

NAVIGATION.

17° GEO. V., No. XXXIII.

No. 33 of 1926.

AN ACT to amend the Navigation Act, 1904.

[Assented to 8th December, 1926.]

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

Short title.

1. This Act may be cited as the *Navigation Act Amendment Act*, 1926, and shall come into operation on a day to be fixed by proclamation.

Amendment of
sec. 2.

2. Section two of the Navigation Act, 1904 (hereinafter called the principal Act), is hereby amended by the insertion of definitions as follow:—

“ ‘Limited coasting voyage’ means a voyage from and to any port in the State within limits determined for the port by the Governor ”;

“ ‘Vessel’ includes any ship or boat or any other description of vessel used in navigation ”;

“ ‘Harbour and river ship or steamship’ means a ship or steamship adapted for harbour, river, or lake service only. ”

Repeal of sec. 30
and substitution
of new section.

3. Section thirty of the principal Act is hereby repealed, and a section is inserted in lieu thereof as follows:—

Application of
Part IV.

30. (1.) This Part of this Act shall apply to all ships, British or foreign, except—

(a) Passenger steamers in respect of which certificates granted under Part III. of the Merchant Shipping Act, or declared to have the same force as if so granted, are in force;

- (b) Ships of any class for the time being exempted from this Part by proclamation issued and in force under this section;
- (c) Ships not propelled by steam and not used in trade or commerce or for the purpose of gain;
- (d) Ships to which Division 1 or 2 of Part IV. of the Navigation Act, 1912-1920 (Commonwealth), is for the time being legally applicable.

(2.) The Governor may at any time issue any proclamation for the purposes of this section, and may thereby exempt any ships of any particular class from this Part of this Act, and may at any time revoke or vary any such proclamation.

4. Section thirty-one of the principal Act is repealed, and a section is substituted therefor as follows:—

Repeal of sec. 31
and substitution
of new section.

31. (1.) The owner of every ship to which this Part of this Act applies shall cause it to be surveyed once at least every year by a shipwright surveyor and (if the ship contains an engine or other machinery, or the hull is constructed of iron) by an engineer surveyor, at such convenient time as the Chief Harbour Master appoints: Provided that in the case of a harbour and river ship the survey may be made by any person appointed by the Chief Harbour Master, and every person so appointed shall, whilst his authority to act continues, be deemed to be a surveyor for the purposes of this Part.

Owners of ships to
have them sur-
veyed.

(2.) The surveyors, if satisfied on the survey that they can with propriety do so, shall deliver to the owner the following declarations, that is to say:—

- (a) A declaration under the hand of the shipwright surveyor of the sufficiency and good condition of the boats and other equipments of the ship in question (and also, if the Chief Harbour Master so requires, a statement of the number of passengers, if any, whether deck passengers or other passengers, which such ship is constructed to carry), and, where the hull is wholly or partly constructed of wood, of the sufficiency and good condition of the hull; and
- (b) A declaration under the hand of the engineer-surveyor (if any) of the sufficiency and good condition of the machinery, and, where the hull is constructed of iron, of the sufficiency and good condition of the hull:

Provided that, in the case of a harbour and river ship, any necessary declaration may be made and issued by the person (if any) appointed to conduct the survey by the Chief Harbour Master.

(3.) Each such declaration shall distinguish whether such ship is, in construction, equipment, and machinery, adapted for sea-service as well as for harbour, river, or lake service, or for harbour, river, or lake service only; and when adapted for harbour, river, or lake service only, or for a limited coasting voyage, such declaration shall state the local limits within which such ship is, in the judgment of each surveyor, adapted for plying.

(4.) Every such owner shall transmit every such declaration to the Chief Harbour Master within fourteen days after its date.

Amendment of
sec. 33.

5. Section thirty-three of the principal Act is hereby amended by the addition to subsection four of the words "or navigate," and by the repeal of subsection five and the substitution of a new subsection, as follows:—

(5) The Chief Harbour Master shall publish in the prescribed manner lists of the ships in respect of which certificates have been issued.

Amendment of
sec. 36.

6. Section thirty-six of the principal Act is hereby amended by the excision of the words "six months" and the substitution of the words "one year."

Repeal of sec. 37
and substitution of
new section.

7. Section thirty-seven of the principal Act is hereby repealed, and a section is inserted in lieu thereof as follows:—

Fees.

37. The owner of any ship in respect of which a certificate is issued by the Chief Harbour Master under this Part of this Act shall pay to the Chief Harbour Master the prescribed fee, and the Chief Harbour Master may recover the amount of such fee by action instituted by him in his official style or name in any court of competent jurisdiction.

Repeal of sec. 39
and substitution of
new section.

8. Section thirty-nine of the principal Act is hereby repealed, and a new section is inserted in lieu thereof as follows:—

Ship not to go to sea
without certificate.

39. (1.) No ship shall go to sea or ply upon any of the navigable waters within the jurisdiction of the State unless a valid certificate as hereinbefore provided has

been issued and is in force in respect of such ship: Provided that it shall be lawful for the Chief Harbour Master to issue a permit for any ship to proceed to sea or to ply upon any navigable waters, and such permit shall state the time or voyage for which it shall have effect and the local limits (if any) within which it is to operate, and shall have effect according to its tenor.

(2.) If any ship goes to sea or plies upon any navigable waters contrary to the provisions of this section, or proceeds beyond the local limits mentioned in the certificate or permit issued in respect of such ship, or is got under weigh for the purpose of so doing, the owner of the ship shall be liable to a penalty not exceeding one hundred pounds, and the master to a penalty not exceeding twenty pounds; and it shall be no defence to any prosecution under this section to show want of knowledge on the part of the person prosecuted.

(3.) For the purposes of this section a ship shall be deemed to ply upon any waters if such ship is navigated therein or caused to pass thereover.

9. Section forty-four of the principal Act is hereby amended by the insertion of the words "(if any)" after the word "engines," and by the excision of the word "steams" and the substitution of the words "is navigated."

Amendment of
sec. 44.

10. Part IV. of the principal Act (except section forty-three thereof) is hereby amended by the substitution of the word "ship" for the word "steamship" wherever the latter word occurs therein, and by the excision of the words "steam navigation" in the heading or title of the Part and the substitution of the words "Survey of Ships."

General amendmen
of Part IV.

11. Subsection six of section fifty-six of the principal Act is hereby amended by the excision of the word "plies" and the substitution of the words "acts as master, mate, or engineer."

Amendment of
sec. 56.

12. A section is hereby inserted in the principal Act, immediately after section fifty-five thereof, as follows:—

Insertion of new
section after
sec. 55.

55a. (1.) The Chief Harbour Master may cause examinations to be held of persons desirous of obtaining certificates of competency as marine motor engine-drivers for harbour and river vessels propelled by

Special provisions
relating to harbour
and river ships.

mechanical power other than steam, and subsection two of section fifty-four, and sections fifty-five and fifty-nine of this Act shall *mutatis mutandis* apply to such examinations.

(2.) No candidate shall be reported as having passed such examination unless he has shown a competent knowledge of driving and controlling the engines and motive power on harbour and river ships propelled by any mechanical power other than steam.

(3.) Persons to whom certificates of competency are granted under this section shall, whilst their certificates remain in force, be styled "marine motor engine-drivers."

(4.) The provisions of sections fifty-eight, sixty-one, sixty-two, sixty-three, and sixty-four of this Act shall apply to and in respect of such certificates, and every such certificate shall be liable to cancellation or suspension as if it were a third-class engineer's certificate.

(5.) Every harbour and river ship propelled by any motive mechanical power other than steam shall, if used in trade or commerce or for the purpose of gain, be provided with a marine motor engine-driver or an engineer possessing a certificate of another grade.

(6.) The provisions of this Part of this Act (including the penal provisions) shall, so far as practicable, apply (subject to this section) to and in respect of marine motor engine-drivers and such harbour and river ships as are mentioned in subsection five as if—

(a) such engine-drivers were, so far only as regards such harbour and river ships, engineers holding third-class engineers' certificates; and

(b) such harbour and river ships were steamships.

Provided that on proof that the applicant is a person of good repute and on production of satisfactory testimonials that he has been in charge of, and driven a marine motor engine for not less than one year within a period of five years prior to the passing of this Act, the Chief Harbour Master may grant without examination a marine motor engine-driver's certificate of competency.

Provided also that the prescribed fee for a third-class engineer's certificate shall be payable for a certificate of competency under this section.

Provided further that this section shall not apply in the case of any ship used north of the twenty-seventh parallel of south latitude, and not elsewhere.

13. A section is hereby inserted in the principal Act, after section one hundred and one thereof, as follows:—

Insertion of new
section after
sec. 101.

101a. The contravention of any section or provision of this Act, whether by act or omission, shall be deemed to be an offence on the part of any person committing the act or making the omission or being party or privy thereto, and such offence shall, if no specific penalty is provided therefor, be punishable on summary conviction by a fine not exceeding fifty pounds.

Offences.

14. The principal Act and the existing amendments thereof, including this Act, may be cited as the *Navigation Act*, 1904-1926.

Citation of
principal Act and
amendments.