

**MERCHANT SHIPPING
(MASTERS AND SEAMEN)
ACT 1979**

As amended by the following, amendments indicated by *bold italics*:-

- (1) The Shipping Casualties (Inquiries, Investigations and Reports) Act 1979;
- (2) The Merchant Shipping (Masters and Seamen) Act (Amendment) Order 1980 (GC 169/80);
- (3) The Merchant Shipping Act 1985;
- (4) The Trades Disputes Act 1985;
- (5) The Treasury Act 1985;
- (6) The Fines Act 1986;
- (7) The Department of Highways, Ports and Properties Order 1986 (GC 190/86);
- (8) The Merchant Shipping (Certification of Deck and Marine Engineer Officers and Licensing of Marine Engine Operators) (Isle of Man) Regulations 1987 (GC 301/87)
- (9) The Merchant Shipping (Medical Stores) Regulations 1988 (GC 360/88);
- (10) The Merchant Shipping (Provisions and Water) Regulations 1990 (GC 34/90);
- (11) The Merchant Shipping (Masters and Seamen) Act (Amendment) Order 1991 (GC 18/91);
- (12) The Merchant Shipping Registration Act 1991;
- (13) Design Right Act 1991;
- (14) Statute Law Revision Act 1992;
- (15) Criminal Justice (Penalties Etc.) Act 1993;
- (16) Merchant Shipping (Miscellaneous Provisions) Act 1996;
- (17) Transfer of Functions (Marine Administration) Order 1997 (S.D. 51/97);
- (18) Merchant Shipping (Masters and Seamen) Act 1979 (Amendment) Order 1998;
- (19) Merchant Shipping Act 1995 (Application) Order 1999 (SD 23/99).

Text revised : March 1999.

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Isle of Man to Wit

At a Tynwald holden at Douglas the 20th day of February in the twenty-eighth year of the reign of our Sovereign Lady ELIZABETH THE SECOND by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith, and in the year of our Lord one thousand nine hundred and seventy-nine. Before His Excellency SIR JOHN PAUL, Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George, Officer of the Most Excellent Order of the British Empire, Lieutenant Governor, the Council and Keys.

AN ACT

to make better provision in the law relating
to masters and seamen in merchant ships, and
for purposes connected therewith.

WE, your Majesty's most dutiful and loyal subjects, the Lieutenant Governor, Council and Keys of the said Isle, do humbly beseech your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lieutenant Governor, Council and Keys in Tynwald assembled, and by authority of the same, as follows (that is to say):-

Engagement and discharge of crews

Crew agreements

P1970/36/1

1. (1) Except as provided under subsection (5), an agreement in writing shall be made between each person employed as a seaman in a ship registered in the Island and the persons employing him and shall be signed both by him and by or on behalf of them.

(2) The agreements made under this section with the several persons employed in a ship shall be contained in one document (in this Act referred to as a "crew agreement") except that in such cases as the *Department of Trade and Industry* (in this Act referred to as "the *Department*") [...] may approve-

(a) the agreements to be made under this section with the persons employed in a ship may be contained in more than one agreement; and

(b) one crew agreement may relate to more than one ship.

(3) The provisions and form of a crew agreement must be of a kind approved by the *Department* [...] and different provisions and forms may be so approved for different circumstances.

(4) Subject to the following provisions of this section, a crew agreement shall be carried in the ship to which it relates whenever the ship goes to sea.

(5) Regulations may provide for exemptions from the requirements of this section-

- (a) with respect to such descriptions of ship as may be specified in the regulations or with respect to voyages in such areas or such description of voyages as may be so specified; or
- (b) with respect to such descriptions of seamen as may be specified in the regulations;

and the *Department [...]* may grant other exemptions from those requirements (whether with respect to particular seamen or with respect to seamen employed by a specified person or in a specified ship or in the ships of a specified person) in cases where the *Department* is satisfied that the seamen to be employed otherwise than under a crew agreement will be adequately protected.

(6) Where, but for an exemption granted by the *Department*, a crew agreement would be required to be carried in a ship or a crew agreement carried in a ship would be required to contain an agreement with a person employed in the ship, the ship shall carry such document evidencing the exemption as the *Department [...]* may direct.

(7) Regulations may enable ships required under this section to carry a crew agreement to comply with the requirement by carrying a copy thereof, certified in such manner as may be provided by the regulations.

(8) If a ship goes to sea or attempts to go to sea in contravention of the requirements of this section, the master or the person employing the crew shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£5,000** and the ship, if in the Island, may be detained.

Discharge of seamen when ship ceases to be registered in the Island P1970/36/5

2. Where a ship registered in the Island ceases to be so registered, any seaman employed in the ship shall be discharged from the ship unless he consents in writing to continue his employment in the ship; and sections 4 to 6 shall apply in relation to his wages as if the ship has remained registered in the Island.

Restrictions on making arrangements for employment of seamen P1970/36/6

3. (*Repealed by the Merchant Shipping (Miscellaneous Provisions) Act 1996*)

Wages, etc.

The following amendments (printed in bold italics) are made to section 4 of the Act by GC 18/91

Payment of seamen's wages.

4. (1) *Where a seaman employed under a crew agreement relating to a ship leaves the ship on being discharged from it, then, except as provided by or under this Act or any other enactment, the wages due to the seaman under the agreement shall either -*

- (a) be paid to him in full at the time when he so leaves the ship (in this section and section 5 of this Act referred to as the time of discharge), or*
- (b) be paid to him in accordance with subsections (3A) and (3B).*

(2) If the amount shown in the account delivered to a seaman under section 5(1) as being the amount payable to him under *paragraph (a)* of subsection (1) of this section is replaced by an increased amount shown in a further account delivered to him under section 5(3), the balance shall be paid to him within 7 days of the time of discharge; and if the amount so shown in the account delivered to him under section 5(1) exceeds £50 and it is not practicable to pay the whole of it at the time of discharge, not less than £50 nor less than one quarter of the amount so shown shall be paid to him at that time and the balance within 7 days of that time.

(3) If any amount which, under *subsection (1)(a) or (2)* of this section, is payable to a seaman is not paid at the time at which it is so payable, the seaman shall be entitled to wages at the rate last payable under the crew agreement for every day on which it remains unpaid during the period of 56 days following the time of discharge; and if any such amount or any amount payable by virtue of this subsection remains unpaid after the end of that period it shall carry interest at such rate as the *Treasury* may by order prescribe, but no such order shall have effect until it has been approved by Tynwald.

(A rate of 20% is prescribed by the Payment of Seamen's Wages (Rate of Interest) Order 1990 (GC 210/90)).

(3A) Where the crew agreement referred to in subsection (1) provided for the seaman's basic wages to be payable up-to-date at specified intervals not exceeding one month, and for any additional amounts of wages to be payable within the pay cycle following that to which they relate, any amount of wages due to the seaman under the agreement shall, subject to subsection (3B), be paid to him not later than the date on which the next payment of his basic wages following the time of discharge would have fallen due if his employment under the agreement had continued.

(3B) If it is not practicable, in the case of any amount due to the seaman by way of wages additional to his basic wages, to pay that amount by the date mentioned in subsection (3A), that amount shall be paid to him not later than what would have been the last day of the pay cycle immediately following that date if his employment under the crew agreement had continued.

(3C) *If any amount which, under subsection (3A) or (3B), is payable to a seaman is not paid at the time at which it is so payable, it shall carry interest at the rate of 20 per cent. per annum.*

(4) *The provisions of subsection (3) or (3C) shall* not apply if the failure to pay was due to a mistake, to a reasonable dispute as to liability or to the act or default of the seaman or to any other cause, not being the wrongful act or default of the persons liable to pay his wages or of their servants or agents; and so much of ***those provisions*** as relates to interest on the amount due shall not apply if a court in proceedings for its recovery so directs.

(5) Where a seaman is employed under a crew agreement relating to more than one ship, the preceding provisions of this section shall have effect, in relation to wages due to him under the agreement, as if for any reference to the time of discharge there were substituted a reference to the termination of his employment under the crew agreement.

(6) Where a seaman, in pursuance of section 2, is discharged from a ship outside the Island but returns to the Island under arrangements made by the persons who employed him, the preceding provisions of this section shall have effect, in relation to the wages due to him under a crew agreement relating to the ship, as if for the references in subsections ***(1) to (3A)*** to the time of discharge there were substituted references to the time of his return to the Island, and subsection (5) were omitted.

(7) *For the purposes of this section any amount of wages shall, if not paid to a seaman in cash, be taken to have been paid to him -*

- (a) *on the date when a cheque, or a money or postal order issued by the Post Office, for that amount was despatched by the recorded delivery service to the seaman's last-known address, or***
- (b) *on the date when any account kept by the seaman with a bank or other institution was credited with that amount.***

Account of seamen's wages P1970/36/8

5. (1) *Subject to subsections (3A) and (4)* and to regulations, the master of every ship registered in the Island shall deliver to every seaman employed in the ship under a crew agreement an account of the wages due to him under that crew agreement and of the deductions subject to which wages are payable.

(2) The account shall indicate that the amounts stated therein are subject to any later adjustment that may be found necessary and shall be delivered not later than 24 hours before the time of discharge or, if the seaman is discharged without notice or at less than 24 hours' notice, at the time of discharge.

(3) If the amounts stated in the account require adjustment, the persons who employed the seaman shall deliver to him a further account stating the adjusted amounts; and that account shall be delivered not later than the time at which the balance of his wages is payable to the seaman.

(3A) Where subsection (3A) or (3B) of section 4 applies to the payment of any amount of wages due to a seaman under a crew agreement -

- (a) the persons who employed the seaman shall deliver to him an account of the wages payable to him under that subsection and of the deductions subject to which the wages are payable; and**
- (b) any such account shall be so delivered at the time when the wages are paid to him; and**
- (c) subsections (1) to (3) of this section shall not apply;**

and subsection (7) of section 4 shall apply for the purpose of this subsection as it applies for the purposes of that section.

(Subsection 3A is added by G.C. 18/91)

(4) Where a seaman is employed under a crew agreement relating to more than one ship, any account which under the preceding provisions of this section would be required to be delivered to him by the master shall instead be delivered to him by the persons employing him and shall be so delivered on or before the termination of his employment under the crew agreement.

(5) If a person fails without reasonable cause to comply with the preceding provisions of this section, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£1,000**.

Power of superintendent or proper officer to decide disputes about wages.

P1970/36/10

6. (1) Any dispute relating to the amount payable to a seaman employed under a crew agreement may be submitted by the parties to a superintendent or proper officer for decision; but the superintendent or proper officer shall not be bound to accept the submission or, if he has accepted it, to decide the dispute, if he is of opinion that the dispute, whether by reason of the amount involved or for any other reason, ought not to be decided by him.

(2) The decision of a superintendent or proper officer on a dispute submitted to him under this section shall be final.

Restriction on assignment of and charge upon wages.

P1970/36/11

7. (1) Subject to subsections (2) and (3), the following provisions shall have effect with respect to the wages due or accruing to a seaman employed in a ship registered in the Island, that is to say-

- (a) *except in relation to a maintenance order*, the wages shall not be subject to attachment or arrestment;
- (b) an assignment thereof before they have accrued shall not bind the seaman and the payment of the wages to the seaman shall be valid notwithstanding any previous assignment or charge; and
- (c) a power of attorney or authority for the receipt of the wages shall not be irrevocable.

(2) Nothing in this section shall affect the provisions of this Act with respect to allotment notes.

(3) Nothing in the section applies to any disposition relating to the application of wages -

- (a) in the payment of contributions to a fund declared by regulations to be a fund to which this section applies; or
- (b) in the payment of contributions in respect of the membership of a body declared by regulations to be a body to which this section applies,

or to anything done or to be done for giving effect to such a disposition.

(4) *In this section, "maintenance order" has the meaning assigned to it by section 12(1) of the Maintenance Orders (Attachment of Earnings) Act 1969.*

(Subsection (4) added by GC. 169/80)

**Power of court to award interest on wages due otherwise than under crew agreement.
P1970/36/12**

8. In any proceedings by the master of a ship or a person employed in a ship otherwise than under a crew agreement for the recovery of any sum due to him as wages, the court, unless it appears to it that the delay in paying the sum was due to a mistake, to a reasonable dispute as to liability or to the act or default of the person claiming the amount or to any other cause, not being the wrongful act or default of the persons liable to make the payment or their servants or agents, may order them to pay, in addition to the sum due, interest on it at such rate as the court may specify, for the period beginning 7 days after the sum became due and ending when the sum is paid.

**Allotment notes
P1970/36/13(1) and (2)**

9. (1) Subject to the following provisions of this section, a seaman may, by means of allotment note issued in accordance with regulations, allot to any person or persons part of the wages to which he will become entitled in the course of his employment in a ship or ships registered in the Island.

(2) A seaman's right to make an allotment under this section shall be subject to such limitations as may be imposed by regulations.

Right of person named in allotment note to sue in own name
P1970/36/14

10. (1) A person to whom any part of a seaman's wage has been allotted by an allotment note issued in accordance with regulations shall have the right to recover that part in his own name and for that purpose shall have the same remedies as the seaman has for the recovery of his wages.

(2) In any proceedings brought by a person named in such an allotment note as the person to whom any part of a seaman's wages has been allotted, it shall be presumed, unless the contrary is shown, that the seaman is entitled to the wages specified in the note and that the allotment has not been varied or cancelled.

Right, or loss of right, to wages in certain circumstances.
P1970/36/15

11. (1) Where a ship registered in the Island is wrecked or lost, a seaman whose employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed shall, subject to the following provisions of this section, be entitled to wages at the rate payable under the agreement at the date of the wreck or loss for every day on which he is unemployed in the 2 months following that date. [...].

(2) Where a ship registered in the Island is sold while outside the Island or ceases to be so registered and a seaman's employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed, then, unless it is otherwise provided in the agreement, he shall, subject to the following provisions of this section, be entitled to wages at the rate payable under the agreement at the date on which his employment is terminated for every day on which he is unemployed in the 2 months following that date.

(3) A seaman shall not be entitled to wages by virtue of subsection (1) or subsection (2) for a day on which he was unemployed, if it is shown-

- (a) that the unemployment was not due to the wreck or loss of the ship or, as the case may be, the termination of his employment on the sale of the ship or its ceasing to be registered in the Island; or
- (b) that the seaman was able to obtain suitable employment for that day but unreasonably refused or failed to take it.

(4) *This section shall apply to a master as it applies to a seaman.*

(Subsection (4) is inserted by GC 169/80)

Protection of certain rights and remedies.

P1970/36/16

12. (1) A seaman's lien, his remedies for the recovery of his wages, his right to wages in cases of the wreck or loss of his ship and any right he may have or obtain in the nature of salvage shall not be capable of being renounced by any agreement.

(2) Subsection (1) does not affect such of the terms of any agreement made with the seaman belonging to a ship which, in accordance with the agreement, is to be employed on salvage service as provide for the remuneration to be paid to them for salvage services rendered by that ship.

Claims against seaman's wages for maintenance, etc., of dependants.

13. Schedule 1 shall have effect in relation to claims against a seaman's wages for the maintenance of his dependants and to the other matters mentioned in that Schedule.

**Remedies of master for remuneration, disbursements, etc.
P1970/36/18.**

14. The master of a ship shall have the same lien for his remuneration, and all disbursements or liabilities properly made or incurred by him on account of the ship, as a seaman has for his wages.

Safety, Health and Welfare

**Crew Accommodation
P1970/36/20(6)**

15. If the provisions of any regulations made under section 20 of the 1970 Act and having effect in the Island by virtue of an order made under section 63 of this Act are contravened in the case of a ship, the owner or master shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£5,000** and the ship, if in the Island, may be detained.

Exemption from certain regulations

15A. *(Repealed by the Merchant Shipping (Masters and Seamen) (Amendment) Order 1998).*

Provisions and Water

16. *(Repealed by the Merchant Shipping (Provisions and Water) Regulations 1990 (GC 34/90)).*

Complaints about provisions or water P1970/36/22

17. (1) If 3 or more seamen employed in a ship registered in the Island consider that the provisions or water provided for the seamen employed in that ship are not in accordance with *safety regulations made under sections 1 and 2 of the Merchant Shipping Act 1985 containing requirements as to the provisions and water to be provided on ships* (whether because of bad quality, unfitness for use or deficiency in quantity), they may complain to the master who shall investigate the complaint.

(2) If the seamen are dissatisfied with the action taken by the master as a result of his investigation or by his failure to take any action, they may state their dissatisfaction to him and may claim to complain to a superintendent or proper officer; and thereupon the master shall make adequate arrangements to enable the seamen to do so as soon as the service of the ship permits.

(3) The superintendent or proper officer to whom a complaint has been made under this section shall investigate the complaint and may examine the provisions or water or cause them to be examined.

(4) If the master fails without reasonable cause to comply with the provisions of subsection (2), he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£1,000** and if he has been notified in writing by the person making an examination under subsection (3) that any provisions or water are found to be unfit for use or not of the quality required by the regulations, then, -

- (a) if they are not replaced within a reasonable time, the master or owner shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£5,000** unless he proves that the failure to replace them was not due to his neglect or default; and
- (b) if the master without reasonable cause permits them to be used, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£5,000**.

Other complaints. P1970/36/23.

18. *(Repealed by the Merchant Shipping (Masters and Seamen) Act (Amendment) Order 1991 (GC 18/91))*

Medical Stores

P1970/36/24(2) & (3).

19. (1) If a ship goes to sea or attempts to go to sea without carrying the medical stores which it is required to carry by regulations, the master or owner shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£5,000** unless he proves that the failure to carry the stores was not due to his neglect or default.

(2) If a person empowered under this Act to inspect the medical stores carried in a ship is not satisfied that the ship carries the stores which it is required to carry by regulations under this section as they have effect in the Island by virtue of an order made under section 63 of this Act, the ship, if in the Island, may be detained.

Medical treatment on board ship.

P1970/36/25

20. Where a ship registered in the Island does not carry a doctor among the seamen employed in it, the master shall make arrangements for securing that any medical attention on board ship is given either by him or under his supervision by a person appointed by him for the purpose.

Expenses of medical treatment, etc., during the voyage

P1970/36/26

21. If a person, while employed in a ship registered in the Island, receives outside the Island any surgical or medical treatment or such dental or optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency, the reasonable expenses thereof shall be borne by the persons employing him; and if he dies while so employed and is buried or cremated outside the Island, the expenses of his burial or cremation shall also be borne by those persons.

Offences by Seamen etc.

(Sections 22 and 23 are substituted by the Merchant Shipping (Miscellaneous Provisions) Act 1996)

Conduct endangering ships, structures or individuals

22. (1) ***This section applies -***

- (a) ***to the master of, or any seaman employed in, a ship registered in the Island; and***
- (b) ***to the master of, or any seaman employed in, a ship which -***
 - (i) ***is registered under the law of any country outside the Island; and***

- (ii) *is in a port in the Island or within the seaward limits of the territorial sea of the Island while proceeding to or from any such port.*

(2) *If a person to whom this section applies, while on board his ship or in its immediate vicinity -*

(a) *does any act which causes or is likely to cause -*

- (i) *the loss or destruction of or serious damage to his ship or its machinery, navigational equipment or safety equipment, or*
- (ii) *the loss or destruction of or serious damage to any other ship or any structure, or*
- (iii) *the death of or serious injury to any person, or*

(b) *omits to do anything required -*

- (i) *to preserve his ship or its machinery, navigational equipment or safety equipment from being lost, destroyed or seriously damaged, or*
- (ii) *to preserve any person on board his ship from death or serious injury, or*
- (iii) *to prevent his ship from causing the loss or destruction of or serious damage to any other ship or any structure, or the death of or serious injury to any person not on board his ship,*

and either of the conditions specified in subsection (3) is satisfied with respect to that act or omission, he shall (subject to subsections (6) and (7)) be guilty of an offence.

(3) *Those conditions are -*

- (a) *that the act or omission was deliberate or amounted to a breach or neglect of duty;*
- (b) *that the master or seaman in question was under the influence of drink or a drug at the time of the act or omission.*

(4) *If a person to whom his section applies-*

- (a) *discharges any of his duties, or performs any other function in relation to the operation of his ship or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as is mentioned in subsection (2)(a); or*
- (b) *fails to discharge any of his duties, or to perform any such function, properly to such an extent as to cause, or to be likely to cause, any of those things,*

he shall (subject to subsections (6) and (7)) be guilty of an offence.

(5) *A person guilty of an offence under this section shall be liable -*

- (a) *on summary conviction, to a fine not exceeding £5,000;*
- (b) *on conviction on information, to custody for a term not exceeding 2 years or a fine, or both.*

(6) *In proceedings for an offence under this section it shall be a defence to prove -*

- (a) *in the case of an offence under subsection (2) where the act or omission alleged against the accused constituted a breach or neglect of duty, that he took all reasonable steps to discharge that duty;*
- (b) *in the case of an offence under subsection (2), that at the time of the act or omission alleged against the accused he was under the influence of a drug taken by him for medical purposes and either that he took it on medical advice and complied with any directions given as part of that advice or that he had no reason to believe that the drug might have the influence it had;*
- (c) *in the case of an offence under subsection (4), that the accused took all reasonable precautions and exercised all due diligence to avoid committing the offence; or*
- (d) *in the case of an offence under either of those subsections -*
 - (i) *that he could have avoided committing the offence only by disobeying a lawful command, or*
 - (ii) *that in all the circumstances the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of its being caused, either could not reasonably have been foreseen by the defendant or could not reasonably have been avoided by him.*

(7) *In the application of this section to any person falling within subsection (1)(b), subsections (2) and (4) shall have effect as if paragraphs (a)(i) and (b)(i) of subsection (2) were omitted; and no proceedings for an offence under this section shall be instituted against any such person except by or with the consent of the Attorney General.*

(8) *In this section -*

"breach or neglect of duty", except in relation to a master, includes any disobedience to a lawful command;

"duty" -

- (a) *in relation to a master or seaman, means any duty falling to be discharged by him in his capacity as such; and*
- (b) *in relation to a master, includes his duty with respect to the good management of his ship and his duty with respect to the safety of operation of his ship, its machinery and equipment; and*

"structure" means any fixed or movable structure (of whatever description) other than a ship.

Drunkenness, etc., on duty.

23. If the master of or a seaman employed in a fishing vessel registered in the Island is, while on board the vessel, under the influence of drink or a drug to such extent that his capacity to fulfil his responsibility for the vessel or, as the case may be, carry out the duties of his employment or engagement is impaired, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2,500.

Continued or concerted disobedience, neglect of duty, etc.

P1970/36/30

P1974/43/19(4)

24. (1) If a seaman employed in a ship registered in the Island -

(Paragraphs (a) and (b) were repealed by the Merchant Shipping (Masters and Seamen) Act (Amendment) Order 1991 (GC 18/91))

- (c) combines with other seamen employed in that ship -
 - (i) to disobey lawful commands which are required to be obeyed at a time while the ship is at sea; or
 - (ii) to neglect any duty which is required to be discharged at such a time; or
 - (iii) to impede, at such a time, the progress of the voyage or the navigation of the ship,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£5,000**.

(2) For the purposes of this section, a ship shall be treated as being at sea at any time when it is not securely moored in a safe berth.

Offences committed by certain other persons.

P1970/36/32 P1974/43/19(6)

25. Where a person goes to sea in a ship without the consent of the master or of any other person authorised to give it or is conveyed in a ship in pursuance of regulations made under section 73(5)(b) of the 1995 Act and having effect in the Island by virtue of an order made under section 63 of this Act, sections 22 and 24(c) shall apply as if he were a seaman employed in the ship.

Defence of drug taken for medical purposes

Defence of drug taken for medical purposes.

P1970/36/33

26. In proceedings for an offence under section 22(2) or 23, it shall be a defence to prove that at the time of the act or omission alleged against the defendant he was under the influence of a drug taken by him for medical purposes and either that he took it on medical advice and complied with any directions given as part of that advice or that he had no reason to believe that the drug might have the influence it had.

Disciplinary Offences

Disciplinary Offences

27. *(Repealed by the Merchant Shipping Act 1985).*

Appeal against fine for disciplinary offence.

28. *(Repealed by the Merchant Shipping Act 1985).*

Prohibition of double prosecutions.

29. *(Repealed by the Merchant Shipping Act 1985).*

Payment of fines for disciplinary offences

30. *(Repealed by the Merchant Shipping Act 1985).*

*Civil Liability for absence without leave, smuggling
and fines imposed under immigration laws*

Civil Liability for absence without leave.

P1970/36/39(1) - (3)

31. (1) The following provisions of this section shall apply with respect to the liability of a seaman employed in a ship registered in the Island to damages for being absent from his ship at a time when he is required under his contract of employment to be on board.

(2) If he proves that his absence was due to an accident or mistake or some other cause beyond his control and that he took all reasonable precautions to avoid being absent, his absence shall not be treated as a breach of contract.

(3) Where subsection (2) does not apply, then -

- (a) if no special damages are claimed, his liability shall be £50;
- (b) if special damages are claimed, his liability shall be not more than £400.

Civil Liability for smuggling
P1970/36/40

32. If a seaman employed in a ship registered in the Island is found in civil proceedings before a court in the Island to have committed an act of smuggling, whether within or outside the Island, he shall be liable to make good any loss or expense that the act has caused to any other person.

Civil Liability fines imposed under immigration laws.
P1970/36/41

33. (1) The following provisions of this section shall apply where, at a time when a ship registered in the Island is in the national or territorial waters of any country outside the Island, a seaman employed in the ship is absent without leave and present in that country in contravention of that country's laws.

(2) If, by reason of the contravention, a penalty is incurred under those laws by the persons employing the seaman, the penalty shall be treated as being attributable to his absence without leave and may, subject to the provisions of section 31, be recovered from him as special damages for breach of contract.

(3) If, by reason of the contravention, a penalty is incurred under those laws by any other person, the amount thereof, or, if that amount exceeds £400, £400, may be recovered by him from the seaman.

Trade Disputes

Trade Disputes involving seamen.
P1970/36/42.

34. *(Repealed by the Merchant Shipping (Masters and Seamen) Act (Amendment) Order 1991 (GC 18/91)).*

Manning and certification

(Section 34A. is inserted by the Merchant Shipping (Miscellaneous Provisions) Act 1996)

Manning

34A (1) *Subject to subsection (2), the Department may make regulations with respect to the manning of ships registered in the Island and, but without prejudice to the generality of that power, such regulations may include provisions -*

- (a) requiring ships to carry such number of qualified officers of any description, qualified doctors and qualified cooks and such number of other seamen or qualified seamen of any description as may be specified in the Regulations;*
- (b) prescribing or enabling the Department to specify standards of competence to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the regulations) by officers and other seamen of any description in order to be qualified for the purposes of this section;*
- (c) regulating the hours of employment of masters and seamen in ships.*

(2) *The Department shall not exercise its power to make regulations requiring ships to carry seamen other than doctors and cooks except to the extent that it appears to it necessary or expedient in the interests of safety.*

(3) *Without prejudice to the generality of subsection (1)(b), the conditions prescribed or specified under that subsection may include conditions as to nationality, and regulations made for the purposes of that paragraph may make provision, or enable the Department to make provision, for -*

- (a) the manner in which the attainment of any standard or the satisfaction of any other condition is to be evidenced;*
- (b) the conduct of any examinations, the conditions for admission to them and the appointment and remuneration of examiners; and*
- (c) the issue, form and recording of certificates and other documents.*

(4) *No regulations under this section shall come into operation unless they have been approved by Tynwald.*

(5) *Any reference in this Act to regulations made under section 43 of the 1970 Act and having effect in the Island by virtue of an order under section 63 of this Act shall be treated as including a reference to regulations made under this section.*

False statements for the purpose of obtaining certificates

P1970/36/43(5)

35. If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a certificate or other document which may be issued pursuant to regulations made under *sections 1 and 2 of the Merchant Shipping Act 1985 or* section 43 of the 1970 Act and having effect in the Island by virtue of an order made under section 63 of this Act *or regulations made under section 34A of this Act*, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£5,000**.

(Amended by GC.301/87)

Power to exempt from manning requirements.

P1970/36/44

36. (1) The *Department [...]* may exempt any ship or description of ship from any requirements of regulations made *under sections 1 and 2 of the Merchant Shipping Act 1985 or* section 43 of the 1970 Act and having effect in the Island by virtue of an order made under section 63 of this Act *or regulations made under section 34A of this Act*.

(2) An exemption given under this section may be confined to a particular period or to one or more particular voyages.

(Amended by GC 190/86, GC 301/87 and the Merchant Shipping (Miscellaneous Provisions) Act 1996)

Prohibition of going to sea undermanned.

P1970/36/45

37. Subject to section 36, if a ship to which this section applies goes to sea or attempts to go to sea without carrying such officers and other seamen as it is required to carry pursuant to regulations made under *sections 1 and 2 of the Merchant Shipping Act 1985, section 34A of this Act or made under* section 43 of the 1970 Act and having effect in the Island by virtue of an order made under section 63 of this Act the owner or master shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£5,000** and the ship, if in the Island, may be detained.

Unqualified persons going to sea as qualified officers or seamen.

P1970/36/46.

38. (1) If a person goes to sea as a qualified officer or seaman of any description without being such a qualified officer or seaman, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£5,000**.

(2) In this section, "qualified" means qualified pursuant to regulations made under *sections 1 and 2 of the Merchant Shipping Act 1985, section 34A of this Act or made under* section 43 of the 1970 Act and having effect in the Island by virtue of an order made under section 63 of this Act

Production of certificates and other documents of qualification.
P1970/36/47

39. Any person serving or engaged to serve in any ship registered in the Island and holding any certificate or other document which is evidence that he is qualified pursuant to regulations made under *sections 1 and 2 of the Merchant Shipping Act 1985, section 34A of this Act or made under* section 43 of the 1970 Act and have effect in the Island by virtue of an order made under section 63 of this Act, shall, on demand, produce it to any superintendent, surveyor or proper officer and (if he is not himself the master) to the master of the ship, and if he fails to do so without reasonable cause he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£1,000**.

Crew's knowledge of English.
P1970/36/48

40. (1) Where in the opinion of a superintendent or proper officer the crew of a ship to which this section applies consists of or includes persons who may not understand orders given to them in the course of their duty because of their insufficient knowledge of English and the absence of adequate arrangements for transmitting the orders in a language of which they have sufficient knowledge, then -

- (a) if the superintendent or proper officer has informed the master of that opinion the ship shall not go to sea; and
- (b) if the ship is in the Island it may be detained.

(2) if a ship goes to sea or attempts to go to sea in contravention of this section, the owner or master shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£5,000**.

False statements for the purposes of obtaining special certificates of competency.
P1970/36/50(2)

41. If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a document which may be issued under *section 54 of the 1995 Act*, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£5,000**.

Restriction on employment of persons under eighteen on board ship.
P1970/36/51(1) & (4)

42. (1) A person under 18 years shall not be employed in any ship registered in the Island unless he would be permitted to be employed in that ship if he had entered into an agreement in England to be employed in that ship if it were a ship registered in the United Kingdom.

(2) If any person is employed in a ship in contravention of subsection (1), or of any condition subject to which a person may be employed in a ship registered in the United

Kingdom pursuant to regulations made under *section 55 of the 1995 Act* and having effect in the Island by virtue of an order made under section 63 of this Act, the owner or master shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£1,000**.

Inquiries into fitness of conduct and deaths

Inquiry into fitness or conduct of officer.

43. If it appears to the *Department* that an officer or seaman -

- (a) is unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason; or
- (b) has been seriously negligent in the discharge of his duties; or
- (c) has failed to comply with the provisions of *section 92 of the 1995 Act (as that section has effect in the Island)* (duty to give assistance and information after collision),

the *Department* may cause an inquiry to be held by a person appointed by it and, if the person holding the inquiry is satisfied of any of the matters mentioned in paragraphs (a) to (c), the *Department* shall cause a copy of the report of the person holding the inquiry to be submitted to the *issuing authority of the certificate of competency held by the officer or seaman* together with the recommendation of the *Department* as to the cancellation or suspension of an certificate of competency held by, or as to the censure of, the officer or seaman.

**Failure to deliver cancelled or suspended certificate.
P1970/36/59.**

44. If a person in the Island fails to deliver a certificate as required under *section 61 of the 1995 Act*, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£1,000** and, if a person in the Island fails to deliver a certificate as required under *section 62 or 63 of the 1995 Act*, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£500**.

**Inquiries into deaths of crew members and others.
P1970/36/61**

45. (1) Subject to subsection (4), where -

- (a) any person dies in a ship registered in the Island; or *in a boat or life-raft from such a ship; or*

(Subsection (a) amended by GC 196/80)

- (b) the master of or a seaman employed in such a ship dies in a country outside the Island,

an inquiry into the cause of the death shall be held by a superintendent or proper officer at the next port where the ship calls after the death and where there is a superintendent or proper officer, or at such other place as the *Department* may direct.

(Subsections (1A) and (1B) were inserted by the Merchant Shipping (Masters and Seamen) Act (Amendment) Order 1980 (GC 169/80))

(1A) Subject to subsection (4), where it appears to the Department that -

- (a) in consequence of an injury sustained or a disease contracted by a person, when he was the master of or a seaman employed in a ship registered in the Island, he ceased to be employed in the ship and subsequently died; and*
- (b) the death occurred in a country outside the Island during the period of one year beginning with the day when he so ceased,*

the Department may arrange for an inquiry into the cause of the death to be held by a superintendent or proper officer.

(1B) Subject to subsection (4), where it appears to the Department that a person may-

- (a) have died in a ship registered in the Island or in a boat or life-raft from such a ship; or*
- (b) have been lost from such ship, boat or life-raft and have died in consequence of having been so lost,*

the Department may arrange for an inquiry to be held by a superintendent or proper officer into whether the person died as aforesaid and, if the superintendent or officer finds that he did, into the cause of the death.

(2) The superintendent or proper officer holding the inquiry shall for the purpose of the inquiry have the powers conferred on an inspector by *section 3 of the Merchant Shipping Act 1985*.

(Amended by the Merchant Shipping Act 1985)

(3) The person holding the inquiry shall make a report of his findings to the *Department*, and the *Department* shall make a copy of the report available-

- (a) If the person to whom the report relates was employed on the ship and a person was named as his next of kin in the crew agreement or list of the crew in which the name of the person to whom the report relates last appeared, to the person so named;*
- (b) in any case, to any person requesting it who appears to the Department to be interested.*

(Subsection (4) was inserted by the Merchant Shipping Act 1985)

- (4) *No inquiry shall be held under this section in a case where-*
- (a) *a coroner's inquest is to be held in the Island; or*
 - (b) *a coroner's inquest is to be held in England, Wales or Northern Ireland; or*
 - (c) *an inquiry is to be held in Scotland under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 (An Act of Parliament); or*
 - (d) *the Department is satisfied on reasonable grounds that an inquiry is unnecessary.*

Relief and repatriation of seamen left behind

Relief and return of seamen left behind, etc.

P1970/36/62 (1) (2) & (7)

46. (1) Where -
- (a) a person employed as a seaman in a ship registered in the Island is left behind in any country outside the Island or is taken to such a country on being shipwrecked; or
 - (b) a person who became so employed under an agreement entered into outside the Island is left behind in the Island or is taken to the Island on being shipwrecked,

the persons who last employed him as a seaman shall make such provision for his return and for his relief and maintenance until his return and such other provisions as may be required by regulations.

(2) The provisions to be so made may include the repayment of expenses incurred in bringing a shipwrecked seaman ashore and maintaining him until he is brought ashore and the payment of the expenses of the burial or cremation of a seaman who dies before he can be returned.

(3) This section applies to a person left behind on being discharged in pursuance of section 2, whether or not at the time he is left behind the ship is still registered in the Island.

Limit of employer's liability under s. 46.

P1970/36/63

47. Where a person left behind in or taken to any country as mentioned in section 46(1) remains there after the end of a period of 3 months, the persons who last employed him as a seaman shall not be liable under the said section 46 to make provision for his return or for any matter arising after the end of that period, unless they have before the end of that period been under an obligation imposed on them by regulations to make provision with respect to him.

Recovery of expenses incurred for relief and return, etc.

P1970/36/64

48. (1) Where any expenses are incurred in respect of any matter for which the employers of a seaman are required to make provision under section 46, then -

- (a) if the expenses are incurred by the *Department*, or are incurred by the government of any country outside the Island and repaid to them on behalf of the *Department*, the *Department* may recover them from the employers;
- (b) if the expenses are incurred by the seaman, he may recover them from the employers unless they prove either that under the terms of his employment they were to be borne by him or that he would not have been left behind but for his own wrongful act or neglect.

(2) Where, in the case of any seaman, expenses are incurred by the *Department* or are incurred by the government of any country outside the Island and repaid to it on behalf of the *Department* -

- (a) in respect of any matter for which, but for section 47, the seaman's last employers would have been required to make provision under section 46; or
- (b) in respect of any matter for which provision is required to be made under *section 73(4)(b) of the 1995 Act*,

the *Department* may recover them from the seaman (or, if he has died, from his personal representatives).

Property of deceased seamen

Disposal of property of deceased seamen.

P1970/36/66

SI 1975/11.

49. (*Repealed by the Merchant Shipping (Masters and Seamen) Act (Amendment) Order 1991 (GC 18/91)*).

Application of sections 46 to 48 to masters

**Application of sections 46 to 48 to masters.
P1970/36/67.**

50. In sections 46 to 48 "*seaman*" (notwithstanding the definition in section 742 of the 1894 Act) includes the master of a ship.

(Amended by the Merchant Shipping (Masters and Seamen) Act (Amendment) Order 1991 (GC 18/91)).

Documentation, Reports and Returns

**Official Log Books.
P1970/36/68 (1) & (6)**

51. (1) Except as provided by regulations, an official log book in a form approved by the *Department* shall be kept in every ship registered in the Island.

(2) If a person wilfully destroys or mutilates or renders illegible any entry in an official log book, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£5,000**.

(Subsection (1) amended by the Merchant Shipping (Miscellaneous Provisions) Act 1996)

**Lists of Crew.
P1970/36/69(1)**

52. Except as provided by regulations, the master of every ship registered in the Island shall make and maintain a list of crew containing such particulars as may be required by the regulations.

**False statements for the purpose of obtaining British seamen's cards
P1970/36/70(4)**

53. If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a British seaman's card, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£5,000**.

**Returns of births and deaths in ships, etc.
P1970/36/72(3)**

54. (1) If a certified copy of a return of any birth or death is sent to the appropriate Registrar-General of births, marriages and deaths pursuant to regulations made under *section 108 of the 1995 Act* and having effect in the Island by virtue of an order made

under section 63 of this Act, he shall record the information contained therein in a register kept by him for the purpose and to be called the marine register, and may also record in that register such additional information as appears to him desirable for the purpose of ensuring the completeness and correctness of the register; and the enactments relating to the registration of births and deaths shall have effect as if the marine register were a register of births (other than still-births) or deaths or certified copies of entries in such a register and had been transmitted to the Registrar-General in accordance with those enactments.

(The following subsection is inserted by the Merchant Shipping (Masters and Seamen) Act (Amendment) Order 1980 (GC 169/80)

(2) *Where -*

- (a) *an inquest is held on a dead body or touching a death or a post-mortem examination is made of a dead body as a result of which the coroner of inquests is satisfied that an inquest is unnecessary; and*
- (b) *it appears to the coroner of inquests, that the death in question is such as is mentioned in section 108(2) of the 1995 Act or in that paragraph as extended (with or without amendments) by virtue of regulations made under section 307 of the 1995 Act, being regulations having effect in the Island by virtue of an order made under section 63 of this Act,*

it shall be the duty of the coroner of inquests to send to the Registrar General of Shipping and Seamen and the Department particulars in respect of the deceased of a kind prescribed by regulations made by the Secretary of State, being regulations having effect in the Island by virtue of an order made under section 63 of this Act.

Handing over of documents on change of master.

P1970/36/74

55. If a person ceases to be master of a ship registered in the Island during a voyage of the ship, he shall deliver to his successor the documents relating to the ship or its crew which are in his custody; and, if he fails without reasonable cause to do so, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£5,000**.

Admissibility in evidence and inspection of certain documents.

P1970/36/75

56. (1) The following documents shall be admissible in evidence, that is to say, -
- (a) crew agreements, lists of crews made under section 52 and notices given under regulations of additions to or changes in crew agreements and lists of crews;

- (b) the official log book of any ship kept under section 51 and, without prejudice to *section 288 of the 1995 Act as it has effect in the Island*, any document purporting to be a copy of an entry therein and to be certified as a true copy by the master of the ship;
- (c) documents purporting to be submissions to or decisions by superintendents or proper officers under section 6;
- (d) returns or reports under section 54 or under regulations made under *sections 1 and 2 of the Merchant Shipping Act 1985*.

(2) *A certificate recognised for the purposes of regulations made under section 34A of this Act shall be admissible in evidence.*

(The following section 56A is inserted by the Merchant Shipping (Masters and Seamen) Act (amendment) Order 1991 (GC 18/91)

Inspection and Admissibility in Evidence of Copies of Certain Documents.

56A (1) *Where any document to which section 56(1) applies is in the custody of the Department -*

- (a) *there may be supplied for public inspection a copy or other reproduction of the document instead of the original; but*
- (b) *the original shall nevertheless be made available for public inspection if the copy or other reproduction is illegible.*

(2) *Where the Department keeps a copy or other reproduction of a document which has been sent to it by virtue of any enactment, then -*

- (a) *any enactment providing for the document to be admissible in evidence or open to public inspection, and*
- (b) *in the case of a document falling within subsection (1), that subsection,*

shall apply to the copy or other reproduction as if it were the original.

(3) *For the purposes of this section, a copy is to be taken to be the copy of a document notwithstanding that it is taken from a copy or other reproduction of the original.*

Inspections

**Inspections
P1970/36/76**

57. *(Repealed by the Merchant Shipping (Masters and Seamen) Act 1979 (Amendment) Order 1998).*

*Stowaways, unauthorised presence on board ship and
master's power of arrest*

Stowaways
P1970/36/7

58. (1) If a person, without the consent of the master or of any other person authorised to give it, goes to sea or attempts to go to sea in a ship registered in the Island he shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a period not exceeding 3 months or to a fine not exceeding **£5,000** or to both.

(2) Nothing in *section 281 of the 1995 Act as it has effect in the Island* shall be taken to limit the jurisdiction of any court in the Island to deal with an offence under this section which has been committed in a country outside the Island by a person who is not a British subject.

Unauthorised presence on board ship.
P1970/36/78

59. Where a ship registered in the Island or any other country is in a port in the Island and a person who is not in Her Majesty's service, or in the service of the Government, or is authorised by any statutory provision to do so -

- (a) goes on board the ship without the consent of the master or of any other person authorised to give it; or
- (b) remains on board the ship after being requested to leave by the master, a constable or an officer of the *Department* or of customs and excise,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£1,000**.

Master's power of arrest.
P1970/36/79

60. The master of any ship registered in the Island may cause any person on board the ship to be put under restraint if and for so long as it appears to him necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship.

Miscellaneous

Uniform

61. (1) *Subject to subsection (3), if any person, not being entitled to wear the Merchant navy uniform, wears that uniform or any part thereof, or any dress having the appearance or bearing any of the distinctive marks of that uniform, he shall be guilty of an offence.*

(2) *A person guilty of an offence under subsection (1) shall be liable, on summary conviction, -*

(a) *except in a case falling within paragraph (b), to a fine not exceeding £200;*

(b) *if he wears it in such a manner or under such circumstances as to be likely to bring contempt on the uniform, to a fine not exceeding £200 or to imprisonment for a term not exceeding 1 month.*

(3) *Subsection (1) shall not prevent any person from wearing any uniform or dress in the course or for the purposes of a stage play or representation, or a music-hall or circus performance if the uniform is not worn in such a manner or under such circumstances as to bring it into contempt.*

(4) *If any persons entitled to wear the merchant navy uniform when aboard a ship in port or on shore appears dressed partly in uniform and partly not in uniform under such circumstances as to be likely to bring contempt on the uniform, or, being entitled to wear the uniform appropriate to a particular rank or position, wears the uniform appropriate to some higher rank or position, he shall be liable on summary conviction to a fine not exceeding £200.*

(Section 61 inserted by the Merchant Shipping (Masters and Seamen) Act 1979 (Amendment) Order 1998).

Dealing with deserters under reciprocal arrangements.

62. *(Repealed by GC 18/91)*

Application to the Island of certain regulations and rules made under the 1970 Act.

63. (1) The *Department*, after consultation with the Secretary of State, may by order apply to the Island or to ships registered in the Island, or to both, as part of the law of the Island, subject to such modifications or exceptions, or both, as may be specified in the order, any regulations made under any enactment specified in Schedule 2, *including that enactment as amended from time to time.*

(1A) *An order under subsection (1) may do all or any of the following -*

- (a) *specify the exceptions, adaptations and modifications subject to which the regulations applied by the order apply to the Island;*
- (b) *set out the regulations applied by the order, incorporating the exceptions, adaptations and modifications subject to which they apply to the Island;*
- (c) *in the case of an order applying regulations which amend previous regulations applied to the Island, set out the previous regulations so applied as amended, incorporating the exceptions, adaptations and modifications subject to which the previous regulations apply to the Island.*

(2) The *Department*, after consultation with the Secretary of State, may by order amend Schedule 2.

(3) No order under this section shall have effect until it has been approved by Tynwald.

(Subsection (1) amended by GC.169/80 and subsection 1A inserted by the Merchant Shipping (Miscellaneous Provisions) Act 1996)

Fees Regulations

63A. *(Repealed by the Merchant Shipping (Miscellaneous Provisions) Act 1996).*

Power to amend Act by Order.

1974/32/22

64. (1) The *Department* may, *after consultation with the Secretary of State, by order* amend, vary, adapt or repeal any provision of this Act in such manner as may appear to the *Department* expedient for the purpose of making this Act correspond (subject to such modifications or exceptions, or both, as the *Department* may consider, appropriate) with the like enactments from time to time operating in the United Kingdom; and any provision of any such order shall take effect from such day as may be specified in the order, not being earlier than the date on which the corresponding enactment has effect in the United Kingdom.

(2) Any order under this section shall have effect as if it were an Act of Tynwald.

(3) No order under this section shall have effect until it has been approved by Tynwald.

(Subsection (1) amended by the Merchant Shipping Registration Act 1991)

(The following section 64A is inserted after section 64 by the Merchant Shipping (Masters and Seamen) Act (Amendment) Order 1991 (GC 18/91).

Non-sea-going Ships

64A. (1) *The preceding provisions of this Act other than sections 15, 22, 25 (in its application in relation to section 22), 35 to 44, and 57 do not apply to ships which are not sea-going ships or to masters or seamen employed in ships which are not sea-going ships.*

(2) *In relation to ships which are not sea-going ships-*

(a) *section 25 of this Act shall (in its application in relation to section 22) have effect as if the words "goes to sea in a ship" were omitted and the words "is on board a ship while it is on a voyage or excursion" were inserted after "to give it"; and*

(b) *section 37 of this Act shall have effect as if for the words "goes to sea or attempts to go to sea" there were substituted the words "goes on a voyage or excursion or attempts to do so" and the words "if in the Island" were omitted.*

Legal Proceedings

**Proceedings for offences
P1975/5/4(5)**

65. Proceedings against a person for any offence under this Act may be taken, and the offence may for all incidental purposes be treated as having been committed, at any place in the Island.

**Service of summons, etc.
VI p579/60**

66. Without prejudice to the provisions of any other enactment relating to the service of a summons or any other document, any summons or document in respect of any legal proceedings under this Act may, if the person to be served is serving on a ship, be served by leaving the summons or document on board the ship to which he belongs with the person being, or appearing to be, in command or charge of the ship.

Fishing vessels

**Fishing vessels.
P1970/36/95
P1974/43/19/6**

67. (1) In the application of this Act to fishing vessels and persons serving in them-

(a) *sections 3, 24(1)(c), 25, 27 to 30 and 62 do not apply and the provisions contained in Part I of Schedule 3 apply in addition to the other provisions of this Act; and*

(b) sections 4 and 5 apply as set out in Part II of that Schedule;

and nothing in Schedule 3 applies to fishing vessels not registered in the Island or to persons serving in them.

(2) Section 11 does not apply to so much of the wages of a seaman employed in a fishing vessel as is in any manner related to the catch.

(3) In its application to persons serving in fishing vessels, section 61 shall have effect as if for the words "merchant navy uniform", wherever they occur, there were substituted the words "fishing fleet uniform".

(4) Nothing in section 7 shall affect the operation of any enactment relating to the attachment of earnings in respect of wages due to a person employed in a fishing vessel.

(5) The *Department* may [...] grant exemptions from any requirements of this Act or of any regulations -

- (a) with respect to any fishing vessel or to a fishing vessels of any description; or
- (b) with respect to any person or a person of any description serving on a fishing vessel or in a fishing vessel of any description;

and nothing in any other provision of this Act or in any regulations conferring a power to provide for or grant exemptions shall be taken to restrict the power conferred by this subsection.

(6) *In this Act "fishing vessel" means a vessel for the time being used for or in connection with fishing for sea fish, other than a vessel used (or intended to be used) for fishing otherwise than for profit.*

(Subsection (1) amended by, and (6) inserted by, the Merchant Shipping (Masters and Seamen) Act (Amendment) Order 1991 GC 18/91). Subsection (5) amended by the Merchant Shipping (Miscellaneous Provisions) Act 1996).

Supplementary

Interpretation.

P1970/36/97 (1) - (5)

68. (1) In this Act -

(Definition of "the 1894 Act" is repealed by SD 23/99);

"**the 1970 Act**" means the Merchant Shipping Act 1970 (an Act of Parliament);

"the 1995 Act" means the Merchant Shipping Act 1995 (an Act of Parliament);

(The definition of Board is repealed by the Department of Highways, Ports and Properties Order 1986 (GC 190/86). All previous references in this Act to either the "Isle of Man Harbour Board" or to "Board" have been changed by the Order to "Department").

"**British seaman's card**" means a card issued pursuant to regulations made under *section 79 of the 1995 Act* and having effect in the Island by virtue of an order made under section 63 of this Act;

"**crew agreement**" has the meaning assigned to it by section 1(2);

"Department" means the Department of Trade and Industry;

"**enactment**" includes an enactment of the Parliament of Northern Ireland;

"**the Government**" includes a Board of Tynwald and a Statutory Board;

"master" includes every person (except a pilot) having command or charge of a ship and, in relation to a fishing vessel, means the skipper;

"port" includes place;

"merchant navy uniform" (Definition repealed by the Merchant Shipping (Masters and Seamen) Act 1979 (Amendment) Order 1998);

"**proper officer**" means a consular officer appointed by Her Majesty's Government in the United Kingdom and, in relation to a port in a country outside the United Kingdom which is not a foreign country, also any officer exercising in that port functions similar to those of a superintendent;

"**regulations**" means regulations made under *the 1995 Act*, or under any other enactment of Parliament, and having effect in the Island by virtue of an order made under section 63 of this Act [...] *and includes regulations made under sections 1 and 2 of the Merchant Shipping Act 1985;*

(The words in italics were added by the Merchant Shipping (Medical Stores) Regulations 1988 (GC 360/88)).

"relief and maintenance" includes the provision of surgical or medical treatment and such dental and optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency;

"seaman" includes every person (except masters and pilots) employed or engaged in any capacity on board any ship;

"ship" includes every description of vessel used in navigation;

"ship's boat" includes a life-raft;

(The following definitions in italics were added by the Merchant Shipping Act 1985)

"superintendent" means a person appointed as such by the Department and includes a superintendent under the Merchant Shipping Acts 1894 to 1983 (being Acts of Parliament);

"surveyor of ships" has the meaning assigned to it by section 25 of the Merchant Shipping (Passenger Ships' Survey) Act 1979;

"vessel" includes any ship or boat and any other description of vessel used in navigation, and also includes a non-displacement craft.

"Wages" includes emoluments.

(2) **(Repealed by the Merchant Shipping (Masters and Seamen) Act 1979 (Amendment) Order 1998).**

(3) References in this Act to going to sea include references to going to sea from any country outside the Island.

(4) For the purposes of this Act, a seaman is discharged from a ship when his employment in that ship is terminated.

(5) For the purposes of this Act, a seaman discharged from a ship in any country and left there shall be deemed to be left behind in that country notwithstanding that the ship also remains there

(6) References in this Act (*except section 45*) to dying in a ship include references to dying in a ship's boat and to being lost from a ship or a ship's boat.

(Section (6) was amended by the Merchant Shipping (Masters and Seamen) Act (Amendment) Order 1980 GC 169/80).

Expenses P1970/36/98(1)

69. Any expenses incurred by the **Department** under this Act shall be defrayed out of money provided by Tynwald.

Amendments

P1970/36/100(1)

70. The enactments mentioned in Schedule 4 shall be amended in accordance with that Schedule.

Savings, transitional provisions and repeals

P1970/36/100 (2) & (3)

71. (1) This Act shall have effect subject to the savings and transitional provisions contained in Schedule 5.

(2) *(Repealed by the Statute Law Revision Act 1992).*

Short title and commencement

P1970/3/101(1) and (4)

72. (1) This Act may be cited as the Merchant Shipping (Masters and Seamen) Act 1979.

(2) This Act shall come into force on such date as the *Department* may by order appoint, and different days may be so appointed for different provisions of this Act

(Appointed Day Orders -

sections 1, 2, 4 to 40, 45 to 53, 55 to 60, 62 to 72, Schedules 1 to 6 - 01/07/1980 - GC 139/80;

sections 41 to 43 - 01/11/1981 - GC 210/81;

section 54 - 01/01/1986 - GC 1/86;

Sections 44 and 61 - 01/01/1988 - GC 374/87.)

SCHEDULES

Section 13

SCHEDULE 1

CLAIMS AGAINST SEAMAN'S WAGES FOR MAINTENANCE

P1970/36/17 (1)-(6), (8) and (10)

1. Where, during a seaman's employment in a ship, expenses are incurred by the responsible authority for the benefit of any dependent of his and the expenses are of a kind specified in regulations and such further conditions, if any, as may be so specified are satisfied, the authority may by notice in writing complying with the regulations require the persons employing the seaman -

- (a) to retain for a period specified in the notice such proportion of his net wages as may be so specified; and
- (b) to give to the responsible authority as soon as may be notice in writing of the seaman's discharge from the ship;

and the persons employing the seaman shall comply with the notice (subject to paragraph 3) and give notice in writing of its contents to the seaman.

2. For the purposes of this Schedule -

- (a) the following persons, and no others, shall be taken to be a seaman's dependants, that is to say, his spouse and any person under the age of 16 whom he is liable, for the purposes of any enactment, to maintain or in respect of whom he is liable under any such enactment to make contributions to the responsible authority; and
- (b) expenses incurred for the benefit of any person include (in addition to any payments made to him or on his behalf) expenses incurred for providing him with accommodation or care or for exercising supervision over him;

but no expenses shall be specified in regulations unless they are such that a court of summary jurisdiction has power under any enactment to order the making of payments in respect thereof.

3. Not more than the following proportion of a seaman's net wages shall be retained under paragraph 1 (whether in pursuance of one or more notices), that is to say -

- (a) one-half if the notice or notices relate to one dependent only;
- (b) two-thirds if the notice or notices relate to 2 or more dependants.

4. Where the responsible authority has served a notice under this Schedule on the persons employing a seaman a court of summary jurisdiction may, on the application of the authority, make an order for the payment to the authority of such sum, not exceeding the proportion of the seaman's wages which those persons were required by virtue of this Schedule to retain, as the court, having regard to the expenses incurred by the authority and the seaman's means, thinks fit.

5. Any sums paid out of a seaman's wages in pursuance of an order under this Schedule shall be deemed to be paid to him in respect of his wages; and the service, on the persons who employed the seaman, of such an order or of an order dismissing an application for such an order shall terminate the period for which they were required to retain the wages.

6. An application for an order under this Schedule for the payment of any sum by the persons who employed a seaman shall be deemed, for the purposes of any proceedings, to be an application for an order against the seaman; but the order, when served on those persons, shall have effect as an order against them and may be enforced accordingly.

7. Any notice or order under this Schedule may be served by registered post or recorded delivery service.

8. In this Schedule, "the responsible authority" means the *Department of Health and Social Security*".

Section 63(1)

SCHEDULE 2

PROVISIONS OF ACTS OF PARLIAMENT REGULATIONS UNDER WHICH MAY BE APPLIED TO THE ISLAND BY ORDERS UNDER SECTION 63

Provisions of the 1970 Act

Sections 1 to 4

Section 6.

Section 8 as set out in Part II of Schedule 2.

Section 9.

Section 11.

Section 13.

Section 17.

Sections 19 to 21.

Section 24.

Sections 34 to 36.

Section 43.

Sections 50 and 51.

Section 62.

Section 65.

Sections 68 to 72.

Section 84.

Section 87.

Section 92.

Schedules 2 and 4.

The Merchant Shipping Act 1979 (c.39)

Sections 21 and 22

Section 30(2).

Provisions of the 1995 Act

Sections 25 to 27

Section 32.

Section 34.

Section 36.

Section 40.

Section 43.

Sections 54 and 55.

Section 60 (including that section as amended by section 119).

Section 73.

Sections 77 to 80.

Sections 109 and 112

Section 307.

*(Schedule amended by the Merchant Shipping (Masters and Seamen) Act 1979
(Amendment) Order 1998*

FISHING VESSELS

PART I

P1970/36/Sch. 2, Pt I, paras 3 & 5

ADDITIONAL PROVISIONS

Production of certificates and other documents of qualification

1. Any person serving or engaged to serve in a fishing vessel and holding any certificate or other document which is evidence that he is qualified for the purpose of regulations made under section 43 of the 1970 Act and having effect in the Island by virtue of an order made under section 63 of this Act shall on demand produce it to any person who is a British sea-fishery officer for the purposes of the Sea Fisheries Acts (within the meaning of the Sea Fisheries Act 1968, an Act of Parliament); and, if he fails to do so without reasonable cause, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£1,000**.

Reports of and inquiries into injuries

2. (1) Where the master or a member of the crew of a fishing vessel is injured during a voyage, an inquiry into the cause and nature of the injury may be held by a superintendent or proper officer.

(2) The superintendent or proper officer holding an inquiry under this paragraph shall for the purposes of the inquiry have the powers conferred on an inspector by **section 3 of the Merchant Shipping Act 1985** and shall make a report of his findings to the **Department**.

(Subparagraph (2) amended by the Merchant Shipping Act 1985)

PART II

**SECTIONS 4 AND 5 SET OUT AS THEY APPLY TO FISHING VESSELS
AND PERSONS EMPLOYED IN THEM**

P1970/36/ Sch. 2, Pt II

Payment of seamen's wages

4. Except as provided by or under this Act or any other enactment, the wages due to a seaman under a crew agreement relating to a fishing vessel shall be paid to him in full.

Account of wages and catch

5. (1) Subject to regulations, the persons employing any seaman under a crew agreement relating to a fishing vessel shall deliver to him at a time prescribed by regulations an account of the wages due to him under that crew agreement and of the deductions subject to which the wages are payable.

(2) Where the wages of any person employed in a fishing vessel are in any manner related to the catch, the persons employing him shall at a time prescribed by regulations deliver to the master an account (or, if the master is the person employing him, make out an account) showing how those wages (or any part thereof related to the catch) are arrived at and shall make the account available to the crew in such manner as may be prescribed by the regulations.

(3) Where there is a partnership between the master and any members of the crew of a fishing vessel, the owner of the vessel shall at a time prescribed by regulations make out an account showing the sums due to each partner in respect of his share and shall make the account available to the partners.

(4) If a person fails without reasonable cause to comply with the preceding provisions of this section, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£1,000**.

Section 70

SCHEDULE 4

AMENDMENT OF CERTAIN ENACTMENTS

The Education (Work Experience) Act 1974 (c.28)

1. In section 1(2)(b), after "1930" insert "or (when it comes into force) section 42(1) of the Merchant Shipping (Masters and Seamen) Act 1979".

2. ***(Repealed by the Shipping Casualties (Inquiries, Investigations and Reports) Act 1979)***

Section 71(1)

SCHEDULE 5

SAVINGS AND TRANSITIONAL PROVISIONS

1. The repeal by this Act of section 2 of the Merchant Shipping Act 1935 shall not affect the operation-
 - (a) in relation to a seaman's money order issued before the coming into force of the repeal, of regulations under section 145(2) or 146 of the 1894 Act; or
 - (b) of sections 148 to 153 of the 1894 Act in relation to any deposit received under section 148 before the coming into force of the repeal; or
 - (c) of section 254 of the 1894 Act in relation to any return made under it, and any marine register book kept under that section shall be treated as part of a marine register kept under section 54 of this Act.
2. Any licence granted under section 110 of the 1894 Act shall have effect as if granted under section 3 of this Act.
3. For the purposes of section 61, the registration of any design under Part II of the Patents and Designs Act 1907 shall be deemed to be a registration under the Registered Designs Act 1949 (both Acts being Acts of Parliament).

Section 71(2)

SCHEDULE 6

ENACTMENTS REPEALED

(Repealed by the Statute Law Revision Act 1992)