



Merchant Shipping Act 1894

1894 CHAPTER 60

PART IV

FISHING BOATS.

Application of Part IV, &c.

369 Application of Part IV.

- (1) This Part of this Act relates partly—
 - (a) to all fishing boats and to the whole fishing service; and partly
 - (b) to all fishing boats of twenty-five tons tonnage and upwards; and partly
 - (c) to fishing boats being trawlers of twenty-five tons tonnage and upwards, and where so expressly provided, to fishing boats being trawlers of whatever tonnage.
- (2) The Board of Trade may, by order published in the London Gazette,—
 - (a) exempt from the date in the order mentioned, any class of such trawler or trawlers belonging to any port from the whole or any portion of this Part of this Act, and
 - (b) extend all or any of the provisions of this Part of this Act to any fishing boats referred to in the order,and may revoke or alter any such order by an order published in like manner, but such order shall not extend to any of the provisions relating to the fishing boat register, or to the boats and lifebuoys to be carried on fishing boats.
- (3) The Board of Trade may, before making any order under this section, institute such inquiry, as in their opinion may be required for enabling them to make the order, by such person as the Board may appoint, and the person so appointed shall for the purpose of the inquiry have all the powers of a Board of Trade inspector under this Act.
- (4) The provisions of this Act with respect to fishing boats being trawlers shall, save as otherwise expressly provided, apply to vessels employed as tenders or carriers to

fishing boats or for the purpose of collecting and conveying to the land the catch of fishing boats.

370 Definitions: " Fishing boat "; " Second hand "; " Voyage ".

In this Part of this Act, unless the context otherwise requires—

The expression " fishing boat " means a vessel of whatever size, and in whatever way propelled, which is for the time being employed in sea fishing or in the sea-fishing service, but save as otherwise expressly provided, that expression shall not include a vessel used for catching fish otherwise than for profit.

The expression " second hand " means, with respect to a fishing boat, the mate or person next to the skipper in authority or command on board the boat.

The expression " voyage " shall mean a fishing trip commencing with a departure from a port for the purpose of fishing, and ending with the first return to a port thereafter upon the conclusion of the trip, but a return due to distress only shall not be deemed to be a return, if it is followed by a resumption of the trip.

371 Ascertainment of tonnage of fishing boat.

- (1) The tonnage of a fishing boat for the purpose of this Part of this Act shall be taken to be in the case of a steam trawler her gross tonnage, but in any other case her register tonnage.
- (2) Where a fishing boat is registered under Part I. of this Act, her gross or register tonnage as ascertained for the purpose of that registry shall be her gross or register tonnage for the purpose of this Part of this Act.
- (3) Where a fishing boat is not so registered a certificate signed by a surveyor of ships under this Act stating her gross or register tonnage, ascertained as in the case of a ship registered under Part I. of this Act, shall be conclusive of that tonnage.

372 Extent of Part IV.

This Part of this Act shall not, except where otherwise expressly provided, apply to Scotland, or to any British possession.

I

**PROVISIONS APPLYING TO ALL FISHING
BOATS AND TO THE WHOLE FISHING SERVICE.**

The following sections shall apply to all fishing boats and the whole fishing service :—

*Fishing Boats Register.***373 Registry of British fishing boat.**

- (1) This section shall apply to the British Islands, and to all British fishing boats, including those used otherwise than for-profit, and the expression " fishing boat" in this section shall be construed accordingly.
- (2) Subject to any exemptions made by the regulations under this section, every fishing boat shall be lettered and numbered and have official papers, and shall for that purpose be entered in the fishing boat register.
- (3) If a fishing boat required to be so entered is not so entered, she shall not be entitled to any of the privileges or advantages of a British fishing boat, but all obligations, liabilities, and penalties with reference to that boat, and the punishment of offences committed on board her, or by any persons belonging to her, and the jurisdiction of officers and courts, shall be the same as if the boat were actually so entered.
- (4) If a fishing boat required to be entered in the fishing boat register is not so entered, and is used as a fishing boat, the owner and skipper of such boat shall each be liable, for each offence, to a fine not exceeding twenty pounds, and the boat may be detained.
- (5) Her Majesty, by Order in Council, may make regulations for carrying into effect and enforcing the entry of fishing boats in the fishing boat register, and any convention with a foreign country relative to the registry, lettering, and numbering of fishing boats, which is for the time being in force by virtue of any statute, and may by such regulations—
 - (a) adopt any existing system of registry or lettering and numbering of boats, and provide for bringing any such system into conformity with the requirements of this Act and of any such convention, and the regulations; and
 - (b) define the boats or classes of boats to which the regulations or any of them are to apply, and provide for the exemption of any boats or classes of boats from the provisions of this section, and from the regulations or any of them ; and
 - (c) apply to the entry of fishing boats in the fishing boat register, and to all matters incidental thereto, such (if any) of the enactments contained in this or any other Act relating to the registry of British ships, and with such modifications and alterations as may be found desirable; and
 - (d) impose fines not exceeding twenty pounds for the breach of any such regulations which cannot be punished by the application of any of those enactments.
- (6) Section twenty-six of the Sea Fisheries Act, 1868, and sections eleven to fourteen of the Sea Fisheries Act, 1883, shall apply in like manner as if those sections referred to this section and an Order in Council made thereunder, in substitution for sections twenty-two to twenty-four of the Sea Fisheries Act, 1868, and any Order in Council made under those sections.
- (7) Section one hundred and seventy-six of the Customs Consolidation Act, 1876, shall not apply to any fishing boat entered in the fishing boat register in pursuance of this Act.

374 Effect of registry of fishing boat.

In all legal proceedings against the owner or skipper of, or any person belonging to, any boat entered in the fishing boat register, either for an offence against the fishery regulations or regulations as to lights in the Sea Fisheries Act, 1868, or for an offence against the Sea Fisheries Act, 1883, or for the recovery of damages for injury done by such boat, the register shall be conclusive evidence that the persons entered therein at any date as owners of the boat were at that date owners thereof, and that the boat is a British sea-fishing boat: Provided that—

- (a) this enactment shall not prevent any proceedings being instituted against any person not so entered who is beneficially interested in the boat; and
- (b) this enactment shall not affect the rights of the owners among themselves, or the rights of any owner entered in the register against any person not so entered who is beneficially interested in the boat; and
- (c) save as aforesaid, entry in the fishing boat register shall not confer, take away, or affect any title to or interest in any fishing boat.

375 Rules as to boats and life-buoys of fishing boats.

(1) A fishing boat entered in the fishing boat register, whether used for profit or not, shall not proceed to sea from any port in the United Kingdom—

- (a) if she is decked, unless she is provided according to her tonnage with boats duly supplied with all requisites for use, and not being fewer in number nor less in their cubic contents than is in that behalf specified in the Fifteenth Schedule to this Act for the class to which the fishing boat belongs; and
- (b) if she carries more than ten passengers, unless she is, in addition to the above boats, provided with two life-buoys and provided either with a lifeboat furnished with all requisites for use, or has one of her boats rendered buoyant after the manner of a lifeboat;

and such boats and life-buoys shall be kept so as to be at all times fit and ready for use.

(2) In any of the following cases—

- (a) if any such fishing boat proceeds to sea without being provided with such boats or life-buoys ; or
- (b) if any such boat or life-buoy is lost or rendered unfit for service in the course of the voyage through the wilful fault or negligence of the owner or skipper ; or
- (c) if in case of any such boat or life-buoy being accidentally lost or injured in the course of the voyage the skipper fails without reasonable cause to replace or repair the same on the first opportunity; or
- (d) if any such boat or life-buoy is not kept so as to be at all times fit and ready for use;

then, if the owner appears to be in fault, he shall for each offence be liable to a fine not exceeding one hundred pounds, and if the skipper appears to be in fault, he shall for each offence be liable to a fine not exceeding fifty pounds.

(3) A fishing boat required under this section to be provided with boats and life-buoys may be detained until she is duly so provided.

*Discipline.***376 Offences by seamen and apprentices.**

- (1) If a seaman lawfully engaged to serve in any fishing boat, or an apprentice in the sea-fishing service, commits any of the following offences, that seaman or apprentice shall be liable to be punished summarily as follows :—
- (a) For the offence of desertion,—he shall be liable to forfeit all or any part of the effects he leaves on board, and all or any part of the wages which he has then earned, and to satisfy any excess of wages paid by the skipper or owner of the fishing boat from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him :
 - (b) For the offence of absence without leave, that is to say for neglecting or refusing without reasonable cause to join or to proceed to sea in his fishing boat, or for being absent without leave at any time within twenty-four hours of his boat's sailing from any port, either at the commencement or during the progress of the engagement, or for being absent at any time without leave and without sufficient reason from his boat,—if the offence does not amount to desertion, or is not treated as such by the skipper, he shall be liable to forfeit a sum not exceeding two days wages, and in addition for every twenty-four hours of absence, either a sum not exceeding four days wages, or any expenses properly incurred in respect of a substitute:
 - (c) For the offence of wrongfully quitting the boat, that is to say for quitting the boat without leave after her arrival in port, and before she is placed in security,—he shall be liable to forfeit a sum not exceeding two weeks wages:
 - (d) For the offence of wilful disobedience, that is to say for wilfully disobeying any lawful command during the engagement,—he shall be liable to imprisonment for any period not exceeding four weeks, and also to forfeit a sum not exceeding two days wages :
 - (e) For the offence of continued breach of duty, that is to say for continued wilful disobedience to lawful commands during the engagement, or continued wilful omission to do his duty during the engagement,—he shall be liable to imprisonment for any period not exceeding twelve weeks, and also to forfeit for every twenty-four hours continuance of the offence either a sum not exceeding six days wages or any expenses properly incurred in respect of a substitute :
 - (f) For the offence of assault, that is to say for assaulting any skipper or second hand,—he shall be liable to imprisonment for a period not exceeding twelve weeks :
 - (g) For the offence of unlawful combination, that is to say for combining with any one or more of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the boat, or the progress of the trip,—he shall be liable to imprisonment for a period not exceeding twelve weeks:
 - (h) For the offence of wilful damage, that is to say for wilfully damaging the boat or embezzling or wilfully damaging any of her stores or cargo,—he shall be liable to forfeit a sum equal in amount to the loss thereby sustained, and also to imprisonment for a period not exceeding twelve weeks :
 - (i) For the offence of smuggling, that is to say for any act of smuggling of which he is convicted and which caused loss or damage to the skipper or owner,—he shall be liable to forfeit a sum sufficient to reimburse that loss or damage.

- (2) A skipper shall be liable to punishment for the said offences of desertion, absence without leave, wrongfully quitting the boat, wilful damage, and smuggling, as if he were a seaman.
- (3) The court before whom any skipper, seaman, or apprentice is convicted of an offence under this section may order any money forfeited for that offence to be deducted from his wages, and (if they think fit) may order the forfeiture to be applied for the benefit of the person by whom the wages are payable, or of the person injured by the commission of the offence.
- (4) The provisions of this section relating to the offences of wilful disobedience, continued breach of duty, assault, and unlawful combination shall extend to apprentices in the sea fishing service, and to sea-fishing boys as herein-after defined, whether on shore or on board.
- (5) A seaman or apprentice shall not be relieved by his refusal or neglect to go to sea or by his desertion from being liable to punishment under this section for an offence of wilful disobedience, continued breach of duty, or unlawful combination, and in addition to any such punishment shall also be liable to be punished for the offence of desertion or absence without leave.
- (6) Any imprisonment under this section may be with or without hard labour.

377 Civil right unaffected by criminal provisions.

- (1) Nothing in the last preceding section shall takeaway or limit any remedy by action or before a court of summary jurisdiction which an owner or skipper would otherwise have for any breach of contract in respect of the matters constituting an offence under that section, but no owner or skipper shall be compensated more than once in respect of the same damage.
- (2) Any question concerning the forfeiture of or deductions from the wages of a seaman or apprentice in the sea-fishing service may be determined in any proceeding lawfully instituted with respect to those wages, notwithstanding that the offence in respect of which the question arises, though by this Act made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

378 Application of forfeitures.

All effects and wages which are, under this Part of this Act, forfeited for desertion shall be applied first in reimbursing the expenses occasioned by such desertion to the skipper or owner of the boat, and, subject to that reimbursement, shall be paid into the Exchequer, and carried to the Consolidated Fund ; and any court having cognizance of any proceedings in relation thereto may order the same to be applied accordingly, and where the effects forfeited do not consist of money, may order the same to be sold, and the proceeds of the sale to be applied in manner aforesaid.

379 Deserters and others may be sent back to their boats.

Whenever any seaman or apprentice is brought before any court charged with the offence (under this Part of this Act) of desertion or of absence without leave, or with otherwise absenting himself from his boat without leave, the court may at the request of the owner or skipper or his agent, in addition to, or in lieu of, imposing any punishment

to which he may be liable, cause him to be conveyed on board for the purpose of fulfilling his engagement, or deliver him to the skipper to be so conveyed by him, and may order any costs or expenses properly incurred to be paid by the offender, and if necessary to be deducted from any wages which he has then earned, or which he may thereafter earn under his engagement.

380 Apprehension of seamen guilty of certain offences.

- (1) Any of the following officers; namely,—
 - (a) a superintendent; or
 - (b) the principal Board of Trade officer at a port or district, or his deputy;may, on the information (made, if the officer so require, on oath) of the owner, skipper, second hand, or agent of a fishing boat, issue a warrant under his hand in the form approved by the Board of Trade for the apprehension of any seaman or apprentice charged with the offence (under this Part of this Act) of desertion, absence without leave, wilful disobedience, continued breach of duty, or unlawful combination.
- (2) Such warrant shall be executed by any constable of the county, borough, or place, where the offender may be, and shall continue in force for ninety-six hours from the time endorsed on the warrant by the officer issuing the same.
- (3) The seaman or apprentice when apprehended shall be brought by the constable without delay before some officer by whom a warrant may be issued under this section, and that officer shall then and there inquire into the case, and if the explanation of the seaman or apprentice is, in his opinion, sufficient, shall discharge him, but, if not, shall order him to join his boat and resume his duty.
- (4) If the seaman or apprentice refuses to obey that order, the officer shall order him to be detained and to be brought with convenient speed before a court of summary jurisdiction, and that court shall hear and determine in due course of law the charge made against him by the information on which he has been apprehended.
- (5) An information laid before an officer under this section need not be reduced to writing.
- (6) An officer acting under this section may take the evidence (if he thinks fit, on oath) of any person other than the seaman or apprentice charged who is able and willing to give information as to the matters in question, and for that purpose shall have the powers of a Board of Trade inspector under this Act.
- (7) A warrant issued under this section shall be valid if it is in the form approved by the Board of Trade and filled in reasonably in accordance with the directions contained in the form, and is duly signed, and shall not be invalidated by the officer who issued it dying or ceasing to hold office.

381 Dealing with seaman who refuses to proceed to sea, &c.

If a seaman or apprentice engaged or liable to serve on board any fishing boat neglects, or refuses to join, or deserts from, or refuses to proceed to sea in, or absents himself without leave from that fishing boat, the skipper owner or agent of the boat may, with or without the assistance of the local constables (who shall give their assistance in these cases when required by the skipper, owner, or agent) take the seaman or apprentice before some officer by whom a warrant can be issued for his apprehension under this Part of this Act, who shall deal with him as if apprehended under such a warrant.

382 Notice by seaman that he intends to absent himself.

- (1) If a seaman (not being a sea-fishing boy as defined by this Act) or a skipper intends to absent himself from his fishing boat or his duty, he may, when not at sea, give notice of his intention, if a skipper to the owner of the boat or the owner's agent, and if a seaman either to the owner or to the skipper, not less than forty-eight hours before the time at which he ought to be on board.
- (2) When such notice is duly given the skipper or seaman shall not be compelled to go or be brought on board for the purpose of proceeding with the voyage or engagement.

383 Calculation of wages.

- (1) The wages of a skipper seaman or apprentice of a fishing boat shall accrue from day to day.
- (2) When wages are contracted for by the voyage or trip or the season or b)' the share, and not by a stated period of time, the amount accruing from day to day shall be an amount equal to the wages for the whole voyage or trip or season, or the whole share, (as the case may be) divided by the number of days occupied in the voyage or trip or season, but a skipper seaman or apprentice shall not be entitled to more than what his share of the profits or catch made during the period he has actually served may or would have amounted to.
- (3) Where the whole time spent in the voyage or trip does not exceed the period for which the wages are to be forfeited, the forfeiture shall extend to the whole wages or share.

384 Facilities for proving desertion so far as concerns forfeiture of wages.

- (1) Whenever a question arises before a court whether the wages of any skipper seaman or apprentice of a fishing boat are forfeited for desertion, it shall be sufficient for the person insisting on the forfeiture to show that the skipper seaman or apprentice was duly engaged and belonged to the boat, and left the boat before the completion of the voyage or engagement.
- (2) The desertion shall thereupon, so far as relates to any forfeiture of wages, be deemed to be proved, unless the skipper seaman or apprentice can produce a proper certificate of discharge, or can otherwise show to the satisfaction of the court that he was not guilty of desertion.

*Provisions as to Deaths, Injuries, Ill-treatment,
Punishments, and Casualties in Fishing Boats.*

385 Record and report of death, injury, ill-treatment, punishment, casualties, &c.

- (1) The skipper of a fishing boat shall keep a record of the following occurrences; namely,
 - (i) Of every death, injury, ill-treatment, or punishment of any member of his boat's crew while at sea or of any person on board his boat, and
 - (ii) Of every casualty to his fishing boat or any boat belonging to her.
- (2) The skipper shall produce the record so kept to any superintendent when required by him, and shall also send the same to the superintendent at the port to which the boat

belongs at such periods as the Board of Trade require by any directions endorsed on the forms approved by them.

- (3) If any such occurrence has happened in the case of a fishing boat, the skipper of the boat shall make to the superintendent at the port where his boat's voyage ends, within twenty-four hours of the boat's arrival at that port, a report of the occurrence.
- (4) The record and report under this section shall be in such form and contain such particulars as the Board of Trade require.
- (5) If a skipper fails without reasonable cause to comply with any requirement of this section, he shall for each offence be liable to a fine not exceeding twenty pounds.

386 Inquiry as to death, injury, ill-treatment, punishment, &c.

- (1) Where any such occurrence as in the last preceding section mentioned happens or is supposed to have happened, the superintendent at or nearest to the port at which the fishing boat arrives after the occurrence, or to which the boat belongs, may inquire into the cause and particulars of the occurrence, and, if a report as to the occurrence is made to him in pursuance of the said section, may make on the report an endorsement either that in his opinion the particulars in the report are true, or otherwise to such effect as in his opinion his information warrants.
- (2) For the purpose of the inquiry, a superintendent shall have all the powers of a Board of Trade inspector under this Act.
- (3) If in the course of the inquiry it appears to the superintendent that any such occurrence as aforesaid has been caused or was accompanied by violence or the use of any improper means, he shall report the matter to the Board of Trade, and shall also, if the emergency of the case in his opinion so requires, take immediate steps for bringing the offender to justice, and may for that purpose, if in his discretion he thinks it necessary, cause him to be arrested, and thereafter dealt with in due course of law.

Settlement of Disputes.

387 Decision of disputes by superintendent.

- (1) A superintendent shall inquire into, hear, and determine any dispute, either between the owner of a fishing boat and the skipper or a seaman of the boat, or between the skipper of a fishing boat and any seaman of the boat concerning—
 - (i) the skipper's or seaman's wages or his share in the profits of the voyage or trip or a fishing catch, or any deduction therefrom ; or
 - (ii) the skipper's or seaman's engagement, service, or discharge ; or
 - (iii) the cost, quantity, or quality, of the provisions supplied to the crew;if any party to the dispute calls on him to decide it, and his decision thereon shall be final and binding on all persons.
- (2) The decision shall, on the request of any party to the dispute, be put into writing, and any such written decision, if purporting to be signed by the superintendent, shall be admissible in evidence in manner provided by this Act.
- (3) The decision may be enforced by any justice of the peace, within whose jurisdiction the person or goods of any one against whom the decision is given may be found, in the same manner as if the decision were an order made by a court of summary jurisdiction,

and a skipper or seaman may also recover any sum adjudged due to him by any such decision as if it were wages.

- (4) A superintendent for the purpose of hearing and determining any such dispute shall have all the powers of a Board of Trade inspector under this Act.

Provisions for ascertaining Profits of Fishing Boats.

388 Accounts to be rendered by owners.

- (1) Where a skipper or any other member of the crew of a fishing boat is paid by a share in the catch; the owner of the boat shall render to him a full and true account, in a form approved by the Board of Trade, showing in detail the amounts for which the fish have been sold, and all deductions from those amounts which are chargeable in any respect to the men who are paid by share, and are made either in respect of stores supplied to the fishing boat, or provisions furnished to the crew or otherwise.
- (2) If the owner of a fishing boat fails without reasonable cause to comply with the foregoing provisions of this section, he shall for each offence be liable to a fine not exceeding five pounds.
- (3) If a dispute arises as to the share of the catch, the skipper or seaman shall be entitled to inspect at all reasonable times the owner's accounts and books relating to the catch, and if the owner of a fishing boat upon demand fails without reasonable cause to submit his accounts or books at a reasonable time to such inspection, he shall for each offence be liable to a fine not exceeding twenty pounds.

Agreements for Fishing Vessels in Scotland.

389 Agreements for fishing vessels in Scotland.

- (1) The owner or skipper of any British vessel engaged in fishing off the coast of the United Kingdom may enter into an agreement with any person employed on that vessel that that person shall be remunerated wholly by a share in the profit of the fishing adventure.
- (2) Every such agreement shall be in writing, and shall be signed by the contracting parties in the presence of a superintendent.
- (3) The superintendent shall, before the agreement is signed, read and (if necessary) explain the same to the contracting parties, and shall attest the signature of the agreement and certify that it has been read to, and agreed to, by the contracting parties.
- (4) Any such agreement, if made in manner provided by this section, shall be valid and binding on all the contracting parties, and shall have effect notwithstanding anything in Part II of this Act.
- (5) This section shall only apply to Scotland.

*Fees and Control of Superintendents.***390 Fees payable on engagements and discharges.**

- (1) The Board of Trade may fix the fees to be payable upon engagements or discharges of members of the crews of fishing boats when effected before a superintendent; and a superintendent may refuse to proceed with any such engagement or discharge unless the fee payable thereon has first been paid.
- (2) All fees so paid shall be carried to the credit of the Mercantile Marine Fund.

391 Control of Board of Trade.

All superintendents shall, in carrying into effect the provisions of this Part of this Act, other than those relating to the fishing boat register, be subject to the control of and obey any directions given by the Board of Trade.

II**PROVISIONS APPLYING TO ALL FISHING BOATS OF TWENTY-FIVE TONS TONNAGE AND UPWARDS.**

The following sections shall apply to all fishing boats of twenty-five tons tonnage and upwards.

*Apprenticeship and Agreements with Boys.***392 Restriction on apprenticeships and agreements in the case of young boys.**

A boy under the age of thirteen years shall not enter into any apprenticeship to the sea-fishing service or agreement with respect to that service, and an indenture of apprenticeship or agreement made contrary to this section shall be void.

393 Boys to be properly apprenticed or have proper agreements.

- (1) A boy under the age of sixteen years shall not be taken to sea for the purpose of serving in any capacity connected with the sea-fishing service, unless he is bound by an indenture of apprenticeship or agreement made in conformity with this Part of this Act, and a boy bound by any such agreement is in this Act referred to as a sea-fishing boy.
- (2) If any person takes a boy to sea, or causes a boy to be taken to sea, in contravention of this section, that person shall be liable to a fine not exceeding twenty pounds.
- (3) Boards of guardians in apprenticing boys to the sea-fishing service, shall not cause or permit any such apprenticeship to be made except in conformity with this Part of this Act.
- (4) Nothing in this Part of this Act shall prevent the daily employment in a fishing boat of any boy under the age of sixteen years, who is under no obligation to remain in that employment for a longer period than one day, and with whom no written agreement has been made.

394 Assistance by superintendents.

All superintendents shall give to persons desirous of making indentures of apprenticeship to the sea-fishing service or agreements under this Part of this Act, or of causing the same to be made, such assistance as may be in their power in reference thereto, and shall supply forms of indentures or agreements at such reasonable rates (if any) as the Board of Trade may fix, and may receive such fees in respect of those indentures or agreements as the Board of Trade may fix.

395 Apprenticeships and agreements with boys to be made before superintendent.

- (1) Indentures of apprenticeship to the sea-fishing service, and agreements with boys under the age of sixteen years with respect to that service, shall be made before a superintendent and be in accordance with this Act, and every such indenture or agreement not so made shall be void.
- (2) A superintendent, before allowing any such indenture or agreement to be completed, shall satisfy himself—
 - (a) that the indenture or agreement complies with all the requirements of this Part of this Act; and
 - (b) that the master with whom the indenture or agreement is made is a fit person for the purpose ; and
 - (c) that the apprentice or boy is not under the age of thirteen years, and is of sufficient health and strength ; and
 - (d) that the nearest relations of the apprentice or boy or his guardians assent, in the case of an apprentice, to the apprenticeship, and to the stipulations in the indenture of apprenticeship, and in the case of a boy, to the stipulations of the agreement;and shall make and sign an endorsement that he is so satisfied on the indenture or agreement.
- (3) Where there are no nearest relations or guardians, or where they cannot readily be found, or are not known, the superintendent shall act as guardian for the occasion, and state in his endorsement that he has so acted.
- (4) The superintendent's endorsement shall be admissible in evidence in manner provided by this Act.
- (5) The indentures of apprenticeship and agreements shall be in such form, and contain such covenants, provisions, stipulations, endorsements, and certificates as are prescribed by Order in Council made on the recommendation of the Board of Trade, and any directions given in the forms so prescribed shall be complied with.
- (6) The indentures and agreements shall be executed in triplicate, one of which shall be kept by the master, one by the boy, and one by the superintendent before whom it is made.
- (7) All such indentures and agreements made in conformity with this Part of this Act shall be exempt from stamp duty.

396 Enforcement by superintendents of indentures or agreements.

- (1) Where an indenture of apprenticeship to the sea-fishing service, or any agreement with a sea-fishing boy, has been made before a superintendent at a port, the superintendent

for the time being at that port may, by proper legal proceeding taken in his own name, enforce on behalf of the apprentice or boy against the master any stipulations in that indenture or agreement.

- (2) Where an apprentice or boy is taken to sea from any port under an indenture or agreement which is void, the superintendent at that port, or if there is none the superintendent at the nearest port, may, by proper legal proceedings taken in his own name, enforce, to such extent as he thinks just, on behalf of the apprentice or boy against the master any stipulation in the void indenture or agreement which is in favour of the apprentice or boy.
- (3) Any sums recovered by a superintendent under this section may, so far as necessary, be applied by him in payment of the costs of recovering the same.

397 Powers of superintendent under indenture or agreement.

Where an indenture of apprenticeship to the sea-fishing service, or an agreement with a sea-fishing boy, is made before a superintendent at any port, the superintendent for the time being at that port shall have, and when necessary shall execute, all the powers given to the superintendent by the indenture or agreement.

398 Prohibition on taking money for apprenticeships and boys agreements.

If any person—

- (a) receives any money or valuable consideration from the person to whom an apprentice in the sea-fishing service is bound, or to whom a sea-fishing boy is bound by any agreement, or from anyone on that person's behalf, or from the apprentice or boy or anyone on the apprentice or boy's behalf, in consideration of the apprentice or boy being so bound; or
- (b) makes or causes any such payment to be made ;

that person shall in respect of each offence be guilty of a misdemeanor, whether the apprentice or boy was or was not validly bound.

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.

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- (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.
- (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.

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.

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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.
- (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.

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

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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 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 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.