of that person if, during the period of two years immediately prior to such application, he has served as a seaman but has not, during the period of six months immediately prior to such application, served as a seaman for not less than one hundred and twenty-five days, unless that person satisfies the shipping master that the reason for his not having so served for that number of days during that period of six months was due to accident, illness, injury, leave or other reasonable cause, or was the operation of subsection (1) of section one hundred and twenty B of this Act;

- (b) shall refuse to approve the engagement of that person if he is a person to whom the provisions of subsection (8) of section forty-five A of the Navigation Act 1912 (Commonwealth Act) apply;
- (c) where the Department has advised the Minister that the character of that person is such, or the conduct of that person has been such, that he is during a period specified in the advice unsuitable for engagement as a seaman, shall during that period refuse to approve the engagement of that person as a seaman;
- (d) shall refuse to approve the engagement of that person if in his opinion that person does not possess a knowledge of the English language sufficient to enable that person to understand fully necessary orders that may be given him in the performance of his duty.

120D. Where the character of a seaman is such, or the conduct of a seaman has been such, that in the opinion of the master of a ship to which this Part applies the seaman is unsuitable for engagement as a seaman, the master shall report the circumstances to a shipping master, and if practicable inform the seaman that he has made such report.

Master to report conduct of seaman. *Ibid.*

120E. (1) A shipping master is deemed to have approved the engagement of a seaman when the shipping master attests the agreement between the master and the seaman pursuant to the provisions of section one hundred and twenty-one of this Act.

When approval deemed to be given. *Ibid.*

(2) When a shipping master refuses to approve the engagement of a person under this Division, he shall furnish that person with a statement setting forth the grounds on which the shipping master has refused to approve the engagement.

Appeal
against
refusal of
shipping
master.
Common-
wealth Act,
s. 45B.

120F. (1) Where a shipping master refuses to approve an engagement of a person under this Division (other than under paragraph (c) of section one hundred and twenty C of this Act), that person may within fourteen days after such refusal, on complaint made to any court of petty sessions composed of a stipendiary magistrate and served on the shipping master as defendant to the proceedings, apply to the court for an order directing the shipping master to approve an engagement of that person, and jurisdiction to hear and determine any such complaints is hereby conferred on that court.

(2) The court may make an order directing the shipping master to approve an engagement of the person making the complaint—

(a) where the shipping master has refused under subsection (1) of section one hundred and twenty B of this Act to approve an engagement of that person, if the court is satisfied that—

(i) the conduct or character of that person has not been shown as “bad” in three reports delivered as required under the provisions of section one hundred and thirty of this Act within the period referred to in that subsection; or

(ii) the conduct or character of that person has been shown as “bad” on three reports so delivered but that one or more of those reports was not justified in the circumstances and that, apart from that report or those reports, the conduct or character of that person has not been shown as “bad” on three reports so delivered;

- (b) where the shipping master has refused, under paragraph (a) of section one hundred and twenty C of this Act, to approve an engagement of that person, if the court is satisfied that accident, illness, injury, leave or other reasonable cause was the reason for that person not having served for at least one hundred and twenty-five days in the period of six months immediately preceding the date on which application was made to the shipping master to approve an engagement of that person;
- (c) where the shipping master has refused to approve an engagement of that person under paragraph (b) of section one hundred and twenty C of this Act, if the court is satisfied that the seaman's conduct and character do not justify the continuance of the application to that person of the provisions referred to in that paragraph; and
- (d) in any other case, if the court is satisfied that the refusal of the shipping master is not justified.

120G. A person shall not make to a shipping master, for the purpose of causing the shipping master to approve the engagement of a seaman, or any person as a seaman, or otherwise in relation to the engagement of a seaman or person, a statement that is false or misleading in any particular.

False
statements,
Common-
wealth Act,
s. 45C.

4. Section one hundred and eighty-three of the principal Act is amended by substituting for the words, "vessels licensed" in line one of paragraph (ii) of the interpretation, "vessel" the passage, "vessel licensed, or required to be licensed, by or."

S. 183
amended.

S. 184A
amended.

5. Section one hundred and eighty-four A of the principal Act is amended by inserting after the word, "licensed" where it occurs in line two and again in line three the words, "or required to be licensed by or" in each case.

S. 197
amended.

6. Section one hundred and ninety-seven of the principal Act is amended by substituting for the words, "unlicensed or in respect of which no permit subsists shall be deemed to be proof" in lines four and five the passage, "licensed, or required to be licensed, by or under any Act, or is or was unlicensed under this or any other Act, or in respect of which no permit subsists, or that any vessel is or was licensed or required to be licensed by or under any Act, shall be deemed to be proved."

S. 204
amended.

7. Section two hundred and four of the principal Act is amended by inserting after the word, "licensed" where it occurs in line two and again in line four of subparagraph (i) of paragraph (wa) of subsection (1) the words, "or required to be licensed by or" in each case.

S. 207
amended.

8. Section two hundred and seven of the principal Act is amended by adding after subsection (1) the following subsection:—

(2) Without limiting the powers conferred by subsection (1) of this section, the Governor may make regulations empowering the Department to regulate times, places and conditions, in respect of any matter or thing for which regulations may be made under paragraphs (a) to (i), both inclusive, of that subsection.