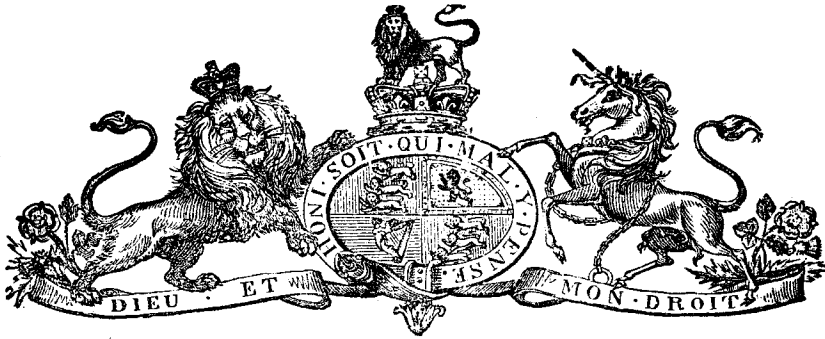


T A S M A N I A

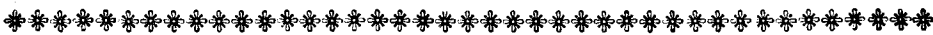


1878.

ANNO QUADRAGESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 11.



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. 1878.

[9 November, 1878.]

WHEREAS by "The Merchant Shipping (Colonial) Act, 1869," passed by the Imperial Parliament, it is amongst other things enacted that where 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. 1878.  
 38 Vict. No. 3.

And whereas by "The Merchant Ships Officers Examination Act, 1874," provision was made 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 having under the provisions of the firstly hereinbefore recited Act reported to Her Majesty that they are satisfied that the examinations under the lastly hereinbefore recited Act 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 relating to Merchant Shipping, and are liable to be forfeited for the like reasons and in the like manner :

And whereas Her Majesty, by Order in Council dated the Seventeenth day of *May*, 1876, has been pleased—

1. To declare that the Certificates of Competency granted by the Governor of *Tasmania* shall be of the same force as if they had been granted under the said Acts :
2. To declare that all the provisions of the said Acts which relate to Certificates of Competency for the foreign trade granted under those Acts, except so much of the One hundred and thirty-ninth Section of "The Merchant Shipping Act, 1854," and the Tenth Section of "The Merchant Shipping Amendment Act, 1862," as requires the delivery by the Board of Trade to any Master, Mate, or Engineer of a copy of any certificate to which he appears to be entitled as therein mentioned, so much of the Third paragraph of the Twenty-third Section of the said last-mentioned Act as requires at the conclusion of a case relating to the cancelling or suspending of a certificate, such certificate, if cancelled or suspended, to be forwarded to the Board of Trade, and the whole of the provisions of the Fourth paragraph of the same Section shall apply to such Certificates of Competency :
3. To impose and make certain conditions and regulations with respect to the said Certificates of Competency, and to the use, issue, delivery, cancellation, and suspension thereof, and to impose for the breach of such conditions and regulations the penalties in the said Order in Council mentioned :

And whereas it is expedient to amend "The Merchant Ships Officers Examination Act, 1874," in certain particulars, and to repeal the same, and to make other provision in lieu thereof :

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, 1878."

Interpretation.

2 In this Act, unless the context otherwise determines—

"Foreign-going ship" includes every ship employed in trading or going between some place or places in this Colony and some place or places situate beyond the following limits ; that is to say, the coasts of this Colony and the other *Australian Colonies* :

*Merchant Ships Officers Examination.*

“*Australian trade ship*” includes every ship employed in trading or going within the following limits ; that is to say, this Colony and the other *Australian Colonies* : A.D. 1878.

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

“The said Act” means “The Merchant Ships Officers Examination Act, 1874 :”

“*Australian Colonies*” means and includes the Colonies of *New South Wales, Victoria, South Australia, Western Australia, Queensland, and New Zealand*, with their respective Dependencies, as such Colonies are now or may hereafter be defined and limited, and also any other Colony which may hereafter be established or be within the existing limits of any of the said Colonies, or within any portion of the Continent of *New Holland* :

“*Prescribed*” means prescribed by Rules made by the Governor in Council under this Act.

**3** Nothing contained in this Act shall apply to the Masters and Mates of vessels exclusively engaged in the whale fishery, or to the officers of such vessels, nor to any vessels of less than Fifty tons burthens. Masters, &c. of certain vessels exempt from operation of this Act.

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

**5** For the purpose of such examinations the Governor in Council may from time to time appoint fit and proper persons to be Examiners, and the persons so appointed shall be and be styled the Board of Examiners under this Act, and one of the Examiners may be appointed the Chairman of the Board; and the Governor in Council may award the remuneration to be paid to the Examiners. Governor in Council to appoint Examiners.

Every person appointed an Examiner and the person appointed Chairman of the Board of Examiners under the said Act shall, if in office when this Act takes effect, be deemed to have been appointed to such office under this Act.

**6** The Governor in Council may by Order in Council make Rules providing for such examinations, for regulating the qualification of applicants for examination, the fees to be paid by such applicants, 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 ; and any such rules may from time to time be altered, varied, or rescinded as the Governor in Council sees fit; and all Rules made under this Act shall be published in the *Gazette*. Governor in Council to make Rules for examinations.

Every Order in Council and all rules in force under the said Act when this Act takes effect shall until rescinded by any Rules made under this Act, be deemed to have been made under this Act, so far as the same are applicable hereto.

**7** All applicants for examination shall, before they are examined, pay such fees as shall be prescribed in that behalf. Fees to be paid.

**8** 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 Examiners to report and Certificate of Competency to issue.

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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.

Rules for issue of Certificates of Service.

**9** The Governor in Council may, by Order in Council, make Rules providing for the issue of Certificates of Service, the fees to be paid for the same, and generally for all matters which shall be expedient in relation to the issue of such Certificates.

Officer to grant Certificates of Service.

**10** It shall be lawful for the Governor from time to time to appoint an officer or officers to grant such Certificates of Service as hereinafter mentioned.

The officer appointed by the Governor under the Seventh Section of the said Act shall, unless such appointment is revoked before the commencement of this Act, be deemed to have been appointed to grant Certificates of Service under this Act.

Certificate of Service as Master and Mate.

**11** Certificates of Service, differing in form from Certificates of Competency, shall be granted for foreign-going ships, *Australian* trade ships, and home trade ships, as follows; that is to say,—

1. Every person who before the First day of *April*, 1876, has served as Master of a foreign-going or *Australian* trade ship, and had his usual place of residence in *Tasmania*, or partly in *Tasmania* and partly in one or more of the *Australian* Colonies 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 *April*, 1876, has served as a Mate of a foreign-going or *Australian* trade ship, and had his usual place of residence in *Tasmania*, or partly in *Tasmania* and partly in one or more of the *Australian* Colonies, 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 *April*, 1876, 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 years then next preceding, shall be entitled to a Certificate of Service as Master for a home trade ship :
4. Every person who before the First day of *April*, 1876, 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 than next preceding, shall be entitled to a Certificate as Mate for a home-trade ship.

Engineers' Certificates of Service.

**12** Certificates of Service for Engineers, 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 *April*, 1876, 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 :

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2. Every person who before the First day of *April*, 1876, 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. A.D. 1878.
- 13 Every Certificate of Service shall contain particulars of the name and time of birth, and the length and nature of the previous service of the person to whom the same is delivered. Certificates of Service to contain certain particulars.
- 14 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 such Person as the Governor appoints for that purpose; and the Court or tribunal cancelling or suspending any Certificate of Competency or service shall give to such Person as aforesaid immediate notice of all orders made by such Court or tribunal for cancelling, suspending, or otherwise affecting any Certificate in pursuance of the powers by law conferred upon such Court or tribunal; and the said Person shall thereupon make a corresponding entry in the record of Certificates; and a copy purporting to be certified by such Person as aforesaid, of any Certificate shall be *prima facie* 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 *prima facie* evidence of the truth of the matters stated in such entry. Certificates to be in duplicate, and one recorded by Person appointed for that purpose.  
Duplicates and entries to be evidence.
- 15 Whenever any Master, Mate or Engineer proves to the satisfaction of the said Person that he has lost, or without fault on his part, has been deprived of any Certificate already granted to him, the said Person shall upon payment of such fee (if any) as the Governor directs, cause a copy of the Certificate to which by the records 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 such Master, Mate, or Engineer; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original. In case of loss a copy to be granted.
- 16 Every person who 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 Service, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such Certificate or any official copy of any such Certificate, or who fraudulently makes use of any such Certificate or any copy of any such Certificate, which is forged, altered, cancelled, or suspended, or to which he is not justly entitled, or who fraudulently lends his Certificate to or allows the same to be used by any other person, shall for each such offence be deemed guilty of a misdemeanor, and upon conviction shall be liable to be imprisoned for any period not exceeding Six Months, or else shall forfeit and pay a penalty not exceeding One hundred Pounds. Penalties for false representations; for forging or altering, or fraudulently using or lending any Certificate.
- 17 No foreign-going ship, or *Australian* trade ship, or home-trade ship, shall go to sea from any port in *Tasmania* 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 an *Australian* trade No foreign-going ship or *Australian* trade ship or home

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trade ship to proceed to sea without Certificates of the Master and Mates

ship, or home-trade 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 an *Australian* trade ship, or home-trade 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 an *Australian* trade ship, or home-trade 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 nor less than Twenty Pounds.

Master of a Foreign-going ship, &c. who quits ship before termination of voyage liable to penalty.

**18** Every person holding a Certificate of Competency or Service who, having been engaged to serve as Master of a foreign-going ship, or *Australian* trade ship, shall without reasonable cause or excuse quit such ship before the termination of the voyage without leaving on board some person as Master of such ship who holds a valid Master's Certificate of Competency or Service, shall upon conviction be liable to a penalty not exceeding Fifty Pounds nor less than Twenty Pounds; and proof that such first-mentioned person was found on shore after such ship has proceeded to sea, and before the termination of the voyage, shall be *prima facie* evidence that such person has offended against this provision.

Rules as to production of Certificates of Masters and Mates of Foreign-going and other ships.

**19** The following Rules shall be observed with respect to the production of Certificates of Competency or Service for foreign-going and other ships; (that is to say,)

1. The Master of every foreign-going ship, *Australian* trade ship, and home-trade 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 by law 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, *Australian* trade, or home-trade 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 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, *Australian* trade ship, or home-trade 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 other principal Officer of

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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: A.D. 1878.

4. The Master of every foreign-going ship, *Australian* trade ship, or home-trade ship, shall, within forty-eight hours after the ship's arrival at her final port of destination in *Tasmania*, deliver 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, to the principal Officer of Customs at such place; and such Officer of Customs shall thereupon give to the Master a certificate of such delivery; and no Officer of Customs shall clear any foreign-going ship, *Australian* trade ship, or home-trade ship inwards without the production of such certificate or certificates:

And if the Master of any foreign-going, *Australian* trade, or home-trade ship fails to comply with this provision at the time and in the manner hereby directed, he shall for every default incur a penalty not exceeding Five Pounds.

**20** If the Governor has reason to believe that any Master, certificated Engineer, or Mate is from incompetency or misconduct unfit to discharge his duties, the Governor may direct a Police or Stipendiary Magistrate or any two Justices of the Peace 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 Magistrate or Justices shall conduct the investigation, and may summon the Master, Engineer, or Mate to appear, and shall give him full opportunity of making a defence either in person or otherwise; and 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 Enquiry into Wrecks Act, 1874," save only that, if the Governor so directs, the person bringing the charge of incompetency or misconduct to the notice of the Governor shall be deemed to be the party having the conduct of the case.

Power to investigate cases of alleged incompetency and misconduct.

The Magistrate or Justices holding the investigation may make such order as to costs as he or they deem just, and shall on the conclusion of the investigation make a report upon the case to the Governor.

**21** The Governor may suspend or cancel the Certificate (whether of competency or service) of any Master, certificated Engineer or Mate in the following cases; (that is to say,)

Governor may cancel or suspend Certificates in certain cases.

1. If upon any investigation made in pursuance of the last preceding Section of this Act, he is reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness, or tyranny, and such report is confirmed by the Governor:
2. If upon any investigation conducted under the provisions contained in "The Enquiry into Wrecks Act, 1874," or upon any investigation made by a Naval Court constituted as mentioned in "The Merchant Shipping Act, 1854," it is reported 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:

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3. If he is superseded by the order of any Admiralty Court or of any Naval Court constituted as hereinbefore mentioned :
4. If he is shown to have been convicted of any offence.

Master, &amp;c. to deliver up Certificate.

**22** Every Master, certificated Engineer, or Mate, who shall be the subject of any investigation under this Act, shall deliver his Certificate to the Magistrate or Justices holding the investigation ; and every Master, certificated Engineer, or Mate, who fails to comply with this provision shall for each offence incur a penalty not exceeding Fifty Pounds.

Rules for cancellation and suspension of Certificates.

**23** The following rules shall be observed with respect to the cancellation and suspension of Certificates, that is to say :

1. The court or tribunal by which the case is investigated or tried 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, and shall in all cases send a full report upon the case, with the evidence, to the Governor, and shall also, if they are of opinion that any Certificate ought to be cancelled or suspended, forward such Certificate to the Governor with their report :
2. It shall be lawful for the Governor, if he thinks the justice of the case require it, to reissue and return any Certificate which has been forwarded to him for cancellation or suspension, or to shorten the period of suspension, or grant a new Certificate of the same or any lower grade in place of any Certificate which has been cancelled or suspended :
3. 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, unless one Assessor at least expresses his concurrence in the report.

Procedure for Penalties.

**24** All offences against this Act, and every offence hereby declared to be a misdemeanor, shall be heard and determined, and all penalties shall be recovered in a summary way by and before any two Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act* ; and any person who deems himself aggrieved by any conviction may appeal therefrom in the mode prescribed by *The Appeals Regulation Act*.

The costs of any enquiry under this Act may, if ordered by the Magistrate or Justices by whom the case is investigated, be recovered in the same manner as costs awarded and ordered by a Justice or Justices under *The Magistrates Summary Procedure Act* are recoverable.

The provisions contained in this Section shall be applicable to all offences against and the recovery of all penalties under the Order made by the Queen in Council, on the seventeenth day of *May*, 1876, under "The Merchant Shipping (Colonial) Act, 1869," extending the provisions of Section 8 of the said Act to *Tasmania*.

Repeal.

**25** The Acts set forth in the Schedule are hereby repealed, but such repeal shall not affect any Certificate of Competency or Service granted or any thing duly done thereunder ; and any offence committed before the commencement hereof may be dealt with in all respects as if this Act had not been passed.



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*Merchant Ships Officers Examination.*

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## SCHEDULE.

A.D. 1878.

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## ACTS TO BE REPEALED.

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<i>Date and Number of Act.</i>	<i>Title of Act.</i>
38 Vict. No. 3.	“The Merchant Ships Officers Examination Act, 1874.”
40 Vict. No. 26.	“An Act to amend ‘The Merchant Ships Officers Examination Act, 1874.’ ”

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REIGN OF KING CHARLES THE FIRST

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