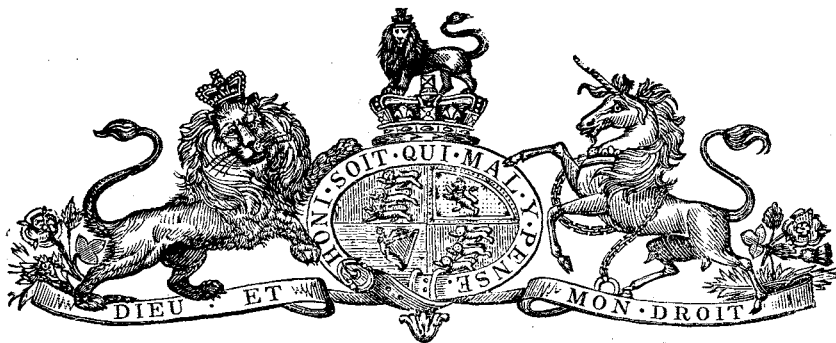


T A S M A N I A.



1898.

ANNO SEXAGESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 19.

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AN ACT to consolidate and amend the Law relating to the Examination of, and Grant of Certificates of Competency to, Persons intending to act as Masters, Mates, or Engineers on board *British* Ships.

.D. 1898.

64.V.12

[7 October, 1898.]

WHEREAS by "The Merchant Shipping Act, 1894," passed by the Imperial Parliament, it is amongst other things enacted that where the Legislature of any *British* Possession provides for the examination of, and grant of Certificates of Competency to, persons intending to act as Masters, Mates, or Engineers on board ships, and the Board of Trade report to Her Majesty that they are satisfied that the examinations are so conducted as to be equally efficient with the examinations for the same purpose in the *United Kingdom* under that Act, and that the certificates are granted on such principles as to show the like qualifications and competency as those granted under the said Act, and are liable to be forfeited for the like reasons and in the like manner, Her Majesty may by Order in Council, firstly, declare that the said certificates shall be of the same force as if they had been granted under the said Act; secondly, declare that all or any of the provisions of the said Act which relate to Certificates of Competency granted under the above Act shall apply to the certificates referred to in the said Order; and, thirdly, impose such conditions and make such regulations with respect to the certificates, and to the use, issue, delivery, cancellation,

PREAMBLE.  
57 & 58 Vict.  
c. 60.

See Gazette of 11.2.08  
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and suspension thereof, as Her Majesty may think fit, and impose fines not exceeding Fifty Pounds for the breach of those conditions and regulations :

And whereas it is expedient to repeal "The Merchant Ships Officers Examination Act, 1878," and the Amendment thereof mentioned in the Schedule, and to make other provision in lieu thereof:

Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

Short title.

**1** This Act may be cited as "The Merchant Ships Officers Examination Act, 1898."

Repeal.

**2** The Acts set forth in the Schedule are hereby repealed, but such repeal shall not affect any Certificate of Competency or Service granted or any thing duly done thereunder, nor any Certificate of Competency granted under the said Act as the result of an examination conducted in accordance with any Regulations of the Board of Trade, which shall continue of full force and effect; and any offence committed before the commencement hereof may be dealt with in all respects as if this Act had not been passed.

Interpretation.

**3** In this Act, unless the context otherwise determines—

"Ship" includes every description of vessel used in navigation not propelled by oars :

"Foreign-going ship" includes every ship employed in trading or going between some place or places in this Colony and some place or places situate beyond the following limits ; that is to say, the coasts of this Colony and the *Australian Coast* from *Spencer's Gulf* round the South and East Coast to Port *Stephens*, inclusive :

"Home-trade ship" includes all ships employed in trading within the following limits ; that is to say, the coast of this Colony and the *Australian Coast* from *Spencer's Gulf* round the South and East Coast to Port *Stephens*, inclusive :

"Certificated Officer," when used in connection with any ship, means a Master, Mate, or Engineer, who has obtained and possesses a Certificate of Competency as deemed appropriate to his station or of a higher grade :

"Prescribed" means prescribed by Rules made by the Governor in Council under this Act.

Masters, &c. of certain vessels exempt from the operation of this Act.

**4** Nothing contained in this Act shall apply to the Masters and Mates of vessels exclusively engaged in the whale fishery, or to the officers of such vessels, nor to any vessels of less than Fifty tons burden.

Examinations to be conducted.

**5** Examinations shall be conducted in *Tasmania* for persons who may be desirous of obtaining Certificates of Competency as Masters, Mates, or Engineers on board *British* ships.

Governor in Council to appoint Examiners.

**6** For the purpose of such examinations the Governor in Council may from time to time appoint fit and proper persons to be Examiners, and the persons so appointed shall be and be styled the Board of

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Examiners under this Act, and one of the Examiners may be appointed the Chairman of the Board; and the Governor in Council may award the remuneration to be paid to the Examiners. A.D. 1898.

Every person appointed an Examiner and the person appointed Chairman of the Board of Examiners under the said Act shall, if in office when this Act takes effect, be deemed to have been appointed to such office under this Act.

**7** The Governor in Council may by Order in Council make Rules providing for such examinations, for regulating the qualification of applicants for examination, the fees to be paid by such applicants, and the times and places of examination, and generally providing for all matters which shall be expedient in order to carry into effect every such examination; and any such Rules may from time to time be altered, varied, or rescinded as the Governor in Council sees fit; and all Rules made under this Act shall be published in the *Gazette*. Governor in Council to make Rules for examinations.

Every Order in Council and all Rules in force under the said Act when this Act takes effect shall, until rescinded by any Rules made under this Act, be deemed to have been made under this Act, so far as the same are applicable hereto.

**8** All applicants for examination shall, before they are examined, pay such fees as shall be prescribed in that behalf. Fees to be paid.

**9** The Examiners conducting any such examination as aforesaid shall report to the Governor the result of every such examination: and the Governor shall thereupon cause to be delivered to every applicant who is duly reported to have passed his examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, and ability, a Certificate of Competency. Examiners to report and Certificates of Competency to issue.

**10** All Certificates shall be made in duplicate, and one part shall be delivered to the person entitled to the Certificate and the other shall be kept and recorded by such person as the Governor appoints for that purpose; and the Court or tribunal cancelling or suspending any Certificate of Competency or Service shall give to such person as aforesaid immediate notice of all orders made by such Court or tribunal for cancelling, suspending, or otherwise affecting any Certificate in pursuance of the powers by law conferred upon such Court or tribunal; and the said person shall thereupon make a corresponding entry in the record of Certificates; and a copy purporting to be certified by such person as aforesaid of any Certificate shall be *prima facie* evidence of such Certificate, and a copy purporting to be so certified as aforesaid of any entry made as aforesaid in respect of any Certificate shall be *prima facie* evidence of the truth of the matters stated in such entry. Certificates to be in duplicate, and one recorded by person appointed for that purpose. Duplicates and entries to be evidence.

**11** Whenever any Master, Mate, or Engineer proves to the satisfaction of the said person that he has lost, or without fault on his part, has been deprived of any Certificate already granted to him, the said person shall upon payment of such fee (if any) as the Governor directs, cause a copy of the Certificate to which by the records so kept as aforesaid such Master, Mate, or Engineer appears to be entitled to be made out and certified as aforesaid, and to be delivered to such Master, Mate, or Engineer; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original. In case of loss a copy to be granted.

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Penalties for false representations ; for forging or altering, or fraudulently using or lending any certificate.

**12** Every person who makes or procures to be made, or assists in making, any false representation for the purpose of obtaining for himself or for any other person a Certificate either of Competency or Service, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such Certificate or any official copy of any such Certificate, or who fraudulently makes use of any such Certificate or any copy of any such Certificate which is forged, altered, cancelled, or suspended, or to which he is not justly entitled, or who fraudulently lends his Certificate to or allows the same to be used by any other person, shall for each such offence be deemed guilty of a misdemeanor, and upon conviction shall be liable to be imprisoned for any period not exceeding Six Months, or else shall forfeit and pay a penalty not exceeding One hundred Pounds.

Certificates of Competency to be held by Officers of ships.  
57 & 58 Vict.  
c. 60, s. 92.

**13**—(1.) Every Foreign-going Ship, and every Home-trade Ship, when going to sea from any port in *Tasmania*, shall be provided with Officers duly certificated under this Act according to the following scale :—

- i. In any case, with a duly Certificated Master :
- ii. If the ship is of One hundred tons burden or upwards, with at least One Officer besides the Master holding a Certificate not lower than that of Only Mate in the case of a Foreign-going Ship, or of Mate in the case of a Home-trade Ship :
- iii. If the ship is a Foreign-going Ship, and carries more than One Mate, with at least the First and Second Mate duly certificated :
- iv. If the ship is a Foreign-going Steamship of One hundred nominal horse-power or upwards, with at least Two Engineers, one of whom shall be a First-class and the other a First-class or Second-class Engineer duly certificated :
- v. If the ship is a Foreign-going Steamship of less than One hundred nominal horse-power, or a Sea-going Home-trade Steamship, with at least One Engineer who is a First-class or Second-class Engineer duly certificated.

(2.) If any person—

- i. Having been engaged as one of the above-mentioned officers goes to sea as such officer without being duly certificated ; or
- ii. Employs a person as an officer in contravention of this Section without ascertaining that the person so serving is duly certificated ;

that person shall be liable for each offence to a fine not exceeding Fifty Pounds.

(3.) An officer shall not be deemed duly certificated within the meaning of this Section unless he is the holder for the time being of a valid Certificate of Competency under this Act of a grade appropriate to his station in the ship or of a higher grade.

Grades of  
Certificates of  
Competency.

**14**—(1.) Certificates of Competency shall be granted in accordance with this Act for each of the following grades ; that is to say—

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Master of a Foreign-going Ship.  
 First Mate of a Foreign-going Ship.  
 Second Mate of a Foreign-going Ship.  
 Only Mate of a Foreign-going Ship.  
 Master of a Home-trade Ship.  
 Mate of a Home-trade Ship.  
 First-class Engineer.  
 Second-class Engineer.

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57 & 58 Vict.  
 c. 60, s. 93.

(2.) A Certificate of Competency for a Foreign-going Ship shall be deemed to be of a higher grade than the corresponding Certificate for a Home-trade Ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in the last-mentioned ship, but a Certificate for a Home-trade Ship shall not entitle the holder to go to sea as a Master or Mate of a Foreign-going Ship.

**15**—(1.) The Master of a Foreign-going Ship—

- i. On signing the agreement with the crew before the Shipping Master, shall produce to him the Certificates of Competency which the Master, Mates, and Engineers of the ship are by this Act required to hold; and
- ii. In the case of a running agreement, shall also, before the Second and every subsequent voyage, produce to the Shipping Master the Certificate of Competency of any Mate or Engineer then first engaged by him who is required by this Act to hold a certificate.

Production of  
 Certificates of  
 Competency to  
 Shipping Master.  
*Ib.*, s. 103.

(2.) The Master or Owner of every Home-trade Ship of more than Fifty tons burden shall produce to some Shipping Master within Twenty-one days after the Thirtieth of *June* and the Thirty-first of *December* in every year, the Certificates of Competency which the Master, Mates, and Engineers of the ship are by this Act required to hold.

(3.) Upon the production of the Certificates of Competency, the Shipping Master shall, if the Certificates are such as the Master, Mates, and Engineers of the ship ought to hold, give to the Master a Certificate to the effect that the proper Certificates of Competency have been so produced.

(4.) The Master shall, before proceeding to sea, produce the Shipping Master's Certificate to the Chief Officer of Customs, and the ship may be detained until the Certificate is produced; ~~and if the Master of any Foreign-going or Home-trade Ship fails to comply with this provision at the time and in the manner hereby directed, he shall for every default incur a penalty not exceeding Five Pounds.~~

*Ref by 6/1/12*

**16** If the Governor has reason to believe that any certificated officer is from incompetency or misconduct unfit to discharge his duties, or that in case of collision he has failed to render such assistance or give such information as is required under Part V. of "The Merchant Shipping Act, 1894," the Governor may direct a Police or Stipendiary Magistrate or any two Justices of the Peace at or nearest to the place at which it may be convenient for the parties and witnesses to attend, to institute an investigation, and thereupon such Magistrate or Justices shall conduct such investigation, and may summon such certificated officer to appear, and shall give him full opportunity of making a defence either in person or otherwise; and such investigation shall be conducted, and the results thereof reported, in the same manner and

Power to investi-  
 gate cases of  
 alleged incom-  
 petency and  
 misconduct.

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38 Vict. No. 2.

with the same powers in and with which formal investigations into wrecks and casualties are directed to be conducted, and the results thereof reported, under the provisions contained in "The Enquiry into Wrecks Act, 1874," save only that, if the Governor so directs, the person bringing the charge of incompetency or misconduct to the notice of the Governor shall be deemed to be the party having the conduct of the case.

The Magistrates or Justices holding the investigation may make such order as to costs as he or they deem just, and shall on the conclusion of the investigation make a report upon the case to the Governor.

Governor may  
cancel or suspend  
Certificates in  
certain cases.

**17** The Governor may suspend or cancel the Certificate of any certificated officer in the following cases ; that is to say :—

- i. If upon any investigation made in pursuance of the last preceding Section of this Act, he is reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness, or tyranny, and such report is confirmed by the Governor :
- ii. If upon any investigation as to any collision or casualty conducted under the provisions contained in any Act, or upon any investigation made by a Naval Court constituted as mentioned in "The Merchant Shipping Act, 1894," it is reported that he has been guilty of any gross act of misconduct, drunkenness, or tyranny, or 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, and such report is confirmed by the Governor :
- iii. If he is superseded by the order of any Admiralty Court or of any Naval Court constituted as hereinbefore mentioned :
- iv. If he is shown to have been convicted of any offence.

57 & 58 Vict.  
c. 60.

Officer, &c. to  
deliver up Certificate.

**18** Every certificated officer who shall be the subject of any investigation under this Act shall deliver his Certificate to the Magistrate or Justices holding the investigation ; and every certificated officer who fails to comply with this provision shall for each offence incur a penalty not exceeding Fifty Pounds.

Rules for  
cancellation and  
suspension of  
Certificates.

**19** The following Rules shall be observed with respect to the cancellation and suspension of Certificates ; that is to say :—

- i. The court or tribunal by which the case is investigated or tried 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, and shall in all cases send a full Report upon the case, with the evidence, to the Governor, and shall also, if they are of opinion that any Certificate ought to be cancelled or suspended, forward such Certificate to the Governor with their Report :
- ii. It shall be lawful for the Governor, if he thinks the justice of the case require it, to reissue and return any Certificate which has been forwarded to him for cancellation or suspension, or to shorten the period of suspension, or grant a new Certificate of the same or any lower grade in place of any Certificate which has been cancelled or suspended :

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- III. No Certificate shall be cancelled or suspended under this Section unless a copy of the Report or a statement of the case upon which the investigation is ordered has been furnished to the owner of the Certificate before the commencement of the investigation, nor unless one Assessor at least expresses his concurrence in the report. A.D. 1898.

**20** It shall be lawful for the Governor to issue, without any examination and without any fee, a Certificate for a Home-trade ship to any person who is the holder of a Certificate of Competency or Service for *Australian-trade* ships issued or purporting to have been issued under any former Act : Provided—

Governor to issue Certificates in lieu of certain Certificates issued under repealed Act.

- I. That the last-mentioned Certificate shall be first surrendered to the Governor by the holder thereof for cancellation ; and
- II. That the Certificate issued under this Section shall be of a corresponding grade to the Certificate surrendered for cancellation.

**21** All offences against this Act, and every offence hereby declared to be a misdemeanor, shall be heard and determined, and all penalties shall be recovered in a summary way, by and before any Two Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act* ; and any person who deems himself aggrieved by any conviction may appeal therefrom in the mode prescribed by *The Appeals Regulation Act*. Procedure for penalties.

The costs of any enquiry under this Act may, if ordered by the Magistrate or Justices by whom the case is investigated, be recovered in the same manner as costs awarded and ordered by a Justice or Justices under *The Magistrates Summary Procedure Act* are recoverable.

The provisions contained in this Section shall be applicable to all offences against and the recovery of all penalties under any Order made by the Queen in Council under the provisions of Section Eight of "The Merchant Shipping (Colonial) Act, 1869," and to any Order that may be made by the Queen in Council under the provisions of Section One hundred and two of "The Merchant Shipping Act, 1894."

**22** This Act shall not come into force until an Order in Council by Her Majesty, made under the provisions of Section One hundred and two of "The Merchant Shipping Act, 1894," has been received in *Tasmania*, and published in the *Hobart Gazette*. Operation of Act.

Ref. by 64.V.12

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SCHEDULE.

ACTS TO BE REPEALED.

<i>Date and No. of Act.</i>	<i>Title of Act.</i>
42 Vict. No. 11	"The Merchant Ships Officers Examination Act, 1878."
51 Vict. No. 13	"An Act to amend 'The Merchant Ships Officers Examination Act, 1887.'"