



Merchant Shipping Act 1894

1894 CHAPTER 60

PART IV

FISHING BOATS.

III

PROVISIONS APPLYING TO TRAWLERS.

The following sections shall apply only to fishing boats being trawlers and save as otherwise provided only to fishing boats being trawlers of twenty-five tons tonnage and upwards.

Engagement of Seamen.

399 Agreements with crew.

- (1) The skipper of every fishing boat being a trawler of twenty-five tons tonnage or upwards shall enter into an agreement (in this Part of this Act called a fishing boat's agreement), in accordance with this Part of this Act, with every seaman whom he carries to sea as one of his crew from any port in England or Ireland, and shall not carry to sea any seaman with whom no such agreement has been entered into.
- (2) If a skipper acts in contravention of this section, he shall for each offence be liable to a fine not exceeding five pounds.
- (3) This section shall not apply in the case of a sea-fishing boy.

400 Form, period, and condition of agreement.

- (1) A fishing boat's agreement shall be in a form approved by the Board of Trade, and be dated at the time of the first signature thereof, and be signed by the skipper before a seaman signs it.

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- (2) A fishing boat's agreement shall contain as terms thereof—
- (a) the nature and, as far as practicable, the duration of the intended voyage or engagement:
 - (b) the number and description of the crew :
 - (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 remuneration which each seaman is to receive, whether in wages or by share in the catch, or in both ways, and the time from which each seaman's remuneration is to commence :
 - (f) a scale of the provisions 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 the Board of Trade have approved as proper and the parties agree to adopt.
- (3) The fishing boat's agreement shall be so framed as to admit of stipulations, to be adopted at the will of the skipper and seaman in each case, as to advance and allotment of wages, and may contain any other stipulations that are not contrary to law.

401 Mode of entering into agreements.

- (1) A fishing boat's agreement shall be signed by each seaman, and the skipper 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.
- (2) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be sent by the skipper to the superintendent at the port of departure and retained by him, and the other part shall be retained by the skipper, and shall contain a special place for the descriptions and signatures of substitutes, or persons engaged subsequently to the first departure of the fishing boat.
- (3) Where a substitute is engaged in the place of a seaman who has signed the agreement, and whose services are lost by death, desertion, failure to join, or other unforeseen cause, the skipper shall, before the fishing boat 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 the skipper who shall attest the signature.

402 Agreements by owner or for service in two or more fishing boats.

- (1) Fishing boats agreements may be made by the owner (or if there are several owners the registered managing owner) instead of by the skipper; and the provisions of this Part of this Act with respect to fishing boats agreements shall apply as if the owner were skipper.
- (2) Fishing boats agreements may be made for service either in a particular boat or in two or more boats belonging to the same owner, provided that in the latter case the names of the boats and the length and nature of the service, and the rates periods and method of payment are specified in the agreement.

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403 Fishing boats running agreements.

- (1) Fishing boats agreements may, if the voyages of the boat average less than six months in duration, be made to extend over two or more voyages or any number of weeks, and agreements so made are in this Part of this Act referred to as fishing boats running agreements.
- (2) Fishing boats 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 boat at her port of destination in the United Kingdom after that date, or the discharge of cargo consequent on that arrival.

404 Endorsement of engagements and discharge on running agreements.

- (1) Where a fishing boat's running agreement has been made for any boat, the skipper shall on every return to a port in the United Kingdom before the final termination of the agreement make and sign an endorsement on the agreement stating either that no engagements or discharges of seamen have been made or are intended to be made before the boat leaves port, or that all those made have been made as required by law.
- (2) If a skipper knowingly makes in false statement in any such endorsement, he shall for each offence be liable to a fine not exceeding five pounds.

405 Report of crew.

- (1) The owners of a fishing boat, being a trawler of twenty-five tons tonnage or upwards, shall, within forty-eight hours of her departure from port on any voyage, send or cause to be sent to the superintendent at the port a true report, signed by an owner or the registered managing owner, in a form approved by the Board of Trade, stating the names' of the skipper, seamen, and apprentices who have gone to sea in her, and such other particulars as the Board require.
- (2) Where the sole or the registered managing owner or every owner of such a fishing boat goes to sea in her on the voyage, or the voyage commences at a port where there is no owner or registered managing owner, the report may be made and signed on his behalf by his agent for that purpose.
- (3) If any requirement of this section is not complied with in the case of any boat, each owner of the boat and the registered managing owner (if any) of the boat shall for each offence be liable to a fine not exceeding five pounds.
- (4) The Board of Trade may in any case they think fit, and subject to such conditions and requirements as in their opinion may be necessary, exempt owners of boats from this section.

406 Statement of change of crew in case of running agreements.

- (1) Where a fishing boat's running agreement has been made, the skipper shall, before finally leaving any port for sea during the continuance of the agreement, sign and send to the nearest superintendent an accurate statement, in a form approved by the Board of Trade, of every change which has taken place in his crew, and that statement shall be admissible in evidence in manner provided by this Act.
- (2) if a skipper fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding five pounds.

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- (3) The Board of Trade may in any case they think fit, and subject to such conditions and requirements as in their opinion may be necessary, exempt skippers of boats from this section.

407 Alterations, &c. in agreements to be attested.

Every erasure interlineation or alteration in a fishing boat's agreement (except additions so made as herein-before directed for shipping substitutes or persons engaged subsequently to the first departure of the fishing boat) shall be wholly inoperative unless proved to have been made with the consent of all the persons interested in that erasure interlineation or alteration.

408 Offences as to agreements with the crew.

If a skipper—

- (i) fraudulently alters, or makes any false entry in, a fishing boat's agreement, or is privy to any such fraudulent alteration or false entry ;
 - (ii) delivers, or is privy to the delivery of, a false copy of a fishing boat's agreement ;
- he shall for each offence be liable to a fine not exceeding twenty pounds.

Payment of Wages and Discharge of Seamen.

409 Account of wages.

- (1) The owner of a fishing boat, being a trawler of twenty-five tons tonnage or upwards, shall deliver to the skipper, and the owner or skipper of such a boat shall deliver to every seaman of that boat, a full and true account, in a form approved by the Board of Trade, of the wages of the skipper or seaman, as the case may be (not being a share in the catch), and of all deductions to be made therefrom on any account whatever, and a deduction from the wages of a skipper or seaman shall not be allowed unless it is included in the account so delivered, or is in regard of a matter happening after such delivery.
- (2) The skipper may by notice to the owner, and a seaman may by notice to the skipper, dispense with the delivery of such account.
- (3) Except where the account of wages is dispensed with, the account shall be delivered not less than four hours before the paying off or discharge of the skipper or seaman.
- (4) If the owner or skipper of a boat fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding five pounds.

410 Certificate of discharge.

- (1) Upon the discharge of a seaman from a fishing boat, being a trawler of twenty-five tons tonnage or upwards, or on the payment of his wages, the skipper shall sign and deliver to him a certificate of discharge, in a form approved by the Board of Trade, specifying the period of his service, and the time and place of his discharge.
- (2) If a skipper fails to comply with this section, he shall for each offence be liable to a fine not exceeding five pounds.

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411 Compensation to seamen improperly discharged.

If a seaman, having signed a fishing boat's agreement, is discharged before the commencement of the voyage, or at any time during the voyage or engagement, without fault on his part justifying the discharge and without his consent, he shall be entitled to recover, in addition to an amount of wages proportionate to the time he has served, sufficient compensation for the damage caused to him by the discharge, and may recover that compensation as wages duly earned.

412 Provision as to discharge, &c. to apply in the case of any sort of agreement.

The provisions of this Part of this Act relating to the discharge of seamen and the payment of wages shall apply whether the seaman is serving under an ordinary agreement, or under an agreement to serve in two or more fishing boats belonging to the same owner, or under a fishing boat's running agreement.

Certificates of Skippers and Second Hands.

413 Skippers and second hands to hold certificate of competency.

- (1) A fishing boat, being a trawler of twenty-five tons tonnage or upwards, shall not go to sea from any port of England or Ireland unless provided with a duly certificated skipper and a duly certificated second hand.
- (2) If a boat goes to sea contrary to this section, the owner thereof shall for each offence be liable to a fine not exceeding twenty pounds.
- (3) If any person, except in case of necessity—
 - (a) having been engaged to serve as skipper or second hand of a fishing boat, being a trawler of twenty-five tons tonnage and upwards, serves as skipper or second hand of that boat without being duly certificated; or
 - (b) employs any person as skipper or second hand of such a boat without ascertaining that he is duly certificated;that person shall for each offence be liable to a fine not exceeding twenty pounds.
- (4) A skipper or second hand shall not be deemed duly certificated for the purpose of this section unless he holds a certificate under this Part of this Act appropriate to his station in the boat or to a higher station.
- (5) Where the skipper of such a boat is absent from his boat a superintendent may, on the request of the owner of the boat, and on being satisfied that the absence is due to an unavoidable cause, authorise the second hand of the boat to act, for a period not exceeding one month, as the skipper of the boat during the skipper's absence, and the second hand when acting under that authority shall for the purposes of this section be deemed to be a duly certificated skipper.

414 Granting of certificate of competency.

- (1) Certificates of competency as skipper or as second hand of fishing boats, or any particular class of fishing boats, may be granted by the Board of Trade in the same manner as certificates of competency as master or mate under the Second Part of this Act, and all the provisions of this Act with respect to or connected with the examination of applicants for certificates and the granting thereof, and the suspension

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and cancellation thereof, and inquiries and investigations into the conduct of the holders thereof, and all other provisions of this Act relating to or connected with certificates of masters or mates, shall apply to the certificates as skipper or second hand of fishing boats, and the holders thereof, as if the certificates had been granted under Part II. of this Act, and the holders thereof shall be entitled to such privileges, and subject to such liabilities as they would be if such certificates had been so granted.

- (2) A certificate of competency as skipper of a fishing boat shall not be granted to any person unless he has previously held a certificate as second hand for at least twelve months.

415 Certificate of service.

- (1) If any person before the first day of September one thousand eight hundred and eighty-three served as a skipper or before the first day of July one thousand eight hundred and eighty-eight served as a second hand in fishing boats, being trawlers of twenty-five tons tonnage and upwards or such other fishing boats as the Board of Trade consider will have afforded that person sufficient experience, for a period amounting in all to not less than twelve months, that person shall be entitled to a certificate of service as skipper or second hand, as the case may be, of a fishing boat, limited, if he has been exclusively employed in a particular class of such fishing boats, to that particular class.
- (2) If a person proves to the Board of Trade that he has served as required by this section and has been generally well conducted on board the boats in which he has served, the Board of Trade shall deliver a certificate of service to him.
- (3) The certificate of service shall differ in form from a certificate of competency, and shall contain particulars of the name, place, and date of birth of the holder, and of the length and nature of his previous service.
- (4) This Act shall apply to a certificate of service so granted and, to the holder thereof in like manner as it applies to a certificate of competency granted under this Part of this Act and to the holder thereof.

416 Registers of certificated skippers and second hands.

- (1) The Board of Trade may cause a register of certificated skippers and second hands to be kept in such form and by such person, and containing such particulars, as the Board direct.
- (2) Such register shall be admissible in evidence in manner provided by this Act, and the absence of an entry in the register of any person or matter shall be evidence of the non-registration of such person or matter, and if the question is whether the person has been certificated as a skipper or second hand, of his not being so certificated.

Conveyance of Fish from Trawlers.

417 Board of Trade regulations as to conveyance of fish from trawlers.

- (1) The Board of Trade, on the application of any owners of a fleet of fishing boats, or of any association of owners of fishing boats, or of any persons having the charge or command of a fleet of fishing boats, or without such application if the person or association entitled to make the application fails after request by the Board of Trade to

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do so, may make such regulations respecting the conveyance of fish from fishing boats catching fish as trawlers to vessels engaged in collecting and carrying fish to port, as may appear to the Board expedient for preventing loss of life, or danger to life or limb.

- (2) All regulations so made shall be laid for thirty days before both Houses of Parliament while in session, and shall not come into force till the expiration of those thirty days; and if either House within those thirty days resolves that the whole or any part of the regulations laid before them ought not to be in force, the same shall not have any force, without prejudice, nevertheless, to the making of any other regulation in its place.
- (3) All regulations made under this section shall, whilst in force, have effect as if enacted in this Act.
- (4) If any person to whom such a regulation applies fails without reasonable cause to comply therewith, he shall for each offence be liable to a fine not exceeding ten pounds.
- (5) This section shall apply to fishing boats of whatever tonnage.