



Isle of Man

Ellan Vannin

AT 11 of 1979

**MERCHANT SHIPPING (PASSENGER
SHIPS' SURVEY) ACT 1979**



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**Isle of Man***Ellan Vannin*

MERCHANT SHIPPING (PASSENGER SHIPS' SURVEY) ACT 1979

Received Royal Assent: 14 March 1979
Passed: 15 May 1979
Commenced: 1 June 1980

AN ACT to provide for the survey of certain passenger ships; to amend the *Merchant Shipping Act 1935*; and for connected purposes.

GENERAL NOTE: The maximum fines in this Act are as increased by the *Fines Act 1986* and by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.

Survey

1 Application of Act to certain passenger ships

This Act shall apply to all passenger ships.

2 [Repealed]¹

3 Power of surveyor to inspect

[V p441/4]

- (1) The surveyor and a radio surveyor may, in the execution of his duties under this Act, go on board any passenger ship at all reasonable times and inspect the same or any part thereof, or any of the machinery, boats, equipment or articles on board the ship or any document carried in the ship in pursuance of any statutory provision relating to merchant shipping, but shall not unnecessarily detain or delay the ship from proceeding on any voyage.
- (2) If, in consequence of an accident to a passenger ship or for any other reason, the surveyor considers it necessary to do so, he may require the ship to be taken into a harbour or dock (if any) for the purpose of surveying the hull and machinery of the ship.

- (3) Any person who tries to prevent the surveyor or a radio surveyor from going on board a passenger ship pursuant to subsection (1) or impedes the surveyor or a radio surveyor in the execution of his duties under this Act shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2,500.

4 Department to regulate surveys

[P1894/60/86 and 724(5)]

The surveyor and every radio surveyor shall execute his duties under the direction of the Department and in accordance with instructions from time to time issued by the Department.²

5 to 8 [Repealed]³

9 [Repealed]⁴

10 to 13 [Repealed]⁵

Courts of Survey

14 Constitution of court of survey

[P1894/60/487(1)-(3)]

- (1) A court of survey shall consist of a judge sitting with two assessors.
- (2) The judge shall be a Deemster or, if the Clerk of the Rolls so directs, the High Bailiff.
- (3) The assessors shall be persons of nautical, engineering or other special skill and experience; and, subject to the provisions of section 2(c) of the *Merchant Shipping (Detention of Ships) Act 1979* as regards foreign ships, one of them shall be appointed by the Clerk of the Rolls, either generally or in each case, and the other shall be summoned, in accordance with rules under section 16, by the clerk to a Deemster or, if the judge is to be the High Bailiff, by the clerk to the High Bailiff, out of a list of persons periodically nominated for the purpose by a body of local shipowners or merchants approved for the purpose by the Council of Ministers, or, if there is no such list, shall be appointed by the judge.⁶

15 Power and procedure of court of survey

[P1894/60/488]

- (1) The court of survey shall hear every case in open court.
- (2) The judge and each assessor of the court may survey the ship, and shall have, for the purpose of this Act, all the powers conferred on an inspector by section 3 of the *Merchant Shipping Act 1985*.⁷

- (3) The judge of the court may appoint any competent person to survey the ship and report thereon to the court.
- (4) The judge of the court, any assessor of the court and any person appointed by the judge of the court to survey the ship may go on board the ship and inspect the same and every part thereof, and the machinery, equipments and cargo, and may require the unloading or removal of cargo, ballast or tackle; and any person who wilfully impedes that judge, assessor or person in the execution of the survey, or fails to comply with any requisitions made by him, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2,500.
- (5) The judge of the court shall have the same power as the Department has to order the ship to be released or finally detained, but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.⁸
- (6) The owner and master of the ship and any person appointed by the owner or master, and also any person appointed by the Clerk of the Rolls, may attend at any inspection or survey made in pursuance of this section.
- (7) The judge of the court shall send to the Department such report as may be directed by rules under section 16, and each assessor shall either sign the report or report to the Department the reasons for his dissent.⁹

16 Rules for procedure of court of survey

[P1894/60/489]

- (1) The Deemsters may make rules to carry into effect the provisions of this Act with respect to a court of survey and in particular with respect to the summoning of, and procedure before the court, the requiring on an appeal of security for costs and damages.¹⁰
- (2) Rules of court under subsection (1) shall be laid before Tynwald as soon as practicable after they are made, and if Tynwald at the sitting at which the rules are laid or at the next following sitting resolves that they shall be annulled, they shall cease to have effect.¹¹

Scientific Referees

17 Reference in difficult cases to scientific persons

[P1894/60/490]

- (1) If the Clerk of the Rolls is of opinion that an appeal to a court of survey involves a question of construction or design or of scientific difficulty or of important principle, he may refer the matter to such one or more out of a list of scientific referees from time to time approved by the Council of Ministers as may appear to possess the special qualifications necessary

for the particular case, and may be selected by agreement between the Department and the appellant, or in default of any such agreement by the Clerk of the Rolls, and, thereupon the appeal shall be determined by the referee or referees instead of by the court of survey.¹²

- (2) The Clerk of the Rolls shall, if the appellant in any appeal so requires and gives security to his satisfaction to pay the costs of and incidental to the reference, refer that appeal to a referee or referees so selected as aforesaid.
- (3) The referee or referees shall have the same powers as a judge of the court of survey.

Miscellaneous

18 Passengers landed or embarked by means of tender

[P1906/48/15]

Where a passenger ship takes on board passengers from a tender, or lands passengers by means of a tender, she shall be deemed to be taking the passengers on board or, as the case may be, landing the passengers at the place from or to which the tender comes or goes; and passengers conveyed in a tender to or from a ship from or to a place in the Island shall, for the purposes of this Act, be deemed to be passengers carried from or to a place in the Island.¹³

19 Restrictions as to the decks on which passengers may be carried

[P1906/48/16]

- (1) A ship shall not carry passengers on more than one deck below the water line.
- (2) If subsection (1) is not complied with, the master of the ship shall be guilty of an offence and shall be liable —
 - (a) on conviction on information, to a fine;
 - (b) on summary conviction, to a fine not exceeding £5,000.

Further Offences

20 and 21 [Repealed]¹⁴

22 Unlawful receipt of fees by surveyor

[P1894/60/724(4)]

If the surveyor or the radio surveyor receives, directly or indirectly, any fee, remuneration or gratuity whatsoever, in respect of any functions exercised by him under this Act, otherwise than by direction of the Secretary of State, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000.

23 [Repealed]¹⁵**24 Delegation of certain functions of the Department**

Without prejudice to section 12 of the Boards of Tynwald Act 1952¹, the Department may, with the concurrence of the Department of Trade of the United Kingdom, delegate to that Department any of its functions under sections 2(2)(b), 4, 5(2), 6, 8(1), 10, 11 or 12(1).¹⁶

*Supplementary***25 Interpretation**

[P1894/60/742; P1949/43/26(1); P1949/43/26(2); P1894/60/742]

In this Act —

“**the 1894 Act**” means the Merchant Shipping Act 1894 (an Act of Parliament) and any enactment of Parliament amending or replacing that Act, and any reference in this Act to any section thereof shall be construed accordingly;

“**the Board**” [Repealed]¹⁷

“**the Department**” means the Department for Enterprise;¹⁸

“**the Governor in Council**” means the Governor acting on the advice, and with the concurrence of, Executive Council;

“**master**” includes every person other than a pilot, having command or charge of a ship;

“**passenger**” means any person carried in a ship except —

- (a) a person employed or engaged in any capacity on board the ship on the business of the ship;
- (b) a person on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons or by reason of any circumstances that neither —
 - (i) the master; nor
 - (ii) the owner; nor
 - (iii) the charterer, if any,
 could have prevented or forestalled; and
- (c) a child of under one year of age.

“**passenger ship**” means a ship carrying more than 12 passengers;

“**passenger ship’s certificate**” has the meaning assigned to it by section 6;

¹ Editorial Note: this is now to be read as a reference to section 3 of the *Government Departments Act 1986*.

“**pilot**” means any person not belonging to a ship who has the conduct of the ship;

“**proper officer**” means a person appointed in this behalf by the Department;¹⁹

“**radio surveyor**” means a surveyor of ships who has been appointed as a radio surveyor;²⁰

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

“**superintendent**” includes, so far as respects any British possession, as defined in Schedule 1 to the *Interpretation Act 1978* (an Act of Parliament), any shipping master or other officer discharging in that possession the duties of a superintendent;

“**the surveyor**” has the meaning assigned to it by section 2(1);

“**surveyor of ships**” means a surveyor appointed under section 2 of the *Merchant Shipping (Registration) Act 1984* or a surveyor appointed under section 724 of the 1894 Act;²¹

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

26 Amendments

The enactments mentioned in Schedule 1 shall be amended in accordance with that Schedule.

27 [Repealed]²²

28 Short title and commencement

This Act may be cited as the Merchant Shipping (Passenger Ships' Survey) Act 1979 and shall come into operation on such day as the Board may by order appoint.²³

SCHEDULE 1

AMENDMENT OF CERTAIN ENACTMENTS

Section 26

[Sch 1 amended by Shipping Casualties (Inquiries, Investigations and Reports) Act 1979 Sch and by SD352/99, and amends the following Act —

Fishing Vessels (Safety Provisions) (Isle of Man) Act 1974 q.v.]

SCHEDULE 2²⁴

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ S 2 repealed by SD352/99.

² S 4 amended by GC190/86.

³ Ss 5 to 8 repealed by SD352/99.

⁴ S 9 repealed by Merchant Shipping (Miscellaneous Provisions) Act 1996 Sch 2.

⁵ Ss 10 to 13 repealed by SD352/99.

⁶ Subs (3) amended by SD861/11.

⁷ Subs (2) amended by Merchant Shipping Act 1985 Sch 1.

⁸ Subs (5) amended by GC190/86.

⁹ Subs (6) amended by GC190/86.

¹⁰ Subs (1) amended by Administration of Justice Act 2008 s 30(3)(a) and (b).

¹¹ S 16 amended by Merchant Shipping (Miscellaneous Provisions) Act 1996 Sch 2 and by Administration of Justice Act 2008 s 30(3)(a). Subs (2) added by Administration of Justice Act 2008 s 30(3)(c).

¹² Subs (1) amended by GC190/86 and by GC155/91.

¹³ S 18 amended by Merchant Shipping Act 1985 Sch 1.

¹⁴ Ss 20 and 21 repealed by SD352/99.

¹⁵ S 23 repealed by SD352/99.

¹⁶ S 24 amended by Merchant Shipping Act 1985 Sch 1.

¹⁷ Definition of "the Board" repealed by GC190/86.

¹⁸ Definition of "the Department" inserted by GC190/86 and amended by SD155/10 Sch 2 and by SD2017/0325.

¹⁹ Definition of "proper officer" amended by GC55/88.

²⁰ Definition of "radio surveyor" substituted by Merchant Shipping Act 1985 Sch 1.

²¹ Definition of “surveyor of ships” inserted by Merchant Shipping Act 1985 Sch 1.

²² S 27 repealed by Statute Law Revision Act 1992 Sch 2.

²³ ADO (whole Act) 1/6/1980 (GC140/80).

²⁴ Sch 2 repealed by Statute Law Revision Act 1992 Sch 2.

