

## ACT No. VI OF 1891.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 6th March, 1891.)*

## An Act to amend certain Acts respecting Indian Merchant Shipping.

WHEREAS it is expedient to amend certain Acts respecting Indian Merchant Shipping; It is hereby enacted as follows:—

*Act I of 1859.*

Amendment  
of section 12,  
Act I, 1859.

1. (1) In clause 1 of section 12 of Act I of 1859, for the words "or any higher rank in the service of Her Majesty or of the East India Company," the following words shall be substituted, namely:—

"or any corresponding or higher rank in the service of Her Majesty or the rank of commander or first grade officer in the Indian Marine Service,".

(2) In clause 2 of the same section, after the words "any such ship as aforesaid," the following words shall be inserted, namely:—

"or who has attained or shall attain the rank of second grade officer in the Indian Marine Service,".

Addition of  
section after  
section 24,  
Act I, 1859.  
Renewal of  
running  
agreements  
in certain  
cases.

2. After section 24 of the same Act the following shall be inserted, namely:—

"24A. (1) When a running agreement with the crew of a foreign-going ship has been made under section 23 and the ship arrives after the next following thirtieth day of June or thirty-first day of December at a port of destination in India which is not the port at which the crew have agreed to be discharged, the master may, with the previous sanction of the shipping-master, renew the agreement with the crew, or may

may be required by the shipping-master so to renew the agreement, for the voyage from such port of destination to the port in India at which the crew have agreed to be discharged.

“(2) If the master of the ship is required by the shipping-master to renew the agreement as aforesaid and refuses so to renew it, any expenses which may be incurred by the Government for the subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of Chapter III of the Indian

VII of 1880

Merchant Shipping Act, 1880.”

3. To section 32 of the same Act the following shall be added, namely:—

Addition to  
section 32,  
Act I, 1859.

“Notwithstanding anything in this section or in any other enactment for the time being in force, the owner of home-trade ships or his agent may enter into time-agreements, in forms to be sanctioned by the Governor General in Council, with individual seamen to serve in any one or more ships belonging to him, which agreements need not expire on either the thirtieth day of June or the thirty-first day of December.”

4. To section 115 of the same Act the following shall be added, namely:—

Amendment  
of section  
115, Act I,  
1859.

“and for the repayment to the Secretary of State for India in Council of all expenses which may be incurred by the Government in respect of any such lascar or other native seaman who may be discharged or left behind at any port out of India and becomes distressed and is relieved under the provisions of the Merchant Shipping Act, 1854, section 211, and the enactments amending the same.”

17 & 18 Vict.,  
c. 104.

5. Section 118 of the same Act shall be modified as follows, namely:—

Modification  
of section  
118, Act I,  
1859.

(1) in the definition of “home-trade ship” the words “or in the Straits Settlements” shall be inserted between the words “on the  
Continent

Continent of India" and the words "or in the Island of Ceylon," and

- (2) in the definition of "foreign-going ship" the words "nor in the Straits Settlements" shall be inserted between the words "nor on the Continent of India" and the words "nor in the Island of Ceylon".

*The Indian Merchant Shipping Act, 1880.*

Substitution of new section for section 72, Act VII, 1880.

6. For section 72 of the Indian Merchant Shipping Act, 1880, the following shall be substituted, VII of 1880  
namely:—

Savings.

"72. But nothing in this Chapter shall be deemed to—

- (a) affect the declaration of the twenty-third day of October, 1889, in the schedule to this Act, between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of wrecks on their respective coasts, that declaration having been made applicable to India, or

- (b) affect section 29 of the Indian Ports Act, 1889, X of 1889, or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section."

Amendment of section 74, Act VII, 1880.

7. In section 74 of the same Act, after the words "so appointed" the words "or bringing within such limits any wreck which has been found and taken possession of elsewhere" shall be inserted.

Addition of schedule to Act VII, 1880.

8. To the same Act the schedule in the schedule to this Act shall be added.

*The Indian Merchant Shipping Act, 1883.*

Amendment of section 6, Act V, 1883.

9. To section 6 of the Indian Merchant Shipping Act, 1883, the following shall be added, namely:— V of 1883.

"(4) The Magistrate or other officer whose duty it is under sub-section (1) to report to the Local Government

17 & 18 Vict.,  
c. 104.

ernment such information as is referred to in that sub-section shall be deemed to be a public servant, and shall have all the powers which an inspector appointed under section 14 of the Merchant Shipping Act, 1854, has under clauses (1) to (5) of section 15 of that Act, that is to say :—

- (1) he may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on board thereof, to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage:
- (2) he may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make :
- (3) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make :
- (4) he may require and enforce the production of all books, papers or documents which he considers important for such purpose :
- (5) he may administer oaths, or may, in lieu of requiring or administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

“(5) The word ‘coasts’ in this section includes the coasts of creeks and tidal rivers.”

10. For sub-section (1) of section 7 of the same Act the following shall be substituted, namely :—

“(1) If the Local Government to which the report prescribed by the last foregoing section has been

New sub-section substituted for sub-section (1) of section 7, Act V, 1883.  
Power for Local Government to

appoint  
special Court  
of Investiga-  
tion.

been made or within whose territories any competent witnesses of any such loss, abandonment, stranding, damage or casualty as is described in clause (a), (b), (c) or (d) of sub-section (1) of the same section have arrived or are to be found or any evidence of such supposed loss as is described in clause (e) of the same sub-section can be obtained, is of opinion that a formal investigation into the facts mentioned in any of the said clauses is requisite or expedient, such Local Government may appoint a special Court, consisting of not less than two nor more than four persons, and direct that Court to make the investigation, and may fix the place for making the same."

Amendment  
of section 8,  
Act V, 1883.

11. In section 8 of the same Act, after the words "Local Government" the words "or by such officer as the Local Government has empowered in this behalf" shall be inserted.

Amendment  
of section 20,  
Act V, 1883.

12. In section 20 of the same Act, clause (a) and the proviso shall be repealed.

Addition of  
section after  
section 24,  
Act V, 1883.

13. After section 24 of the same Act the following shall be added, namely :—

Power to  
Court to  
suspend or  
cancel certi-  
ficates  
granted by  
Local Gov-  
ernment.

"24A. (1) Notwithstanding anything in the foregoing provisions of this Act, a certificate (whether of competency or service) which has been granted by any Local Government to a master, mate or engineer, but has not been granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under the said Act, may, if a Court conducting an investigation under this Act finds that the loss, stranding or abandonment of or damage to any ship, or loss of life, has been caused by the wrongful act or default of the master, mate or engineer, or that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct, be cancelled or suspended by the Court :

"Provided that the Court shall not cancel or suspend a certificate unless the holder of the certificate was furnished before the commencement of the investigation with the copy of the report or statement required

32 Vict., c.  
11.

required by section 9 or section 10, as the case may be.

“(2) At the conclusion of the investigation, or as soon afterwards as possible, the Court shall state in open sitting the decision to which it may have come with respect to the cancelment or suspension of any certificate.

“(3) A master, mate or engineer whose certificate has been cancelled or suspended by the Court shall deliver the certificate to the Court, and the Court shall forward it to the Local Government, together with the report which it is required by section 17, sub-section (1), to transmit to that Government.

“(4) A master, mate or engineer failing to deliver a certificate as required by sub-section (3) shall be punished with fine which may extend to five hundred rupees.

“(5) The duties imposed and powers conferred by sections 22, 23 and 24 on the Local Government which cancels or suspends a certificate shall, when a Court has under this section cancelled or suspended a certificate be performed and exercised by the Local Government to which the Court has forwarded the certificate under sub-section (3), as if such Local Government had itself cancelled or suspended the certificate under section 20.”

*Supplemental.*

17 & 18 Vict.,  
c. 104, &c.  
32 Vict., c.  
11.

14. (1) When the certificate of a master, mate, engineer or engine-driver is cancelled or suspended under any law for the time being in force, he shall deliver to the Court or person entitled to receive delivery from him of such cancelled or suspended certificate every other certificate, if any, held by him which has been granted to him under any of the Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869, or which has been granted to him by any Local Government in British India.

General provision with respect to surrender of certificates.

(2) If any master, mate, engineer or engine-driver fails

fails to comply with the requirement of sub-section (1), he shall be punished with fine which may extend to five hundred rupees.

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THE SCHEDULE.

(See section 8.)

THE SCHEDULE.

(See section 72.)

*Declaration between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of Wrecks on their respective Coasts.*

The Government of Her Majesty the Queen of the United Kingdom of Britain and Ireland, Empress of India, and the Government of the French Republic, desiring to regulate by a new Agreement questions relative to the disposal of the proceeds of wrecks on the coasts of the two States, have agreed to replace the Declaration signed at London on the 16th June, 1879, by the following arrangements:—

ARTICLE I.

When any ship belonging to the subjects of one of the two Contracting States is wrecked or stranded on the coast of the other, the competent local authorities shall, with as little delay as possible, bring the fact to the knowledge of the Consul General, Consul, Vice-Consul or Consular Agent nearest to the spot where the wreck or stranding has taken place.

ARTICLE II.

All operations relative to the salvage of British ships which may be wrecked or stranded on the coasts of France shall be directed by the Consuls General, Consuls, Vice-Consuls or Consular Agents of Great Britain, and reciprocally the French Consuls General, Consuls, Vice-Consuls and Consular Agents shall direct all operations relative to the salvage of ships of their nation wrecked or stranded on the coasts of Great Britain.

ARTICLE III.

If the owners of the ship and cargo, or their duly authorised representatives, shall be present and shall claim it, the Consuls General, Consuls, Vice-Consuls and Consular Agents shall hand over to them the conduct of the salvage operations after requiring the deposit of the ship's papers, as well as the reimbursement of the expenses already defrayed, and a sufficient guarantee

for

for those incurred before the operations were handed over, and which may not have been already settled.

ARTICLE IV.

The intervention of the local authorities shall only take place in the two countries for the purpose of assisting the Consular authority, of maintaining order, of securing the interests of the salvors if they are strangers to the ship-wrecked crews, and of assuring the due execution of the arrangements to be carried out for the entry and departure of the merchandise saved.

In the absence, and until the arrival, of the Consuls General, Consuls, Vice-Consuls or Consular Agents, the local authorities shall, moreover, take all necessary measures for the protection of the persons and for the preservation of the articles which shall have been saved from the wreck.

This intervention shall not give rise to any charges, with the exception of those which the salvage operations and the protection of the articles saved shall have rendered necessary, and those to which national ships would, under similar circumstances, be liable. These charges shall be paid according to the circumstances of the case, either by the Agents of the Consular service, or by their owners or their proxies.

In case absence, sickness or any other cause should prevent the Agents of the Consular service from seeing to the operations and the management of the salvage, the local authorities who may be charged with the operations and management in question shall be bound to remit to the aforesaid Agents the ship's papers and the net proceeds of the ship and the cargo.

ARTICLE V.

The merchandise and articles saved shall not be liable to any customs-duties, unless they are intended for home consumption, in which case they shall pay the same duties as they would have had to pay if they had been imported in national vessels.

ARTICLE VI.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of Her Britannic Majesty, excepting to those hereinafter named, that is to say, except to—

|                         |                    |
|-------------------------|--------------------|
| India.                  | Victoria.          |
| The Dominion of Canada. | Queensland.        |
| Newfoundland.           | Tasmania.          |
| The Cape.               | South Australia.   |
| Natal.                  | Western Australia. |
| New South Wales.        | New Zealand.       |

Provided



Provided always that the stipulations of the present Declaration shall be made applicable to any of the above-named Colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's Representative to the French Republic within one year from the date of the signature of the present Declaration.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of France.

ARTICLE VII.

The present Declaration shall come into operation three months after the date of its signature, and shall remain in force until the expiration of one year from the day on which either Party may give notice of its intention to terminate it.

In witness whereof, the undersigned Plenipotentiaries, His Excellency the Earl of Lytton, Ambassador of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Excellency M. Eugène Spuller, Minister for Foreign Affairs, have signed the present Declaration, and have affixed thereto their seals.

Done at Paris, this twenty-third day of October, 1889.

(L.S.) LYTTON.

(L.S.) E. SPULLER.