

MARINE (No. 2).**No. 63 of 1964.**

AN ACT to amend the *Marine Act* 1921 and the *Marine Act* 1963. [17 December 1964.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.**PRELIMINARY.**

Short title, citation, and commencement.

1—(1) This Act may be cited as the *Marine Act* (No. 2) 1964.

(2) The *Marine Act* 1921, as subsequently amended, is in this Act referred to as the Principal Act.

(3) This Act shall commence on the date on which the *Marine Act* 1963 commences.

PART II.**AMENDMENTS OF THE PRINCIPAL ACT.**

2 After section one hundred and sixteen of the Principal Act the following section is inserted:—

Penalty for sending or taking an unseaworthy vessel to sea. Cf. 57 & 58 Vict., c. 60, s. 457 (Imp.). No. 4 of 1913, s. 208 (Cth). 7 Eliz. II No. 37, s. 126 (Q¹¹).

“116A—(1) A person who sends to sea a vessel that is unseaworthy is, unless he proves that he has used all reasonable means to ensure the seaworthiness of the vessel, guilty of an offence against this Act.

Penalty: One thousand pounds or imprisonment for two years, or both.

“(2) A master who takes a vessel to sea, knowing that the vessel is unseaworthy, is guilty of an offence against this Act.

Penalty: One thousand pounds or imprisonment for two years, or both.

“(3) No person shall be prosecuted for an offence under this section except with the written consent of the Authority or of a board.

“(4) Nothing in this section subjects the owner or master of a vessel to any liability by reason of the vessel being sent or taken to sea while it is unseaworthy in any case where, owing to special circumstances, the sending or taking of the vessel to sea is reasonable and justifiable.”

3 Section one hundred and forty-four of the Principal Act is amended— Grant of certificates.

(a) by adding at the end of paragraph (c) of subsection (2) thereof the words “in any case where it is proved to the satisfaction of the Authority that the holder of the certificate is incompetent or has been guilty of misconduct”;

(b) by inserting after that subsection the following subsection:—

“(2A) Where the Authority cancels or suspends a certificate pursuant to paragraph (c) of subsection (2) of this section, it shall cause notice in writing of the cancellation or suspension of the certificate to be given, within five days after the cancellation or suspension thereof—

(a) to the holder of the certificate; and

(b) in the case of a certificate granted before the commencement of the *Marine Act* 1963 and continued in force by section forty of that Act, to the board by which the certificate was granted.”; and

(c) by adding at the end thereof the following subsection:—

“(5) In this section—

‘incompetent’, used in relation to a person, means that that person is unable, from any cause, to perform his duties efficiently;

‘misconduct’ includes—

(a) reckless or careless navigation;

(b) drunkenness;

(c) tyranny;

(d) any failure of duty or want of skill; and

(e) any improper conduct.”.

4 After section one hundred and fifty-seven of the Principal Act the following Division is inserted:—

“*Division IIIA—Powers of authorized officers.*

“157A—(1) If it appears to an authorized officer that it is necessary so to do in order to prevent the commission of an offence against this Act, or to ascertain whether the provisions of this Act are being complied with, in relation to any vessel, the officer may— Power to inspect vessels, &c., and to demand information.

(a) at any reasonable time go on board the vessel and inspect the vessel and the equipment thereof and any cargo, property, or articles that are aboard that vessel, and demand the production of, and inspect, any certificate of survey and equipment issued under this Act in relation to the vessel that may be carried in the vessel;

- (b) demand the production of, and inspect, any certificate of competency held by the master or any officer or member of the crew of the vessel;
- (c) require the owner or master of the vessel, or any agent of the owner, to produce for inspection all, or any specified, certificates, books, papers, or documents relating to the vessel, and may inspect and make copies of or take extracts from, any such certificates, books, papers, or documents; and
- (d) by notice in writing, require the owner or master of the vessel or the agent of the owner, to furnish (either orally or in writing) such information or particulars as the officer may specify in the notice.

“(2) A person who—

- (a) fails to produce any certificate, book, paper, or document, when required by an authorized officer pursuant to this section so to do; or
- (b) fails to furnish any information or particulars when required by an authorized officer pursuant to this section so to do, or furnishes any such information or particulars that is or are false or misleading,

is guilty of an offence against this Act.

Penalty: One hundred pounds.

“(3) In this section, ‘authorized officer’ means any person who is authorized by the Authority or by a board, either generally or in any particular case, to exercise the powers of an authorized officer under this section.”

Regulations.

5 Section one hundred and sixty-nine A of the Principal Act—

- (a) is renumbered as section one hundred and seventy of that Act; and
- (b) is amended by inserting in subsection (5) of that section, after the word “by-law”, the words “made by a board or trust under this Act or of a by-law”.

Miscellaneous amendments.

6 The sections of the Principal Act that are specified in the first column of the schedule to this Act are amended as respectively specified in the second column of that schedule.

PART III.

AMENDMENTS OF THE MARINE ACT 1963.

Person not to act as both master and engineer in certain cases.

7 Section thirty-four of the *Marine Act* 1963 is amended by omitting therefrom the numerals “XIV” and substituting therefor the numerals “XIVA”.

8 Section forty of the *Marine Act 1963* is amended—

Transitory provisions.

- (a) by inserting in paragraph (b) thereof, after the words "one hundred and twenty-eight", the letter "A";
- (b) by inserting therein, after the word "Act" (third occurring), the words ", if endorsed with the prescribed statement,"; and
- (c) by adding at the end thereof the following subsection:—

"(2) For the purposes of subsection (1) of this section, the prescribed statement is a statement signed by an examiner appointed by the Authority stating that, in the examiner's opinion, the holder of the certificate on which it is endorsed is competent to—

- (a) act as master or mate (as the case may be) of a vessel of such kind or class; or
- (b) take charge of the machinery of a vessel (being machinery of such horsepower), as is specified in the statement."

THE SCHEDULE.

(Section 6.)

MISCELLANEOUS AMENDMENTS OF THE PRINCIPAL ACT.

First COLUMN.	SECOND COLUMN.
Section amended.	How amended.
95	By omitting the word "Fifty" and substituting therefor the words "One hundred".
97	By omitting the word "Fifty" and substituting therefor the words "One hundred".
101	By omitting the word "Fifty" and substituting therefor the words "One hundred".
106	By omitting the words "One" and "Fifty" and substituting therefor, respectively, the words "Three" and "One hundred and fifty".
109	By omitting the word "One" and substituting therefor the word "Three".
113	By omitting the word "Ten" and substituting therefor the words "One hundred".
114	By omitting the word "One" and substituting therefor the word "Five".
114A	By omitting from the definition of "limited coast trade" in subsection (2) the word "and" (last occurring).
117	By omitting subsection (5) and substituting therefor the following subsections:— "(5) The Authority or, as the case may be, the board shall give to the master of the vessel, forthwith after it is made, notice of the making of an order for the detention of the vessel together with a copy of the report made to the Authority or board pursuant to subsection (2) of this section. "(6) A person who resists the detention of a vessel or obstructs the inspection or survey of a vessel under this section is guilty of an offence. Penalty: Two hundred pounds."

FIRST COLUMN.	SECOND COLUMN.
Section amended.	How amended.
119	By omitting the word "one" and substituting therefor the word "three".
120	By omitting the word "one" and substituting therefor the word "five".
121	By omitting from subsection (2) the word "One" and substituting therefor the word "Three".
127A	By omitting from subsection (1) the words "sixty-nine A" and substituting therefor the word "seventy".
134	By omitting from subsection (7) the word "Twenty-five" and substituting therefor the word "Fifty". By omitting from subsection (8) the word "Twenty-five" and substituting therefor the words "One hundred". By omitting from subsection (9) the words "Twenty-five" and "ten" and substituting therefor, respectively, the words "One hundred" and "twenty-five". By omitting from subsection (10) the word "Twenty-five" and substituting therefor the word "Fifty".
136	By omitting from subsection (2) the word "one" and substituting therefor the word "three". By omitting from subsection (4) the words "Twenty-five" and "ten" and substituting therefor, respectively, the words "One hundred" and "twenty-five".
143	By omitting the word "One" and substituting therefor the word "Three".
148	By omitting from subsection (2) the word "by" (after the word "granted") and by omitting from that subsection all the words after the word "Part" to the end of that subsection and substituting therefor the words "Penalty: If passengers are carried, two hundred pounds; if passengers are not carried, fifty pounds". By renumbering subsection (3), being the subsection so numbered that was inserted by paragraph (c) of section thirty-three of the <i>Marine Act 1963</i> , as subsection (4).
150	By omitting the word "Ten" and substituting therefor the word "Fifty".
153	By omitting from subsections (2) and (3) the word "Ten" (wherever occurring) and substituting therefor, in each case, the word "Twenty".
158	By omitting from paragraph (a) the word "One" and substituting therefor the word "Two". By omitting from paragraph (b) the word "Fifty" and substituting therefor the words "One hundred". By omitting from paragraph (c) the word "Twenty" and substituting therefor the words "One hundred". By omitting from paragraph (d) the word "Twenty" and substituting therefor the word "Fifty". By omitting from paragraph (f) the word "One" and substituting therefor the word "Two".
159	By omitting the word "Fifty" and substituting therefor the words "One hundred".
160	By omitting the words "five" and "twenty" and substituting therefor, respectively, the words "ten" and "forty".
168	By inserting in subsection (1), before the word "fifty", the words "two hundred and".