

SEAMEN (FOREIGN) ORDINANCE, 1912. ⁽¹⁾

An Ordinance to amend the Laws relating to Foreign Seamen.

No. 34 of 1912.

BE it enacted by the Lieutenant-Governor of the Territory of Papua with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the *Seamen (Foreign) Ordinance, 1912.*⁽¹⁾ Short title.

It shall commence on a day to be fixed by the Lieutenant-Governor by Proclamation published in the *Gazette.*⁽¹⁾ Commencement

2. The enactment mentioned in the schedule to this Ordinance is repealed. Repeal.

3. If any seaman belonging to any foreign ship deserts therefrom or otherwise absconds or absents himself from his duty whilst such ship is anywhere within the territorial limits of the Territory any justice of the peace upon the complaint on oath of the master mate or other person having charge of such ship of the fact of such desertion absconding or absence from duty may issue his warrant for the apprehension of such seaman; and thereupon—

Seamen deserting &c. from foreign ships may be apprehended and placed at disposal of Consul or on board their ship. N.S.W. No. 47 of 1898, s. 3.

(a) may deal with such seaman as hereinafter provided; or

(b) may place such seaman at the disposal of the Consul Vice-Consul or other consular officer or agent of the nation or state to which such ship belongs; or

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

4. Every seaman of any foreign ship who whilst such ship is within the territorial limits of the Territory commits any of the offences hereinafter mentioned shall upon conviction thereof before

Such seamen may be imprisoned with hard labour. N.S.W. *ib.* s. 4.

(1) Particulars of this Ordinance are as follows:—

Date of assent by Lieut.-Gov.	Date notified in Papua Govt. Gaz. as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
16.7.1912	(a)	7.5.1913 (Papua Govt. Gaz. of 7.5.1913)

(a) No notice of non-disallowance has been published in Papua Govt. Gaz.

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a justice of the peace be liable to be imprisoned with hard labour in any gaol in the Territory for periods not exceeding the periods hereinafter set against the said offences respectively that is to say:—

For desertion.

(a) for desertion from the ship to which he belongs a period of twelve weeks for the first offence and a period of six months for a second or subsequent desertion;

Assaulting master of ship &c.

(b) for assaulting any master or other officer of such ship a period of twelve weeks;

Wilful disobedience.

(c) for wilful disobedience to any lawful command of such master or other officer of such ship a period of four weeks;

Continued disobedience or neglect of duty.

(d) for continued wilful disobedience to such lawful commands or for continued wilful neglect of his duty as a seaman of such ship a period of twelve weeks;

Combining to disobey or neglect duty.

(e) for combining with any other or others of the crew of the ship to which he belongs to disobey the lawful commands of his officers or to neglect his duty as a seaman or to impede the discharge loading or departure of the ship or the progress of the voyage a period of twelve weeks:

Provided that nothing herein contained shall take away or abridge any powers which a master of any such ship has over his crew.

Power to order convicted seaman to be put on board at after or during term of sentence at the instance of Consul.

N.S.W. No. 47 of 1898, s. 5.

5.—(1.) Any justice of the peace at the instance of the Consul Vice-Consul or other consular officer or agent of the nation or state to which the ship of any seaman convicted and sentenced under this Ordinance belongs may order any such seaman at or after the expiration or earlier determination of his sentence of imprisonment or at any time during the continuance thereof to be put forcibly or otherwise on board such ship.

Order of discharge may be made.

(2.) In all such cases any justice of the peace may grant an order to any gaoler or keeper of any prison to discharge such seaman from prison into such custody as such justice directs which shall be a sufficient warrant to such gaoler or keeper to deliver such seaman into such custody and for such purpose as aforesaid.

Ships or places may be searched for runaway seamen.

N.S.W. *Ib.* s. 6.

6. Any justice of the peace upon the complaint on oath of the master or other person having charge of any such ship as aforesaid that he has good cause for suspecting that any runaway seaman of such ship is harboured secreted or concealed on board any ship boat or other vessel or in any house or place whatsoever may issue a

warrant directing some constable to search such ship boat or other vessel or such house or place and to apprehend such seaman.

Such warrant shall be executed accordingly and every such seaman shall upon his apprehension be brought with all convenient speed before some justice of the peace to be dealt with as is herein directed.

7. Whosoever—

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

Penalties on persons harbouring deserters or inciting to desertion.
N.S.W. No. 47 of 1898, s. 7.

shall for every such offence upon conviction thereof before any justice of the peace in a summary way forfeit a penalty not exceeding Twenty pounds for the first offence and not less than Ten or more than Fifty pounds for a second or subsequent offence; and in case of non-payment thereof any justice of the peace may commit the person so offending to any gaol for any term not exceeding six months with or without hard labour the said commitment to be determined on payment of penalty and costs.

8. Provided that no such warrant as hereinbefore mentioned shall be issued and that no offence hereby made punishable shall 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 nation or state to which such ship as aforesaid belongs; or
- (b) it has been duly notified in the *Gazette* under the authority of the Lieutenant-Governor⁽²⁾ that the Government of such nation or state has by its proper officer signified its desire that this Ordinance may be enforced in all cases against the crews of ships belonging to such nation or state.

Prosecutions not to be instituted except at the request or on consent of foreign Government.
N.S.W. 1b. s. 8.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

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Attesting witness to ship's articles need not be called and certified copy admissible in evidence.

N.S.W. No. 47 of 1898, s. 9.

9.—(1.) In prosecuting under this Ordinance it shall not be necessary for the purpose of proving the articles or agreement under or by which any such seaman has engaged to serve on board any such ship to call any subscribing or attesting witness thereto; but such articles or agreement may be proved as if there were no such subscribing or attesting witness.

Copies to be evidence.

(2.) A copy of any such articles or agreement as aforesaid certified under the hand of the Consul Vice-Consul or other consular officer or agent of the nation or state to which such ship belongs to be a true copy thereof shall be received as evidence of the existence and contents of such articles or agreement.

Expenses by whom payable.

N.S.W. *Ib.* s. 10.

10. All expenses incidental to the apprehension confinement and removal of any seaman under and by virtue of this Ordinance shall be paid by the Consul Vice-Consul or other consular officer or agent at whose instance such seaman was apprehended proceeded against or removed.

Proceedings may be summary.

N.S.W. *Ib.* s. 11.

11.—(1.) All proceedings under this Ordinance where not otherwise provided for may be carried on in a summary way according to the law regulating summary proceedings before justices of the peace.

Service.

(2.) The service of any summons or other matter in any legal proceeding under this Ordinance shall be good service if made—

(a) personally on the person to be served; or

(b) by leaving such summons for him on board any ship to which he belongs with the person being or appearing to be in command or charge of such ship.

No *certiorari*.

N.S.W. *Ib.* s. 12.

12.—(1.) No conviction under this Ordinance shall be quashed for want of form or be removed by *certiorari* or otherwise into the Central Court.⁽²⁾

Process not to be void.

(2.) No warrant of commitment or order for imprisonment shall be held void by reason of any defect therein provided it is therein alleged that the person has been convicted or ordered to be imprisoned and there is a good and valid conviction or any offence to sustain the same.

Section 2.

SCHEDULE.

Reference to Act.	Title or short title.	Extent of repeal
16 Vic. No. 25 (Queensland adopted).	An act for more effectually preventing desertion and other misconduct of seamen belonging to foreign ships.	The whole.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.