

T A S M A N I A.



1874.

ANNO TRICESIMO-OCTAVO

VICTORIÆ REGINÆ.

No. 3.

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AN ACT to provide for the Examination of, and Grant of Certificates of Competency to, Persons intending to act as Masters, Mates, or Engineers on board *British* Ships.

A.D. 1874.

[18 September, 1874.]

WHEREAS by "The Merchant Shipping (Colonial) Act, 1869," passed by the Imperial Parliament, it is amongst other things enacted that when any Legislature of any *British* Possession provides for the examination of, and grant of Certificates of Competency to, persons intending to act as Masters, Mates, or Engineers on board *British* ships, and the Board of Trade reports to Her Majesty that they are satisfied that the examinations are so conducted as to be equally efficient as the examinations for the same purpose in the *United Kingdom* under the Acts relating to Merchant Shipping, and that the certificates are granted on such principles as to show the like qualifications and competency as those granted under the said Acts, and are liable to be forfeited for the like reasons and in the like manner, it shall be lawful for Her Majesty by Order in Council, firstly, to declare that the said certificates shall be of the same force as if they had been granted under the said Acts; secondly, to declare that all or any of the provisions of the said Acts which relate to Certificates of Competency granted under those Acts shall apply to the certificates referred to in the said Order; and thirdly, to impose such conditions and to make such regulations with respect to the said certificates, and to the use, issue, delivery, cancellation, and suspension thereof, as to Her Majesty may seem fit, and to impose penalties not exceeding Fifty Pounds for the breach of such conditions and regulations:

PREAMBLE.  
32 & 33 Vict. c. 11.

*Merchant Ships Officers Examination.*

A.D. 1874.

And whereas it is expedient to make provision for the examination of, and grant of Certificates of Competency to, persons desirous of obtaining the same within *Tasmania* in accordance with the provisions of the said recited Act :

Be it therefore 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 :

Short title.

**1** This Act may be cited as "The Merchant Ships Officers Examination Act, 1874."

Examinations to be instituted.

**2** Examinations shall be instituted in *Tasmania* for persons who may be desirous of obtaining Certificates of Competency as Masters, Mates, or Engineers on board *British* ships.

Governor in Council to appoint Examiners.

**3** For the purpose of such examinations the Governor in Council may from time to time appoint and remove Examiners, and award the remuneration to be paid to them.

Governor in Council to make rules for examinations.

**4** The Governor in Council may by Order in Council lay down rules providing for such examinations, and for regulating the qualification of applicants for examination, and the times and places of examination, and generally providing for all matters which shall be expedient in order to carry into effect every such examination.

Examiners to report and Certificate of Competency to issue.

**5** The Examiners conducting any such examination as aforesaid shall report to the Governor the result of every such examination ; and the Governor shall thereupon cause to be delivered to every applicant who is duly reported to have passed his examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, and ability, a Certificate of Competency.

Fees to be paid.

**6** All applicants for examination shall pay such fees as shall be fixed and made payable by order of the Governor in Council in that behalf.

Certificate of Service to whom deliverable.

**7** Certificates of Service, differing in form from Certificates of Competency, shall be granted as follows ; that is to say,—

1. Every person who before the First day of *January*, 1874, served as Master of a foreign-going or *Australian* trade ship, and had his usual place of residence in *Tasmania* for a period of not less than Three years then next preceding, or who has attained or attains a rank in the service of Her Majesty not lower than that of Navigating Sub-Lieutenant, shall be entitled to a Certificate of Service as Master for a foreign-going or *Australian* trade ship, as the case may be :
2. Every person who before the First day of *January*, 1874, served as a Mate of a foreign-going or *Australian* trade ship, and had his usual place of residence in *Tasmania* for a period of not less than Three years then next preceding, shall be entitled to a Certificate of Service as Mate for a foreign-going or *Australian* trade ship, as the case may be :
3. Every person who before the First day of *January*, 1874, has served as Master of a home-trade ship, and had his usual place of residence in *Tasmania* for a period of not less than Three

*Merchant Ships Officers Examination.*

years then next preceding, shall be entitled to a Certificate of Service as Master for home-trade ships : A.D. 1874.

4. Every person who before the First day of *January*, 1874, has served as Mate of a home-trade ship, and had his usual place of residence in *Tasmania* for a period of not less than Three years then next preceding, shall be entitled to a certificate as Mate for home-trade ships :

And each of such Certificates of Service shall contain particulars of the name, place, and time of birth, and of the length and nature of the previous service of the person to whom the same is delivered; and it shall be lawful for the Governor to appoint an officer or officers to grant such certificates, and such officer or officers shall deliver such certificates of service to the various persons so respectively entitled thereto upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

8 Every Certificate of Competency for a foreign-going or *Australian* trade ship shall be deemed to be of a higher grade than the corresponding Certificate for a home trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last-mentioned ship; but no Certificate for a home-trade ship shall entitle the holder to go to sea as Master or Mate of a foreign-going or *Australian* trade ship.

Certificates of foreign-going or *Australian* trade ships available for home-trade ships.

9 Certificates of Service for Engineers, differing in form from Certificates of Competency, shall be granted as follows; that is to say,—

Engineers' Certificates of Service to be delivered on proof of service.

1. Every person who before the First day of *January*, 1874, has served as First Engineer in any Foreign-going or *Australian* trade steam-ship of One hundred nominal horse-power or upwards, or who has attained or attains the rank of Engineer in the service of Her Majesty, shall be entitled to a First Class Engineer's Certificate of Service :
2. Every person who before the First day of *January*, 1874, has served as Second Engineer in any foreign-going or *Australian* trade steam-ship of one hundred nominal horse-power or upwards, or as First or only Engineer in any sea-going steam-ship, or who has attained or attains the rank of First Class Assistant Engineer in the service of Her Majesty, shall be entitled to a Second Class Engineer's Certificate of Service :

Each of such Certificates shall contain particulars of the name, place, and time of birth, and the length and nature of the previous service, of the person to whom the same is delivered; and the Officer or Officers appointed by the Governor as aforesaid shall deliver such Certificates of Service to the various persons respectively entitled thereto upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

10 In this Act

Interpretation.

“Foreign-going ship” includes every ship employed in the whale fishery, or in trading or going between some place or places in this Colony and some place or places situate beyond the

*Merchant Ships Officers Examination.*

A.D. 1874.

following limits; that is to say, the coasts of this Colony, the other *Australian* Colonies, and the Colony of *New Zealand*:

“*Australian* trade ship” includes every ship employed in trading or going within the following limits; that is to say, this Colony, the other *Australian* Colonies, and the Colony of *New Zealand*:

“Home trade ship” includes all ships employed in trading to and fro on the coasts of this Colony.

Application of Sections 241 and 242 of 17 & 18 Vict. c. 104, and Sections 11 and 23 of 25 & 26 Vict. c. 63.

**11** The provisions contained in the Two hundred and forty-first and the Two hundred and forty-second Sections of “The Merchant Shipping Act, 1854,” and in the Eleventh and Twenty-third Sections of “The Merchant Shipping Act Amendment Act, 1862,” relative to investigating cases of alleged incompetency and misconduct, and to the cancelling or suspending of certificates in certain cases, are hereby adopted; and the same shall apply to all Certificates of Service issued under this Act, and to all Certificates of Competency granted to Masters and Mates under any regulations for the time being in force in *Tasmania*.

The powers conferred by the said Sections may be exercised by any Two Justices of the Peace or a Police Magistrate acting in conformity with the provisions of “The Enquiry into Wrecks Act, 1874,” with regard to the cancellation or suspension of certificates in cases of wreck or collision.

Application of Sections 136 and 161 of 17 & 18 Vict., c. 104.

**12** The provisions contained in the One hundred and thirty-sixth and the One hundred and sixty-first Sections of “The Merchant Shipping Act, 1854,” shall, after the First day of *January*, 1875, be applied, so far as the same are applicable, to all foreign-going ships, *Australian*-trade ships, and home-trade ships, registered at, trading with, or being at any port or place in *Tasmania*.

To follow 38 Vict. No. 3.

**SECTIONS** of "*The Merchant Shipping Act, 1854,*" (17 & 18 Vict. c. 104), and "*The Merchant Shipping Act Amendment Act, 1862,*" (25 & 26 Vict. c. 63), adopted and applied by Sections Eleven and Twelve of "*The Merchant Ships Officers Examination Act, 1874,*" (38 Vict. No. 3.)

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THE MERCHANT SHIPPING ACT, 1854.

17 & 18 VICTORIA, CAP. 104.

**136** No Foreign-going Ship or Home Trade Passenger Ship shall go to Sea from any Port in the United Kingdom unless the Master thereof, and in the Case of a Foreign-going Ship the First and Second Mates or only Mate (as the Case may be), and in the Case of a Home Trade Passenger Ship the First or Only Mate (as the Case may be), have obtained and possess valid Certificates either of Competency or Service appropriate to their several Stations in such Ship, or of a higher Grade; and no such Ship, if of One Hundred Tons Burden or upwards, shall go to Sea as aforesaid, unless at least One Officer besides the Master has obtained and possesses a valid Certificate appropriate to the Grade of Only Mate therein or to a higher Grade; and every Person who, having been engaged to serve as Master or as First or Second or Only Mate of any Foreign-going Ship, or as Master or First or Only Mate of a Home Trade Passenger Ship, goes to Sea as aforesaid as such Master or Mate without being at the Time entitled to and possessed of such a Certificate as hereinbefore required, or who employs any Person as Master, or First, Second, or Only Mate of any Foreign-going Ship, or as Master, or First or Only Mate of a Home Trade Passenger Ship, without ascertaining that he is at the Time entitled to and possessed of such Certificate, shall for each such Offence incur a penalty not exceeding Fifty Pounds.

No Foreign-going Ship or Home Trade Passenger Ship to proceed to Sea without Certificates of the Master and Mates.

**161** The following Rules shall be observed with respect to the Production of Agreements and Certificates of Competency or Service for Foreign-going Ships; (that is to say,)

Rules as to Production of Agreements and Certificates of Masters and Mates of Foreign-going Ships.

- (1.) The Master of every Foreign-going Ship shall, on signing the Agreement with his Crew, produce to the Shipping Master before whom the same is signed the Certificates of Competency or Service which the said Master and his First and Second Mate or Only Mate, as the Case may be, are hereby required to possess; and upon such Production being duly made, and the Agreement being duly executed as hereby required, the Shipping Master shall sign and give to the Master a Certificate to that effect:
- (2.) In the Case of running Agreements for Foreign-going Ships the Shipping Master shall, before the Second and every subsequent Voyage made after the First Commencement of the Agreement, sign and give to the Master, on his complying with the Provisions herein contained with respect to such Agreements, and producing to the Shipping Master the Certificate of Competency or Service of any First, Second, or Only Mate then First engaged by him, a Certificate to that Effect:
- (3.) The Master of every Foreign-going Ship shall, before proceeding to Sea, produce the Certificate so to be given to him by the Shipping Master as aforesaid to the Collector or Comptroller of Customs, and no Officer of Customs shall

clear any such Ship Outwards without such Production; and if any such Ship attempts to go to Sea without a Clearance, any such Officer may detain her until such Certificate as aforesaid is produced:

- (4.) The Master of every Foreign-going Ship shall, within Forty-eight Hours after the Ship's Arrival at her final Port of Destination in the United Kingdom, or upon the Discharge of the Crew, whichever first happens, deliver such Agreement to a Shipping Master at the place; and such Shipping Master shall thereupon give to the Master a Certificate of such Delivery; and no Officer of Customs shall clear any Foreign-going Ship Inwards without the Production of such Certificate:

And if the Master of any Foreign-going Ship fails to deliver the Agreement to a Shipping Master at the Time and in the Manner hereby directed, he shall for every default incur a Penalty not exceeding Five Pounds.

Power to investigate Cases of alleged Incompetency and Misconduct.

**241** If the Board of Trade or any Local Marine Board has reason to believe that any Master or Mate is from Incompetency or Misconduct unfit to discharge his Duties, the Board of Trade may either institute an Investigation or may direct the Local Marine Board at or nearest to the Place at which it may be convenient for the Parties and Witnesses to attend to institute the same, and thereupon such Persons as the Board of Trade may appoint for the Purpose, or, as the Case may be, the Local Marine Board, shall, with the Assistance of a local Stipendiary Magistrate (if any), and if there is no such Magistrate of a competent legal Assistant to be appointed by the Board of Trade, conduct the Investigation, and may summon the Master or Mate to appear, and shall give him full Opportunity of making a Defence either in person or otherwise, and shall for the Purpose of such Investigation have all the Powers given by the First part of this Act to Inspectors appointed by the Board of Trade, and may make such Order with respect to the Costs of such Investigation as they may deem just; and shall on the Conclusion of the Investigation make a Report upon the Case to the Board of Trade; and in Cases where there is no Local Marine Board before which the Parties and Witnesses can conveniently attend, or where such Local Marine Board is unwilling to institute the Investigation, the Board of Trade may direct the same to be instituted before Two Justices or a Stipendiary Magistrate; and thereupon such Investigation shall be conducted, and the Results thereof reported, in the same Manner and with the same Powers, in and with which formal Investigations into Wrecks and Casualties are directed to be conducted, and the Results thereof reported, under the Provisions contained in the Eighth Part of this Act, save only that, if the Board of Trade so directs, the Person bringing the Charge of Incompetency or Misconduct to the Notice of the Board of Trade shall be deemed to be the Party having the Conduct of the Case.

Board of Trade may cancel or suspend Certificates in certain Cases.

**242** The Board of Trade may suspend or cancel the Certificate (whether of Competency or Service) of any Master or Mate in the following Cases; (that is to say,)

- (1.) If upon any Investigation made in pursuance of the last preceding Section, he is reported to be incompetent, or to have been guilty of any gross Act of Misconduct, Drunkenness, or Tyranny:
- (2.) If upon any Investigation conducted under the Provisions contained in the Eighth Part of this Act, or upon any Investigation

made by a Naval Court constituted as hereinafter mentioned, it is reported that the Loss or Abandonment of or serious Damage to any Ship or Loss of Life has been caused by his wrongful Act or Default :

- (3.) If he is superseded by the Order of any Admiralty Court or of any Naval Court constituted as hereinafter mentioned :
- (4.) If he his shown to have been convicted of any Offence :
- (5.) If upon any Investigation made by any Court or Tribunal authorised or hereafter to be authorised by the Legislative Authority in any *British* Possession to make Inquiry into Charges of Incompetency or Misconduct on the Part of Masters or Mates of Ships, or as to Shipwrecks or other Casualties affecting Ships, a Report is made by such Court or Tribunal to the Effect that he has been guilty of any gross Act of Misconduct, Drunkenness, or Tyranny, or that the Loss or Abandonment of or serious Damage to any Ship or Loss of Life has been caused by his wrongful Act or Default, and such Report is confirmed by the Governor or Person administering the Government of such Possession :

And every Master or Mate whose Certificate is cancelled or suspended shall deliver it to the Board of Trade or as it directs, and in default shall for each Offence incur a Penalty not exceeding Fifty Pounds ; and the Board of Trade may at any subsequent Time grant to any Person whose Certificate has been cancelled a new Certificate of the same or of any lower Grade.

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## THE MERCHANT SHIPPING ACT AMENDMENT ACT, 1862.

25 & 26 VICTORIA, CAP. 63.

**11** The Power by the 241st Section of the Principal Act given to the Board of Trade or to any Local Marine Board of instituting Investigations into the Conduct of any Master or Mate whom it has reason to believe to be from Incompetency or Misconduct unfit to discharge his Duties, shall extend to any Certificated Engineer whom the Board of Trade or any Local Marine Board has reason to believe to be from Incompetency or Misconduct unfit to discharge his Duties, in the same Manner as if in the said Section the Words "Certificated Engineer" had been inserted after "Master" wherever "Master" occurs in such Section.

Power of Board of Trade and Local Marine Board to investigate Conduct of Certificated Engineers.

**23** The following Rules shall be observed with respect to the Cancellation and Suspension of Certificates, that is to say :

Power of cancelling Certificate to rest with the Court which hears the Case.

- (1.) The Power of cancelling or suspending the Certificate of a Master or Mate by the 242d Section of the Principal Act conferred on the Board of Trade shall (except in the Case provided for by the Fourth Paragraph of the said Section) vest in and be exercised by the Local Marine Board, Magistrates, Naval Court, Admiralty Court, or other Court or Tribunal by which the Case is investigated or tried, and shall not in future vest in or be exercised by the Board of Trade :
- (2.) Such Power shall extend to cancelling or suspending the Certificates of Engineers in the same Manner as if "Certificated Engineer" or "Certificated Engineers" were inserted throughout such Section after "Master" or "Masters" :

- (3.) Every such Board, Court, or Tribunal shall at the Conclusion of the Case, or as soon afterwards as possible, state in open Court the Decision to which they may have come with respect to cancelling or suspending Certificates, and shall in all Cases send a full Report upon the Case, with the Evidence, to the Board of Trade, and shall also, if they determine to cancel or suspend any Certificate, forward such Certificate to the Board of Trade with their Report :
- (4.) It shall be lawful for the Board of Trade, if they think the Justice of the Case require it, to reissue and return any Certificate which has been cancelled or suspended, or shorten the Time for which it is suspended, or grant a new Certificate of the same or any lower Grade in place of any Certificate which has been cancelled or suspended :
- (5.) The 434th and 437th Sections of the Principal Act shall be read as if for the Word "Nautical" were substituted the Words "Nautical or Engineering," and as if for the Word "Person" and "Assessor" respectively were substituted the Words "Person or Persons" and "Assessor or Assessors" respectively :
- (6.) No Certificate shall be cancelled or suspended under this Section unless a Copy of the Report or a Statement of the Case upon which the Investigation is ordered has been furnished to the Owner of the Certificate before the Commencement of the Investigation, nor, in the Case of Investigations conducted by Justices or a Stipendiary Magistrate, unless One Assessor at least expresses his Concurrence in the Report.