

WESTERN AUSTRALIAN MARINE.

No. 67 of 1977.

AN ACT to amend the Western Australian Marine Act, 1948-1976.

[Assented to 28th November, 1977.]

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, 1977.*

Short title
and citation.

(2) In this Act the Western Australian Marine Act, 1948-1976 is referred to as the principal Act.

Approved for
Reprint 13th
June, 1968.
Amended by
Acts Nos.
30 of 1968;
1 of 1972;
42 of 1975;
109 of 1973
and 4 and
12 of 1976.

(3) The principal Act as amended by this Act may be cited as the Western Australian Marine Act, 1948-1977.

Commence-
ment.

2. (1) Subject to subsection (2) of this section this Act shall come into operation on the day on which it receives the Royal Assent.

(2) The provisions of sections 4, 5, 7 to 13 (both inclusive) shall come into operation on such day or days as is or are, respectively, fixed by proclamation.

Section 16B
added.

3. The principal Act is amended by adding after section 16A the following sections—

Limiting
speed of
vessels.

16B. (1) The Department may by notice published in the *Government Gazette* limit the speed at which vessels may be navigated in any waters.

(2) A notice published pursuant to subsection (1) of this section—

- (a) may apply to vessels generally or in relation to a particular vessel or to a particular class of vessels;
- (b) may be of general application or may apply only in relation to the time, place and circumstances specified in the notice; and
- (c) may be varied or cancelled by a subsequent notice published in the *Government Gazette*.

(3) A person who causes, permits or suffers a vessel to be navigated contrary to the provisions of a notice published under this section commits an offence.

Penalty: Two hundred dollars. .

Speed
measuring
equipment.

16C. (1) In this section—

“speed measuring equipment” means apparatus of a type approved by the Minister pursuant to subsection (2) of this section.

(2) The Minister may, from time to time, by notice published in the *Government Gazette*, approve of types of apparatus for ascertaining the speed at which a vessel is moving and may, by notice so published, revoke any such approval.

(3) In any proceeding for an offence against this or any other Act or regulations made thereunder evidence may be given of the use of speed measuring equipment by an inspector in relation to a vessel and of the speed at which that vessel was moving as ascertained by the use of that equipment, and that evidence is *prima facie* evidence of the speed at which that vessel was moving at the time of the use of that equipment in relation to that vessel.

(4) In any proceeding such as is mentioned in subsection (3) of this section, evidence by an inspector that apparatus used by him was speed measuring equipment within the meaning of this section is *prima facie* evidence of that fact.

(5) Nothing in this section shall be construed as precluding or restricting the introduction of any competent evidence, whether in addition to, or independent of, any evidence for which provision is made by this section, bearing on the question of whether a person was or was not guilty of an offence against this or any other Act or regulations made thereunder.

4. Section 183 of the principal Act is amended by adding immediately before the interpretation "owner" the following interpretation—

Section 183
amended.

"authorised person" means a member of the Police Force, an inspector of the Department or a person authorised for the purpose by the Department in writing either generally or in a particular case.

Section
183A added.

5. The principal Act is amended by adding after section 183 the following section—

Certificates
of appoint-
ment.

183A. The Department shall issue to each authorised person who is not a member of the Police Force or an inspector of the Department a certificate of appointment in the prescribed form specifying that the person is an authorised person and the general nature of his duties, and the holder shall produce the certificate whenever required to do so by any person in respect of whom he has exercised or is about to exercise any of his powers under this Part of this Act.

Section 184A
repealed and
re-enacted.

6. Section 184A of the principal Act is repealed and re-enacted as follows—

Compliance
with regula-
tions relat-
ing to
manning and
other
provisions.

184A. (1) No person shall get a vessel under way or attempt to get a vessel under way unless the vessel is manned in accordance with the regulations made under this Part nor unless the provisions of this Act and the regulations made and the conditions imposed under this Act and applying to the vessel are complied with.

(2) Notwithstanding anything in subsection (1) of this section, where the Minister is satisfied that the duties required of a person serving in a particular capacity on a particular vessel can be satisfactorily performed by a person holding a certificate of a lower grade than the certificate prescribed by the regulations made under this Part of this Act in relation to service in that capacity the Minister may by instrument under his hand permit a person holding qualifications of a lower grade than those prescribed to serve in that capacity on that vessel.

(3) Where permission is granted in relation to a vessel pursuant to subsection (2) of this section then, for the purposes of this Act, the

vessel is deemed to be manned in accordance with the regulations made under this Part of this Act if the vessel is manned in accordance with those regulations as modified by the permission so granted.

(4) The Minister may at any time by instrument in writing under his hand, revoke any permission granted pursuant to subsection (1) of this section.

(5) In this section—

“vessel” means a vessel licensed or required to be licensed by or under the Whaling Act, 1937, or a vessel licensed or required to be licensed by or under the Fisheries Act, 1905. .

7. Subsection (1) of section 194 of the principal Act is amended by deleting the passage “any member of the Police Force or any person authorised for the purpose by the Department in writing (whether generally or in any particular case)” in lines four to seven and substituting the words “an authorised person”.

Section 194
amended.

8. Subsection (4) of section 195A of the principal Act is repealed.

Section 195A
amended.

9. Section 196A of the principal Act is amended—

Section 196A
amended.

(a) by deleting the subsection designation “(1)” immediately after the section designation “196A.”;
and

(b) by repealing subsection (2).

Section 204
amended.

10. Section 204 of the principal Act is amended by deleting the words "two hundred dollars" in lines one and two of paragraph (x) and substituting the words "five hundred dollars".

Section 205
amended.

11. Section 205 of the principal Act is amended by adding immediately before the interpretation "owner" the following interpretation—

"authorised person" means a member of the Police Force, an inspector of the Department or any person authorised for the purpose by the Department in writing either generally or in a particular case;

Section 205A
added.

12. The principal Act is amended by adding after section 205 the following section—

Certificates
of appoint-
ment.

205A. The Department shall issue to each authorised person who is not a member of the Police Force or an inspector of the Department a certificate of appointment in the prescribed form specifying that the person is an authorised person and the general nature of his duties, and the holder shall produce the certificate whenever required to do so by any person in respect of whom he has exercised or is about to exercise any of his powers under this Part of this Act. .

Section 206A
added.

13. The principal Act is amended by adding after section 206 the following section—

Power to
order vessels
to return to
port.

206A. (1) An authorised person may, where he considers it necessary for the due enforcement of this Act, with the assistance of such persons as he may require, board any vessel being navigated in the jurisdiction and may—

(a) inspect the vessel and any machinery, equipment or article—

(i) that is required by this Act to be carried in or on board the vessel;
or

- (ii) the condition of which could affect the seaworthiness of the vessel; and
 - (b) require the production of, and inspect any licence, permit, certificate or other document issued or required to be issued in connection with the ownership, use or navigation of the vessel.
- (2) Where an authorised person is satisfied in relation to any vessel—
- (a) that by reason of the condition of the vessel or any part of the vessel or of any machinery, equipment or article in or on board the vessel, or by reason of the loading of the vessel, the vessel is unseaworthy;
 - (b) that there is not in force in relation to the vessel a certificate of registration required by the regulations made under the provisions of this Division;
 - (c) that the provisions of this Act relating to the machinery, equipment or articles required to be carried in or on board the vessel have not been complied with; or
 - (d) that the vessel is in an unsafe position or locality,

he may order the person in charge of, or apparently in charge of, the vessel to take the vessel to the nearest port or any other place that the authorised person thinks fit and the person so ordered shall forthwith comply with the order.

Penalty: One hundred dollars.

(3) Where a person fails to comply with an order given to him pursuant to subsection (2) of this section, the authorised person may take such action as he considers necessary to remove the vessel to the place designated by his order.

(4) Where an authorised person gives an order pursuant to subsection (2) of this section in relation to a vessel he may also order that the vessel shall not be navigated again unless and until—

- (a) such measures as are specified in the order have been taken to render the vessel seaworthy;
- (b) a certificate of registration as required by the regulations made under the provisions of this Division has been obtained in relation to the vessel; or
- (c) the provisions of this Act relating to the machinery, equipment or articles required to be carried in or on board the vessel have been complied with,

as the case may require.

(5) A person shall not navigate or attempt to navigate a vessel in contravention of an order given pursuant to subsection (4) of this section.

Penalty: One hundred dollars.

(6) Nothing in subsection (4) or (5) of this section prevents a vessel from being navigated for the purpose of taking it to a port or other place in compliance with an order given pursuant to subsection (2) of this section.
