



Sea Fish Industry Act 1938

1938 CHAPTER 30

PART IV

PROVISIONS WITH RESPECT TO CREWS OF FISHING-BOATS

47 Accounts to be rendered by owners with respect to profits of fishing-boats

The following section shall be substituted for section three hundred and eighty-eight of the Merchant Shipping Act, 1894, (hereafter in this Part of this Act referred to as " the principal Act "):—

- (1) Where the skipper or any other member of the crew of a fishing-boat is paid, wholly or in part, by a share in the catch, an account in a form approved by the Board of Trade, certified by or on behalf of the owner of the boat to be true, and showing the amounts for which the fish have been sold and all deductions from the said amounts which are made for the purpose of arriving at the net value of the catch, shall be delivered by the owner of the boat to the skipper and to the second hand, and shall be kept by the owner at such place, and in such manner, as the Board may direct with a view to ensuring that the account is readily available for inspection at any reasonable time by any member of the crew so paid as aforesaid.
- (2) The account which under the preceding subsection must be delivered by the owner of a fishing-boat to members of the crew who are paid, wholly or in part, by a share in the catch shall, in the case of a fishing-boat being a trawler of twenty-five tons tonnage or upwards, also be delivered by the owner to the superintendent at or nearest the port at which payment is made.
- (3) Where the skipper or any other member of the crew of a fishing-boat is paid, wholly or in part, by a share in the catch, a further account in such form as may be approved by the Board of Trade, showing the amount of the remuneration payable to him in respect of his share in the catch and the amount of all deductions to be made therefrom on any account whatever, shall be rendered by the owner of the boat to the skipper and by the owner or skipper of the boat to every seaman who is so paid as aforesaid; and a deduction from the

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said remuneration shall not be allowed unless it is included in the account so rendered or is in respect of a matter happening after the account has been so rendered.

- (4) The Board of Trade may, for the purposes of this section, approve different forms of accounts for use in different circumstances.
- (5) If the owner or skipper of a fishing-boat fails without reasonable cause to comply with the foregoing provisions of this section, he shall for each offence be liable to a fine not exceeding five pounds; and if any person gives in relation to such an account as aforesaid a certificate which, to his knowledge, is false, he shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine.
- (6) A superintendent may inquire into the correctness of any account prepared in pursuance of this section; and, for the purpose of any inquiry which he may make under this subsection, a superintendent shall have all the powers of a Board of Trade inspector under this Act, and the provisions of the last preceding section shall apply in relation to any decision that the superintendent may give as to the correctness of the account which is the subject of the inquiry, as those provisions apply in relation to a decision given by a superintendent on determining a dispute under that section.
- (7) If a dispute arises as to the amount payable to the skipper, or any other member of the crew of a fishing-boat in respect of his share of the catch, he or some person acting on his behalf shall be entitled to inspect, at all reasonable times, the owner's accounts and books relating to the catch; and if the owner, upon demand, fails without reasonable cause to submit his said accounts or books for inspection as aforesaid at a reasonable time, he shall for each offence be liable to a fine not exceeding twenty pounds."

48 Deductions from proceeds of sale of catch

- (1) The following section shall be inserted in Part IV of the principal Act as the first of the sections under the heading " Provisions applying to Trawlers " :—

Where the skipper or any other member of the crew of a fishing-boat, being a trawler of twenty-five tons tonnage or upwards, is paid wholly or in part by a share in the catch, any deduction from the amount for which the fish have been sold shall, for the purpose of arriving at the net value of the catch be deemed not to be lawful, unless it is made in accordance with express provisions in that behalf contained in the agreement under which he was engaged, being provisions which specify the item in respect of which the deduction is to be made and the manner in which the amount of the deduction is to be calculated."

- (2) Section four hundred of the principal Act (which prescribes the terms to be contained in every agreement under which a seaman is engaged as a member of the crew of a trawler of twenty-five tons tonnage or upwards) shall have effect as if at the end of subsection (2) of that section there were inserted the following paragraph :—
 - “(h) in a case where the remuneration of a seaman is wholly or in part by share in the catch, the items in respect of which it is agreed that deductions from the amount for which the fish are sold will be made for the purpose of arriving at the net value of the catch and the manner

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in which it is agreed that the amounts of any such deductions will be calculated.”

49 Functions of superintendents in relation to engagement and discharge of seamen

The following section shall be inserted in the principal Act after section four hundred and eleven thereof:—

- (1) In relation to fishing-boats, being trawlers of twenty-five tons tonnage or upwards, the Board of Trade may by order direct—
 - (a) that, subject to the provisions of subsection (3) of section four hundred and one of this Act (which relates to the engagement of substitutes), every fishing-boat's agreement under which a seaman is engaged, at any port specified in the order, to serve as one of the crew of such a fishing-boat as aforesaid shall be signed by the seaman in the presence of a superintendent, and that the duties of ascertaining that the seaman understands the agreement and of attesting his signature thereof which are imposed on the skipper by subsection (1) of the said section shall be performed instead by the superintendent;
 - (b) that whenever, in pursuance of section four hundred and four of this Act, an endorsement with respect to engagements of seamen at such a port as aforesaid, or discharges of seamen engaged at such a port, is made by the skipper of a fishing-boat of the said class on a fishing-boat's running agreement, the skipper shall deliver the agreement so endorsed to the superintendent, and that the superintendent shall, if the provisions of this Part of this Act relating to fishing-boats' agreements have been complied with, sign the endorsement and return the agreement to the skipper;
 - (c) that, whenever a seaman engaged at any such port is discharged from such a fishing-boat as aforesaid, he shall be discharged in the presence of a superintendent, and that the certificate of discharge required by section four hundred and ten of this Act to be signed by the skipper and delivered by him to the seaman, shall be so signed and delivered in the presence of a superintendent;and in relation to any case in which, by virtue of any provisions of an order which are authorised by paragraph (a) of this subsection, a fishing-boat's agreement must be signed in the presence of a superintendent, subsection (2) of section four hundred and one of this Act shall have effect as if in that subsection for the word 'sent' there were substituted the word 'delivered.'
- (2) If any skipper fails without reasonable cause to comply with an order under this section, he shall be liable to a fine not exceeding five pounds.
- (3) Any order under this section may be varied or revoked by a subsequent order made in like manner.”

50 Citation of Part IV

The Merchant Shipping Acts, 1894 to 1937, and this Part of this Act may be cited together as the Merchant Shipping Acts, 1894 to 1938.