

**SHIPPING CASUALTIES (INQUIRIES, INVESTIGATIONS AND
REPORTS) ACT 1979**

As amended by the following. Amendments indicated by ***Bold Italics***-

1. The Merchant Shipping Act 1985;
2. The Treasury Act 1985;
3. The Fines Act 1985;
4. The Department of Highways, Ports and Properties Order 1986 (GC 190/86);
5. The Statute Law Revision Act 1992
6. The Criminal Justice (Penalties Etc.) Act 1993
7. The Department of Transport Order 1994 (SD 486/94)
8. The Merchant Shipping (Miscellaneous Provisions) Act 1996
9. The Transfer of Functions (Marine Administration) Order 1997 (SD 51/97).

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SHIPPING CASUALTIES (INQUIRIES, INVESTIGATIONS AND REPORTS) ACT 1979

Arrangement of Sections

1. Inquiries and investigations into shipping casualties
 2. Formal Investigation into shipping casualty
 3. Rehearing of and appeal from inquiries and investigations
 4. Failure to deliver cancelled or suspended certificate
 5. Reports of Shipping Casualties (*Repealed*)
 6. Application to the Island of certain rules made under the 1970 Act.
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Isle of Man to Wit

Signed in Tynwald : 10th April 1979
Received Royal Assent : 23rd May 1979
Announced to Tynwald : 10th July 1979
Passed : 10th July 1979

AN ACT

to make fresh provision in relation to inquiries and investigations into shipping casualties and to reports in relation to such casualties, and for connected purposes.

WE, your Majesty's most dutiful and loyal subjects, the Lieutenant Governor, Council and Keys of the said Isle, do humbly beseech your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lieutenant Governor, Council and Keys in Tynwald assembled, and by the authority of the same, as follows (that is to say):-

Inquiries and investigation into shipping casualties

[P1970/36/55]

Investigation of marine accidents

1. (1) *The Department shall, for the purpose of the investigation of any such accidents as are mentioned in subsection (2), appoint such number of persons as it may determine to be inspectors.*

(2) *The accidents referred to in subsection (1) are -*

(a) *any accident involving a ship or ship's boat where, at the time of the accident -*

(i) *the ship is registered in the Island, or*

(ii) *the ship, or (in the case of an accident involving a ship's boat) that boat, is within the territorial sea of the Island; and*

(b) *such other accidents involving ships or ships' boats as the Department may determine.*

(3) *The Department may by regulations make such provision as it considers appropriate with respect to the investigation of any such accidents as are mentioned in subsection (2).*

- (4) *Regulations under subsection (3) may, in particular, make provision -*
- (a) *with respect to the definition of "accident" for the purposes of this section and the regulations;*
 - (b) *imposing requirements as to the reporting of accidents;*
 - (c) *prohibiting, pending investigation, access to or interference with any vessel or ship's boat involved in an accident;*
 - (d) *authorising any person, so far as may be necessary for the purpose of determining whether an investigation should be carried out, to have access to, examine, remove, test, take measures for the preservation of, or otherwise deal with, any such vessel or boat or any other vessel or ship's boat;*
 - (e) *specifying, with respect to the investigation of accidents, the functions of inspectors (which may include the function of determining whether, and if so by whom, particular accidents should be investigated) and the manner in which any such functions are to be discharged;*
 - (f) *for the appointment by the Department in such circumstances as may be specified in the regulations, of persons to carry out investigations under this section who are not inspectors;*
 - (g) *for the appointment by the Council of Ministers of persons to review any findings or conclusions of a person carrying out an investigation under this section;*
 - (h) *for the procedure to be followed in connection with investigations or reviews under this section;*
 - (i) *for conferring on persons discharging functions under the regulations who are not inspectors all or any of the powers conferred on an inspector by section 3 of the Merchant Shipping Act 1985 [c. 3];*
 - (j) *for the submission to the Department, and the publication by it, of reports of investigations or reviews under this section;*
 - (k) *for the publication by the Department of reports and other information relating to accidents.*
- (5) *Regulations under this section may provide for any provisions of the regulations to apply to any specified class or description of incidents or situations which involve, or occur on board, ships or ship's boats but are not accidents for the purposes of the*

regulations, being a class or description framed by reference to any of the following, namely -

- (a) the loss or destruction of or serious damage to any ship or structure,*
- (b) the death of or serious injury to any person, or*
- (c) environmental damage,*

whether actually occurring or not, and (subject to such modifications as may be specified in the regulations) for those provisions to apply in relation to any such incidents or situations as they apply in relation to accidents.

(6) Regulations under this section may provide that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding £5,000 and on conviction on information by a fine.

(7) Inspectors shall discharge such functions in addition to those conferred by or under the preceding provisions of this section as the Department may determine.

(8) An inspector shall, for the purpose of discharging any functions conferred on him by or under this section, have the powers conferred on an inspector by section 3 of the Merchant Shipping Act 1985.

(9) Nothing in this section shall limit the powers of the Department under sections 16 and 16B of the Harbours (Isle of Man) Act 1961 [XIX p.538] (removal of obstructions and vessels).

(10) In this section -

- (a) references to an accident involving a ship or ship's boat include references to an accident occurring on board a ship or ship's boat (and any reference to a ship or ship's boat involved in an accident shall be construed accordingly); and*
- (b) "ship's boat" includes a liferaft.*

(Section 1 inserted by Merchant Shipping (Miscellaneous Provisions) Act 1996. Section 11)

Formal Investigation into shipping casualty

[P1970/36/56(1), (2) and (4)-(6)]

2. *(1) Where any accident has occurred, the Department may (whether or not an investigation into it has been carried out under section 1) cause a formal investigation into the accident to be held by the High Bailiff and in this section "accident" means any accident to which regulations under that section apply or*

any incident or situation to which any such regulations apply by virtue of subsection (5) of that section.

(1A) The High Bailiff, when holding a formal investigation into a casualty or incident under section 1, shall conduct it in accordance with rules, and those rules shall require the assistance of one or more assessors and, if any question as to a recommendation of the cancellation or suspension of an officer's certificate is likely, the assistance of not less than two assessors.

(subsection 1 inserted by Merchant Shipping (Miscellaneous Provisions) Act 1996. s 11)

(2) The provisions of the Inquiries (Evidence) Act 1950 shall apply to a formal investigation held by the High Bailiff as if the High Bailiff were a commission mentioned in section 1(1) of that Act.

(3) If, as a result of the investigation, the High Bailiff is satisfied with respect to any officer or seaman, of any of the matters mentioned in section 52(1)(a) of (c) of the 1970 Act and, if it is a matter mentioned in paragraph (a) or (b) of the said section 52(1), is further satisfied that it caused or contributed to the *accident*, he shall cause a copy of the report mentioned in section (4) to be submitted to the *Department* together with the recommendations of the High Bailiff as to the cancellation or suspension of any certificate of competency held by, or as to the censure of, the officer or seaman *and the Department shall cause a copy of such report and recommendations to be submitted to the Secretary of State.*

(Subsection (3) is amended by the Merchant Shipping Act 1985 - Schedule 1)

(4) *The High Bailiff may make such awards as he thinks just with regard to the costs of the investigation and of any parties at the investigation, and with regard to the parties by whom those costs are to be paid; and any such award of the High Bailiff may on the application of any party named in it, be made an order of the High Court.*

(5) *Any costs directed by an award to be paid shall be assessable in the same manner as costs in the High Court.*

(6) *The High Bailiff shall make a report on the investigation to the Department.*

(subsections 4-6 inserted by Merchant Shipping (Miscellaneous Provisions) Act 1996)

Re-hearing of and appeal from inquiries and investigations

[P1970/36/57]

3. (1) Where an inquiry or formal investigation has been held under the preceding provisions of this Act, the Clerk of the Rolls may order the whole or part of the case to be re-heard, and shall do so -

- (a) if new and important evidence which could not be produced at the inquiry or investigation has been discovered; or

- (b) if there appears to him to be other grounds for suspecting that a miscarriage of justice may have occurred.

(2) An Order under subsection (1) may provide for the re-hearing to be by the person who held it, by the High Bailiff or by the High Court.

(3) Any re-hearing under this section which is not held by the High Court shall be conducted in accordance with rules, and section 2 shall apply in relation to a re-hearing of an investigation as it applies in relation to the holding of an investigation.

Failure to deliver cancelled or suspended certificate

[P1970/36/59]

4. If a person in the Island fails to deliver a certificate as required under section 56(4) of the 1970 Act, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding **£1,000**.

Reports of shipping casualties

[P1970/36/73]

5. *(Repealed by Merchant Shipping (Miscellaneous Provisions) Act 1996 s.11)*

Rules as to investigations and appeals

6. (1) *The Department may make Rules for the conduct of formal investigations under section 2(1) and for the conduct of any rehearing under section 3 which is not held by the High Court.*

(2) *Without prejudice to the generality of subsection (1), rules under this section may provide for the appointment and summoning of assessors, the manner in which any facts may be proved, the persons allowed to appear, and the notices to be given to persons affected.*

(3) *Rules of Court made for the purpose of re-hearings under section 3 which are held by the High Court, or of appeals to the High Court, may require the court, subject to such exceptions, if any as may be allowed by the rules, to hold such a re-hearing or hold such an appeal with the assistance of one or more assessors.”.*

Power to amend Act by order

7. *The Department* may from time to time, with the concurrence of the Secretary of State, by order amend, vary, adapt or repeal any provision of this Act in such manner as may appear to *the Department* expedient for the purpose of making this Act correspond (subject to such modifications or exceptions, or both, as *the Department* may consider appropriate) with the like enactments from time to time operating in the United Kingdom; and any provision of such order shall take effect from such date as may be stated in the

order, not being earlier than the date on which the corresponding enactment has effect in the United Kingdom.

Fees

8. *(Repealed by the Merchant Shipping (Miscellaneous Provisions) Act 1996)*

Orders under sections 6 to 8

9. No Order under section 6, 7 or 8 *and no regulations under this Act* shall have effect until it has been approved by Tynwald.

Rules of court

[P1970/36/58(3)]

10. Rules of court may be made for the purpose of re-hearings under section 3 which are held by the High Court, or of appeals to the High Court, and those rules may require the High Court, subject to such exemptions (if any) as may be allowed by the rules, to hold such a re-hearing, or hear such an appeal, with the aid of one or more assessors.

Interpretation

11. In this Act -

"**the 1970 Act**" means the Merchant Shipping Act 1970 (an Act of Parliament);

"**the Board**" *(definition repealed by GC 190/86)*

"**the Department**" means the Department of Trade and Industry *(Definition inserted by GC 190/86 and amended by SD 51/97);*

"**rules**" mean rules made under section 58(1) or (2) of the 1970 Act and having effect in the Island by virtue of an order made under section 6 of this Act;

"**ship**" includes every description of vessel which is not propelled by oars;

"**ship's boat**" includes a liferaft;

"**vessel**" includes any ship or boat and any other description of vessel used in navigation and also includes a non-displacement craft.

Modification of Vol, VI p 579

12. *(Repealed by the Schedule to this Act.*

Amendments

13. For section 10(2)(a) of the Mineral Workings (Offshore Installations) (Isle of Man) Act 1974 substitute -

- “(a) The Merchant Shipping (Detention of Ships) Act 1979, the Merchant Shipping (Masters and Seamen) Act 1979, the Merchant Shipping (Passenger Ships’ Survey) Act 1979, the Shipping Casualties (Inquiries, Investigations and Reports) Act 1979 and the Wreck and Salvage (Ships and Aircraft) Act 1979;”.

Repeals

14. *(Repealed by the Statute Law Revision Act 1992).*

Short title, construction and commencement.

15. (1) This Act may be cited as the Shipping Casualties (*Inquiries*, Investigations and Reports) Act 1979 and shall be construed as one with the Wreck and Salvage (Ships and Aircraft) Act 1979, and that Act and this Act may be cited together as the Shipping Casualties Acts 1979.

- (2) This Act, except section 12, shall come into force on such date as the Board may by order appoint.

(Section 15 is amended by the Merchant Shipping Act 1985 - Schedule 1)

(Appointed Day Orders -

sections 1 (in part), 5, 11 (in part) - 01/02/1982 - GC 14/82;

Sections 1 to 4, 6 to 11, 13 to 15 and Schedule - 1/10/1983 - GC 213/83)

SCHEDULE

ENACTMENTS REPEALED

(Repealed by the Statute Law Revision Act 1992)