

ACT No. XV OF 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 10th March 1863.)

An Act to amend Act I of 1859 (for the amendment of the law relating to Merchant Seamen.)

WHEREAS it is expedient to amend the provisions of Act I of 1859 *(for the amendment of the law relating to Merchant Seamen)* in so far as the said Act relates to agreements with Natives of India; to vessels trading from the Straits' Settlement to the Gulf of Siam, and the Eastern Archipelago; and to the cancelment and suspension of certificates of competency and service; It is enacted as follows:—

Preamble.

I. Sections XVII, XXI, LXXXI, and LXXXII of the said Act I of 1859, and Act XXVIII of 1861 *(to extend the provisions of Act I of 1859 for the amendment of the law relating to Merchant Seamen)* are hereby repealed.

Certain Sections of Act I of 1859, and Act XXVIII of 1861, repealed.

II. Sections IX to XVI of the said Act I of 1859 shall not apply to ships registered under Act X of 1841 *(for prescribing the rules to be observed, in order that ships or vessels belonging to Ports within the Territories under the Government of the East India Company, or belonging to Native Princes or States, or their Subjects, may become entitled to the privileges of British ships under a proclamation of the Governor-General of India in Council, made in pursuance of the Statute 3 and 4 Victoria Chapter 56)*, and trading between Ports in India and the Coast of Arabia, when such ships are navigated and manned exclusively by Arabs, Lascars, or other Asiatic Masters and Seamen, or to ships of less than two hundred tons burden registered under the said Act X of 1841, and

Sections IX to XVI of Act I of 1859 not to apply to ships registered under Act X of 1841, under certain circumstances.

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and trading between any Port of the Settlement of Prince of Wales' Island, Singapore and Malacca, and the Gulf of Siam, or the Eastern Archipelago, when such ships are navigated exclusively by Malays, Lascars, or other Asiatic Masters and Seamen.

III. The Master of every ship, except ships of a burden not exceeding three hundred tons employed only in the Home-trade, shall enter into an agreement with every Seaman and with every Native of India not being a Seaman whom he carries to sea from any Port in India as one of his crew, in the manner hereinafter mentioned; and every such agreement shall be in a form sanctioned by the Governor-General of India in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the Master before any Seaman or other person aforesaid signs the same, and shall contain the following particulars as terms thereof; (that is to say)—

1.—The nature and, as far as practicable, the duration of the intended voyage or engagement.

2.—The number and description of the crew, specifying how many are engaged as Sailors.

3.—The time at which each Seaman and each Native of India not being a Seaman is to be on board or to begin work.

4.—The capacity in which each Seaman and each Native of India not being a Seaman is to serve.

5.—The amount of wages which each Seaman and each Native of India not being a Seaman is to receive.

6.—A scale of the provisions which are to be furnished to each Seaman and to each Native of India not being a Seaman.

7.—Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the Government as regulations proper to be adopted, and which the parties agree to adopt.

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And every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the Master and Seaman, and each Native of India not being a Seaman, in each case (not being inconsistent with the provisions of this Act), as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law. Provided that,

Proviso as to forms for British or Colonial ships. if the Master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew, made in due form according to the law of the place to which such ship belongs, or in which her crew were engaged, and engages single Seaman, or any Native of India not being a Seaman, in any Port in India, such Seaman or other person aforesaid may sign the agreement so made, and it shall not be necessary for such Seaman or other person aforesaid to sign an agreement under

Proviso where Lascars, &c., are shipped. this Act. Provided also that, in the case of Lascars or other Native Seaman, and every Native of India not being a Seaman, when it shall be agreed that the service of any such Seaman or other person aforesaid shall end at any Port not in India, the agreement shall contain stipulations for providing for such Seaman or other person aforesaid fit employment on board some other vessel bound to the Port at which he was shipped, or such other Port as may be agreed on, or for providing for him a passage to some such Port as aforesaid free of charge, or on such other terms as may be agreed on; and every such stipulation shall be signed by the owner of the vessel, or by the Master on his behalf.

IV. Every Court having Admiralty Jurisdiction in India, and the prin-

Court authorized to make enquiry into charges against Masters, Mates, and Engineers, and to report to local Government. cipal Court of ordinary Criminal Jurisdiction at every Port in India where there is no Court having Admiralty Jurisdiction, is hereby authorized to investigate and try charges of incompetency or misconduct on the part of any Master, Mate, or Engineer of any ship, who shall have obtained his certificate from the Board of Trade, and to make enquiry as to shipwreck or other casualties affecting ships; and if on such investigation it shall appear to any such Court as aforesaid, that the loss or abandonment of, or any serious damage to, any ship, or loss of life, has been caused by the wrongful act or default of any such Master, Mate, or Engineer, or that any such Master, Mate, or Engineer has been guilty of any gross act of misconduct, drunkenness, or tyranny, such Court may suspend, for such period as it shall think fit, or may cancel, such certificate, whether of competency or service, of such Master, Mate, or Engineer,
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and the Court shall report the same to the local Government within whose limits such Court is situated. Provided that no certificate shall be cancelled or suspended, unless a copy of the Report, or a statement of the case upon which the investigation is made, shall have been furnished to the owner of the certificate before the commencement of the investigation. Provided also that the Report of such Court is confirmed by the Governor or other person administering the local Government wherein such Court is held.

Proviso.

V. Every Court by which any investigation or trial is held under the last preceding Section shall, at the conclusion of the case, or as soon afterwards as possible, state in open Court the decision to which they may have come with respect to cancelling or suspending certificates, and shall in all cases send a full Report upon the case with the evidence to the Board of Trade, and shall also, if they determine to cancel or suspend any certificate, forward such certificate to the Board of Trade with their Report.

Procedure of such Court.

VI. If the local Government, on the information of any Shipping Master, or on any other ground, has reason to believe that any Master or Mate who has obtained a certificate of competency or service from such Government, or from any other local Government, is, from incompetency or misconduct, unfit to discharge his duties, it may direct any Board or officer at or near to the place at which it may be convenient for the parties and witnesses to attend, to institute an investigation; and thereupon such Board or officer shall conduct the investigation into such charge of incompetency or misconduct, and shall, on the conclusion of the investigation, make a Report upon the case to the local Government which ordered the investigation.

Local Government may direct investigation in cases of incompetency and misconduct.

Powers of Court, &c., in making enquiry.

VII. For the purpose of any such enquiry under Section IV or Section VI, the Court, Board, or officer may summon the Master, Mate, or Engineer, as the case may be, to appear, and shall give him full opportunity of making a defence, either in person or otherwise, and may summon and examine witnesses, and may make such order with respect to the costs of such investigation, and may require such security for costs, as such Court, Board, or officer may deem just. Every order in respect

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spect of costs under this Section may be enforced in like manner as a fine may be enforced by a Magistrate in the Port where such investigation is held.

VIII. The local Government may suspend or cancel the certificate (whether of competency or service) granted by such local Government, or by any other local Government, under the said Act I of 1859, to any Master or Mate, in the following cases; (that is to say)—

Local Government may cancel or suspend certificates in certain cases.

Clause 1. If upon any investigation conducted under the provisions of Sections C, CI and CII of Act I of 1859, it is reported that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default.

Loss, abandonment, or serious damage by default of Master or Mate.

Clause 2. If upon any investigation held under Section VI of this Act, the Master or Mate shall be reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness, or tyranny.

Incompetency, gross misconduct, drunkenness, or tyranny of Master or Mate.

Clause 3. If upon any investigation held under the provisions of the Merchant Shipping Act, 1854, or the Merchant Shipping Amendment Act, 1862, or upon any investigation made by a Naval Court constituted as is provided by any law for the time being in force, or upon any investigation made by any Court or tribunal authorized or hereafter to be authorized by the legislative authority in any British possession to make enquiry into charges of incompetency or misconduct on the part of Masters or Mates of ships, or as to shipwreck or other casualties affecting ships, it is reported that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default; or that he has been guilty of any gross act of misconduct, drunkenness, or tyranny. Provided always that, in the case of any Report by any such last-mentioned Court, or tribunal, the Report shall have been confirmed by the Governor or person administering the Government of such possession.

Or after other investigations.

Clause 4. If he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1854, or any other law for the time being in force.

Supersession.

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Conviction of any offence. *Clause 5.* If he is shown to have been convicted of any offence.

IX. Every Master, Mate, or Engineer whose certificate is cancelled or suspended under the provisions of this Act, shall deliver it to the Shipping Master, or to such other person as the Court or the local Government which cancelled or suspended the certificate shall direct, and in default shall, for each offence, incur a penalty not exceeding five hundred rupees. Provided that if the local Government which cancels or suspends a certificate of a Master or Mate is not the local Government that granted the same, the local Government which so cancels or suspends the certificate shall report the proceedings, and the fact of cancellation or suspension, to the local Government which granted such certificate. Provided also that it shall be competent to any local Government at any subsequent time to grant to any person whose certificate has been cancelled a new certificate of the same or of any lower grade.

X. Nothing in this Act shall be held to affect the powers of removal vested by Section CCXL of the Merchant Shipping Act of 1854, or Section LXXX of the said Act I of 1859, in Courts having Admiralty Jurisdiction in India. The said powers may be exercised by the principal Court of Ordinary Criminal Jurisdiction at any Port in India where there is no Court having Admiralty Jurisdiction, if the Master or Mate shall have received his certificate from any local Government.

XI. This Act shall be read and taken as part of the said Act I of 1859.