



Merchant Shipping Act 1894

1894 CHAPTER 60

PART II

MASTERS AND SEAMEN.

Engagement of Seamen.

113 Agreements with crew.

- (1) The master of every ship, except ships of less than eighty tons registered tonnage exclusively employed in trading between different ports on the coasts of the United Kingdom, shall enter into an agreement (in this Act called the agreement with the crew) in accordance with this Act with every seaman whom he carries to sea as one of his crew from any port in the United Kingdom.
- (2) If a master of a ship carries any seaman to sea without entering into an agreement with him in accordance with this Act, the master in the case of a foreign-going ship, and the master or owner in the case of a home trade ship, shall for each offence be liable to a fine not exceeding five pounds.

114 Form, period, and conditions of agreements with crew.

- (1) An agreement with the crew shall be in a form approved by the Board of Trade, and shall be dated at the time of the first signature thereof, and shall be signed by the master before a seaman signs the same.
- (2) The agreement with the crew shall contain as terms thereof the following particulars:
 - (a) Either the nature, and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement and the places or parts of the world, if any, to which the voyage or engagement is not to extend :
 - (b) The number and description of the crew, specifying how many are engaged as sailors :

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- (c) The time at which each seaman is to be on board or to begin work:
 - (d) The capacity in which each seaman is to serve :
 - (e) The amount of wages which each seaman is to receive:
 - (f) A scale of the provisions which are to be furnished to each seaman:
 - (g) Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishment for misconduct which have been approved by the Board of Trade as regulations proper to be 'adopted, and which the parties agree to adopt.
- (3) The agreement with the crew shall be so framed as to admit of such stipulations, to be adopted at the will of the master and seaman in each case, whether respecting the advance and allotment of wages or otherwise, as are not contrary to law.
- (4) If the master of a ship registered at a port out of the United Kingdom has an agreement with the crew made in due form according to the law of that port or of the port in which her crew were engaged, and engages single seamen in the United Kingdom, those seamen may sign the agreement so made, and it shall not then be necessary for them to sign an agreement in the form approved by the Board of Trade.

115 Special provisions as to agreements with crew of foreign-going ships.

The following provisions shall have effect with respect to the agreements with the crew made in the United Kingdom in the case of foreign-going ships registered either within or without the United Kingdom :—

- (1) The agreement shall (subject to the provisions of this Act as to substitutes) be signed by each seaman in the presence of a superintendent:
- (2) The superintendent shall cause the agreement to be read over and explained to each seaman, or otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature:
- (3) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the superintendent, and the other shall be delivered to the master, and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship:
- (4) Where a substitute is engaged in the place of a seaman who duly signed the agreement, and whose services are within twenty-four hours of the ship's putting to sea lost by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before a superintendent, and, when not practicable, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature :
- (5) The agreements maybe made for a voyage, or if the voyages of the ship average less than six months in duration may be made to extend over two or more voyages, and agreements so made to extend over two or more voyages are in this Act referred to as running agreements :
- (6) Running agreements shall not extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her port of destination

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in the United Kingdom after that date, or the discharge of cargo consequent on that arrival:

- (7) On every return to a port in the United Kingdom before the final termination of a running agreement, the master shall make on the agreement an endorsement as to the engagement or discharge of seamen, either that no engagements or discharges have been made, or are intended to be made before the ship leaves port, or that all those made have been made as required by law, and if a master wilfully makes a false statement in any such endorsement, he shall for each offence be liable to a fine not exceeding twenty pounds:
- (8) The master shall deliver the running agreement so endorsed to the superintendent, and the superintendent shall, if the provisions of this Act relating to agreements have been complied with, sign the endorsement and return the agreement to the master:
- (9) The duplicate running agreement retained by the superintendent on the first engagement of the crew shall either be transmitted to the Registrar-General of Shipping and Seamen immediately, or kept by the superintendent until the expiration of the agreement, as the Board of Trade direct.

116 Special provisions as to agreements with crew of home trade ships.

The following provisions shall have effect with respect to the agreements with the crew of home trade ships for which an agreement with the crew is required under this Act:—

- (1) Agreements may be made either for service in a particular ship or for service in two or more ships belonging to the same owner, but in the latter case the names of the ships and the nature of the service shall be specified in the agreement:
- (2) Crews or single seamen may, if the master think fit, be engaged before a superintendent in the same manner as they are required to be engaged for foreign-going ships, but if the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon after as possible, cause the agreement to be read and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature:
- (3) An agreement for service in two or more ships belonging to the same owner may be made by the owner instead of by the master; and the provisions of this Act with respect to the making of the agreement shall apply accordingly :
- (4) Agreements shall not, in the case of ships of more than eighty tons burden, extend beyond the next following thirtieth day of June or thirty-first day of December or the first arrival of the ship at her final port of destination in the United Kingdom after that date or the discharge of cargo consequent on that arrival: Provided that the owner or his agent may enter into time agreements in forms sanctioned by the Board of Trade with individual seamen to serve in any one or more ships belonging to such owner, and those agreements need not expire on the thirtieth day of June or the thirty-first day of December, and a duplicate of every such agreement shall be forwarded to the Registrar-General of Shipping and Seamen within forty-eight hours after it has been entered into.

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117 Changes in crew of foreign-going ship to be reported.

- (1) The master of every foreign-going ship whose crew has been engaged before a superintendent shall, before finally leaving the United Kingdom, sign, and send to the nearest superintendent, a full and accurate statement, in a form approved by the Board of Trade, of every change which takes place in his crew before finally leaving the United Kingdom, and that statement shall be admissible in evidence in manner provided by this Act.
- (2) If a master fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding five pounds.

118 Certificate as to agreements with crew of foreign-going ships.

- (1) In the case of a foreign-going ship, on the due execution of an agreement with the crew in accordance with this Act, and also, where the agreement is a running agreement, on compliance by the master, before the second and every subsequent voyage made after the first commencement of the agreement, with the provisions of this Act respecting that agreement, the superintendent shall grant the master of the ship a certificate to that effect.
- (2) The master of every foreign-going ship shall, before proceeding to sea, produce to the officer of customs that certificate, and any such ship may be detained until the certificate is produced.
- (3) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in the United Kingdom or upon the discharge of the crew, whichever first happens, deliver his agreement with the crew to the superintendent, and the superintendent shall give the master a certificate of that delivery; and an officer of customs shall not clear the ship inwards until the certificate of delivery is produced, and if the master fails without reasonable cause so to deliver the agreement with the crew, he shall for each offence be liable to a fine not exceeding five pounds.

119 Certificate as to agreements with crew of home trade ships.

- (1) The master or owner of a home trade ship of more than eighty tons burden shall within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year deliver or transmit to a superintendent in the United Kingdom every agreement with the crew made for the ship within six months next preceding those days respectively.
- (2) The superintendent on receiving the agreement shall give the master or owner of the ship a certificate to that effect, and the ship shall be detained unless the certificate is produced to the proper officer of customs.
- (3) If the master or owner fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding five pounds.

120 Copy of agreement to be made accessible to crew.

- (1) The master shall at the commencement of every voyage or engagement cause a legible copy of the agreement with the crew, (omitting the signatures,) to be posted up in some part of the ship which is accessible to the crew.

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- (2) If the master fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding five pounds.

121 Forgery, &c. of agreements with crew.

If any person fraudulently alters, makes any false entry in, or delivers a false copy of, any agreement with the crew, that person shall in respect of each offence be guilty of a misdemeanor, and if any person assists in committing or procures to be committed any such offence, he shall likewise in respect of each offence be guilty of a misdemeanor.

122 Alterations in agreements with crew.

Every erasure, interlineation, or alteration in any agreement with the crew (except additions made for the purpose of shipping substitutes or persons engaged after the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in the erasure, interlineation, or alteration, by the written attestation (if in Her Majesty's dominions) of some superintendent, justice, officer of customs, or other public functionary, or elsewhere, of a British consular officer, or where there is no such officer, of two respectable British merchants.

123 Seamen not to be bound to produce agreement.

In any legal or other proceeding a seaman may bring forward evidence to prove the contents of any agreement with the crew or otherwise to support his case, without producing, or giving notice to produce the agreement or any copy thereof.

124 Engagement of seamen in colonial and foreign ports.

- (1) With respect to the engagement of seamen abroad, the following provisions shall have effect:—

Where the master of a ship engages a seaman in any British possession other than that in which the ship is registered or at a port in which there is a British consular officer, the provisions of this Act respecting agreements with the crew made in the United Kingdom shall apply subject to the following modifications:—

- (a) In any such British possession the master shall engage the seaman before some officer being either a superintendent or, if there is no such superintendent, an officer of customs;
- (b) At any such port having a British consular officer, the master shall, before carrying the seaman to sea, procure the sanction of the consular officer, and shall engage the seaman before that officer;
- (c) The officer shall endorse upon the agreement an attestation to the effect that the agreement has been signed in his presence and otherwise made as required by this Act, and also, if the officer is a British consular officer, that it has his sanction, and if the attestation is not made the burden of proving that the engagement was made as required by this Act shall lie upon the master.

- (2) If a master fails to comply with this section he shall be liable for each offence to a fine not exceeding five pounds.