

THE MERCHANT SEAMEN ACT OF 1847⁽¹⁾⁽²⁾ (QUEENSLAND, ADOPTED) IN ITS AP- PLICATION TO THE TERRITORY OF PAPUA.

An Act for the Protection of Seamen entering on board Merchant Ships.

* * * * *

BE it enacted by His Excellency the Governor of New South
Wales with the advice and consent of the Legislative Council
thereof—

* * * * *

Preamble
repealed by
No. 3 of 1914,
s. 2 and First
Schedule.

7. The owner part owner master or person in charge of any merchant ship or ship's husband or agent shall not pay or advance nor give any note in writing or otherwise in the nature of and purporting to be an advance note for any part of the wages of any seaman hired engaged supplied or provided to be entered on board the said ship until six hours after the ship's articles have been duly signed by the said seaman and by the master or owner of the said ship and then only to the said seaman himself unless such

Sections 1-6
repealed by
Q. 17 Vic.
No. 36, s. 1.

No advance
note or wages
to be given or
paid to any
seaman until
after the ship's
articles have
been duly
signed.

Amended by
No. 3 of 1914,
s. 2 and First
Schedule.

(1) *The Merchant Seamen Act of 1847* of Queensland, in its application to the Territory of Papua, comprises the original *The Merchant Seamen Act of 1847* of Queensland, as amended by the other Act of Queensland referred to in Part I of the following Table, and by the Ordinance of the Territory of Papua referred to in Part II of the following Table:—

TABLE.
PART I.—ACTS OF THE STATE OF QUEENSLAND.

Citation of Act.	Ordinance by which adopted.	Date on which adoption took effect.
<i>The Merchant Seamen Act of 1847</i> (11 Vic. No. 23) ^(a)	<i>The Courts and Laws Adopting Ordinance (Amended) of 1889</i> (No. 6 of 1889)	23.11.1889 (Supplement to British N.G. Govt. Gaz. of 23.11.1889)
<i>The Water Police Act of 1853</i> (17 Vic. No. 36) ^(a)		

(a) Continued in force in the Territory of Papua by Section 6 (1) of the *Papua Act 1905*.

PART II.—ORDINANCE OF THE LEGISLATIVE COUNCIL FOR THE TERRITORY OF PAPUA.

Short title, number and year.	Date of reservation by Lieut.-Gov.	Date on which assent of Gov.-Gen. in Council notified in Papua Govt. Gaz.	Date on which came into operation.
<i>Ordinances Revision Ordinance, 1913</i> (No. 3 of 1914)	14.8.1913	4.2.1914	4.2.1914 (<i>Papua Govt. Gaz.</i> of 4.2.1914)

(2) At the time of its adoption by the Possession of British New Guinea, this Act of the State of Queensland had no short title. It was given the short title "*The Merchant Seamen Act of 1847*" in Queensland by *The Acts Shortening Act Amendment Act of 1903* (Queensland), which was not adopted by the Possession of British New Guinea or the Territory of Papua. For convenience of reference, it has been referred to herein as *The Merchant Seamen Act of 1847*.

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wages or advance of wages be paid in money in which case the payment thereof may be made to the said seaman himself at any period most convenient after the signing of the said ship's articles as aforesaid and all payments of wages contrary to the provisions of this Act shall be and are hereby declared to be null and void and the amount thereof shall be recoverable by the said seaman as if they had not been paid or advanced.

* * * * *

Section 8
repealed by
Q. 17 Vic.
No. 36, s. 1.

Persons not to
be admitted
on board
merchant
vessels before
their arrival at
place of
discharge
without
permission.

Amended by
No. 3 of 1914,
s. 2 and First
Schedule.

9. It shall not be lawful for any person (other than any officer or person in Her Majesty's service or employment) to go and be on board any merchant vessel arriving or about to arrive at the place of her destination before or previous to her actual arrival at the wharf or quay or other place of her discharge without the permission and consent of the master or person in charge of the said vessel and if any person (other than as aforesaid) shall go and be on board any such vessel before or previous to her actual arrival as aforesaid without the permission and consent of the said master or person in charge of the said vessel he shall for every such offence forfeit and pay a sum of money not exceeding twenty pounds and for the better securing the person of such offender the master or person in charge of the said vessel is hereby authorized and empowered to take any person so offending as aforesaid into custody and to deliver him up forthwith to any constable or peace officer to be by him taken before a Justice or Justices to be dealt with according to the provisions of this Act.

Penalty for
soliciting sailors
to become
lodgers in houses
of unlicensed
persons or
removing sailors'
effects from
on board.

Amended by
No. 3 of 1914,
s. 2 and First
Schedule.

10. If any person shall on board any merchant ship within twenty-four hours of her arrival at any port as aforesaid solicit any seaman to become a lodger at the house of any person not so licensed as aforesaid and letting lodgings for hire or shall take from and out of such ship any chest bedding or other effects of any seaman except under the personal direction of such seaman and without having the permission of the master or person in charge of such ship he shall be liable to forfeit and pay for every such offence the sum of five pounds.

Penalty for
receiving
remuneration
for board of
sailors for longer
period than is
due or for
neglecting to
return moneys
or effects
belonging to
seamen.

Amended by
No. 3 of 1914,
s. 2 and First
Schedule.

11. If any person shall demand and receive of and from any seaman payment in respect of his board or lodging in the house of such person for a longer period than such seaman shall have actually resided and boarded therein or shall receive or take into his possession or under his control any moneys documents or effects of any seaman and shall not return the same or pay the value thereof when required so to do by such seaman after deducting therefrom what shall be justly due and owing in respect of the board and lodging of such seaman he shall forfeit and pay a sum not exceeding ten pounds over and above the amount or value of

such moneys documents or effects after such deductions as aforesaid which shall be adjudged to be forthwith paid to such seaman under the conviction by the Justices before whom such offence shall be heard and determined.

12. All penalties and forfeitures imposed by this Act shall and may be recovered with costs by summary proceedings before any two Justices of the Peace residing in or near to the place where the offence shall be committed or where the offender shall be and if the sum imposed as a penalty or adjudged to be paid as aforesaid by any such Justices shall not be paid either immediately after the conviction or within such reasonable time as such Justices shall at the time of the conviction appoint it shall be lawful for the Justices to commit the offender or offenders to the common gaol or house of correction there to be imprisoned only or to be imprisoned and kept to hard labour according to the discretion of such Justices for any term not exceeding six calendar months the commitment to be determinable upon payment of the amount and costs and all such penalties and forfeitures shall be paid and applied in manner following that is to say one moiety of such penalty shall be paid to the informer or person upon whose discovery or information the same shall be recovered and the residue thereof shall be paid to Her Majesty Her Heirs and Successors for the public uses of the said Colony and in support of the Government thereof and shall be applied thereto in such manner as shall be directed by any Act to be passed by the Governor and Legislative Council.

Recovery and application of penalties.

Amended by No. 3 of 1914, s. 2 and First Schedule.

Provided always that in all cases of complaint made by or on behalf of any seaman under this Act the evidence of such seaman shall be received and taken notwithstanding he may be interested in the matter.

Provided also that such seaman shall not in any such case where he shall have been so examined receive any part of any penalty to be imposed but only such sum as the Magistrates before whom the case shall be heard shall adjudge him to receive for any moneys or effects which shall appear to have been deposited by him with any such person as aforesaid.

13. The Justices before whom any person shall be summarily convicted of any offence against this Act may cause the conviction to be drawn up in the following form of words or in any other form of words to the same effect as the case shall require that is to say—

Form of conviction.

Amended by No. 3 of 1914, s. 2 and First Schedule.

Be it remembered That on the _____ day of _____ at _____ in the year of our Lord _____ at _____ in the Colony of New South Wales [as

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the case may be] A.O. is convicted before us [*naming the justices*] two of Her Majesty's Justices of the Peace duly authorized in that behalf for that he the said A.O. did [*specify the offence and the time and place when and where the same was committed as the case may be*] and we the said Justices adjudge the said A.O. for his said offence to forfeit and pay the sum of [*here state the amount of the fine imposed and when necessary add the words "over and above the sum of £* which we the said justices do hereby adjudge to be forthwith paid to the said E.F. [*the seaman*] the same being the value of moneys documents or effects of the said E.F. received by or taken into the possession or under the control of the said A.O.''] and we the said Justices do also adjudge the said A.O. to pay the sum of

for costs and in default of immediate payment of the said sums of _____ to be imprisoned in the _____ for the space of _____ unless the said sum shall be sooner paid [*or* and we order that the said sums of _____ shall be paid by the said A.O. on or before the _____ day of _____] and we direct that the sum of _____ part of the said penalty together with the sum of _____ for costs shall be paid to C.D. [*the party informing*] and the residue of the said penalty shall be paid to Her Majesty Her Heirs and Successors for the public uses of the said Colony and in support of the Government thereof as by law directed. Given under our hands the day and year first above-mentioned.

No *certiorari* &c.
Amended by No. 3 of 1914, s. 2 and First Schedule.

14. No such conviction shall be quashed for want of form or be removed by *certiorari* or otherwise into any of Her Majesty's superior courts of Record and no warrant of commitment shall be held void by reason of any defect therein provided it be therein alleged that the party has been convicted and there be a good and valid conviction to sustain the same.

Explanatory clause.
Amended by No. 3 of 1914, s. 2 and First Schedule.

15. The words "merchant ship" inserted in this Act shall be understood to include every description of sea-going trading or passage vessel lying and being within the limits of the Colony of New South Wales and

The term "Governor" shall be deemed and taken to mean the Governor for the time being or the officer administering the Government of the Colony and

The term "Executive Council" shall be deemed and taken to mean the Officers acting in that behalf by authority of Her Majesty.