

Chapter 177.
Seamen (Foreign) Act 1952.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 177.

Seamen (Foreign) Act 1952.

ARRANGEMENT OF SECTIONS.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Seamen (Foreign) Act 1952,

Being an Act relating to foreign seamen.

1. SEAMEN DESERTING, ETC., FROM FOREIGN SHIPS.

(1) Where a seaman belonging to a foreign ship—

(a) deserts a ship; or

(b) absconds or absents himself from his duty while the ship is within the territorial limits of Papua New Guinea,

a justice may, on complaint on oath of the master, mate or other person having charge of that ship of the fact of the desertion, absconding or absence from duty, issue a warrant for the arrest of the seaman.

(2) On the arrest of a seaman specified in Subsection (1), a justice may—

(a) deal with the seaman as provided by this Act; or

(b) place the seaman at the disposal of the Consul, Vice-Consul or other consular officer or agent of the foreign country to which the ship belongs; or

(c) at the request of that Consul, Vice-Consul or other consular officer or agent order the seaman to be put forcibly on board the ship to which he belongs.

2. PENALTIES ON SEAMEN.

(1) A seaman belonging to a foreign ship who, while the ship is within the territorial limits of Papua New Guinea, deserts the ship is guilty of an offence.

Penalty: For the first offence—imprisonment for a term not exceeding three months.

For a second or subsequent offence—imprisonment for a term not exceeding six months.

(2) A seaman belonging to a foreign ship who, while the ship is within the territorial limits of Papua New Guinea, assaults the master or other officer of the ship is guilty of an offence.

Penalty: Imprisonment for a term not exceeding three months.

(3) A seaman belonging to a foreign ship who, while the ship is within the territorial limits of Papua New Guinea, wilfully disobeys a lawful command of the master or other officer of that ship is guilty of an offence.

Penalty: Imprisonment for a term not exceeding one month.

(4) A seaman belonging to a foreign ship who, while the ship is within the territorial limits of Papua New Guinea, continuously and wilfully—

- (a) disobeys the lawful commands of the master or other officer of the ship;
or
- (b) neglects his duty as a seaman of the ship,

is guilty of an offence.

Penalty: Imprisonment for a term not exceeding three months.

(5) A seaman belonging to a foreign ship who, while the ship is within the territorial limits of Papua New Guinea, combines with another member of the crew of that ship—

- (a) to disobey the lawful commands of his officers; or
- (b) to neglect his duty as a seaman; or
- (c) to impede the discharge, loading or departure of that ship or the progress of the voyage,

is guilty of an offence.

Penalty: Imprisonment for a term not exceeding three months.

(6) This section does not take away or abridge any powers that the master of a foreign ship has over his crew.

3. CONVICTED SEAMEN MAY BE PUT ON BOARD SHIP.

(1) At the request of the Consul, Vice-Consul or other consular officer or agent of the foreign country to which the ship of a seaman convicted and sentenced under this Act belongs, a justice may order the seaman—

- (a) at any time during his sentence of imprisonment; or
- (b) at or after the expiration or earlier determination of his sentence of imprisonment,

to be put forcibly or otherwise on board the ship.

(2) A justice may issue an order to a warder or officer-in-charge of a correctional institution to discharge a seaman specified in Subsection (1) from prison into such custody as the justice directs.

(3) An order referred to in Subsection (2) is a sufficient warrant to a warder or officer-in-charge of a correctional institution to deliver the seaman into the custody directed by the justice for the purpose of putting him on board a foreign ship.

4. SEARCHES FOR RUNAWAY SEAMEN.

(1) On the complaint on oath of the master, mate or other person having charge of a foreign ship that he has good cause for suspecting that a runaway seaman of the ship is harboured, secreted or concealed on board a ship, boat or other vessel or in a house or any other place, a justice may issue a warrant directing a member of the Police Force to search the last-mentioned ship, boat or other vessel, or the house or other place and to arrest the seaman.

(2) A seaman arrested under a warrant issued under Subsection (1) shall be brought with all convenient speed before a justice to be dealt with in accordance with this Act.

5. PENALTIES ON PERSONS HARBOURING DESERTERS, ETC.

A person who—

- (a) knowing that a seaman belonging to a foreign ship has deserted or otherwise absconded or absented himself from duty, harbours, conceals, employs or retains, or assists in harbouring, concealing, employing or retaining, the seaman, without having used reasonable diligence to ascertain whether the seaman has been duly discharged from his last employment; or
- (b) causes, induces or persuades such a seaman to violate or to attempt or endeavour to violate an agreement which he may have entered into to serve on board a foreign ship; or
- (c) knowingly connives at the desertion, absconding or absence from duty of any such seaman,

is guilty of an offence.

Penalty: For the first offence—a fine not exceeding K40.00.

For a second or subsequent offence—a fine of not less than K20.00 and not exceeding K100.00.

6. REQUEST, ETC., OF FOREIGN GOVERNMENT FOR WARRANTS AND PROSECUTIONS.

A warrant under this Act shall not be issued, and an offence made punishable by this Act shall not be prosecuted or punished, except—

- (a) at the instance or with the express assent in writing of the Consul, Vice-Consul, or other consular officer or agent of the foreign country to which the foreign ship concerned belongs; or
- (b) where the Head of State, acting on advice, has, by notice in the National Gazette, notified that the Government of the foreign country has requested that this Act be enforced in all cases against the crews of ships belonging to that country.

7. CERTIFIED COPY OF SHIP'S ARTICLES ADMISSIBLE IN EVIDENCE.

(1) In a prosecution for an offence against this Act it is not necessary, for the purpose of proving the articles or agreement under or by which a seaman has engaged to serve on board a foreign ship, to call a subscribing or attesting witness to the articles or agreement, but the articles or agreement may be proved as if there were no subscribing or attesting witness.

(2) A copy of the articles or agreement referred to in Subsection (1), certified under the hand of the Consul, Vice-Consul or other consular officer or agent of the foreign country to which the ship belongs to be a true copy, shall be received as evidence of the existence and contents of the articles or agreement.

8. EXPENSES.

All expenses incidental to the arrest, confinement and removal of a seaman under this Act shall be paid by the Consul, Vice-Consul or other consular officer or agent at whose instance the seaman was apprehended, proceeded against or removed.

9. PROCEEDINGS MAY BE SUMMARY.

Where not otherwise provided for, all proceedings under this Act may be carried on in a summary way according to the law regulating summary proceedings before justices.

10. SERVICE OF SUMMONS, ETC.

Service of a summons or other matter in any proceedings under this Act is good service if made—

- (a) personally on the person to be served; or
- (b) by leaving the summons or other matter for him on board a ship to which he belongs with the person being or appearing to be in command or in charge of that ship.

11. NO CERTIORARI.

A conviction for an offence against this Act shall not be quashed for want of form or be removed by *certiorari* or otherwise into the National Court.

12. PROCESS NOT TO BE VOID.

A warrant of commitment or order for imprisonment is not void by reason of a defect as long as it is alleged in the warrant or order that the person has been convicted or ordered to be imprisoned and there is a good and valid conviction or an offence to sustain the conviction.

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