

WESTERN AUSTRALIA.



ANNO QUARTO

EDWARDI SEPTIMI REGIS,

XXXIV.

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**No. 59 of 1904.**

AN ACT relating to Navigation.

[Assented to 24th December, 1904.]

**B**E 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:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Navigation Act*, 1904, and is Short title.  
divided into parts and divisions, as follows:—

PART I.—PRELIMINARY, ss. 1–4.

PART II.—OFFICERS, ss. 5–19 —

*Division 1.—The Chief Harbour Master, ss. 5–10.*

*Division 2.—Other officers, ss. 11–14.*

*Division 3.—Assessors, ss. 15, 16.*

*Division 4.—General Provisions, ss. 17–19.*

PART III.—THE COURT OF MARINE INQUIRY, ss. 20–29.

## PART IV.—STEAM NAVIGATION, ss. 30-50—

*Division 1.—Application of this Part, s. 30.**Division 2.—Surveys and certificates, ss. 31-40.**Division 3.—Duties of surveyors, ss. 41, 42.**Division 4.—Duties of owners, ss. 43-46.**Division 5.—Certain offences, ss. 47-50.*

## PART V.—EXAMINATIONS AND CERTIFICATES, ss. 51-69—

*Division 1.—Examinations and certificates of masters, mates, and engineers.*(i.) *Examinations and certificates of masters and mates, ss. 51, 52.*(ii.) *Examinations and certificates of engineers, ss. 53-55.*(iii.) *Certificated officers on ships, ss. 56, 57.*(iv.) *General provisions, ss. 58-64.**Division 2.—Examinations and certificates of marine surveyors, ss. 65-69.*

## PART VI.—SAFETY AND PREVENTION OF ACCIDENTS, ss. 70-91—

*Division 1.—Unse worthy ships, ss. 70-77.**Division 2.—Life-saving appliances, ss. 78-80.**Division 3.—Deck and load-lines, ss. 81-89.**Division 4.—General provisions, ss. 90, 91.*

## PART VII.—MISCELLANEOUS PROVISIONS AND LEGAL PROCEDURE, ss. 92-106.

## Interpretation.

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

“British Possession” means any part of His Majesty’s dominions exclusive of the United Kingdom; and where parts of such dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one British Possession:

“Coast-trade ship” means every registered British ship employed in trading or going between any ports within the jurisdiction, also every registered steam-tug:

Provided that every such ship employed in trading between any ports of adjacent States shall be deemed to be a coast-trade ship for such purposes of this Act as the Chief Harbour Master may deem fit:

“Foreign-going ship” means every registered British ship employed in trading or going between any port within and any port without the jurisdiction:

“Harbour-master” means any duly appointed harbour-master, and includes the deputy of such harbour-master, and the resident magistrate for the port where the harbour-master discharges his duties in the absence of the harbour-master or in case of his inability to perform his duties; and in any harbour, river, or place where there is no appointed harbour-master the term includes the resident magistrate, and in the absence of the resident magistrate any two justices.

“Justice” means any justice of the peace:

“Legislature,” when used with respect to a British Possession, means the authority other than the Imperial Parliament or His Majesty the King in Council competent to make laws for a British Possession:

“Master” means every person except a pilot having command or charge of any ship:

“Merchant Shipping Act” means the Imperial Act, the Merchant Shipping Act, 1894, or any Act amending the same or in substitution therefor:

“Minister” means the responsible Minister of the Crown for the time being charged with the administration of this Act:

“Owner” includes the manager or secretary of any body corporate or company:

“Passenger” means every person carried in any ship other than the master and crew, and the owner of the ship and his family and servants:

“Port” includes place:

“Ship” means every description of vessel used in navigation not propelled by oars:

“The Jurisdiction” means the navigable waters lying within one nautical league of the coast and the inland navigable waters of Western Australia:

Ki Any reference to failure to do any act or thing shall include a reference to refusal to do that act or thing.

3. Nothing in this Act contained shall apply to any ship belonging to or in the service of His Majesty. Act not to apply to His Majesty's ships.

4. Nothing in this Act contained shall be construed to repeal or affect any provision of the Fremantle Harbour Trust Act, 1902, or any regulation thereunder, except as is hereinafter expressly mentioned; and where any provision of this Act appears to Act not to affect Fremantle Harbour Trust Act, 1902.

be inconsistent with any provision of the said Act, or of any such regulation, such provisions shall be construed as if this Act had been passed immediately prior to the passing of the said Act.

## PART II.—OFFICERS.

### *Division 1.—The Chief Harbour Master.*

What matters within the direction of Chief Harbour Master.

5. The Chief Harbour Master shall, subject to the control of the Minister, have and is hereby invested with full powers to carry out the provisions of this Act relating to steam navigation, and shall also undertake the general superintendence of all matters within the jurisdiction relating to—

- (1.) The issue, suspension, and cancellation of certificates of competency and service;
- (2.) The preservation of ports, harbours, havens, and navigable creeks and rivers within the jurisdiction;
- (3.) The regulation of lighthouses;
- (4.) The superintendence of lights and other sea, harbour, or river marks;
- (5.) The placing or removing of moorings;
- (6.) And the several matters hereinafter particularly described.

Documents purporting to be signed in a given manner to be received in evidence.

6. (1.) All documents whatever, purporting to be issued or written by or under the direction of the Chief Harbour Master, and purporting to be signed by the Chief Harbour Master or any person acting with his authority, shall be received in evidence, and shall be deemed to be issued or written by or under the direction of the Chief Harbour Master without further proof, unless the contrary is shown.

Certificates.

(2.) All documents purporting to be certificates issued by the Chief Harbour Master in pursuance of this Act, and to be signed as in the preceding subsection mentioned, shall be received in evidence, and shall be deemed to be such certificates without further proof, unless the contrary is shown.

Chief Harbour Master to issue forms of instruments.

7. (1.) The Chief Harbour Master may prepare and sanction forms of various books, instruments, and papers required by this Act, or any regulations thereunder, and may make all necessary alterations therein; and shall, before finally issuing or altering any such form, give such public notice thereof as may be deemed necessary; and shall issue every such form under his hand, or marked with some other distinguishing mark, and shall cause the same to be supplied at such moderate prices as he may fix, or may license any persons to print and sell the same.

(2.) Every such book, instrument, and paper as aforesaid shall be made in the form so sanctioned ; and no such book, instrument, or paper as aforesaid, unless made in such form, shall be admissible in evidence in any civil proceeding on the part of any owner or master of any ship.

Instruments to be in form sanctioned by the Chief Harbour Master,

(3.) Every such book, instrument, or paper, if made in a form purporting to be a proper form, and to be signed or marked as aforesaid, shall be taken to be made in the form hereby required, unless the contrary is proved.

and to be evidence.

8. The Chief Harbour Master may, in cases where there is reason to suspect that the provisions of this Act are not complied with, exercise the following powers, that is to say:—

Chief Harbour Master may inspect documents and muster crews.

- (1.) Require the owner, master, or any of the seamen of any British ship being within any port in the jurisdiction to produce any official log-books or other documents, relating to any such seamen, in their respective possession or control ;
- (2.) Require any such master to produce a list of all persons on board his ship ;
- (3.) Take copies of such official log-books or documents or of any part thereof :
- (4.) Muster the crew of any such ship :
- (5.) Summon the master to appear and give any explanation concerning such ship or her crew, or the said official log-books or documents.

9. If any person—

- (a.) upon requisition duly made, refuses or neglects to produce any such official log-book or document as he is hereinbefore required to produce, or to allow the same to be inspected or copied as aforesaid ; or
- (b.) impedes any such muster of a crew as aforesaid ; or
- (c.) refuses or neglects to give any explanation which he is hereinbefore required to give ; or
- (d.) knowingly misleads or deceives any person hereinbefore authorised to demand any such explanation,

Penalty for refusing to produce documents, etc.

he shall, for each such offence, incur a penalty not exceeding twenty pounds.

10. The Chief Harbour Master may, by summons under his hand, require the attendance of any person upon any inquiry authorised by him, and may require answers or returns to any questions, and may require and enforce the production of all books, papers, log-books,

Powers of Chief Harbour Master.

possession or power, or to take any oath or subscribe any declaration as aforesaid,

shall, for each offence, incur a penalty not exceeding twenty pounds:

Provided that no person shall be required, in obedience to any summons, to travel more than ten miles from his place of abode at the time of receiving such summons, unless such reasonable allowances for expenses incident to his attendance to give evidence be tendered to him on the scale allowed in that behalf to a witness attending on subpoena to give evidence before the Supreme Court.

Provision as to  
appointments.

**19.** (1.) The appointment of officers under this Act shall be made in accordance with the provisions of any Act regulating the Public Service in force for the time being.

Salaries and fees.

(2.) The salaries and fees of such officers and other persons employed under this Act shall be paid out of moneys to be appropriated by Parliament for that purpose.

### PART III.—THE COURT OF MARINE INQUIRY.

Courts of Marine  
Inquiry.

**20.** There is hereby conferred upon such local courts as may be proclaimed by the Governor for the purpose jurisdiction to hear and determine inquiries, appeals, and references under this Act under and according to the terms and provisions of any Act regulating local courts in force for the time being (so far as they are applicable), and of this Act; and a local court exercising such jurisdiction shall be a court of record, and be called a "Court of Marine Inquiry."

Local court magistrates to preside.

**21.** (1.) Any one or more of the local court magistrates may sit as a Court of Marine Inquiry, and shall be assisted by two of the assessors appointed under this Act; such assessors shall have power to advise, but not to adjudicate, on any matter before the Court.

Inquiry involving  
cancellation of certificate.

(2.) Where an inquiry involves or appears likely to involve any question as to the cancelling or suspension of the certificate of a master, mate, or engineer, the Court shall hold the inquiry, with the assistance of not less than two assessors having experience in the merchant service, both of whom shall have had experience in the calling of the person before the court.

Officers.

**22.** All officers of the said local courts shall act as officers of Courts of Marine Inquiry.

Power to make  
rules.

**23.** (1.) The Governor may make rules to regulate the procedure and practice of Courts of Marine Inquiry, and such rules shall have the same force and effect as if they had formed a part of this Act, notwithstanding that they may conflict with the provisions of the Local Courts Act, 1904.

(2.) Rules made as aforesaid shall be published in the *Government Gazette* and shall take effect from the date of publication.

(3.) Until rules are made and published under this section, or so far as such rules do not extend, the presiding magistrate may, in any particular case, give such directions as may seem fit.

**24.** (1.) A Court of Marine Inquiry is hereby authorised to make inquiries as to shipwrecks and other casualties affecting ships, or as to charges of incompetency or misconduct on the part of masters, mates, or engineers of ships in the following cases, namely:—

Matters in respect of which court may hold inquiry.

- (a.) Where a shipwreck or casualty occurs to a British ship on or near the coast of Western Australia, or in the course of a voyage to a port within Western Australia:
- (b.) Where a shipwreck or casualty occurs in any part of the world to a British ship registered in Western Australia:
- (c.) Where some of the crew of a British ship, which has been wrecked or to which a casualty has occurred, and who are competent witnesses to the facts, are found in Western Australia:
- (d.) Where the incompetency or misconduct has occurred on board a British ship on or near the coasts of Western Australia, or on board a British ship in the course of a voyage to a port within Western Australia:
- (e.) Where the incompetency or misconduct has occurred on board a British ship registered in Western Australia:
- (f.) Where the master, mate, or engineer of a British ship, who is charged with incompetency or misconduct on board that British ship, is found in Western Australia:

(2.) The said Court shall have the same jurisdiction over the matter in question as if it had occurred within its ordinary jurisdiction, but subject to all provisions, restrictions, and conditions as would have been applicable if it had so occurred.

Jurisdiction.

(3.) An inquiry shall not be held under this section into any matter—

Ouster of jurisdiction.

- (a.) which has once been the subject of an investigation or inquiry, and has been reported on by a competent court or tribunal in any part of His Majesty's dominions; or
- (b.) with reference to which an investigation or inquiry has been commenced in the United Kingdom; or
- (c.) in respect of which the certificate of a master, mate, or engineer has been cancelled or suspended by a naval court constituted under the Merchant Shipping Act.

Cancellation of certificates.

(4.) The said Court, holding an inquiry under this section shall have the same powers of cancelling and suspending certificates, and shall exercise those powers in the same manner as a court holding a similar investigation or inquiry in the United Kingdom.

Summoning of parties and witnesses.

(5.) The said Court, for the purposes of any inquiry under this section, shall, so far as relates to the summoning of parties, and compelling the attendance of witnesses, have all the powers of the Supreme Court.

When court to make inquiry.

**25.** A Court of Marine Inquiry shall, when requested by the Minister, and may, in any case where it thinks fit, make any inquiry under the last preceding section.

Rehearing of inquiry at instance of Governor.

**26.** The Governor may, where any such inquiry as aforesaid has been made, order the case to be reheard by a Court of Marine Inquiry, either generally or as to any part thereof, and shall do so—

- (1.) If new and important evidence, which could not be produced at the inquiry, has been discovered;
- (2.) If for any other reason there has, in the opinion of the Governor, been ground for suspecting that a miscarriage of justice has occurred.

Presiding magistrate.

**27.** (1.) The senior local court magistrate present shall preside at any sitting of a Court of Marine Inquiry.

Inquiry to be in open court.

(2.) Every inquiry under this Act shall be in open court. The decision of the court shall be delivered by the presiding magistrate in open court. In the event of an equality of votes, the presiding magistrate shall have a casting as well as a deliberative vote.

Court may award costs.

(3.) The court may make such order as it thinks fit respecting the costs of any proceedings, and any costs awarded against any party to the proceeding may be recovered by the party in whose favour the order is made, in any court of competent jurisdiction.

Copy of decision and notes to be forwarded to Governor.

(4.) The presiding magistrate shall, in every case, forward to the Governor a copy of the decision of the court, together with notes of the evidence given; and any member of the court who dissents from the decision may likewise forward his written reasons for so dissenting.

Delivery of certificate cancelled or suspended.

**28.** (1.) A master, mate, or engineer whose certificate is cancelled or suspended by a Court of Marine Inquiry shall deliver his certificate to the said court on demand, or, if not so demanded, to the Chief Harbour Master, or as the Chief Harbour Master directs.

(2.) If a master, mate, or engineer fails, without sufficient cause, to comply with this section, he shall, for each offence, be liable to a penalty not exceeding fifty pounds.



**29.** (1.) A Court of Marine Inquiry shall hear and determine open court any appeal or reference in pursuance of this Act in respect of the detention of a ship alleged to be unsafe; and the procedure of that court on the hearing and determining of such appeal or reference shall be as provided in pursuance of this Act in respect of inquiries as to shipwrecks.

Jurisdiction of court in respect of detention of unsafe ships.

(2.) Any magistrate or assessor of the court may survey the ship, and shall, for the purposes of this Act, have all the powers of an inspector under this Act.

Magistrate or assessor may survey.

(3.) The presiding magistrate of the court may appoint any competent person or persons to survey the ship and report thereon to the court.

Presiding Magistrate may appoint a surveyor.

(4.) Any magistrate or assessor of the court, and any person appointed by the presiding magistrate of the court to survey a ship, may go on board the ship and inspect the same and every part thereof, and the machinery, equipments, and cargo, and may require the unloading or removal of any cargo, ballast, or tackle; and any person who wilfully impedes such magistrate, assessor, or person in the execution of the survey, or fails to comply with any requisition made by him, shall be liable to a penalty not exceeding ten pounds.

Powers of magistrate or other person making survey.

(5.) The court shall have the same power as the Chief Harbour Master has to order the ship to be released or finally detained, but unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

Powers of court to order detention.

(6.) The owner and master of the ship, and any person appointed by the owner or master, and also any person appointed by the Minister, may attend at any inspection or survey made in pursuance of this section.

Owner, etc., may attend survey.

(7.) The presiding magistrate shall send to the Governor such report as may be directed by the rules, and each assessor shall either sign the report or report to the Governor the reasons for his dissent.

Report to Governor.

#### PART IV.—STEAM NAVIGATION.

##### *Division 1.—Application of this Part.*

**30.** (1.) The provisions contained in this Part of this Act, and all regulations thereunder, shall apply—

Application of this Part.

(a.) To all steamships engaged in the trade of conveying passengers from any port within the jurisdiction to any port in any other part of His Majesty's dominions, whether the same are British ships owned wholly or in part by subjects of His Majesty or foreign ships;

(b.) As far as possible to every British and foreign ship engaged in trading from any port within the jurisdiction to any other port in His Majesty's dominions, whether such trading does or does not include the carrying of passengers, unless such ship holds Lloyd's 100A classification certificate, or is a steamship registered in Great Britain and Ireland which holds a passenger steamer's certificate under the Merchant Shipping Act ;

(2.) The Governor may direct that any British or foreign ship trading between any port in Western Australia and any port not being within Great Britain or Ireland shall be subject to the provisions of this section.

*Division 2.—Surveys and Certificates.*

Owners of steamships to have them surveyed.

**31.** (1.) The owner of every steamship constructed or intended to carry passengers shall, during the actual employment of such ship in that capacity, cause it to be surveyed twice at least in every year, at such convenient times as the Chief Harbour Master directs, by a shipwright-surveyor and by an engineer-surveyor appointed under this Act.

Surveyors to make declarations of survey.

(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 steamship in question (and also, if the Chief Harbour Master so requires, a statement of the number of passengers, whether deck passengers or other passengers, which such steamship 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 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 :

And each such declaration shall distinguish whether such steamship 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 steamship is, in the judgment of such surveyor, adapted for plying.

Owner to transmit declarations.

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

**32.** (1.) Whenever possible, such survey shall be made and such declaration transmitted within thirty days after the expiration of the certificate on last survey granted, as hereinafter mentioned.

Times appointed for the surveys.

(2.) If the owner of any such steamship as aforesaid is unable to have the same surveyed within such thirty days as aforesaid, either by reason of such steamship being absent from the jurisdiction during the whole of such period, or by reason of such steamship or the machinery thereof being under repair, or of such steamship being laid up in dock, or for any other reason satisfactory to the Chief Harbour Master, then the owner of such steamship shall have the same surveyed as aforesaid as soon thereafter as possible, and shall transmit such declarations to the Chief Harbour Master within fourteen days after the date thereof, together with a statement of the reasons which have prevented the survey of such steamship at the time hereinbefore prescribed.

Exceptional cases.

(3.) The owner of every such steamship in respect of which such declarations have not been transmitted at the times and in the manner hereinbefore directed shall, except in any case in which the survey of such steamship has been prevented as hereinbefore provided, forfeit the sum of ten shillings for every day that the transmission of such declarations is delayed, and such sum shall be paid upon the issue of the certificate hereinafter mentioned, together with the fee hereinafter prescribed, unless the Chief Harbour Master thinks fit in any case to remit such forfeiture or any part thereof.

Penalty.

**33.** (1.) Upon the receipt of such declarations the Chief Harbour Master shall register the same, and, if satisfied that this part of this Act has been complied with, shall transmit to the master or owner of the steamship to which the declarations refer a certificate of such compliance, signed by the Chief Harbour Master or person duly appointed to act for him.

Chief Harbour Master to issue certificates.

(2.) (a.) Where, according to the declaration of the surveyor, the steamship in question is adapted for sea service as well as harbour, river, or lake service, the certificate shall be termed a "sea-going certificate."

Certificates to be distinguished.

(b.) Where, according to such declaration, the steamship is adapted for limited coasting voyages, the certificate shall be termed a "limited coasting certificate."

(c.) Where, according to such declaration, the steamship is adapted for harbour, river, or lake service only, the certificate shall be termed a "harbour or river certificate."

(3.) Where any steamship is constructed to carry passengers, the Chief Harbour Master shall, to prevent overcrowding, insert in the certificate the number of passengers, whether deck or other

Chief Harbour Master may limit number of passengers.

passengers, which such steamship is constructed to carry, or is authorised to carry by the Merchant Shipping Act.

Local limits.

(4.) Every certificate shall set out the local limits, if any, within which the steamship is to ply.

Chief Harbour Master to transmit lists.

(5.) The Chief Harbour Master shall transmit lists of the steamships in respect of which certificates have been issued to the officers of customs in all ports within the jurisdiction, and such officers shall cause such lists to be put up in a conspicuous place in the custom house at each port.

Chief Harbour Master may recognise certain certificates,

**34.** (1.) The Chief Harbour Master may accept and recognise all unexpired certificates in legal operation issued under any Act or Statute in force in the United Kingdom or in any British possession to any steamship trading to or from any port within the jurisdiction, and the acceptance of any such certificate shall be as valid and effectual for all purposes as if such certificate had been issued under this Act.

or may reject them.

(2.) The Chief Harbour Master may disallow and reject any such certificate whenever, in his opinion, the acceptance thereof would be attended with risk or uncertainty, and any certificate so disallowed and rejected shall, for and within the jurisdiction, be and be deemed to be a cancelled certificate.

Power of Chief Harbour Master to cancel certificates.

**35.** (1.) The Chief Harbour Master may revoke and cancel any certificate where he has reason to believe—

- (a.) that any declaration of the sufficiency and good condition of the hull or machinery of any steamship has been fraudulently or erroneously made; or
- (b.) that such certificate has otherwise been issued upon false or erroneous information; or
- (c.) that since the making of any declaration of the sufficiency and good condition of the hull or machinery of any steamship, such hull or machinery has sustained any injury, or is otherwise insufficient,

and whether such certificate was granted under this Act or any Act heretofore in force.

Chief Harbour Master may require fresh declarations.

(2.) In every such case the Chief Harbour Master may require the owner to have the hull or machinery of the steamship in question again surveyed, and to transmit a further declaration of the sufficiency and good condition thereof, before he re-issues any certificate or grants a fresh one in lieu thereof.

Number of passengers in certificate.

(3.) The Chief Harbour Master may at any time revoke any certificate for the purpose of inserting in any certificate to be granted

in lieu thereof the number of passengers which the steamship to which such certificate relates is constructed to carry or is authorised to carry as aforesaid.

**36.** No certificate of any steamship shall be held to be in force for the purposes of this Act for more than six months; and no certificate shall be in force after notice by the Chief Harbour Master to the owner or master of the vessel to which the same relates that he has revoked the same :

How long certificates to continue in force.

Provided that, if any such steamship has been absent from the jurisdiction for the whole of the thirty days next before the expiration of the certificate last granted in respect of such steamship, such last certificate (if not expressly cancelled or revoked) shall continue in force till twenty-one days after the return of such steamship to the jurisdiction.

**37.** The owner of every steamship requiring a certificate under this Act shall pay for every certificate granted by the Chief Harbour Master such sum as the Chief Harbour Master appoints, not exceeding the sums following. that is to say :—

Fees to be paid for certificates.

- (1.) Where the tonnage of such steamship does not exceed fifty tons, the sum of one pound ;
- (2.) Where such tonnage exceeds fifty tons and does not exceed one hundred tons, the sum of two pounds ;
- (3.) Where such tonnage exceeds one hundred tons and does not exceed three hundred tons, the sum of three pounds ; and
- (4.) Where such tonnage exceeds three hundred tons, an additional pound for every additional three hundred tons or part thereof.

**38.** The owner or master of any steamship shall forthwith, on receipt of any such certificate as aforesaid, cause the same, or a true copy thereof in distinct and legible characters, to be exhibited in some conspicuous part of the said steamship so long as such certificate is in force, under a penalty not exceeding ten pounds.

Copy of certificate to be placed in conspicuous part of steamship.

**39.** (1.) No steamship, the owner or master of which has not received from the Chief Harbour Master a valid and unexpired certificate as hereinbefore provided, shall proceed to sea or upon any voyage or excursion.

Steamship not to proceed on her voyage without certificate.

(2.) If any steamship proceeds to sea or on any such voyage or excursion without having such certificate or a true copy thereof so exhibited as aforesaid, the owner or master shall, for every such offence, incur the following penalties, namely, the owner a penalty not exceeding one hundred pounds, and the master a penalty not exceeding twenty pounds.

Penalty on owner, etc., for carrying more passengers than specified in certificate.

**40.** (1.) No steamship shall carry a greater number of passengers, whether deck or other passengers, than the numbers stated in the certificate.

(2.) The owner or master of any steamship on board which there is found a greater number of such passengers than the numbers thereof specified in such certificate shall incur a penalty not exceeding twenty pounds, and a further penalty of five shillings for every passenger over and above such specified number.

*Division 3.—Duties of surveyors.*

Surveyors to make returns of the build, etc., of steamships.

**41.** (1.) Engineer and shipwright surveyors shall make such returns to the Chief Harbour Master with respect to the build, dimensions, draft, burden, rate of sailing, room for fuel, and the nature and particulars of machinery of the steamships surveyed by them, as the Chief Harbour Master requires.

Owners, masters, and engineers to give information.

(2.) Every owner, master, and engineer of any such steamship shall, on demand, give to such surveyors all such information and assistance within his power as may be required by such surveyors for the purpose of such returns.

Penalty.

(3.) Every such owner, master, and engineer who, on being applied to for that purpose, wilfully refuses or neglects to give such information or assistance shall incur a penalty not exceeding fifty pounds.

Surveyors to act under direction of the Chief Harbour Master to be allowed to go on board steamships to inspect.

**42.** (1.) The said surveyors shall execute their duties under the direction of the Chief Harbour Master, and in the execution of such duties they may go on board any steamship at all reasonable times to inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof to which the provisions of this part of this Act or any of the regulations to be made by virtue thereof apply, not unnecessarily detaining or delaying such steamship from proceeding on any voyage.

Chief Harbour Master may require steamship to be docked.

(2.) If in consequence of any accident to any such steamship or for any other reason he considers it necessary, the Chief Harbour Master may require such steamship to be taken into dock or placed on a slip or on any other convenient place to be surveyed.

Penalty.

(3.) Whosoever obstructs or hinders any such surveyor in going on board any such steamship, or otherwise impedes him in the execution of his duty, shall incur a penalty not exceeding fifty pounds.

Penalty on surveyors demanding or receiving fees unlawfully.

(4.) Every surveyor or other officer who demands or receives directly or indirectly from the owner or master of any steamship surveyed by him under the provisions hereof any fee or remuneration whatsoever for or in respect of such survey, or otherwise than in accordance with the provisions of this Act, shall incur a penalty not exceeding one hundred pounds.

*Division 4.—Duties of owners.*

**43.** (1.) No steamship liable to survey by the provisions of this Act shall go to sea, or steam upon any navigable waters within the jurisdiction, without having two safety-valves upon each boiler, one of which shall be out of the control and interference of the engineer, except only for the purpose of opening the same and keeping it free; and such safety-valve shall be deemed to be a necessary part of the machinery upon the sufficiency of which the engineer-surveyor is to report as herein provided.

Steamships to carry safety-valves out of control of engineer and to be deemed a necessary part of machinery.

(2.) If any such steamship goes to sea, or steams upon such navigable waters, without having such safety-valves upon each boiler in manner aforesaid, the owner thereof shall incur a penalty not exceeding one hundred pounds.

**44.** (1.) No steamship shall go to sea unless provided with a hose adapted for the purpose of extinguishing fire in any part of such steamship and capable of being connected with her engines, nor, if carrying passengers, without being provided with the following means of making signals of distress, that is to say, twelve blue lights or twelve port fires and one cannon with ammunition for at least twelve charges, or with such other means of making signals as shall be approved by the Chief Harbour Master.

No steamship to proceed to sea without being provided with hose and signals.

(2.) If any steamship goes to sea or steams upon any navigable waters within the jurisdiction in contravention of any provision of this section, the owner thereof shall incur a penalty not exceeding one hundred pounds.

**45.** Whenever any steamship has sustained or caused any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting her seaworthiness or efficiency, either in her hull or in any part of her machinery, the owner or master of such steamship shall, within twenty-four hours after the happening of such accident or damage, or as soon thereafter as possible, transmit through the post to the Chief Harbour Master, by letter signed by such master, a report of such accident or damage and the probable occasion thereof, stating the name of such steamship, the port to which she belongs, and the place where she is.

Accidents to be reported to Chief Harbour Master.

If such master neglects so to do, he shall for such offence incur a penalty not exceeding fifty pounds.

**46.** If the owner of a steamship has reason to believe that such steamship has been wholly lost, he shall with all possible despatch send notice thereof to the Chief Harbour Master.

Notice to be given of apprehended loss of steamships.

If such owner neglects so to do within a reasonable time, he shall for such offence incur a penalty not exceeding fifty pounds.

*Division 5.— Certain offences.*

## Offences.

**47.** Whosoever—

Drunk and disorderly passengers.

(a.) being drunk or disorderly, has been on that account refused admission into any duly surveyed passenger steamship by the owner or any person in his employ, and, after having had the amount of his fare (if he has paid the same) returned or tendered to him, nevertheless persists in attempting to enter such steamship; or

Drunk and disorderly passengers

(b.) being drunk or disorderly on board such steamship, is requested by the owner or any person in his employ to leave the same at any place which such steamship visits in Western Australia, and, having had the amount of his fare (if he has paid the same) returned or tendered to him, refuses to comply with such request; or

Persons molesting passengers.

(c.) being on board any such steamship, after warning by the master or any other officer of the steamship, molests or continues to molest any passenger; or

Persons boarding without permission of master.

(d.) having got on board such steamship without the permission of the master or other officer in authority, refuses to leave such steamship after being requested to do so by such master or officer; or

Persons forcing their way on board ship when full.

(e.) after having been refused admission into any such steamship by the owner or any person in his employ on account of such steamship being full, and, after having had the full amount of his fare (if he has paid the same) returned or tendered to him, nevertheless persists in attempting to enter the same; or

Persons refusing to quit the ship when full.

(f.) having got on board any such steamship, upon being requested on the like account by the owner or any person in his employ to leave such steamship before she has quitted the place at which such person got on board, and, upon having the full amount of his fare (if he has paid the same) returned or tendered to him, refuses to comply with such request; or

Persons avoiding payment of fares.

(g.) travels or attempts to travel in any such steamship without having previously paid his fare when demanded and with intent to avoid payment thereof; or

(h.) having paid his fare for a certain distance, knowingly and wilfully proceeds in any such steamship beyond such distance without previously paying the additional fare for the additional distance when demanded and with intent to avoid payment thereof; or

(i.) knowingly and wilfully refuses or neglects, on arriving at the place or point to which he has paid his fare, to quit any such steamship; or



- (j.) being on board any such steamship does not, when required by the master or other officer of such steamship, either pay his fare or exhibit such ticket or other receipt (if any) showing the payment of his fare as is usually given to persons travelling by and paying their fare for such steamship,

shall for every such offence be liable to a penalty not exceeding twenty pounds, but that liability shall not affect the right to recover any fare payable by him.

**48.** Whosoever on board any such steamship wilfully does or causes to be done anything in such a manner as— Penalty for injuring steamship or molesting crew.

- (a.) to obstruct or injure any part of the machinery or tackle of such steamship; or
- (b.) to obstruct, impede, or molest the crew or any of them in the navigation or management of such steamship or otherwise in the execution of their duty upon or about such steamship,

shall for every such offence be liable to a penalty not exceeding one hundred pounds.

**49.** Whosoever, having committed any offence mentioned in either of the last two preceding sections, refuses, on application of the master, to give his name and address, or on such application gives a false name or address, shall be liable to a penalty not exceeding twenty pounds. Penalty on offenders refusing to give their name and address.

**50.** The master or other officer of any duly surveyed passenger steamship, and all persons called by him to his assistance, may detain any person who has committed any offence against any of the provisions of the three last preceding sections, and whose name and address are unknown to such officer, and may convey such offender with all convenient despatch before some justice without any warrant or other authority than this Act; and such justice shall have jurisdiction to try the case, and shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender. Apprehension of offenders.

#### PART V.—EXAMINATIONS AND CERTIFICATES.

##### *Division 1.—Examinations and certificates of masters, mates, and engineers.*

##### *(i.) Examinations and certificates of masters and mates.*

**51.** (1.) The Chief Harbour Master may provide for the examination of persons who desire to qualify themselves as masters or mates of foreign-going or coast-trade ships, or who wish to procure certificates of competency as hereinafter described; and the Governor may Examination of masters and mates.

appoint examiners to conduct such examinations, and the Chief Harbour Master may be present and assist at any such examination.

Powers of Governor  
as to examination.

(2.) The Governor may lay down rules as to the conduct of such examinations, and as to the qualifications of the applicants, and such rules shall be strictly adhered to by all examiners.

Examiner to possess  
a certificate of  
qualification.

(3.) No examiner shall be appointed unless he possesses a certificate of qualification, to be from time to time granted or renewed by the Governor.

Chief Harbour  
Master may appoint  
assistant.

(4.) The Chief Harbour Master may at any time depute any of his officers to be present and assist at any examination, and if it appears to him that the examinations for any two or more ports can be conducted without inconvenience by the same examiners, he may require and authorise such examination to be so conducted.

Certificates of  
competency to be  
granted to those  
who pass.

**52.** The Chief Harbour Master shall deliver to every applicant who is duly reported by the examiners to have passed his examination satisfactorily and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct on board ship, a certificate hereinafter called a "certificate of competency," to the effect that he is competent to act as master, or as first, second, or only mate of a foreign-going ship, or as master or mate of a coast-trade ship, or master of a harbour and river steamer, as the case may be:

Provided that, in every case in which the Chief Harbour Master has reason to believe such report to have been unduly made, he may remit the case either to the same or to any other examiners, and may require a re-examination of the applicant or a further inquiry into his testimonials and character before granting him a certificate.

(ii.) *Examinations and certificates of engineers.*

Classes of  
certificates.

**53.** Engineers' certificates shall be of three grades, namely:—

First-class engineers' certificates;

Second-class engineers' certificates; and

Third-class engineers' certificates.

Examinations for  
engineers'  
certificates of  
competency.

**54.** (1.) The Chief Harbour Master shall cause examinations to be held of persons desirous of obtaining certificates of competency as engineers.

(2.) For the purpose of such examinations the Governor may appoint examiners and award the remuneration to be paid to them, and shall lay down rules as to the qualification of applicants and as to the times and places of examination, and generally do all such acts as he thinks expedient in order to carry into effect the examinations of such engineers as aforesaid.

55. The Chief Harbour Master shall deliver to every applicant who is duly reported to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, and ability, a certificate of competency as first-class or second-class or third-class engineer, as the case may be.

Certificates of competency to be delivered to those who pass.

(iii.) *Certificated officers on ships.*

56. (1.) Every foreign-going ship and every coast-trade ship going to sea from any port within the jurisdiction, and every harbour and river steamer plying within the jurisdiction, shall be provided with a master duly certificated under this Act.

Every ship to carry a master.

(2.) The following ships going to sea from any port within the jurisdiction shall be provided, in addition to the master, with officers, duly certificated under this Act, according to the following scale:—

Other officers.

(a.) If the ship is a foreign-going ship, with at least a first mate, or, if such ship carries more than one mate, with at least a first mate and a second mate;

(b.) If the ship is a coast-trade ship of one hundred tons burden or upwards, with at least a first mate.

(3.) Every such ship as aforesaid being a steamship shall, in addition to the requirements of the preceding subsection, be provided with engineers duly certificated under this Act, according to the following scale:—

Engineers on steamships.

(a.) If the ship is a foreign-going steamship of one hundred nominal horse-power or upwards, with at least a first and a second engineer, the first possessing a first-class engineer's certificate and the second a second-class engineer's certificate or a certificate of higher grade;

(b.) If the ship is a foreign-going steamship of less than one hundred nominal horse-power, or is a coast-trade steamship other than is mentioned in the next subdivision hereof, with at least one engineer possessing a second-class engineer's certificate or a certificate of higher grade;

(c.) If the ship is a coast-trade steamship of fifty nominal horse-power or under, trading between ports within the jurisdiction, or a harbour and river steamship, with at least one engineer possessing a third-class engineer's certificate or a certificate of higher grade.

(4.) Subject to the provisions of the preceding subsection, every person in charge of machinery and boilers, used for the purposes of navigation, on any British or foreign steamship carrying or

Machinery on vessels to be in charge of certificated engineer.

engaged in the trade of conveying passengers from any port within the jurisdiction to any port in any other part of His Majesty's dominions, shall hold a first or second-class engineer's certificate.

(5.) Every other ship using steam power for the purpose of navigation shall have as its only or first engineer an engineer possessing a third-class engineer's certificate, or a certificate of higher grade:

Provided that this enactment shall not apply to steam-launches, except such as are used for hire, or for the carriage of goods, or for towage purposes.

**Penalties.**

(6.) If any person whosoever—

(a.) goes to sea as master, mate, or engineer of any such ship, or plies on any harbour and river steamship without being duly certificated, whether such person was engaged to serve in such capacity or is acting therein without engagement; or

(b.) employs any person as such master, mate, or engineer without ascertaining that such person is duly certificated,

he shall be liable for each such offence to a penalty not exceeding fifty pounds:

And if the master of any ship employs any person as engineer to serve on board such ship without ascertaining that such person is duly certificated, such master and the owner of the said ship shall each be liable to the penalty aforesaid.

**Meaning of "duly certificated."**

(7.) A master, mate, or engineer shall not be deemed to be duly certificated within the meaning of this section, unless he is the holder for the time being of a valid certificate of competency or of service under this Act of a grade appropriate to his station in the ship, or of a higher grade:

Provided that the holder of any unexpired certificate of competency or of service granted to him in accordance with the provisions of any Act in force for the time being in Great Britain or in any of the British possessions shall be deemed for the purposes of this Act the holder of a valid certificate.

**Certificates to be produced.**

57. (1.) The master or owner of every ship shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or as soon thereafter as possible, produce to the shipping-master at the port at which the said ship may be the certificates of competency or service which the master, mate, or engineer of such ship is required by law to possess.

**Certificate of production.**

(2.) Upon production of every such certificate the shipping-master shall give to the master or owner a certificate of such production.

(3.) No officer of customs shall grant a clearance or transire for any such ship without the production of such last-mentioned certificate; and if any such ship attempts to ply or go to sea without such clearance or transire, any such officer may detain her until the said certificate is produced.

Clearance.

(iv.) *General provisions.*

58. Every person to whom a certificate of competency is granted shall pay for such certificate the fees specified in the First Schedule hereto, and such fees shall be paid into the Treasury to the consolidated revenue.

Fees for certificates.

59. Every applicant for examination shall pay the prescribed fees, and such fees shall be paid to such persons as the Chief Harbour Master directs, and shall be by them paid into the Treasury to the consolidated revenue.

Fees for examinations.

60. Every certificate of competency for a foreign-going ship shall be deemed to be of higher grade than the corresponding certificate for a coast-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in either of such last-mentioned ships or to serve in a harbour and river steamer; but no certificate for a coast-trade ship shall entitle the holder to go to sea as master, mate, or engineer of a foreign-going ship.

Certificate for foreign-going ship or steamship available for coast-trade ship or steamship.

61. All certificates whether of competency or service shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate and the other shall be kept and recorded by the Chief Harbour Master or by such other person as he directs.

Certificate, etc., to be recorded.

62. (1.) All cancellations, suspensions, alterations, or other proceedings in anywise affecting any certificate made or taken in pursuance of this Act shall be entered by the Chief Harbour Master in the record of certificates.

Cancellation, etc., of certificates to be recorded.

(2.) A copy, purporting to be certified by the Chief Harbour Master or other person as aforesaid, of any certificate shall be evidence of such certificate; and a copy purporting to be so certified as aforesaid of any entry made as aforesaid in respect of any certificate shall be evidence of the truth of the matters stated in such entry.

Duplicates and entries to be evidence.

63. (1.) Whenever any master, mate, or engineer proves to the satisfaction of the Chief Harbour Master that he has, without fault on his part, lost or been deprived of any certificate already granted to him, the Chief Harbour Master shall, upon payment of such fee (if any) as he directs, cause a copy of the certificate, to which by the

In case of loss, copy to be granted.

record so kept as aforesaid such master, mate, or engineer appears to be entitled, to be made out and certified as aforesaid, and to be delivered to him.

Copy to be valid.

(2.) Any copy which purports to be so made and certified as aforesaid shall be as valid and effectual as the original certificate.

Penalties for false representation, fraudulently using or lending any certificate.

**64.** Whosoever—

- (a.) makes, or procures to be made, or assists in making any false representation for the purpose of obtaining for himself or for any other person a certificate either of competency or of service ; or
- (b.) fraudulently makes use of any such certificate or any copy of such certificate which is forged, altered, cancelled, suspended, or to which he is not justly entitled ; or
- (c.) fraudulently lends his certificate to or allows the same to be used by any other person,

shall be deemed guilty of a misdemeanour.

*Division 2.—Examinations and certificates of marine surveyors.*

Examinations of marine surveyors.

**65.** (1.) The Chief Harbour Master may from time to time cause examinations of such persons as desire to qualify themselves as marine surveyors to be held.

Powers of Governor.

(2.) The Governor may make regulations respecting the time, place, and manner of holding such examinations, the persons by whom they are to be held, the subjects of examination, the conditions to which the candidates must conform, and the forms of certificates.

Certificate of competency.

**66.** The Chief Harbour Master shall issue to every person who has passed such examination to his satisfaction a certificate to be called “a certificate of competency.”

Certificate of service.

**67.** Every person who proves to the satisfaction of the Chief Harbour Master that he has, for a period of three years, practised as a marine surveyor at any port in Western Australia shall, if of good repute and character, be entitled to a certificate to be issued to him by the Chief Harbour Master, and to be called “a certificate of service.”

When Chief Harbour Master may cancel certificate of marine surveyor.

**68.** The Chief Harbour Master may cancel the certificate of any marine surveyor, whether of competency or service, granted under this Act if he is of opinion that any charge of fraud, collusion, neglect of duty, or other misconduct preferred before him against such surveyor has been established.

Provided that the person charged with such misconduct shall, before such cancellation, be called upon to show cause to the Chief Harbour Master against the cancellation of his certificate.

**69.** (1.) Whosoever, not holding a certificate under this Act either of service or of competency—

Penalty on uncertificated persons practising as marine surveyors.

(a.) practises as a marine surveyor; or

(b.) surveys any vessel; or

(c.) gives a certificate of such survey purporting to be the certificate of a marine surveyor or intended to have that effect,

shall be liable to a penalty of one hundred pounds.

(2.) The preceding subsection shall not apply to any person directed by a magistrate under section seventy hereof to survey or examine any vessel at any port other than Fremantle. Exception.

## PART VI.—SAFETY AND PREVENTION OF ACCIDENTS.

### *Division 1.—Unseaworthy ships.*

**70.** Where a British ship being in any port in Western Australia, by reason of the defective condition of her hull, equipment, or machinery, or by reason of undermanning or overloading or improper loading or ballasting, is unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, any such ship (hereinafter referred to as “unsafe”) may be provisionally detained for the purpose of being surveyed, or for ascertaining the sufficiency of the crew, and either finally detained or released, as follows:—

Power to detain unsafe ships and procedure for such detention.

- (1.) If the Chief Harbour Master has reason to believe, on complaint or otherwise, that a British ship is unsafe, he may provisionally order the detention of the ship for the purpose of being surveyed, or for ascertaining the sufficiency of the crew, and for the latter purpose may muster the crew.

In ports other than Fremantle a magistrate may, in the absence of the Chief Harbour Master, exercise the aforesaid powers.

- (2.) When a ship has been provisionally detained, the Chief Harbour Master or magistrate (as the case may be) shall cause to be served forthwith on the master of such ship a written statement of the grounds of her detention, and the Chief Harbour Master may, if he thinks fit, appoint some competent person to survey the ship and report thereon to him.
- (3.) The Chief Harbour Master, on receiving the said report, may either order the ship to be released, or, if in his opinion the ship is unsafe, he may order her to be finally detained either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations or the unloading or reloading of cargo or

the proper ballasting of such ship or the manning thereof as he thinks necessary to insure her safety for sea-going purposes, and may from time to time vary or add to any such order.

- (4.) Where a ship has been provisionally detained, the owner or master of the ship, at any time before the person appointed under this section to survey the ship makes such survey, may require that he shall be accompanied by such certificated marine surveyor as the owner or master selects. In such case, if the surveyors agree, the Chief Harbour Master shall cause the ship to be detained or released accordingly, but if they differ may act as if the requisition had not been made; and the owner and master shall have the like appeal touching the report of the official surveyor as hereinafter provided.
- (5.) The Chief Harbour Master may at any time, if satisfied that a ship detained under this Act is not unsafe, order her to be released either with or without conditions.

Appeal to Court of Marine Inquiry.

**71.** Before the order for final detention of a ship alleged to be unsafe is made, a copy of the report of the survey of the ship shall be served upon the master of the ship, and, within seven days after that service, the owner or master may appeal to a Court of Marine Inquiry in manner directed by the rules of that Court.

Magistrates may be appointed to hear appeals.

**72.** (1.) The Governor may appoint any magistrates to sit as Magistrates of Courts of Marine Inquiry for the purpose of hearing and determining such appeals, and any one or more of the magistrates so appointed may so sit, and all the provisions of this Act relating to Magistrates of a Court of Marine Inquiry shall apply to such magistrates so sitting.

Reference to Court by Minister.

(2.) Where any such ship has been provisionally detained the Minister may at any time, if he thinks it expedient, refer the matter to a Court of Marine Inquiry.

Liability of the Government for wrongful detention in certain cases.

**73.** (1.) If any ship is detained wrongfully and without reasonable and probable cause under the powers conferred by the next preceding section, the owner of such ship may bring an action for compensation against the Government under the provisions of the Crown Suits Act, 1898, for loss or damage sustained by him in consequence of such detention, including the costs of or incidental to the detention and survey of the ship.

Practice.

(2.) In such action the Minister shall be the nominal defendant.

Payment of damages.

(3.) All damages and costs of suit adjudged against such nominal defendant shall be paid pursuant to the provisions of the Crown Suits Act, 1898.



**74.** Where a joint or several affidavit or statutory declaration by at least one-fourth of the crew of a foreign-going ship, or by at least two of the crew of a coast-trade ship is made to the Chief Harbour Master, or, in ports other than Fremantle and in the absence of the Chief Harbour Master, to a magistrate, that a British ship is unsafe, the Chief Harbour Master or magistrate (as the case may be) shall take all proper and reasonable measures for ascertaining whether the ship ought to be detained under this Act or not. The Chief Harbour Master or any magistrate is hereby authorised to take any such affidavit or declaration, and for that purpose may administer an oath or take a solemn declaration.

Ship may be detained on affidavit that she is unsafe.

**75.** (1.) Where under this Act a ship is authorised or ordered to be detained, any commissioned officer on full pay in the naval or military service of His Majesty, or the Chief Harbour Master, or any officer of the Department of Navigation or of the Customs or of the police force, may detain the ship.

Enforcing detention of ship.

(2.) If the ship after such detention, or after service on the master of any notice of or order for such detention, proceeds to sea without having been duly released, the master of the ship shall be guilty of a misdemeanour, and shall be liable to imprisonment, with or without hard labour, for not exceeding three years; and the owner and any person who sends the ship to sea, if such owner or person be party or privy to the offence, shall incur a penalty not exceeding one hundred pounds.

Penalty for proceeding to sea after detention.

(3.) Where a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any officer authorised to detain the ship or other officer as aforesaid, the owner and master of the ship shall each be liable to pay all expenses of and incidental to such officer being so taken to sea, and also a penalty not exceeding one hundred pounds, or (at the option of the prosecutor) not exceeding ten pounds for every day until such officer returns, or until such time as would enable him after leaving the ship to return to the port from which he is taken, and such expenses may be recovered in like manner as the penalty.

Penalty for taking detaining officer to sea.

**76.** (1.) Any officer authorised to act as a detaining officer under this Act shall have, for the purpose of carrying out his duties under this Act, the same powers as an inspector under this Act; and the provisions of this Act with respect to persons who wilfully impede an inspector, or disobey a requisition or order of an inspector, shall apply to persons committing the like offences in respect of detaining officers.

Supplemental provisions as to detention of ship.

(2.) An order for the detention of a ship, provisional or final, or any order varying the same, shall be served as soon as may be on the master of the ship.

Service of order.

Transfer of registry.

(3.) When a ship has been detained under this Act she shall not be released by reason of her register being subsequently closed or transferred.

Powers of surveyors.

(4.) For the purposes of a survey under this Division of this Act any person authorised to make the same may go on board a ship and inspect the same and every part thereof, and the machinery, equipments, and cargo, and may require the unloading or removal of any cargo, ballast, or tackle.

Application to foreign ships of provision as to detention.

**77.** (1.) Where a foreign ship being in any port in Western Australia is unsafe by reason of overloading, improper loading, or ballasting, or undermanning, the provisions of this Act with respect to the detention of ships shall apply to such ship as if she were a British ship, but with the following modifications:—

(a.) A copy of the order for the provisional detention of the ship shall be forthwith served on the consular officer for the State to which the ship belongs at or nearest to the place where the ship is detained.

(b.) Where the ship has been provisionally detained the consular officer, on the request of the owner or master of the ship, may require that the person authorised to survey the ship shall be accompanied by such person as the consular officer selects; and in such case if the surveyor and such person agree, the Chief Harbour Master shall cause the ship to be detained or released accordingly, but if they differ he may act as if the requisition had not been made, and the owner and master shall have the same right of appeal to the Governor as is hereinbefore provided by this Act with respect to the detention of British ships.

Meaning of "consular officer."

(2.) In this section the expression "consular officer" means any consul-general, vice-consul, consular agent, or other officer recognised by the Governor as a consular officer of a foreign State.

#### *Division 2.—Life-saving appliances.*

Rules.

**78.** (1.) The rules contained in the Second Schedule hereto shall, subject to the provisions of the next following subsection, be of the same force as if they were enacted in the body of this Act.

(2.) The Governor may, by proclamation in the *Government Gazette*, repeal, alter, suspend, or modify any of such rules, or make new rules in addition thereto or in substitution therefor, so as to conform so far as possible with the rules made or to be made under the Merchant Shipping Act; and any such alteration in or addition to the rules shall be of the same force as if it had been enacted in this Act.

**79.** In any of the following cases, namely—

Penalties.

- (a.) if any ship required by the rules to be provided with appliances for saving life at sea, proceeds on any voyage or excursion without being so provided in accordance with the rules applicable to the ship; or
- (b.) if any of the appliances with which she is so provided are lost or rendered unfit for service in the course of the voyage through the wilful fault or negligence of the owner or master; or
- (c.) if in case of any such appliances being lost or injured in the course of the voyage, the master wilfully neglects to replace or repair the same on the first opportunity; or
- (d.) if such appliances are not kept so as to be at all times fit and ready for use;

then if the owner is proved to be in fault he shall incur a penalty not exceeding one hundred pounds, and if the master is proved to be in fault he shall incur a penalty not exceeding fifty pounds.

**80.** (1.) Any surveyor appointed under this Act, or any such other person as the Governor appoints for the purpose, may inspect a ship for the purpose of seeing that she is properly provided with appliances for saving life at sea in conformity with this Act, and shall, for that purpose, have all the powers of an inspector under this Act.

Inspection of ships.

(2.) If any such surveyor or person finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what, in his opinion, is requisite to remedy the same.

Notice of deficiencies.

(3.) Every notice so given shall be communicated, in such manner as the Governor directs, to the chief officer of Customs at any port at which the ship seeks to obtain a clearance or transire, and the ship shall be detained till a certificate, under the hand of any such surveyor or person appointed by the Governor as aforesaid, is produced to the effect that the ship is properly provided with appliances for saving life at sea in conformity with this Act.

Ship to be detained by officer of Customs.

### *Division 3.—Deck and load-lines.*

**81.** (1.) Every British ship except—

Deck-lines.

- (a.) coast trade ships under eighty tons register;
- (b.) ships employed solely in fishing;
- (c.) pleasure yachts; and
- (d.) ships employed exclusively in trading or going from place to place in any river or inland water, the whole or part of which is within the jurisdiction,

shall be permanently and conspicuously marked with lines, in this Act called deck-lines.

Dimensions, position, and colour of deck-lines.

(2.) Such lines shall be not less than twelve inches in length and one inch in breadth, and shall be painted longitudinally on each side amidships, or as near thereto as is practicable, and shall indicate the position of each deck which is above water.

The upper edge of each of the deck-lines must be level with the upper side of the deck-plank next the waterway at the place of marking; and the deck-lines must be white or yellow on a dark ground, or black on a light ground.

Expression "amidships."

(3.) In this section the expression "amidships" means the middle of the length of the load water-line as measured from the fore side of the stem to the aft side of the stern-post.

Load-lines.

**82.** (1.) The owner of every British ship proceeding to sea from a port in Western Australia (except coast-trade ships under eighty tons register, ships employed solely in fishing, and pleasure yachts) shall, before the time hereinafter in this Act mentioned, mark upon each of her sides amidships within the meaning of the last preceding section, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter with a horizontal line eighteen inches in length drawn through its centre.

Position of load-lines.

(2.) The centre of this disc shall be placed at such level as may be approved by the Chief Harbour Master below the deck line marked under or in accordance with this Act, and specified in the certificate given thereunder, and shall indicate the maximum load-line in salt water to which it shall be lawful to load the ship.

Merchant Shipping Act, 1894.

(3.) The position of the disc shall be fixed in accordance with the tables in use for the time being under the Merchant Shipping Act, subject to such allowance as may be made necessary by any difference between the position of the deck-line marked under this Act and the position of the line from which freeboard is measured under the said tables.

Ship with submerged load-line deemed unsafe.

**83.** If a ship is so loaded as to submerge in salt water the centre of the disc indicating the load line, the ship shall be deemed to be an unsafe ship within the meaning of the provisions of this Act, and such submersion shall be a reasonable and probable cause for the detention of the ship.

Time for marking load-line in case of foreign-going vessels.

**84.** (1.) Where a ship proceeds on any voyage from a port in Western Australia for which the owner is required to enter the ship outwards, the disc indicating the load-line shall be marked before so entering her, or if that is not practicable, as soon afterwards as may be.

Statement by owner.

(2.) The owner of the ship shall, upon entering her outwards, insert in the form of entry a statement in writing of the distance in feet and inches between the centre of this disc and the upper edge of

each of the deck-lines which is above that centre, and if default is made in inserting that statement the ship may be detained.

(3.) The master of the ship shall enter a copy of that statement in the agreement with the crew before it is signed by any member of the crew, and a shipping-master shall not proceed with the engagement of the crew until that entry is made.

Statement to be entered in agreement.

(4.) The master of the ship shall also enter a copy of that statement in the official log-book.

And in log-book.

(5.) When a ship to which this section applies has been marked with a disc indicating the load-line, she shall be kept so marked until her next return to a port of discharge in Western Australia.

**85.** (1.) Where a coast-trade ship is required to be marked with the disc indicating the load-line, she shall be so marked before the ship proceeds to sea from any port; and the owner shall also, once in twelve months, immediately before the ship proceeds to sea, transmit or deliver to the chief officer of Customs of the port of registry of the ship a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the deck-lines which is above that centre.

Marking load-line in case of coast-trade vessels.

(2.) The owner, before the ship proceeds to sea after any renewal or alteration of the disc, shall transmit or deliver to the chief officer of Customs of the port of registry of the ship notice in writing of that renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

Renewal of alteration to be notified.

(3.) If default is made in transmitting or delivering any notice or statement under this section, the owner shall, for each offence, be liable to a fine not exceeding one hundred pounds.

Penalty.

(4.) When a ship to which this section applies has been marked with a disc indicating the load-line, she shall be kept so marked until notice is given of an alteration.

**86.** (1.) If—

(a.) any owner or master of a British ship fails without reasonable cause to cause his ship to be marked as by this Act required or to keep her so marked, or allows the ship to be so loaded as to submerge in salt water the centre of the disc indicating the load-line; or

(b.) any person conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event of the particulars thereby denoted being lawfully altered,

Penalties for failure to mark deck and load lines, etc.

or except for the purpose of escaping capture by an enemy,

he shall for each offence be liable to a fine not exceeding one hundred pounds.

Penalty for inaccurate marks.

(2.) If any mark required by this Act is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall, for each offence, be liable to a fine not exceeding one hundred pounds.

Powers of Superintendent.

**87.** (1.) The Chief Harbour Master may approve and certify from time to time the position of the disc indicating the load line, and any alteration thereof, and may appoint fees to be taken in respect of any such approval or certificate.

Regulations.

(2.) The Governor may make regulations to conform so far as possible with the regulations of the Board of Trade—

- (a.) determining the lines or marks to be used in connection with the disc in order to indicate the maximum load-line under different circumstances and at different seasons, and declaring that the provisions of this Act as to load-lines shall have effect as if any such line were drawn through the centre of the disc; and
- (b.) as to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship, whether by painting, cutting, or otherwise; and
- (c.) as to the mode of application for, and form of certificates under, this section; and
- (d.) requiring the entry of those certificates, and other particulars as to the draught of water and freeboard of the ship in the official log-book of the ship or other publication thereof on board the ship, and requiring the delivery of copies of those entries,

and from time to time may, by regulations, repeal, alter, suspend, or modify any of the said regulations, or may make new regulations in addition thereto, or in substitution therefor, so as to conform so far as possible with the said regulations of the Board of Trade.

Publication of regulations; and penalty for breach.

(3.) All regulations made under this section shall, when published in the *Government Gazette*, and while in force, have effect as if enacted in this Act, and if any person fails without reasonable cause to comply with any such regulation made with respect to the entry, publication, or delivery of copies of certificates or other particulars as to the draught of water and freeboard of a ship, he shall, for each offence, be liable to a fine not exceeding one hundred pounds.

(4.) Where, in pursuance of the regulations, any such certificate is required to be delivered, a statement in writing as to the disc and deck-lines of a ship need not be inserted in the form of entry, or transmitted, or delivered to a chief officer of Customs under the provisions hereinbefore contained.

Delivery of  
certificate.

88. (1.) Any load-line fixed and marked and any certificate given in accordance with the Merchant Shipping Act shall have the same effect as if it had been fixed, marked, or given in accordance with this Act.

Load-lines and  
certificates under  
Merchant Shipping  
Act.

(2.) Where the legislature of any British possession by any enactment provides for the fixing, marking, and certifying of load-lines on ships registered in that possession, and it appears to the Governor that that enactment is based on the same principles as the provisions of this Act relating to load-lines, and is equally effective for ascertaining and determining the maximum load-lines to which these ships can be safely loaded in salt water, and for giving notice of the load-line to persons interested, the Governor, by proclamation in the *Government Gazette*, may declare that any load-line fixed and marked, and any certificate given in pursuance of that enactment shall, with respect to ships so registered, have the same effect as if it had been fixed, marked, or given in pursuance of this Act.

And under colonial  
enactments.

89. Where the Chief Harbour Master certifies that the laws and regulations for the time being in force in any foreign country, and relating to overloading and improper loading, are equally effective with the provisions of this Act relating thereto, the Governor, by proclamation in the *Government Gazette*, may direct that, on proof of a ship of that country having complied with those laws and regulations, she shall not, when in a port of Western Australia, be liable to detention for non-compliance with the provisions of this Act, nor shall there arise any liability to any fine or penalty which would otherwise arise for non-compliance with those provisions:

Load-lines on  
foreign ships.

Provided that this section shall not apply in the case of any foreign country in which it appears to the Governor that corresponding provisions are not extended to British ships.

Application of this  
section.

#### *Division 4.—General provisions.*

90. (1.) The regulations set forth in the Third Schedule hereto shall, subject to the provisions of the next following subsection, be of the same force as if they were enacted in the body of this Act.

Regulations.

(2.) The Governor may annul or modify any of the said regulations, or make new regulations in addition thereto or in substitution therefor, and any such alteration in or addition to the regulations shall be of the same force as if it had been enacted in this Act.

Service of order on master, etc.

**91.** (1.) Where any order, notice, statement, or document requires, for the purpose of any provision of this part of this Act, to be served on the master of a ship, the same shall be served, where there is no master and the ship is in the jurisdiction, on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in Western Australia, or, where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

Service how effected.

(2.) Any such order, notice, statement, or document may be served—

(a.) by delivering a copy thereof personally to the person to be served ; or

(b.) by leaving the same at his last place of abode ; or

(c.) in the case of a master, by leaving it for him on board the ship with the person being or appearing to be in command or charge of such ship.

Penalty.

(3.) Whosoever obstructs the service of any order, notice, statement, or document on the master of a ship shall incur a penalty not exceeding ten pounds ; and if the owner or master of the ship is party or privy to such obstruction he shall be guilty of a misdemeanour.

#### PART VII.—MISCELLANEOUS PROVISIONS AND LEGAL PROCEDURE.

Jurisdiction to follow offence and offenders.

**92.** For the purpose of giving jurisdiction under this Act every offence shall be deemed to have been committed, and every cause of complaint to have arisen either—

(1.) In the place in which the same actually was committed or arose ; or

(2.) In any place in which the offender or person complained against may be.

Service of summons, etc., when good.

**93.** Service of any summons or other process in any legal proceeding under this Act shall be deemed good service if made—

(1.) Personally on the person to be served ; or

(2.) At his last known place of abode or business ; or

(3.) On board any ship or vessel to which he belongs, and, accompanied with a statement of the purport thereof, to the person being or appearing to be in command or charge of such ship or vessel.

Burden of proof that a ship is exempted.

**94.** If in any legal proceedings under this Act any question arises whether any ship or person is or is not within the provisions of this Act or of some part thereof, such ship or person shall be taken to be within such provisions unless proof to the contrary is adduced.



**95.** (1.) All certificates purporting to be issued in pursuance of this Act by the Chief Harbour Master, and to be signed as hereinbefore required, shall be taken to have been so issued and signed unless the contrary is proved.

Proof of issue and transmission of certificates.

(2.) Every document purporting to be an office copy of any such certificate as aforesaid, and to be signed in the manner hereinbefore required for the signature of such certificate, shall be received in evidence, and shall be deemed to be a true copy of the original of which it purports to be a copy.

Office copies of certificates.

(3.) In proving the transmission of any such certificate from the Chief Harbour Master to any master or owner of a steamship or to any other person required by this Act to possess such a certificate, it shall be sufficient to prove that the same—

Proof of transmission of certificate.

(a.) was duly received by some officer of Customs or other officer or person in the Public Service, and was by him delivered to or left at the place of abode or business of such master, owner, or other person; or

(b.) was forwarded to him through the post.

**96.** (1.) The name and address of the managing owner for the time being of every British ship registered at any port in Western Australia shall be registered at the custom-house of the ship's port of registry. Where there is not a managing owner there shall be so registered the name of the ship's husband or other person to whom the management of the ship is intrusted by or on behalf of the owner, and any person whose name is so registered shall, for the purposes of this Act, be under the same obligations and subject to the same liabilities as if he were the managing owner.

Ship's managing owner or manager to be registered.

(2.) If default is made in complying with this section, the owner shall be liable, or if there are more owners than one, each owner shall be liable in proportion to his interest in the ship, to a penalty not exceeding in the whole one hundred pounds each time the ship leaves any port in Western Australia.

Penalty.

**97.** As to every ship registered at any port in the United Kingdom or any British possession the amount of tonnage specified in the certificate of registry shall for the purposes of this Act be deemed to be the tonnage of such ship.

Tonnage of British ships.

**98.** In case the tonnage of any ship entering any port within the jurisdiction has not been registered, or any dispute arises as to the tonnage thereof, the Collector of Customs shall measure such ship in the manner prescribed by the Imperial Act in force for the time being regulating the mode of measurement for British ships.

Provision for disputed tonnage.

**99.** The Governor may make regulations—

(1.) Imposing penalties, in no case to exceed the sum of one hundred pounds, for the violation or infringement of any

Power to make penal regulations.

regulation made by him in pursuance of the powers conferred by this Act; and

- (2.) Imposing penalties, in no case to exceed ten pounds, for ~~the~~ the neglect of any duty or obligation imposed by this Act in respect of which violation or neglect no other penalty has been prescribed.

Power to make regulations under 42 Vict., No. 24.

**100.** The Governor may make regulations under the Boat Licensing Act, 1878, and may impose any penalty not exceeding twenty pounds for the breach of any such regulations. Such regulations may apply as well to boats and vessels let on hire as to boats and vessels plying for hire.

Rules and regulations to be published in the *Government Gazette*,

**101.** (1.) All rules and regulations made by the Governor, and all alterations in and repeals of rules and regulations under the provisions of this Act, shall, unless otherwise stated therein, take effect from the date of their publication in the *Government Gazette*.

and laid before Parliament.

(2.) All such rules and regulations shall forthwith be laid before Parliament if it is then sitting, and if not, then within thirty days after the commencement of the next session.

Misdemeanours, how punishable.

**102.** (1.) All misdemeanours created by this Act may be prosecuted by information at the suit of the Attorney General, and shall be punishable with fine or imprisonment, or both, as the Court thinks fit.

Penalties, etc., how recoverable.

(2.) All offences against this Act, or any regulation made under this Act, in respect of which any pecuniary penalty is imposed, and all proceedings for the recovery of any expenses or sum of money by this Act made payable or recoverable shall (unless otherwise hereinbefore provided for) be heard and determined in a summary way by and before any two justices.

Application of penalties.

**103.** Any justices or court imposing any penalty under this Act of which no specific application is provided may, if they think fit, direct that a part not exceeding one moiety thereof shall be applied to compensate any person for any wrong or damage which he may have sustained by reason of the offence in respect of which such penalty is imposed, and, subject to such directions or specific application as aforesaid, all such penalties shall be paid into the Treasury to the consolidated revenue.

Indictments to be preferred by direction of the Chief Harbour Master.

**104.** (1.) No indictment shall be preferred for any offence against this Act unless under the direction of the Chief Harbour Master.

Proceedings for penalties.

(2.) No suit or proceeding shall be commenced for the recovery of any penalty or forfeiture for any such offence, except where such penalty or forfeiture is made payable to the owner of a vessel, and, except in any other cases in which directions to the

contrary are hereinbefore contained, unless under the direction of the Chief Harbour Master.

(3.) In any indictment preferred, or suit or proceeding instituted under this Act, the averment that the Chief Harbour Master has directed the same to be preferred or instituted shall be sufficient proof of the fact unless the contrary is shown.

Proof of the direction of Chief Harbour Master.

**105.** Where, under this Act, or any regulation made under this Act, the master of a harbour and river steamer is subject to any penalty or liability, the owner of such steamer shall, equally with and to the same extent as the master, be subject to such penalty or liability.

Liability of owner of harbour and river steamer.

**106.** The master of every ship to which this Act applies shall be supplied by the Chief Harbour Master with a copy of all regulations made by virtue of this Act, and the master of every such ship shall at all times keep the same on board his ship; and in case he refuses or neglects to do so shall be subject to a penalty not exceeding five pounds.

Copy of this Act, etc., to be kept on board ship.

Penalty for neglect.

## SCHEDULES.

Sections 58, 59.

### First Schedule.

#### *Fees for certificates of competency.*

	£	s.	d.
For a master of a foreign-going ship ... ..	2	10	0
For a master of a coast-trade ship ... ..	1	10	0
For a master of a harbour and river steamer ... ..	1	10	0
For a first mate of a foreign-going ship ... ..	1	10	0
For a second mate of a foreign-going ship or mate of coast-trade ship ... ..	1	0	0
For a first-class engineer's certificate ... ..	2	0	0
For a second-class engineer's certificate ... ..	1	10	0
For a third-class engineer's certificate ... ..	1	0	0

Section 78.

### Second Schedule.

#### *Life-saving appliances.*

For the purposes of this Schedule—

“Intercolonial limits” refers to the States belonging to the Commonwealth of Australia, and to New Zealand; and

Other expressions, not defined in this Act, bear the meanings given to them in Part III. of the Merchant Shipping Act.

For the purposes of these rules, British ships shall be arranged into the following classes:—

#### DIVISION (A).

*Class 1.*—Emigrant steamships subject to all the provisions of Part III. of the Merchant Shipping Act.

*Class 2.*—Foreign-going steamships having passenger certificates under the Merchant Shipping Act, or having passenger certificates issued under any Statute of a British possession, and accepted and recognised under this Act.

*Class 3.*—Steamships having passenger certificates under this Act, authorising them to carry passengers anywhere within intercolonial limits.

*Class 4.*—Foreign-going steamships not certified to carry passengers.

#### DIVISION (B).

*Class 1.*—Emigrant sailing ships subject to all the provisions of Part III. of the Merchant Shipping Act.

*Class 2.*—Foreign-going sailing ships carrying passengers, but not subject to all the provisions of Part III. of the Merchant Shipping Act.

*Class 3.*—Foreign-going sailing ships not carrying passengers.

*Class 4.*—Coast-trade sailing ships carrying passengers.

#### DIVISION (C).

*Class 1.*—Steamships not certified to carry passengers plying anywhere within intercolonial limits.

*Class 2.*—Sailing-ships in the same trades not carrying passengers.

#### DIVISION (D).

*Class 1.*—Coast-trade steamships having passenger certificates authorising them to carry passengers on short specified passages along the coast of Western Australia.

(b.) Not less than half the number of boats placed under davits having at least half the cubic capacity required by the tables shall be boats of section (a.) or section (b.). The remaining boats may also be of such description, or may, in the option of the shipowner, conform to section (c.) or section (d.), provided that not more than two boats shall be of section (d.).

(c.) If the boats placed under davits in accordance with the table do not furnish sufficient accommodation for all persons on board, then additional wood, metal, collapsible, or other boats of approved description (whether placed under davits or otherwise), or approved life-rafts shall be carried. One of these boats may be a steam-launch; but in that case the space occupied by the engines and boilers is not to be included in the estimated cubic capacity of the boat.

Subject to the provisions contained in paragraph (c.) of these rules, such additional boats or rafts shall be of at least such carrying capacity that they and the boats required to be placed under davits by the table provide together in the aggregate three-fourths more than the minimum cubic contents required by column 3 of that table. For this purpose three cubic feet of air case in the life-raft is to be estimated as 10 cubic feet of internal capacity: Provided always, that the rafts will accommodate all the persons for which they are to be certified under the rules, and also have three cubic feet of air case for each person.

All such additional boats or rafts shall be placed as conveniently for being available as the ship's arrangements admit of, having regard to the avoidance of undue encumbrance of the ship's deck, and to the safety of the ship for her voyage.

(d.) In addition to the life-saving appliances before-mentioned, ships of this class shall carry not less than one approved life-buoy for every boat required by the rules to be placed under davits. They shall also carry approved life-belts or other similar approved articles of equal buoyancy suitable for being worn on the person, so that there may be at least one for each person on board the ship.

(e.) Provided nevertheless that no ship of this class shall be required to carry more boats or rafts than will furnish sufficient accommodation for all persons on board.

#### DIVISION (B.)—Class 2.

*Rules for foreign-going sailing-ships carrying passengers, but not subject to all the provisions of Part III. of the Merchant Shipping Act.*

Ships of this class shall be subject to the same requirements as those in Division (B.), Class 1.

#### DIVISION (B.)—Class 3.

*Rules for foreign-going sailing-ships not carrying passengers.*

(a.) Ships of this class shall carry a boat or boats of sections (a.) or (b.) sufficient for all the persons on board, and in addition thereto one good serviceable boat of section (d.). Such boats shall as far as practicable, having due regard to their safety at sea, be placed under davits with proper appliances for getting them quickly into the water. All boats not placed under davits are to be so carried that they can readily be got into the water to the satisfaction of the Chief Harbour Master or an officer acting under his authority.

(b.) They shall carry approved life-belts as required for ships in Division (b.), Class 1, and also one life-buoy for each boat of wood or metal.

In the case of small vessels a discretion may be exercised by the Chief Harbour Master to modify the boat requirements.

#### DIVISION (B.)—Class 4.

*Coast-trade sailing-ships carrying passengers.*

(a.) Ships of this class shall carry a boat or boats of sections (a.) and (b.) or (c.) sufficient for all the persons on board. Such boats shall be as far as practicable under davits; all boats not placed under davits are to be so carried that they can readily be got into the water to the satisfaction of the Chief Harbour Master or an officer acting under his authority.

(b.) They shall carry four life-buoys and a life-belt or other similar approved article for each person on board.

## DIVISION (C.)—Class 1.

*Rules for steamships not certified to carry passengers plying anywhere within intercolonial limits.*

(a.) Ships of this class shall carry on each side at least so many and such boats of wood or metal placed under davits, of which one on each side shall be a boat of section (a.), or of section (b.), or of section (c.), that the boats on each side of the ship shall be sufficient to accommodate all persons on board. They shall have proper appliances for getting the boats into the water.

(b.) They shall also carry approved life-belts, so that there may be at least one for each person carried on board the ship.

(c.) They shall also carry not less than four approved life-buoys.

## DIVISION (C.)—Class 2.

*Rules for sailing-ships in the same trades not carrying passengers.*

(a.) Ships of this class shall carry a boat or boats of wood or metal at least sufficient for all persons on board, and in such a position as to be readily got into the water. Each boat shall be provided with one gallon of vegetable or animal oil, and a vessel of an approved pattern for distributing it in the water in rough weather.

(b.) Ships of this class shall also carry an approved life-belt for each person on board.

(c.) They shall also carry at least two approved life-buoys.

## DIVISION (D.)—Class 1.

*Rules for coast trade steamships having passenger certificates authorising them to carry passengers on short specified passages along the coast of Western Australia.*

(a.) Ships of this class shall, according to their tonnage, carry boats placed under davits as required by the table.

(b.) Masters or owners of ships of this class claiming to carry fewer boats under davits than are given in the table must declare before the collector or other officer of Customs that the boats actually placed under davits are sufficient to accommodate all persons on board, allowing (10) ten cubic feet of boat capacity for each adult person or "statute adult." Not less than half the number of boats placed under davits having at least half the cubic capacity required by the tables shall be of boats section (a.) or section (b.). The remaining boats may also be of such description or may, in the opinion of the shipowners, conform to section (c.) or section (d.), provided that no more than two boats shall be of section (d.).

(c.) If the boats placed under davits in accordance with the above requirements do not furnish sufficient accommodation for all persons on board, then additional wood, metal, collapsible, or other boats of approved description (whether placed under davits or otherwise), or approved life-rafts, or approved buoyant deck seats, or other approved buoyant deck fittings, shall be carried of at least such cubical capacity that they and the boats required to be placed under davits by the table provide together in the aggregate one-half more than the minimum cubic contents provided by column three of the table. For this purpose three cubic feet of air case in the life-raft is to be estimated as ten cubic feet of internal capacity; provided always, that the rafts will accommodate the persons for which they are certified under the rules, and also have three cubic feet of air case for each person.

(d.) Ships of this class shall also carry approved life-belts or other similar approved articles of equal buoyancy suitable for being worn on the person, so that there may be at least one for each person on board the ship.

(e.) At least one approved life-buoy shall also be provided for each boat of wood or metal carried by the ship, but in no case shall less than six approved life-buoys be provided.

(f.) Provided nevertheless, that no ship of this class shall be required to carry more boats, rafts, and other buoyant deck fittings than will furnish sufficient accommodation for all persons on board.

## DIVISION (D.)—Class 2.

*Steamships carrying passengers in estuaries, or mouths of rivers, or on short excursions, or pleasure trips to sea.*

(a.) Ships of this class shall carry at least two boats of section (a.), or section (b.), or section (c.) placed under davits, and with proper appliances for getting them into the water.

(b.) They shall also carry other boats, approved buoyant apparatus, and (or) approved life-belts sufficient (with the boats required by paragraph (a)), to keep afloat all persons on board the ship.

(c.) At least four approved life-buoys shall be carried.

NOTE.—A discretion may be exercised by the Chief Harbour Master to relieve steam-launches, steamers plying in narrow waters, and ferry boats from the operation of the whole or part of rules (a.) and (b.) of this class.

## DIVISION (D.)—Class 3.

*Coast-trade steamships not certified to carry passengers.*

(a.) Ships of this class shall carry one boat of sections (a.), (b.), or (c.), so fitted that it can be readily put out on either side of the ship, and amply sufficient to carry all the persons on board.

(b.) They shall carry two approved life-buoys.

(c.) They shall carry life-belts so that there may be one for each person on board the ship.

## DIVISION (D.)—Class 4.

*Coast-trade sailing-ships not carrying passengers.*

(a.) Ships of this class shall carry one boat so fitted that it can be readily put out on either side of the ship, and amply sufficient to carry all the persons on board.

(b.) They shall carry two approved life-buoys.

(c.) They shall carry life-belts so that there may be one for each person on board the ship.

## DIVISION (D.)—Class 5.

*Steam fish-carriers, tug-boats, and steam-lighters which proceed to sea.*

(a.) Ships of this class shall carry one boat of sections (a.), (b.), or (c.), so fitted that it can be readily put out on either side of the ship, and amply sufficient to carry all the persons on board.

(b.) They shall carry two approved life-buoys.

(c.) They shall carry life-belts so that there may be one for each person on board the ship.

## DIVISION (D.)—Class 6.

*Steam launches proceeding for short distances to sea.*

(a.) Steam launches are themselves little more than boats, and therefore shall not be required to carry boats.

(b.) They shall carry two approved life-buoys.

(c.) They shall carry life-belts so that there may be one for each person on board.

## DIVISION (E.)—Class 1.

*Rules for steamships carrying passengers on rivers or land-locked inland waters, but not going to sea or into rough waters.*

(a.) Ships of this class shall carry one boat in such a position that it can readily be got into the water. They shall also carry approved buoyant apparatus or approved life-belts and approved life-buoys at least sufficient, together with the boat, to keep afloat all persons carried on board.

(b.) At least four approved life-buoys shall be carried.

*Notes.*

(1.) All steamships certified to carry passengers within the limits of Fremantle Harbour shall be classed in this class.

Provided that all steamers certified to carry passengers beyond , in the said harbour shall, during the display of such signals as may be provided for by rules made hereunder, be deemed to be classed in Division (D.), Class 2, of this Schedule, and to be subject to the conditions therein contained.

(2.) A discretion may be exercised by the Chief Harbour Master to relieve steam-launches, steamers plying in narrow waters, and ferry boats from the operation of the whole or part of rule (a.) of this class.

## DIVISION (E.)—Class 2.

*Tug-boats and steam-lighters which do not proceed to sea.*

(a.) These vessels shall carry one boat of any section sufficient to carry all the persons on board.

(b.) They shall carry two approved life-buoys.

(c.) They shall carry approved life-belts, so that there may be one for each person on board.

NOTE.—A discretion may be exercised by the Chief Harbour Master to relieve vessels in this class from the operation of the whole or part of rules (a.) and (c.).

## DIVISION (E.)—Class 3.

*Hulks, dredges, steam-hoppers, etc.*

If these vessels do not proceed to sea from one port to another they shall carry the same boats and appliances as provided for in Class 2.

If they proceed to sea from one port to another they shall carry in addition one boat of sections (a.), (b.), or (c.), sufficient to carry all the persons on board, and with proper appliances to enable it to be put out readily on either side of the ship.

## GENERAL RULES.

1. Boats.—All boats shall be constructed and properly equipped as provided by these rules, and all boats and other life-saving appliances are to be kept ready for use to the satisfaction of the Chief Harbour Master. Internal buoyancy apparatus may be constructed of wood, or of copper or yellow metal of not less than eighteen ounces to the superficial foot, or of other durable material.

Section (a.)—A boat of this section shall be a life-boat of whaleboat form, properly constructed of wood or metal, having for every ten cubic feet of her capacity, computed as in rule 2, at least one cubic foot of strong and serviceable inclosed air-tight compartments, so constructed that water cannot find its way into them. In the case of metal boats an addition will have to be made to the cubic capacity of the air-tight compartments, so as to give them buoyancy equal to that of the wooden boat.

Section (b.)—A boat of this section shall be a life-boat of whaleboat form, properly constructed of wood or metal, having inside and outside buoyancy apparatus together equal in efficiency to the buoyancy apparatus provided for a boat of section (a.). At least one-half of the buoyancy apparatus must be attached to the outside of the boat.

Section (c.)—A boat of this section shall be a life-boat properly constructed of wood or metal, having some buoyancy apparatus attached to the inside and (or) outside of the boat equal in efficiency to one-half of the buoyancy apparatus provided for a boat of section (a.) or section (b.). At least one-half of the buoyancy apparatus must be attached to the outside of the boat.

Section (d.)—A boat of this section shall be a properly constructed boat of wood or metal.

Section (e.)—A boat of this section shall be a boat of approved construction, form, and material, and may be collapsible.



2. *Cubic capacity.*—The cubic capacity of a boat shall be deemed to be her cubic capacity, ascertained (as in measuring ships for tonnage capacity) by Stirling's rule; but as the application of that rule entails much labour, the following simple plan, which is approximately accurate, may be adopted for general purposes, and when no question requiring absolute correct adjustment is raised:—

Measure the length and breadth outside and the depth inside. Multiply them together and by  $\cdot 6$ ; the product is the capacity of the boat in cubic feet. Thus a boat twenty-eight feet long, eight feet six inches broad, and three feet six inches deep will be regarded as having a capacity of  $28 \times 8 \cdot 5 \times 3 \cdot 5 \times \cdot 6 = 499 \cdot 8$ , or five hundred cubic feet. If the oars are pulled in rowlocks, the bottom of the rowlock is to be considered the gunwale of the boat for ascertaining her depth.

3. Number of persons for boats.—The number of persons a boat of section (a.) shall be deemed fit to carry shall be the number of cubic feet ascertained as in rule 2, divided by 10.

The number of persons a boat of sections (b.), (c.), (d.), or (e.) shall be deemed fit to carry shall be the number of cubic feet ascertained as in rule (2), divided by 8. The space in the boat shall be sufficient for the seating of the persons carried in it, and for the proper use of the oars.

4. Appliances for lowering boats.—Appliances for getting a boat into the water must fulfil the following conditions: Means are to be provided for speedily, but not necessarily, simultaneously, or automatically, detaching the boats from the lower blocks of the davit tackles; the boats placed under davits are to be attached to the davit tackles and kept ready for service; the davits are to be strong enough and so spaced that the boats can be swung out with facility; the points of attachment of the boats to the davits are to be sufficiently away from the ends of the boats to insure their being easily swung clear of the davits; the boats' chocks are to be such as can be expeditiously removed; the davits, falls, blocks, eye-bolts, rings, and the whole of the tackling are to be of sufficient strength; the boat's falls are to be long enough to lower the boat into the water with safety when the vessel is light; the life-lines shall be fitted to the davits and be long enough to reach the water when the vessel is light; the hooks are not to be attached to the lower tackle blocks.

5. Equipments for collapsible or other boats and for life-rafts.—In order to be properly equipped, each boat shall be provided as follows:—

- (a.) With the full single-banked complement of oars and two spare oars.
- (b.) With two plugs for each plug-hole, attached with lanyards or chains, and one set and a-half of thole pins or crutches, attached to the boat by sound lanyards.
- (c.) With a sea anchor, a baler, a rudder, and a tiller, or yoke and yoke lines, a painter of sufficient length, and a boat-hook. The rudder and baler to be attached to the boat by sufficiently long lanyards, and kept ready for use. In boats where there may be a difficulty in fitting a rudder a steering oar may be provided instead.
- (d.) A vessel to be kept filled with fresh water shall be provided for each boat.
- (e.) Life-rafts shall be fully provided with a suitable approved equipment.

6. *Additional equipments for boats of section (a.) and section (b.).*—In order to be properly equipped, each boat of sections (a.) and (b.), in addition to being provided with all the requisites laid down in rule (5), shall be equipped as follows, but not more than four boats in any one ship require to have this outfit, and where boats of sections (a.) or (b.) are carried in lieu of boats of sections (c.) or (d.), this additional outfit need not be insisted on:—

- (a.) With two hatchets or tomahawks, one to be kept in each end of the boat, and to be attached to the boat by a lanyard.

- (b.) With a mast or masts, and with at least one good sail, and proper gear for each.
- (c.) With a line becketed round the outside of the boat and securely made fast.
- (d.) With an efficient compass.
- (e.) With one gallon of vegetable or animal oil, and a vessel of an approved pattern for distributing it in the water in rough weather.
- (f.) With a lantern trimmed, with oil in its receiver sufficient to burn eight hours.

7. *Number of persons for life rafts.*—The number of persons that any approved life raft for use at sea shall be deemed to be capable of carrying shall be determined with reference to each separate pattern approved by the Chief Harbour Master; provided always, that for every person so carried there shall be at least three cubic feet of strong and serviceable inclosed air-tight compartments, constructed so that water cannot find its way into them. Any approved life raft of other construction may be used, provided that it has equivalent buoyancy to that hereinbefore described. Every such approved life raft shall be marked in such a way as to plainly indicate the number of adult persons it can carry.

8. *Buoyant apparatus.*—Approved buoyant apparatus shall be deemed sufficient, so far as buoyancy is concerned, for a number of persons, to be ascertained by dividing the number of pounds of iron which it is capable of supporting in fresh water by thirty-two, or, as to steamships carrying passengers within the limits of Fremantle Harbour, by sixteen. Such buoyant apparatus shall not require to be inflated before use, shall be of approved construction, and marked in such a way as plainly to indicate the number of persons for whom it is sufficient.

9. *Life-belts.*—An approved life-belt shall mean a belt which does not require to be inflated before use, and which is capable at least of floating in the water for twenty-four hours with fifteen pounds of iron suspended from it. Life-belts are to be cut out two inches under the armpits and fitted so as to remain securely in their place when put on.

10. *Life-buoys.*—An approved life-buoy shall mean either—

- (a.) A life-buoy built of solid cork, capable of floating in the water for at least twenty-four hours with thirty-two pounds of iron suspended from it; or
- (b.) A strong life-buoy of any other approved pattern or material, provided that it is capable of floating in the water for at least twenty-four hours with thirty-two pounds of iron suspended from it, and provided also that it is not stuffed with rushes, cork shaving, or other shavings, or loose granulated cork, or other loose material, and does not require inflation before use.

All life-buoys shall be fitted with beackets securely seized, and not less than two of them shall be fitted with life-lines fifteen fathoms in length.

11. *Position of life-buoys and life-belts.*—All life-buoys and life-belts shall be so placed as to be readily accessible to all persons on board, and so that their position may be known to those for whom they are intended.

12. *Water-tight compartments.*—When ships of any class are divided into efficient water-tight compartments to the satisfaction of the Chief Harbour Master, they shall only be required to carry additional boats, rafts, and buoyant apparatus of one-half of the capacity required by these rules, but the exemption shall not extend to life-jackets or similar approved articles of equal buoyancy suitable to be worn on the person.

Provided that this rule shall not apply to steamships carrying passengers within the limits of Fremantle Harbour.

13. The ventilation of harbour passenger steamers shall at all times be efficient and to the satisfaction of the Chief Harbour Master.

## APPENDIX.

The Table referred to in the foregoing rules, showing the minimum number of boats to be placed under davits and their minimum cubic contents:—

Gross tonnage.	Minimum number of boats to be placed under davits.	Total minimum cubic contents of boats to be placed under davits. L. x B. x D. x 6.	Gross tonnage.	Minimum number of boats to be placed under davits.	Total minimum cubic contents of boats to be placed under davits. L. x B. x D. x 6.
1.	2.	3.	1.	2.	3.
10,000 and upwards ...	16	5,500	3,500 and under 3,750	8	2,600
9,000 and upwards ...	14	5,250	3,250 and under 3,500	8	2,500
8,500 and under 9,000	14	5,100	3,000 and under 3,250	8	2,400
8,000 and under 8,500	14	5,000	2,750 and under 3,000	6	2,100
7,750 and under 8,000	12	4,700	2,500 and under 2,750	6	2,050
7,500 and under 7,750	12	4,600	2,250 and under 2,500	6	2,000
7,250 and under 7,500	12	4,500	2,000 and under 2,250	6	1,900
7,000 and under 7,250	12	4,400	1,750 and under 2,000	6	1,800
6,750 and under 7,000	12	4,300	1,500 and under 1,750	6	1,700
6,500 and under 6,750	12	4,200	1,250 and under 1,500	6	1,500
6,250 and under 6,500	12	4,100	1,000 and under 1,250	4	1,200
6,000 and under 6,250	12	4,000	900 and under 1,000	4	1,000
5,750 and under 6,000	10	3,700	800 and under 900	4	900
5,500 and under 5,750	10	3,600	700 and under 800	4	800
5,250 and under 5,500	10	3,500	600 and under 700	3	700
5,000 and under 5,250	10	3,400	560 and under 600	3	600
4,750 and under 5,000	10	3,300	400 and under 500	2	400
4,500 and under 4,750	8	2,900	300 and under 400	2	350
4,250 and under 4,500	8	2,900	200 and under 300	2	300
4,000 and under 4,250	8	2,800	100 and under 200	2	250
3,750 and under 4,000	8	2,700			

NOTE.—Where in ships already fitted the required cubic contents of boats placed under davits is provided, although by a smaller number of boats than the minimum required by this table, such ships shall be regarded as complying with the rules as to boats to be carried under davits.

In the case of vessels under two hundred tons gross tonnage, the capacity of any boat to be supplied should not be less than one hundred and twenty-five cubic feet. If, however, in any case this rule be found to be impracticable, a discretion may then be exercised by the Chief Harbour Master.

In cases where a small vessel is unable to carry more than one boat, a discretion may be exercised by the Chief Harbour Master, but whenever one boat only is carried there must be proper provision to enable it to be placed readily in the water on either side of the ship.

## Third Schedule.

## Section 90.

*Regulations for swinging ships.*

1. Competent persons will be licensed to swing ships and furnish deviation cards, and no deviation card will be recognised unless it bears the signature of one of the persons so licensed.

2. All iron ships about to carry passengers must be swung and provided with a deviation card before leaving port, and all such ships trading out of any port within the jurisdiction must be swung once in six months, and also before going to sea after material alteration or repairs, or more frequently if the Chief Harbour Master so directs:

Provided that, on application to the Chief Harbour Master, and on showing satisfactory reason therefor, a departure from any of the foregoing Regulations may be sanctioned.

Applications must be made at the office of the Chief Harbour Master for the services of the licensed officers, who are hereby authorised to charge fees on the following scale:—

	£	s.	d.
For vessels under 500 tons register ... ..	2	0	0
For vessels over 500 and under 750 tons register ...	2	10	0
For vessels over 750 tons register ... ..	3	0	0