Merchant Shipping Act 1970

1970 CHAPTER 36

Engagement and discharge of crews

1 Crew agreements.

(1) Except as provided under subsection (5) of this section an agreement in writing shall be made between each person employed as a seaman in a ship registered in the United Kingdom and the persons employing him and shall be signed both by him and by or on behalf of them.

(2) The agreements made under this section with the several persons employed in a ship shall be contained in one document (in this Act referred to as a crew agreement) except that in such cases as the Board of Trade may approve—

(a) the agreements to be made under this section with the persons employed in a ship may be contained in more than one crew agreement; and

(b) one crew agreement may relate to more than one ship.

(3) The provisions and form of a crew agreement must be of a kind approved by the Board of Trade; and different provisions and forms may be so approved for different circumstances.

(4) Subject to the following provisions of this section, a crew agreement shall be carried in the ship to which it relates whenever the ship goes to sea.

(5) The Board of Trade may make regulations providing for exemptions from the requirements of this section—

(a) with respect to such descriptions of ship as may be specified in the regulations or with respect to voyages in such areas or such description of voyages as may be so specified; or

(b) with respect to such descriptions of seamen as may be specified in the regulations;

and the Board of Trade may grant other exemptions from those requirements (whether with respect to particular seamen or with respect to seamen employed by a specified person or in a specified ship or in the ships of a specified person) in cases where

the Board are satisfied that the seamen to be employed otherwise than under a crew agreement will be adequately protected.

(6) Where, but for an exemption granted by the Board of Trade, a crew agreement would be required to be carried in a ship or a crew agreement carried in a ship would be required to contain an agreement with a person employed in the ship, the ship shall carry such document evidencing the exemption as the Board of Trade may direct.

(7) Regulations under this section may enable ships required under this section to carry a crew agreement to comply with the requirement by carrying a copy thereof, certified in such manner as may be provided by the regulations.

(8) If a ship goes to sea or attempts to go to sea in contravention of the requirements of this section the master or the person employing the crew shall be liable on summary conviction to a fine not exceeding **[**[F1]level 4 on the standard scale**]**and the ship, if in the United Kingdom, may be detained.

Textual Amendments

F1 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C1 Ss. 1 to 4 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. I**

C2 Ss. 1 to 4 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

2 Regulations relating to crew agreements.

(1) The Board of Trade may make regulations—

(a) requiring such notice as may be specified in the regulations to be given to a superintendent or proper officer, except in such circumstances as may be so specified, before a crew agreement is made or an agreement with any person is added to those contained in a crew agreement;

(b) providing for the delivery to a superintendent or proper officer or the Registrar General of Shipping and Seamen of crew agreements and agreements added to those contained in a crew agreement and of copies of crew agreements and of agreements so added;

(c) requiring the posting in ships of copies of or extracts from crew agreements;

(d) requiring copies of or extracts from crew agreements to be supplied to members of the crew demanding them and requiring copies of or extracts from documents referred to in crew agreements to be made available, in such circumstances as may be specified in the regulations, for inspection by members of the crew; and

(e) requiring any document carried in a ship in pursuance of section 1 of this Act to be produced on demand to an officer of customs and excise.

(2) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding **[**[F2]level 3 on the standard scale**]**or such less amount as may be specified in the regulations.

Textual Amendments

F2 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C3 Ss. 1 to 4 extended by S.I. 1991/1365, reg. 2, **Sch. Pt.I**

C4 Ss. 1 to 4 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**

3 Discharge of seamen.

(1) The Board of Trade may make regulations prescribing the procedure to be followed in connection with the discharge of seamen from ships registered in the United Kingdom.

(2) Without prejudice to the generality of subsection(1) of this section, regulations under this section may make provision—

(a) requiring notice of such a discharge to be given at such time as may be specified in the regulations to the superintendent or proper officer at a place specified in or determined under the regulations;

(b) requiring such a discharge to be recorded, whether by entries in the crew agreement and discharge book or otherwise, and requiring copies of any such entry to be given to a superintendent or proper officer or the Registrar General of Shipping and Seamen.

(3) Regulations under this section may provide that in such cases as may be specified in the regulations, or except in such cases as may be specified in or determined under the regulations, a seaman shall not be discharged outside the United Kingdom from a ship registered in the United Kingdom without the consent of the proper officer.

(4) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding **[**[F3]level 3 on the standard scale**]** or such less amount as may be specified in the regulations.

Textual Amendments

F3 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C5 Ss. 1 to 4 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. I**

C6 Ss. 1 to 4 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**

C7 S. 3(1) extended by Safety at Sea Act 1986 (c. 23, SIF 111), **s. 5(3)**

4 Seamen left behind abroad otherwise than on discharge.

Regulations made under section 3 of this Act may apply any provision thereof, with such modifications as appear to the Board of Trade to be appropriate, to cases where a seaman employed in a ship registered in the United Kingdom is left behind outside the United Kingdom otherwise than on being discharged from the ship.

Status: *Point in time view as at 01/05/1995.*
Changes to legislation: *There are currently no known outstanding effects for the Merchant Shipping Act 1970. (See end of Document for details)*

Modifications etc. (not altering text)

C8 Ss. 1 to 4 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. I**

C9 Ss. 1 to 4 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**

5 Discharge of seamen when ship ceases to be registered in U.K.

Where a ship registered in the United Kingdom ceases to be so registered, any seaman employed in the ship shall be discharged from the ship unless he consents in writing to continue his employment in the ship; and sections 7 to 10 of this Act shall apply in relation to his wages as if the ship had remained registered in the United Kingdom.

Modifications etc. (not altering text)

C10 S. 5 extended subject to modification by S.I. 1991/1365, reg. 2, **Sch. Pt. I**

C11 S. 5 extended subject to modification by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

[F4]6 . . . . . .

Textual Amendments

F4 S. 6 repealed (1.5.1994) by 1993 c. 22, s. 8(3)(4), Sch. 4 para. 8, **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch. 2**

Wages, etc.

7 Payment of seamen's wages.

[[F5](1) Where a seaman employed under a crew agreement relating to a ship leaves the ship on being discharged from it, then, except as provided by or under this Act or any other enactment, the wages due to the seaman under the agreement shall either—

(a) be paid to him in full at the time when he so leaves the ship (in this section and section 8 of this Act referred to as the time of discharge), or

(b) be paid to him in accordance with subsections (3A) and (3B) of this section.**]**

(2) If the amount shown in the account delivered to a seaman under section 8(1) of this Act as being the amount payable to him under **[**[F6]paragraph (a) of**]**subsection (1) of this section is replaced by an increased amount shown in a further account delivered to him under section 8(3) of this Act, the balance shall be paid to him within seven days of the time of discharge; and if the amount so shown in the account delivered to him under section 8(1) of this Act exceeds £50 and it is not practicable to pay the whole of it at the time of discharge, not less than £50 nor less than one-quarter of the amount so shown shall be paid to him at that time and the balance within seven days of that time.

(3) If any amount which, under **[**[F7]subsection (1)(a) or (2)**]**a seaman is not paid at the time at which it is so payable the seaman shall be entitled to wages at the rate last payable under the crew agreement for every day on which it remains unpaid during the period of fifty-six days following the time of discharge; and if any such amount or any amount

payable by virtue of this subsection remains unpaid after the end of that period it shall carry interest at the rate of 20 per cent. per annum.

[[F8](3A) Where the crew agreement referred to in subsection (1) of this section provides for the seaman's basic wages to be payable up-to-date at specified intervals not exceeding one month, and for any additional amounts of wages to be payable within the pay cycle following that to which they relate, any amount of wages due to the seaman under the agreement shall (subject to subsection (3B) of this section) be paid to him not later than the date on which the next payment of his basic wages following the time of discharge would have fallen due if his employment under the agreement had continued.

(3B) If it is not practicable, in the case of any amount due to the seaman by way of wages additional to his basic wages, to pay that amount by the date mentioned in subsection (3A) of this section, that amount shall be paid to him not later than what would have been the last day of the pay cycle immediately following that date if his employment under the crew agreement had continued.

(3C) If any amount which, under subsection (3A) or (3B) of this section, is payable to a seaman is not paid at the time at which it is so payable, it shall carry interest at the rate of 20 per cent. per annum.**]**

(4) **[**[F9]The provisions of subsection (3) or (3C) of this section shall**]**not apply if the failure to pay was due to a mistake, to a reasonable dispute as to liability or to the act or default of the seaman or to any other cause, not being the wrongful act or default of the persons liable to pay his wages or of their servants or agents; and so much of **[**[F10]those provisions**]**as relates to interest on the amount due shall not apply if a court in proceedings for its recovery so directs.

(5) Where a seaman is employed under a crew agreement relating to more than one ship the preceding provisions of this section shall have effect, in relation to wages due to him under the agreement, as if for any reference to the time of discharge there were substituted a reference to the termination of his employment under the crew agreement.

(6) Where a seaman, in pursuance of section 5 of this Act, is discharged from a ship outside the United Kingdom but returns to the United Kingdom under arrangements made by the persons who employed him, the preceding provisions of this section shall have effect, in relation to the wages due to him under a crew agreement relating to the ship, as if for the references in subsections **[**[F11](1) to (3A)**]**to the time of discharge there were substituted references to the time of his return to the United Kingdom, and subsection (5) were omitted.

[[F12](7) For the purposes of this section any amount of wages shall, if not paid to him in cash, be taken to have been paid to a seaman—

(a) on the date when a cheque, or a money or postal order issued by the Post Office, for that amount was despatched by the recorded delivery service to the seaman's last-known address, or

(b) on the date when any account kept by the seaman with a bank or other institution was credited with that amount.**]**

Textual Amendments

F5 S. 7(1) substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), **s. 46(1)(2)**, (with s. 58(4), Sch. 8 para. 1)

F6 Words inserted by Merchant Shipping Act 1988 (c. 12, SIF 111), **s. 46(3)**, (with s. 58(4), Sch. 8 para. 1)

F7 Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), **s. 46(4)**, (with s. 58(4), Sch. 8 para. 1)

F8 S. 7(3A)–(3C) inserted by Merchant Shipping Act 1988 (c. 12, SIF 111), **s. 46(5)**, (with s. 58(4), Sch. 8 para. 1)

F9 Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), **s. 46(6)(a)**, (with s. 58(4), Sch. 8 para. 1)

F10 Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), **s. 46(6)(b)**, (with s. 58(4), Sch. 8 para. 1)

F11 Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), **s. 46(7)**, (with s. 58(4), Sch. 8 para. 1)

F12 S. 7(7) added by Merchant Shipping Act 1988 (c. 12, SIF 111), **s. 46(8)**, (with s. 58(4), Sch. 8 para. 1)

Modifications etc. (not altering text)

C12 Ss. 7 to 14 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**

8 Account of seamen's wages.

(1) Subject to **[**[F13]subsections (3A) and (4)**]**of this section and to regulations made under section 9 or 62 of this Act, the master of every ship registered in the United Kingdom shall deliver to every seaman employed in the ship under a crew agreement an account of the wages due to him under that crew agreement and of the deductions subject to which the wages are payable.

(2) The account shall indicate that the amounts stated therein are subject to any later adjustment that may be found necessary and shall be delivered not later than twenty-four hours before the time of discharge or, if the seaman is discharged without notice or at less than twenty-four hours' notice, at the time of discharge.

(3) If the amounts stated in the account require adjustment the persons who employed the seaman shall deliver to him a further account stating the adjusted amounts; and that account shall be delivered not later than the time at which the balance of his wages is payable to the seaman.

[[F14](3A) Where subsection (3A) or (3B) of section 7 of this Act applies to the payment of any amount of wages due to a seaman under a crew agreement—

(a) the persons who employed the seaman shall deliver to him an account of the wages payable to him under that subsection and of the deductions subject to which the wages are payable; and

(b) any such account shall be so delivered at the time when the wages are paid to him; and

(c) subsections (1) to (3) of this section shall not apply;

and subsection (7) of section 7 shall apply for the purposes of this subsection as it applies for the purposes of that section.**]**

(4) Where a seaman is employed under a crew agreement relating to more than one ship any account which under the preceding provisions of this section would be required to be delivered to him by the master shall instead be delivered to him by the persons employing him and shall be so delivered on or before the termination of his employment under the crew agreement.

(5) If a person fails without reasonable cause to comply with the preceding provisions of this section he shall be liable on summary conviction to a fine not exceeding **[**[F15]level 2 on the standard scale**]**.

Textual Amendments

F13 Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), **s. 46(9)(a)**, (with s. 58(4), Sch. 8 para. 1)

F14 S. 8(3A) inserted by Merchant Shipping Act 1988 (c. 12, SIF 111), **s. 46(9)(b)**, (with s. 58(4), Sch. 8 para. 1)

F15 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C13 Ss. 7 to 14 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

9 Regulations relating to wages and accounts.

The Board of Trade may make regulations—

(a) authorising deductions to be made from the wages due to a seaman under a crew agreement (in addition to any authorised by any provision of this Act or of any other enactment for the time being in force) in cases where a breach of his obligations under the agreement is alleged against him and such conditions, if any, as may be specified in the regulations are complied with, or in such other cases as may be specified in the regulations;

(b) regulating the manner in which any amounts deducted under the regulations are to be dealt with;

(c) prescribing the manner in which wages due to a seaman under a crew agreement are to be or may be paid;

(d) regulating the manner in which such wages are to be dealt with and accounted for in circumstances where a seaman leaves his ship in the United Kingdom otherwise than on being discharged therefrom;

(e) prescribing the form and manner in which any account required to be delivered by section 8 of this Act is to be prepared and the particulars to be contained therein (which may include estimated amounts).

Modifications etc. (not altering text)

C14 Ss. 9 to 14 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. 1**.

C15 Ss. 7 to 14 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**

10 Power of superintendent or proper officer to decide disputes about wages.

(1) Any dispute relating to the amount payable to a seaman employed under a crew agreement may be submitted by the parties to a superintendent or proper officer for decision; but the superintendent or proper officer shall not be bound to accept the submission or, if he has accepted it, to decide the dispute, if he is of opinion that the dispute, whether by reason of the amount involved or for any other reason, ought not to be decided by him.

(2) The decision of a superintendent or proper officer on a dispute submitted to him under this section shall be final.

Modifications etc. (not altering text)

C16 Ss. 9 to 14 extended by S.I. 1991/1365, reg. 2, **Sch. Pt.I**.

C17 Ss. 7 to 14 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

11 Restriction on assignment of and charge upon wages.

(1) Subject to subsections (2) and (3) of this section, the following provisions shall have effect with respect to the wages due or accruing to a seaman employed in a ship registered in the United Kingdom, that is to say,—

(a) the wages shall not be subject to attachment **[**[F16]or arrestment**]**;

[[F17](aa) the wages shall not, in Scotland, be subject to any diligence other than those provided for in section 46(1) of the Debtors (Scotland) Act 1987;**]**

(b) an assignment thereof before they have accrued shall not bind the seaman and the payment of the wages to the seaman shall be valid notwithstanding any previous assignment or charge; and

(c) a power of attorney or authority for the receipt of the wages shall not be irrevocable.

(2) Nothing in this section shall affect the provisions of this Act with respect to allotment notes.

(3) Nothing in this section applies to any disposition relating to the application of wages—

(a) in the payment of contributions to a fund declared by regulations made by the Board of Trade to be a fund to which this section applies; or

(b) in the payment of contributions in respect of the membership of a body declared by regulations made by the Board of Trade to be a body to which this section applies;

or to anything done or to be done for giving effect to such a disposition.

[[F18](4) Subsection (1)(a) of this section is subject to any provision made by or under sections 31 or 32 of the Child Support Act 1991 (deductions from earnings orders).**]**

[[F19](4A) Subsection (1)(a) of this section is subject to any provision made by or under Article 31 or 32 of the Child Support (Northern Ireland) Order 1991 (deductions from earnings orders).**]**

Textual Amendments

F16 Words repealed (S.) by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(3), **Sch. 8**, (with Sch. 7 para. 5)

F17 S. 11(1)(aa) inserted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para.9**; S.I. 1993/3137, art. 3(2), **Sch.2**

F18 S. 11(4) added (12.4.1993) by S.I. 1993/785, **art. 5**

F19 S. 11(4A) added (12.4.1993) by S.R. 1993/157, **art. 5**

Modifications etc. (not altering text)

C18 Ss. 9 to 14 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. I**.

C19 Ss. 7 to 14 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**

C20 S. 11(1)(a) amended by Merchant Shipping Act 1979 (c. 39), **s. 39(3)**

12 Power of court to award interest on wages due otherwise than under crew agreement.

In any proceedings by the master of a ship or a person employed in a ship otherwise than under a crew agreement for the recovery of any sum due to him as wages the court, unless it appears to it that the delay in paying the sum was due to a mistake, to a reasonable dispute as to liability or to the act or default of the person claiming the amount or to any other cause, not being the wrongful act or default of the persons liable to make the payment or their servants or agents, may order them to pay, in addition to the sum due, interest on it at the rate of twenty per cent. per annum or such lower rate as the court may specify, for the period beginning seven days after the sum became due and ending when the sum is paid.

Modifications etc. (not altering text)

C21 Ss. 9 to 14 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. I**

C22 Ss. 7 to 14 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

13 Allotment notes.

(1) Subject to the following provisions of this section, a seaman may, be means of an allotment note issued in accordance with regulations made by the Board of Trade, allot to any person or persons part of the wages to which he will become entitled in the course of his employment in a ship or ships registered in the United Kingdom.

(2) A seaman's right to make an allotment under this section shall be subject to such limitations as may, by virtue of the following provisions of this section, be imposed by regulations made by the Board of Trade.

(3) Regulations made by the Board of Trade for the purposes of this section may prescribe the form of allotment notes and—

(a) may limit the circumstances in which allotments may be made;

(b) may limit (whether by reference to an amount or by reference to a proportion) the part of the wages that may be allotted and the number of persons to whom it may be allotted and may prescribe the method by which that part is to be calculated;

(c) may limit the persons to whom allotments may be made by a seaman to persons of such descriptions or persons standing to him in such relationships as may be prescribed by the regulations;

(d) may prescribe the times and the intervals at which payments under allotment notes are to be made.

(4) Regulations under this section may make different provision in relation to different descriptions of seamen and different circumstances.

Modifications etc. (not altering text)

C23 Ss. 9 to 14 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. I**

C24 Ss. 7 to 14 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**

14 Right of person named in allotment note to sue in own name.

(1) A person to whom any part of a seaman's wages has been allotted by an allotment note issued in accordance with regulations made under section 13 of this Act shall have the right to recover that part in his own name and for that purpose shall have the same remedies as the seaman has for the recovery of his wages.

(2) In any proceedings brought by a person named in such an allotment note as the person to whom any part of a seaman's wages has been allotted it shall be presumed, unless the contrary is shown, that the seaman is entitled to the wages specified in the note and that the allotment has not been varied or cancelled.

Modifications etc. (not altering text)

C25 Ss. 9 to 14 extended by S.I. 1991/1365, reg. 2, **Sch. Pt.I**

C26 Ss. 7 to 14 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**

15 Right, or loss of right, to wages in certain circumstances.

(1) Where a ship registered in the United Kingdom is wrecked or lost a seaman whose employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed shall, subject to the following provisions of this section, be entitled to wages at the rate payable under the agreement at the date of the wreck or loss for every day on which he is unemployed in the two months following that date . . . [F20].

(2) Where a ship registered in the United Kingdom is sold while outside the United Kingdom or ceases to be so registered and a seaman's employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed, then, unless it is otherwise provided in the agreement, he shall, subject to the following provisions of this section, be entitled to wages at the rate payable under the agreement at the date on which his employment is terminated for every day on which he is unemployed in the two months following that date.

(3) A seaman shall not be entitled to wages by virtue of subsection (1) or subsection (2) of this section for a day on which he was unemployed, if it is shown—

(a) that the unemployment was not due to the wreck or loss of the ship or, as the case may be, the termination of his employment on the sale of the ship or its ceasing to be registered in the United Kingdom; or

(b) that the seaman was able to obtain suitable employment for that day but unreasonably refused or failed to take it.

Textual Amendments

F20 Words repealed by Merchant Shipping Act 1979 (c. 39), **Sch. 7 Pt. II**

Modifications etc. (not altering text)

C27 S. 15 extended by Merchant Shipping Act 1979 (c. 39), **s. 37(1)**

16 Protection of certain rights and remedies.

(1) A seaman's lien, his remedies for the recovery of his wages, his right to wages in case of the wreck or loss of his ship, and any right he may have or obtain in the nature of salvage shall not be capable of being renounced by any agreement.

(2) Subsection (1) of this section does not affect such of the terms of any agreement made with the seamen belonging to a ship which, in accordance with the agreement, is to be employed on salvage service, as provide for the remuneration to be paid to them for salvage services rendered by that ship.

17 Claims against seaman's wages for maintenance, etc. of dependants.

(1) Where, during a seaman's employment in a ship, expenses are incurred by a responsible authority for the benefit of any dependant of his and the expenses are of a kind specified in regulations under this section and such further conditions, if any, as may be so specified are satisfied, the authority may by notice in writing complying with the regulations require the persons employing the seaman—

(a) to retain for a period specified in the notice such proportion of his net wages as may be so specified; and

(b) to give to the responsible authority as soon as may be notice in writing of the seaman's discharge from the ship;

and the persons employing the seaman shall comply with the notice (subject to subsection (3) of this section) and give notice in writing of its contents to the seaman.

(2) For the purposes of this section—

(a) the following persons, and no others, shall be taken to be a seaman's dependants, that is to say, his spouse and any person under the age of **[**[F21]nineteen**]** whom he is liable, for the purposes of any enactment in force in any part of the United Kingdom, to maintain or in respect of whom he is liable under any such enactment to make contributions to a local authority; and

(b) expenses incurred for the benefit of any person include (in addition to any payments made to him or on his behalf) expenses incurred for providing him with accommodation or care or for exercising supervision over him;

but no expenses shall be specified in regulations under this section unless they are such that a magistrates' court has power under any enactment in force in any part of the United Kingdom to order the making of payments in respect thereof.

(3) Not more than the following proportion of a seaman's net wages shall be retained under subsection (1) of this section (whether in pursuance of one or more notices) that is to say,—

(a) one-half if the notice or notices relate to one dependant only;

(b) two-thirds if the notice or notices relate to two or more dependants.

(4) Where a responsible authority have served a notice under this section on the persons employing a seaman a magistrates' court may, on the application of the authority, make an order for the payment to the authority of such sum, not exceeding the proportion of the seaman's wages which those persons were required by virtue of this section to retain, as the court, having regard to the expenses incurred by the authority and the seaman's means, thinks fit.

(5) Any sums paid out of a seaman's wages in pursuance of an order under this section shall be deemed to be paid to him in respect of his wages; and the service, on the

persons who employed the seaman, of such an order or of an order dismissing an application for such an order shall terminate the period for which they were required to retain the wages.

(6) An application for an order under this section for the payment of any sum by the persons who employed a seaman shall be deemed, for the purposes of any proceedings, to be an application for an order against the seaman; but the order, when served on those persons, shall have effect as an order against them and may be enforced accordingly.

(7) Parts I and III of the [M1]Maintenance Orders Act 1950 shall have effect as if an order under this section were included among those referred to in subsections (1) and (2) of section 4, subsections (1) and (2) of section 9 and subsections (1) and (2) of section 12 of that Act; and any sum payable by any persons under an order made under this section in any part of the United Kingdom may, in any other part of the United Kingdom, be recovered from them as a debt due to the authority on whose application the order was made.

(8) Any notice or order under this section may be served by registered post or recorded delivery service.

(9) The Board of Trade may make regulations specifying—

(a) the expenses in respect of which a notice may be served by a responsible authority under subsection (1) of this section;

(b) any conditions that must be satisfied if such a notice is to be served;

(c) the period that may be specified in such a notice (being a period beginning with the service of the notice and ending a specified number of days after the seaman's discharge from his ship);

(d) the form of such a notice and the information to be contained therein; and

(e) the amounts to be deducted from a seaman's wages in computing his net wages for the purposes of this section;

and the amounts specified under paragraph (e) of this subsection may include amounts allotted by allotment notes issued under section 13 of this Act.

(10) In this section "responsible authority " means the Secretary of State, the **[**[F22]Department of Health and Social Services for Northern Ireland**][**[F23], [F24]. . ., a Health and Social Services Board acting on behalf of **[**[F25]that Department**]**, or (except in Northern Ireland)**]** any local authority; . . . [F26]

(11) **[**[F27]In the application of subsection (2) (a) of this section to Northern Ireland, for the reference to a local authority there shall be substituted a reference to [F24]. . . a Health and Social Services Board; and in this section**]**"magistrates' court "—

(a) in relation to Scotland, means the sheriff, and

(b) in relation to Northern Ireland, means a court of summary jurisdiction

[[F28]and "Health and Social Services Board " means such a Board established under the Health and Personal Social Services (Northern Ireland) Order 1972**]**.

Textual Amendments

F21 Words substituted by Social Security Act 1989 (c. 24, SIF 113:1), **s. 5(5)**

F22 Words substituted by virtue of Northern Ireland Constitution Act 1973 (c. 36), **Sch. 5 para. 8(1)**

F23 Words in s. 17(10) substituted by S.R. & O. (N.I.) 1973/256, art. 3, Sch. 2

F24 Words in s. 17(10)(11) repealed (1.5.1994) by 1993 c. 22, s. 8(3)(4), Sch. 4 para. 10, **Sch. 5 Pt. II**; S.I. 1993/3137, art. 3(2), **Sch. 2**

F25 Words in s. 17(10) substituted (1.5.1994) by 1993 c.22, s. 8(3), **Sch. 4 para. 10**; S.I. 1993/3137, art. 3(2), **Sch. 2**

F26 Words repealed by Social Security Act 1989 (c. 24, SIF 113:1), s. 31(2), **Sch. 9**

F27 Words in s. 17(11) substituted by S.R. & O. (N.I.) 1973/256, art. 3, Sch. 2

F28 Words in s. 17(11) inserted by S.R. & O. (N.I.) 1973/256, art. 3, Sch. 2

Modifications etc. (not altering text)

C28 Functions of welfare authority, including those in relation to expenses under Children and Young Persons Act (Northern Ireland) 1968 (c. 34) (if such expenses are specified in regulations under the enactment), transferred (N.I.) to Department of Health and Social Services for Northern Ireland or a Health and Social Services Board acting on behalf of Department: S.R. & O. (N.I.) 1973 No. 256, art. 2, Sch. 1, **1973** No. 504, art. 5, Sch. 2 Pt.I and Northern Ireland Constitution Act 1973 (c. 36), **Sch. 5 para. 8**

Marginal Citations

M1 1950 c. 37.

18 Remedies of master for remuneration, disbursements, etc.

The master of a ship shall have the same lien for his remuneration, and all disbursements or liabilities properly made or incurred by him on account of the ship, as a seaman has for his wages.

Safety, health and welfare

[F29]19 . . . . . .

Textual Amendments

F29 S. 19 repealed (1.5.1994) by 1993 c. 22, s. 8(3)(4), Sch. 4 para. 8, **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch. 2**

20 Crew accommodation.

(1) The Board of Trade may make regulations with respect to the crew accommodation to be provided in ships registered in the United Kingdom.

(2) Without prejudice to the generality of the preceding subsection, regulations made under this section may, in particular—

(a) prescribe the minimum space per man which must be provided by way of sleeping accommodation for seamen and the maximum number of persons by whom a specified part of such sleeping accommodation may be used;

(b) regulate the position in the ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;

(c) require the submission to a surveyor of ships of plans and specifications of any works proposed to be carried out for the purpose of the provision or alteration

of any such accommodation and authorise the surveyor to inspect any such works; and

(d) provide for the maintenance and repair of any such accommodation and prohibit or restrict the use of any such accommodation for purposes other than those for which it is designed.

(3) Regulations under this section may make different provision with respect to different descriptions of ships or with respect to ships which were registered in the United Kingdom at different dates or the construction of which was begun at different dates and with respect to crew accommodation provided for seamen of different descriptions.

(4) Regulations under this section may exempt ships of any description from any requirements of the regulations and the Board of Trade may grant other exemptions from any such requirement with respect to any ship.

(5) Regulations made under this section may require the master of a ship or any officer authrised by him for the purpose to carry out such inspections of the crew accommodation as may be prescribed by the regulations.

(6) If the provisions of any regulations made under this section are contravened in the case of a ship the owner or master shall be liable on summary conviction to a fine not exceeding **[**[F30]level 5 on the standard scale**]**, and the ship, if in the United Kingdom, may be detained.

(7) In this section "crew accommodation " includes sleeping rooms, mess rooms, sanitary accommodation, hospital accommodation, recreation accommodation, store rooms and catering accommodation provided for the use of seamen but does not include any accommodation which is also used by or provided for the use of passengers.

Textual Amendments

F30 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

21 . . . . . [F31]

Textual Amendments

F31 S. 21 repealed by S.I. 1989/102, **reg. 1(3)(a)**

22 Complaints about provisions or water.

(1) If three or more seamen employed in a ship registered in the United Kingdom consider that the provisions or water provided for the seamen employed in that ship are not in accordance with **[**[F32]Safety regulations made under section 21 of the Merchant Shipping Act 1979 containing requirements as to the provisions and water to be provided on ships**]**(whether because of bad quality, unfitness for use in deficiency in quantity) they may complain to the master, who shall investigate the complaint.

(2) If the seamen are dissatisfied with the action taken by the master as a result of his investigation or by his failure to take any action they may state their dissatisfaction to

him and may claim to complain to a superintendent or proper officer; and thereupon the master shall make adequate arrangements to enable the seamen to do so as soon as the service of the ship permits.

(3) The superintendent or proper officer to whom a complaint has been made under this section shall investigate the complaint and may examine the provisions or water or cause them to be examined.

(4) If the master fails without reasonable cause to comply with the provisions of subsection (2) of this section he shall be liable on summary conviction to a fine not exceeding **[**[F33]level 3 on the standard scale**]**, and if he has been notified in writing by the person making an examination under subsection (3) of this section that any provisions or water are found to be unfit for use or not of the quality required by the regulations, then,—

(a) if they are not replaced within a reasonable time the master or owner shall be liable on summary conviction to a fine not exceeding **[**[F34]level 4 on the standard scale**]** unless he proves that the failure to replace them was not due to his neglect or default; and

(b) if the master, without reasonable cause, permits them to be used he shall be liable on summary conviction to a fine not exceeding **[**[F34]level 4 on the standard scale**]**.

Textual Amendments

F32 Words substituted by S.I. 1989/102, **reg. 1(3)(b)**

F33 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

F34 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C29 S. 22 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. I**

C30 S. 22 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**

23 Other complaints.

. . . . . [F35]

Textual Amendments

F35 S. 23 repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 48, 57(5), Schs. 5, **7**, (with s. 58(4), Sch. 8 para. 1)

24 Medical stores.

. . . . . [F36]

Textual Amendments

F36 S. 24 repealed by S.I. 1988/1547, **reg. 1(2)(a)**

25 Medical treatment on board ship.

Where a ship registered in the United Kingdom does not carry a doctor among the seamen employed in it the master shall make arrangements for securing that any medical attention on board the ship is given either by him or under his supervision by a person appointed by him for the purpose.

Modifications etc. (not altering text)

C31 Ss. 25 and 26 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. I**

C32 Ss. 25 and 26 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

26 Expenses of medical treatment, etc. during voyage.

If a person, while employed in a ship registered in the United Kingdom, receives outside the United Kingdom any surgical or medical treatment or such dental or optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency, the reasonable expenses thereof shall be borne by the persons employing him; and if he dies while so employed and is buried or cremated outside the United Kingdom, the expenses of his burial or cremation shall also be borne by those persons.

Modifications etc. (not altering text)

C33 Ss. 25 and 26 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. I**

C34 Ss. 25 and 26 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**

Offences by seamen, etc.

[F37 27 Conduct endangering ships, structures or individuals.

(1) This section applies—

(a) to the master of, or any seaman employed in, a ship registered in the United Kingdom; and

(b) to the master of, or any seaman employed in, a ship which—

(i) is registered under the law of any country outside the United Kingdom, and

(ii) is in a port in the United Kingdom or within the seaward limits of the territorial sea of the United Kingdom while proceeding to or from any such port.

(2) If a person to whom this section applies, while on board his ship or in its immediate vicinity—

(a) does any act which causes or is likely to cause—

(i) the loss or destruction of or serious damage to his ship or its machinery, navigational equipment or safety equipment, or

(ii) the loss or destruction of or serious damage to any other ship or any structure, or

(iii) the death of or serious injury to any person, or

(b) omits to do anything required—

(i) to preserve his ship or its machinery, navigational equipment or safety equipment from being lost, destroyed or seriously damaged, or

(ii) to preserve any person on board his ship from death or serious injury, or

(iii) to prevent his ship from causing the loss or destruction of or serious damage to any other ship or any structure, or the death of or serious injury to any person not on board his ship,

and either of the conditions specified in subsection (3) of this section is satisfied with respect to that act or omission, he shall (subject to subsections (6) and (7) of this section) be guilty of an offence.

(3) Those conditions are—

(a) that the act or omission was deliberate or amounted to a breach or neglect of duty;

(b) that the master or seaman in question was under the influence of drink or a drug at the time of the act or omission.

(4) If a person to whom this section applies—

(a) discharges any of his duties, or performs any other function in relation to the operation of his ship or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as is mentioned in subsection (2)(a) of this section, or

(b) fails to discharge any of his duties, or to perform any such function, properly to such an extent as to cause, or to be likely to cause, any of those things,

he shall (subject to subsections (6) and (7) of this section) be guilty of an offence.

(5) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(6) In proceedings for an offence under this section it shall be a defence to prove—

(a) in the case of an offence under subsection (2) of this section where the act or omission alleged against the defendant constituted a breach or neglect of duty, that the defendant took all reasonable steps to discharge that duty;

(b) in the case of an offence under subsection (4) of this section, that the defendant took all reasonable precautions and exercised all due diligence to avoid committing the offence; or

(c) in the case of an offence under either of those subsections—

(i) that he could have avoided committing the offence only by disobeying a lawful command, or

(ii) that in all the circumstances the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of its being caused, either could not reasonably have been foreseen by the defendant or could not reasonably have been avoided by him.

(7) In the application of this section to any person falling within subsection (1)(b) of this section, subsections (2) and (4) shall have effect as if paragraphs (a)(i) and (b)(i) of subsection (2) were omitted; and no proceedings for an offence under this section shall be instituted against any such person—

Status: *Point in time view as at 01/05/1995.*
Changes to legislation: *There are currently no known outstanding effects for the Merchant Shipping Act 1970. (See end of Document for details)*

(a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;

(b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

(8) In this section—

"breach or neglect of duty ", except in relation to a master, includes any disobedience to a lawful command;

"duty "—

(a) in relation to a master or seaman, means any duty falling to be discharged by him in his capacity as such; and

(b) in relation to a master, includes his duty with respect to the good management of his ship and his duty with respect to the safety of operation of his ship, its machinery and equipment; and

"structure " means any fixed or movable structure (of whatever description) other than a ship.**]**

Textual Amendments

F37 S. 27 substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), **s. 32**, (with s. 58(4), Sch. 8 para. 1)

Modifications etc. (not altering text)

C35 S. 27 extended by S.I. 1991/1365, **reg. 3(1)(2)**

C36 S. 27 extended by S.I. 1991/1366, **reg. 4(1)(2)**

28 Drunkenness, etc. on duty.

If **[**[F38]the skipper of or a seaman employed or engaged**]** in a **[**[F39]fishing vessel**]** registerd in the United Kingdom is, while **[**[F39]on board the vessel**]**, under the influence of drink or a drug to such an extent that his capacity to **[**[F40]fulfil his responsibility for the vessel or, as the case may be, carry out the duties of his employment or engagement**]** is impaired, he shall be liable on **[**[F41]conviction on indictment to imprisonment for a term not exceeding two years and a fine and, on summary conviction, to a fine not exceeding £1,000**]**.

Textual Amendments

F38 Words substituted by Safety at Sea Act 1986 (c. 23, SIF 111), **s. 10**(*a*)

F39 Words substituted by Merchant Shipping Act 1979 (c. 39), **s. 45(2)**

F40 Words substituted by Safety at Sea Act 1986 (c. 23, SIF 111), **s. 10**(*b*)

F41 Words substituted by Merchant Shipping Act 1979 (c. 39), **Sch. 6 Pt. VII para. 20**

Modifications etc. (not altering text)

C37 S. 28 amended by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 49(1)**

C38 S. 28 extended by S.I. 1991/1365, reg. 2, **Sch. Pt.I**

C39 S. 28 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

29 . . . . . [F42]

Textual Amendments

F42 Ss. 29, 31 repealed by Merchant Shipping Act 1974 (c. 43), **s. 19(1)(3)**

30 Continued or concerted disobedience, neglect of duty, etc.

If a seaman employed in a ship registered in the United Kingdom—

(a) . . . . . [F43]

(b) . . . . . [F43]

[[F44](c) combines with other seamen employed in that ship—

(i) to disobey lawful commands which are required to be obeyed at a time while the ship is at sea;

(ii) to neglect any duty which is required to be discharged at such a time; or

(iii) to impede, at such a time, the progress of a voyage or the navigation of the ship,

he shall be liable on [[F45]conviction on indictment to imprisonment for a term not exceeding two years and a fine and, on summary conviction, to a fine not exceeding £1,000].

For the purposes of this section a ship shall be treated as being at sea at any time when it is not securely moored in a safe berth].

Textual Amendments

F43 S. 30(a)(b) repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 48, 57(5), Schs. 5, **7**, (with s. 58(4), Sch. 8 para. 1)

F44 S. 30(c) substituted by Merchant Shipping Act 1974 (c.43), **s. 19(1)(4)**

F45 Words substituted by Merchant Shipping Act 1979 (c. 39), **Sch. 6 Pt. VII para. 21**

Modifications etc. (not altering text)

C40 S. 30 amended by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 49(1)**

C41 S. 30 extended by S.I. 1991/1365, reg. 2, **Sch. Pt.I**

C42 S. 30 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**

31 . . . . . [F46]

Textual Amendments

F46 Ss. 29, 31 repealed by Merchant Shipping Act 1974 (c. 43), **s. 19(1)(3)**

32 Offences committed by certain other persons.

Where a person goes to sea in a ship without the consent of the master or of any other person authorised to give it or is conveyed in a ship in pursuance of section 62(5)(b) of this Act, sections 27, . . . [F47] . . . [F48]and 30(c) of this Act shall apply as if he were a seaman employed in the ship.

Textual Amendments

F47 Words repealed by Merchant Shipping Act 1974 (c. 43), **s. 19(1)(6)(a)**

F48 Words repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)

Defence of drug taken for medical purposes

33 Defence of drug taken for medical purposes.

In proceedings for an offence under section 27 **[**[F49](2)**]** or section 28 of this Act it shall be a defence to prove that at the time of the act or omission alleged against the defendant he was under the influence of a drug taken by him for medical purposes and either that he took it on medical advice and complied with any directions given as part of that advice or that he had no reason to believe that the drug might have the influence it had.

Textual Amendments

F49 Word inserted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), **Sch. 6**, (with s. 58(4), Sch. 8 para. 1)

Modifications etc. (not altering text)

C43 S. 33 extended by S.I. 1991/1365, reg. 2, **Sch. Pt.I**

C44 S. 33 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

Disciplinary offences

34–38 . . . . . [F50]

Textual Amendments

F50 Ss. 34–38 repealed by Merchant Shipping Act 1979 (c. 39), **s. 52(2) Sch. 7 Pt. II**

Civil liability for absence without leave, smuggling and fines imposed under immigration laws

39 Civil liability for absence without leave.

(1) The following provisions of this section shall apply with respect to the liability of a seaman employed in a ship registered in the United Kingdom to damages for being absent from his ship at a time when he is required under his contract of employment to be on board.

(2) If he proves that his absence was due to an accident or mistake or some other cause beyond his control and that he took all reasonable precautions to avoid being absent his absence shall not be treated as a breach of contract.

(3) Where subsection (2) of this section does not apply, then—

(a) if no special damages are claimed his liability shall be £10;

(b) if special damages are claimed his liability shall not be more than £100.

(4) In the application of this section to Scotland for the references to special damages there shall be substituted references to damages in respect of specific expense incurred or loss sustained.

Modifications etc. (not altering text)

C45 Ss. 39 to 42 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. I**

C46 Ss. 39 to 42 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**

C47 S. 39 extended by S.I. 1991/1366, reg. 3, **Sch. 2 Pt. I**

40 Civil liability for smuggling.

If a seaman employed in a ship registered in the United Kingdom is found in civil proceedings before a court in the United Kingdom to have committed an act of smuggling, whether within or outside the United Kingdom, he shall be liable to make good any loss or expense that the act has caused to any other person.

Modifications etc. (not altering text)

C48 Ss. 39 to 42 extended by S.I. 1991/1365, reg. 2, **Sch. Pt.I**

C49 Ss. 39 to 42 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**

C50 S. 40 extended by S.I. 1991/1366, reg. 3, **Sch. 2 Pt. I**

41 Civil liability for fines imposed under immigration laws.

(1) The following provisions of this section shall apply where, at a time when a ship registered in the United Kingdom is in the national or territorial waters of any country outside the United Kingdom, a seaman employed in the ship is absent without leave and present in that country in contravention of that country's laws.

(2) If, by reason of the contravention, a penalty is incurred under those laws by the persons employing the seaman the penalty shall be treated as being attributable to his absence without leave and may, subject to the provisions of section 39 of this Act, be recovered from him as special damages for breach of contract (or, in Scotland, as damages in respect of specific expense incurred or loss sustained).

(3) If, by reason of the contravention, a penalty is incurred under those laws by any other person the amount thereof, or, if that amount exceeds £100, £100, may be recovered by him from the seaman.

Modifications etc. (not altering text)

C51 Ss. 39 to 42 extended by S.I. 1991/1365, reg. 2, **Sch. Pt.I**

C52 Ss. 39 to 42 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**

Status: *Point in time view as at 01/05/1995.*
Changes to legislation: *There are currently no known outstanding effects for the Merchant Shipping Act 1970. (See end of Document for details)*

Trade disputes

42 Trade disputes involving seamen.

F51(1) . . . . . .

(2) F52

(3) F53

Textual Amendments

F51 S. 42(1) repealed (16.10.1992) by Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), ss. 300(1), 302, **Sch.1**; and expressed to be repealed (1.10.1995) by S.I. 1995/1980 (N.I.12), art. 150(4), **Sch. 4**; S.R. 1995/354, **art. 2(1)**

F52 S. 42(2) repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 48, 57(5), Schs. 5, **7**, (with s. 58(4), Sch. 8 para. 1)

F53 S. 42(3) repealed by Trade Union and Labour Relations Act 1974 (c. 52), **Sch. 5**

Manning and certification

43 Manning.

(1) Subject to subsection (2) of this section, the Board of Trade may make regulations—

(a) requiring ships to which this section applies to carry such number of qualified officers of any description, qualified doctors and qualified cooks and such number of other seamen or qualified seamen of any description as may be specified in the regulation; and

(b) prescribing or enabling the Board of Trade to specify standards of competence to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the regulations) by officers and other seamen of any description in order to be qualified for the purposes of this section.

(2) The Board of Trade shall not exercise their power to make regulations requiring ships to carry seamen other than doctors and cooks except to the extent that it appears to them necessary or expedient in the interests of safety.

(3) Regulations under this section may make different provision for different descriptions of ship or for ships of the same description in different circumstances.

(4) Without prejudice to the generality of paragraph (b) of subsection (1) of this section, the conditions prescribed or specified under that paragraph may include conditions as to nationality, and regulations made for the purposes of that paragraph may make provision, or enable the Board of Trade to make provision, for—

(a) the manner in which the attainment of any standard or the satisfaction of any other condition is to be evidenced;

(b) the conduct of any examinations, the conditions for admission to them and the appointment and remuneration of examiners; and

(c) the issue, form and recording of certificates and other documents;

and different provisions may be so made or enabled to be made for different circumstances.

(5) If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a certificate or other document which may be issued under this section he shall be liable on summary conviction to a fine not exceeding **[**[F54]level 5 on the standard scale**]**.

Textual Amendments

F54 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C53 S. 43 extended by S.I. 1981/1076, **reg. 9**
C54 Ss. 43–60 modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**
C55 S. 43 amended by Merchant Shipping Act 1979 (c. 39), **s. 37(2)(3)**
C56 S. 43 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**
C57 Ss. 42 to 45 extended by S.I. 1991/1366, reg. 3, **Sch. 2 Pt.I**
C58 Ss. 43-47 extended (1.6.1993) by S.I. 1993/1213, **reg. 3(2)**

44 Power to exempt from manning requirements.

(1) The Board of Trade may exempt any ship or description of ship from any requirements of regulations made under section 43 of this Act.

(2) An exemption given under this section may be confined to a particular period or to one or more particular voyages.

Modifications etc. (not altering text)

C59 Ss. 43–60 modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**
C60 S. 44 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**
C61 Ss. 42-45 extended by S.I. 1991/1366, reg. 3, **Sch. 2 Pt. I**
C62 Ss. 43-47 extended (1.6.1993) by S.I. 1993/1213, **reg. 3(2)**

45 Prohibition of going to sea undermanned.

Subject to section 44 of this Act, if a ship to which this section applies goes to sea or attempts to go to sea without carrying such officers and other seamen as it is required to carry under section 43 of this Act the owner or master shall be liable on summary conviction to a fine not exceeding £200 and the ship, if in the United Kingdom, may be detained.

Modifications etc. (not altering text)

C63 Ss. 43–60 modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**
C64 S. 45 amended by Merchant Shipping Act 1979 (c. 39, SIF 111), s. 43(2), **Sch. 6 Pt. V** and Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 49(1)**
C65 S. 45 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**
C66 Ss. 42-45 extended by S.I. 1991/1366, reg. 3, **Sch. 2 Pt. I**
C67 Ss. 43-47 extended (1.6.1993) by S.I. 1993/1213, **reg. 3(2)**

46 Unqualified persons going to sea as qualified officers or seamen.

(1) If a person goes to sea as a qualified officer or seaman of any description without being such a qualified officer or seaman he shall be liable on summary conviction to a fine not exceeding £100.

(2) In this section "qualified " means qualified for the purposes of section 43 of this Act.

Modifications etc. (not altering text)

C68 Ss. 43–60 modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**

C69 Ss. 43-47 extended (1.6.1993) by S.I. 1993/1213, **reg. 3(2)**

C70 S. 46(1) amended by Merchant Shipping Act 1979 (c. 39, SIF 39:1), s. 43(2), **Sch. 6 Pt. V** and Criminal Justice Act 1982 (c.48, SIF 39:1), **s. 49(1)**

47 Production of certificates and other documents of qualification.

Any person serving or engaged to serve in any ship to which this section applies and holding any certificate or other document which is evidence that he is qualified for the purposes of section 43 of this Act shall on demand produce it to any superintendent, surveyor or proper officer and (if he is not himself the master) to the master of the ship; and if he fails to do so without reasonable cause he shall be liable on summary conviction to a fine not exceeding **[**[F55]level 3 on the standard scale**]**.

Textual Amendments

F55 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C71 Ss. 43–60 modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**

C72 S. 47 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**

C73 S. 47 extended by S.I. 1991/1366, reg. 3, **Sch. 2 Pt.I**

C74 Ss. 43-47 extended (1.6.1993) by S.I. 1993/1213, **reg. 3(2)**

48 Crew's knowledge of English.

(1) Where in the opinion of a superintendent or proper officer the crew of a ship to which this section applies consists of or includes persons who may not understand orders given to them in the course of their duty because of their insufficient knowledge of English and the absence of adequate arrangements for transmitting the orders in a language of which they have sufficient knowledge, then—

(a) if the superintendent or proper officer has informed the master of that opinion the ship shall not go to sea; and

(b) if the ship is in the United Kingdom it may be detained.

(2) If a ship goes to sea or attempts to go to sea in contravention of this section the owner or master shall be liable on summary conviction to a fine not exceeding **[**[F56]level 5 on the standard scale**]**.

Textual Amendments

F56 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C75 Ss. 43–60 modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**

C76 S. 48 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. I**

C77 S. 48 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

49 Application of sections 43, 45, 47 and 48.

Sections 43, 45, 47 and 48 of this Act apply to every ship registered in the United Kingdom and also to any ship registered elsewhere which carries passengers—

(a) between places in the United Kingdom or between the United Kingdom and the Isle of Man or any of the Channel Islands; or

(b) on a voyage which begins and ends at the same place in the United Kingdom and on which the ship calls at no place outside the United Kingdom.

Modifications etc. (not altering text)

C78 S. 49 modified by S.I. 1982/1699, **regs. 2(2)**, 3

C79 Ss. 43–60 modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**

50 Special certificates of competency.

(1) The Board of Trade may issue and record documents certifying the attainment of any standard of competence relating to ships or their operation, notwithstanding that the standard is not among those prescribed or specified under section 43(1)(b) of this Act; and may, in relation thereto, make regulations for purposes corresponding to those mentioned in section 43(4) of this Act.

(2) If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a document which may be issued under this section he shall be liable on summary conviction to a fine not exceeding **[**[F57]level 5 on the standard scale**]**.

Textual Amendments

F57 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C80 Ss. 43–60 modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**

51 Restriction on employment of persons under eighteen on board ship.

(1) A person under school-leaving age shall not be employed in any ship registered in the United Kingdom except as permitted by regulations under this section.

(2) The Board of Trade may make regulations—

(a) prescribing circumstances in which and conditions subject to which persons under school-leaving age who have attained such age as may be specified in the regulations may be employed in a ship in such capacities as may be so specified;

(b) prescribing circumstances and capacities in which persons over school-leaving age but under the age of eighteen or under such lower age as may be specified in the regulations must not be employed in a ship registered in the United Kingdom or may be so employed only subject to such conditions as may be specified in the regulations.

(3) Regulations made for the purposes of this section may make different provision for different employments and different descriptions of ship and any other different circumstances.

(4) If any person is employed in a ship in contravention of this section or if any condition subject to which a person may be employed under regulations made for the purposes of this section is not complied with, the owner or master shall be liable on summary conviction to a fine not exceeding **[**[F58]level 3 on the standard scale**]**.

(5) For the purposes of this section a person employed in a ship shall be deemed to be over school-leaving age if he has, and under school-leaving age if he has not, attained the age which is the upper limit of the compulsory school age (in Scotland school age) under the enactments relating to education in the part of the United Kingdom in which he entered into the agreement under which he is so employed or, if he entered into that agreement outside the United Kingdom or is employed otherwise than under an agreement, under the enactments relating to education in England and Wales; and if he is treated for the purposes of those enactments as not having attained that age he shall be so treated also for the purposes of this section.

Textual Amendments

F58 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C81 Ss. 43–60 modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**

Disqualification of seamen, inquiries and investigations.

52 Inquiry into fitness or conduct of officer.

(1) If it appears to the Board of Trade that an officer—

(a) is unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason; or

(b) has been seriously negligent in the discharge of his duties; or

(c) has failed to comply with the provisions of section 422 of the [M2]Merchant Shipping Act 1894 (duty to give assistance and information after collision);

the Board of Trade may cause an inquiry to be held by one or more persons appointed by them and, if they do so, may, if they think fit, suspend, pending the outcome of the

inquiry, any certificate issued to the officer in pursuance of section 43 of this Act and require the officer to deliver it to them.

(2) Where a certificate issued to an officer has been suspended under subsection (1) of this section the suspension may, on the application of the officer, be terminated by the High Court or, if the inquiry is held in Scotland, by the Court of Session, and the decision of the court on such an application shall be final.

(3) An inquiry under this section shall be conducted in accordance with rules made under section 58(1) of this Act and those rules shall require the persons holding the inquiry to hold it with the assistance of one or more assessors [F59]

(4) The persons holding an inquiry under this section into the fitness or conduct of an officer—

(a) may, if satisfied of any of the matters mentioned in paragraphs (a) to (c) of subsection (1) of this section, cancel or suspend any certificate issued to him under section 43 of this Act or censure him;

(b) may make such order with regard to the costs of the inquiry as they think just; and

(c) shall make a report on the case to the Board of Trade;

and if the certificate is cancelled or suspended the officer (unless he has delivered it to the Board of Trade in pursuance of subsection (1) of this section) shall deliver it forthwith to the persons holding the inquiry or to the Board of Trade.

(5) Any costs which a person is ordered to pay under subsection (4)(b) of this section may be recovered from him by the Board of Trade.

Textual Amendments

F59 Words inserted by Merchant Shipping Act 1979 (c. 39), **ss. 37(4)**, 52(2), except semi-colon, repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)

Modifications etc. (not altering text)

C82 S. 52 restricted (31.3.1995) by 1993 c. 8, **s. 26(8)(c)** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, **art. 2**

C83 Ss. 43–60 modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**

Marginal Citations

M2 1894 c. 60.

53 Disqualification of holder of certificate other than officer's.

(1) Where it appears to the Board of Trade that a person who is the holder of a certificate to which this section applies is unfit to be the holder of such a certificate, whether by reason of incompetence or misconduct or for any other reason, they may give him notice in writing that they are considering the suspension or cancellation of the certificate.

(2) The notice must state the reasons why it appears to the Board of Trade that that person is unfit to be the holder of such a certificate and must state that within a period specified in the notice, or such longer period as the Board of Trade may allow, he may make written representations to the Board or claim to make oral representations to the Board.

(3) After considering any representations made in pursuance of the preceding subsection the Board shall decide whether or not to suspend or cancel the certificate and shall give the holder of it written notice of their decision.

(4) Where the decision is to suspend or cancel the certificate the notice shall state the date from which the cancellation is to take effect, or the date from which and the period for which the suspension is to take effect, and shall require the holder to deliver the certificate to the Board not later than the date so specified unless before that date he has required the case to be dealt with by an inquiry under section 54 of this Act.

(5) Where, before the date specified in the notice, he requires the case to be dealt with by such an inquiry, then, unless he withdraws the requirement, the suspension or cancellation shall not take effect except as ordered in pursuance of the inquiry.

(6) The Board of Trade may make regulations prescribing the procedure to be followed with respect to the making and consideration of representations in pursuance of this section, the form of any notice to be given under this section and the period to be specified in any such notice as the period within which any steps are to be taken.

(7) This section applies to every certificate issued under section 50 of this Act and to any certificate issued under section 43 of this Act other than one certifying that a person is qualified as an officer.

Modifications etc. (not altering text)

C84 Ss. 43–60 modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**

54 Inquiry into fitness or conduct of seaman other than officer.

(1) Where a person has, before the date mentioned in section 53(4) of this Act, required his case to be dealt with by an inquiry under this section the Board of Trade shall cause an inquiry to be held by one or more persons appointed by them.

(2) An inquiry under this section shall be conducted in accordance with rules made under section 58(1) of this Act and those rules shall require the persons holding the inquiry to hold it with the assistance of one or more assessors [F60]

(3) The persons holding an inquiry under this section—

(a) may confirm the decision of the Board of Trade and cancel or suspend the certificate accordingly;

(b) may, where the decision was to cancel the certificate, suspend it instead;

(c) may, where the decision was to suspend the certificate, suspend it for a different period;

(d) may, instead of confirming the decision of the Board of Trade, censure the holder of the certificate or take no further action;

(e) may make such order with regard to the costs of the inquiry as they think just; and

(f) shall make a report on the case to the Board of Trade;

and if the certificate is cancelled or suspended it shall be delivered forthwith to the persons holding the inquiry or to the Board of Trade.

(4) Any costs which a person is ordered to pay under subsection (3)(e) of this section may be recovered from him by the Board of Trade.

Textual Amendments

F60 Words inserted by Merchant Shipping Act 1979 (c. 39), **ss. 37(4)**, 52(2), except semi-colon, repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)

Modifications etc. (not altering text)

C85 Ss. 43–60 modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**

55 . . . . . [F61]

Textual Amendments

F61 S. 55 repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)

56 Formal investigation into shipping casualty.

[[F62](1) Where any accident has occurred, the Secretary of State may (whether or not an investigation into it has been carried out under section 33 of the Merchant Shipping Act 1988) cause a formal investigation into the accident to be held—

(a) if in England, Wales or Northern Ireland, by a wreck commissioner, and

(b) if in Scotland, by the sheriff;

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) A wreck commissioner or sheriff holding a formal investigation shall conduct it in accordance with rules under section 58(1) of this Act; and those rules shall require the assistance of one or more assessors and, if any question as to the cancellation or suspension of an officer's certificate is likely, the assistance of not less than two assessors.**]**

(2) **[**[F63]Subsections (1), (3) and (4) of section 97 of the Magistrates' Courts Act 1980**]**(which provide for the attendance of witnesses and the production of evidence) shall apply in relation to a formal investigation held by a wreck commissioner as if the wreck commissioner were a magistrates' court and the investigation a complaint; and the wreck commissioner shall have power to administer oaths for the purposes of the investigation.

(3) Where a formal investigation is held in Scotland the sheriff shall, subject to any rules made under section 58(1) of this Act, dispose of it as a summary application, and, subject to section 57 of this Act, his decision on the investigation shall be final.

(4) If as a result of the investigation the wreck commissioner or sheriff is satisfied, with respect to any officer, of any of the matters mentioned in paragraphs (a) to (c) of section 52(1) of this Act and, if it is a matter mentioned in paragraph (a) or (b) of that section, is further satisfied that it caused or contributed to the **[**[F64]accident**]**, he may

cancel or suspend any certificate issued to the officer under section 43 of this Act or censure him; and if he cancels or suspends the certificate the officer shall deliver it forthwith to him or to the Board of Trade.

[[F65](5) The wreck commissioner or sheriff 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 wreck commissioner may, on the application of any party named in it, be made an order of the High Court.

(6) Any costs directed by an award to be paid shall be taxable

(a) in the High Court, or

(b) where the investigation was held in Scotland, by the auditor of the sheriff court in which it was held and in accordance with the table of fees regulating the taxation of solicitors' accounts.

(6A) The wreck commissioner or sheriff shall make a report on the investigation to the Secretary of State.**]**

(7) In its application to Northern Ireland this section shall have effect as if in subsection (2) for the references to **[**[F66]subsections (1), (3) and (4) of section 97 of the Magistrates' Courts Act 1980**]**there were substituted references to **[**[F67]paragraphs (1) and (3) of Article 118 and paragraph (1) of Article 120 of the Magistrates' Courts (Northern Ireland) Order 1981**]**

Textual Amendments

F62 S. 56(1)(1A) substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), **Sch. 6**, (with s. 58(4), Sch. 8 para. 1)

F63 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 90**

F64 Word substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), **Sch. 6**, (with s. 58(4), Sch. 8 para. 1)

F65 S. 56(5)(6)(6A) substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 48, **Sch. 5**, (with s. 58(4), Sch. 8 para. 1)

F66 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 90**

F67 Words substituted by S.I. 1981/1675 (N.I. 26), **Sch. 6 Pt. I para. 18**

Modifications etc. (not altering text)

C86 S. 56 extended by S.I. 1983/1106, **art. 5**, and by S.I. 1987/470, **art. 4**

C87 S. 56 extended with modifications by S.I. 1987/311, reg. 16, **Sch. 5** and by S.I. 1989/1350, art. 2, **Sch. 1** (as substituted by S.I. 1989/2594, **art. 3**)

C88 Ss. 43–60 modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**

57 Re-hearing of and appeal from inquiries and investigations.

(1) Where an inquiry or formal investigation has been held under the preceding provisions of this Act the Board of Trade 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 appear to the Board to be other grounds for suspecting that a miscarriage of justice may have occurred.

(2) An order under subsection (1) of this section may provide for the re-hearing to be as follows,—

(a) if the inquiry or investigation was held in England, Wales or Northern Ireland, by the persons who held it, by a wreck commissioner or by the High Court;

(b) if it was held in Scotland, by the persons who held it, by the sheriff or by the Court of Session.

(3) Any re-hearing under this section which is not held by the High Court or the Court of Session shall be conducted in accordance with rules made under section 58(1) of this Act; and section 56 of this Act shall apply in relation to a re-hearing of an investigation by a wreck commissioner or sheriff as it applies in relation to the holding of an investigation.

(4) Where the persons holding the inquiry or investigation have decided to cancel or suspend the certificate of any person or have found any person at fault, then, if no application for an order under subsection (1) of this section has been made or such an application has been refused, that person or any other person who, having an interest in the inquiry or investigation, has appeared at the hearing and is affected by the decision or finding, may appeal to the High Court or the Court of Session, according as the inquiry or investigation was held in England, Wales or Northern Ireland or in Scotland.

Modifications etc. (not altering text)

C89 S. 57 extended by S.I. 1983/1106, **art. 5** and by S.I. 1987/470, **art. 4**

C90 Ss. 43–60 modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**

C91 S. 57 extended with modifications by S.I. 1987/311, reg. 16, **Sch. 5** and by S.I. 1989/1350, art. 2, **Sch. 1** (as substituted by S.I. 1989/2594, **art. 3**)

58 Rules as to inquiries, investigations and appeals.

(1) The Board of Trade may make rules for the conduct of inquiries under sections 52 and 54 of this Act and of formal investigations under section **[**[F68]56**]**of this Act and for the conduct of any re-hearing under section 57 of this Act which is not held by the High Court or the Court of Session.

(2) Without prejudice to the generality of the preceding subsection, 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 rehearings under section 57 of this Act 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 rehearing or hear such an appeal with the assistance of one or more assessors.

Textual Amendments

F68 Figures substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), **Sch. 6**, (with s. 58(4), Sch. 8 para. 1)

Modifications etc. (not altering text)

C92 S. 58 extended by S.I. 1983/1106, **art. 5** and by S.I. 1987/470, **art. 4**

C93 Ss. 43–60 modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**
C94 S. 58 extended with modifications by S.I. 1987/311, reg. 16, **Sch. 5** and by S.I. 1989/1350, art. 2, **Sch. 1** (as substituted by S.I. 1989/2594, **art. 3**)

59 Failure to deliver cancelled or suspended certificate.

If a person fails to deliver a certificate as required under section 52 or 56 of this Act he shall be liable on summary conviction to a fine not exceeding **[**[F69]level 3 on the standard scale**]**; and if a person fails to deliver a certificate as required under section 53 or 54 of this Act he shall be liable on summary conviction to a fine not exceeding **[**[F69]level 3 on the standard scale**]**.

Textual Amendments
F69 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)
C95 Ss. 43–60 modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**

60 Power to restore certificate.

Where a certificate has been cancelled or suspended under this Act or under section 478 of the [M3]Merchant Shipping Act 1894, the Board of Trade, if of opinion that the justice of the case requires it, may re-issue the certificate or, as the case may be, reduce the period of suspension and return the certificate, or may grant a new certificate of the same or a lower grade in place of the cancelled or suspended certificate.

Modifications etc. (not altering text)
C96 Ss. 43–60 modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**

Marginal Citations
M3 1894 c. 60.

61 Inquiries into deaths of crew members and others.

(1) Subject to subsection (4) of this section, where—
(a) any person dies in a ship registered in the United Kingdom; or **[**[F70]in a boat or life-raft from such a ship; or**]**
(b) the master of or a seaman employed in such a ship dies in a country outside the United Kingdom;

an inquiry into the cause of the death shall be held by a superintendent or proper officer at the next port where the ship calls after the death and where there is a superintendent or proper officer, or at such other place as the Board of Trade may direct.

[[F71](1A) Subject to subsection (4) of this section, where it appears to the Secretary of State that—

(a) in consequence of an injury sustained or a disease contracted by a person, when he was the master of or a seaman employed in a ship registered in the United Kingdom, he ceased to be employed in the ship and subsequently died; and

(b) the death occurred in a country outside the United Kingdom during the period of one year beginning with the day when he so ceased,

the Secretary of State may arrange for an inquiry into the cause of the death to be held by a superintendent or proper officer.

(1B) Subject to subsection (4) of this section, where it appears to the Secretary of State that a person may—

(a) have died in a ship registered in the United Kingdom or in a boat or life-raft from such a ship; or

(b) have been lost from such a ship, boat or life-raft and have died in consequence of having been so lost,

the Secretary of State may arrange for an inquiry to be held by a superintendent or proper officer into whether the person died as aforesaid and, if the superintendent or officer finds that he did, into the cause of the death.**]**

(2) The superintendent or proper officer holding the inquiry shall for the purpose of the inquiry have the powers conferred on an inspector by **[**[F72]section 27 of the [M4]Merchant Shipping Act 1979**]**.

(3) The person holding the inquiry shall make a report of his findings to the Board of Trade and the Board shall make a copy of the report available—

(a) **[**[F73]if the person to whom the report relates**]** was employed in the ship and a person was named as his next of kin in the crew agreement or list of the crew in which the **[**[F73]name of the person to whom the report relates**]** last appeared, to the person so named;

(b) in any case, to any person requesting it who appears to the Board of Trade to be interested.

(4) No inquiry shall be held under this section in a case where, in England, Wales or Northern Ireland, a coroner's inquest is to be held or, in Scotland, an inquiry is to be held under the **[**[F74M5]Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976**]**.

Textual Amendments

F70 Words inserted by Merchant Shipping Act 1979 (c. 39), **s. 29(1)(a)**

F71 S. 61(1A)(1B) inserted by Merchant Shipping Act 1979 (c. 39), **s. 29(1)(b)**

F72 Words substituted by Merchant Shipping Act 1979 (c. 39), **s. 28(7)(b)**

F73 Words substituted by Merchant Shipping Act 1979 (c. 39), **s. 29(2)**

F74 Words substituted by Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 (c. 14), **Sch. 1 para. 2**

Modifications etc. (not altering text)

C97 Ss. 61 to 64 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. I**

C98 Ss. 61 to 64 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

C99 S. 61 extended subject to modification by S.I. 1991/1366, reg. 3, **Sch. 2 Pt.I**

Marginal Citations

M4 1979 c. 39.

Status: *Point in time view as at 01/05/1995.*
Changes to legislation: *There are currently no known outstanding effects for the Merchant Shipping Act 1970. (See end of Document for details)*

M5 1976 c. 14.

Relief and repatriation of seamen left behind

62 Relief and return of seamen left behind, etc.

(1) Where—

(a) a person employed as a seaman in a ship registered in the United Kingdom is left behind in any country outside the United Kingdom or is taken to such a country on being shipwrecked; or

(b) a person who became so employed under an agreement entered into outside the United Kingdom is left behind in the United Kingdom or is taken to the United Kingdom on being shipwrecked;

the persons who last employed him as a seaman shall make such provision for his return and for his relief and maintenance until his return and such other provisions as may be required by regulations made by the Board of Trade.

(2) The provisions to be so made may include the repayment of expenses incurred in bringing a shipwrecked seaman ashore and maintaining him until he is brought ashore and the payment of the expenses of the burial or cremation of a seaman who dies before he can be returned.

(3) The Board of Trade may also make regulations providing for the manner in which any wages due to any person left behind or taken to any country as mentioned in subsection (1) of this section, and any property of his left on board ship, are to be dealt with.

(4) The Board of Trade may make regulations requiring a superintendent or proper officer—

(a) to make such provision as may be prescribed by the regulations with respect to any matter for which provision may be required to be made by regulations under the preceding provisions of this section; and

(b) to make the like provision with respect to citizens of the United Kingdom and Colonies found in distress in any country outside the United Kingdom after being employed in ships registered in, or belonging to the government of, such a country.

(5) Without prejudice to the generality of the preceding provisions, regulations made under this section may make provision—

(a) for determining the place to which a person is to be returned;

(b) for requiring the master of any ship registered in the United Kingdom to convey a person to a place determined in accordance with the regulations and for enabling a superintendent or proper officer to give the master directions for that purpose;

(c) for the making of payments in respect of the conveyance of a person in accordance with the regulations; and

(d) for the keeping of records and the rendering of accounts.

(6) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding **[**[F75]level 3 on the standard scale**]** or such less amount as may be specified in the regulations.

(7) This section applies to a person left behind on being discharged in pursuance of section 5 of this Act, whether or not at the time he is left behind the ship is still registered in the United Kingdom.

Textual Amendments

F75 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C100 Ss. 61 to 64 extended by S.I. 1991/1365, reg. 2, **Sch. Pt.I**
C101 Ss. 61 to 64 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**
C102 Ss. 62 to 64 extended by S.I. 1991/1366, reg. 3, **Sch. 2 Pt.I**

63 Limit of employer's liability under s. 62.

Where a person left behind in or taken to any country as mentioned in section 62(1) of this Act remains there after the end of a period of three months the persons who last employed him as a seaman shall not be liable under that section to make provision for his return or for any matter arising after the end of that period, unless they have before the end of that period been under an obligation imposed on them by regulations under that section to make provision with respect to him.

Modifications etc. (not altering text)

C103 Ss. 61 to 64 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. I**
C104 Ss. 61 to 64 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**
C105 Ss. 62 to 64 extended by S.I. 1991/1366, reg. 3, **Sch. 2 Pt.I**

64 Recovery of expenses incurred for relief and return, etc.

(1) Where any expenses are incurred in respect of any matter for which the employers of a seaman are required to make provision under section 62 of this Act, then—

(a) if the expenses are incurred by the Board of Trade, or are incurred by the government of any country outside the United Kingdom and repaid to them on behalf of the Crown, the Board of Trade may recover them from the employers;

(b) if the expenses are incurred by the seaman he may recover them from the employers unless they prove either that under the terms of his employment they were to be borne by him or that he would not have been left behind but for his own wrongful act or neglect.

(2) Where, in the case of any seaman, expenses are incurred by the Board of Trade or are incurred by the government of any country outside the United Kingdom and repaid to them on behalf of the Crown—

(a) in respect of any matter for which, but for section 63 of this Act, the seaman's last employers would have been required to make provision under section 62 of this Act; or

(b) in respect of any matter for which provision is required to be made under section 62(4)(b) of this Act;

the Board of Trade may recover them from the seaman (or, if he has died, from his personal representatives).

Modifications etc. (not altering text)

C106 Ss. 61 to 64 extended by S.I. 1991/1365, reg. 2, **Sch. Pt.I**

C107 Ss. 61 to 64 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

C108 Ss. 62 to 64 extended by S.I. 1991/1366, reg. 3, **Sch. 2 Pt.I**

Property of deceased seamen

65, 66. . . . . . [F76]

Textual Amendments

F76 Ss. 65, 66 repealed by Merchant Shipping Act 1988 (c.1 2, SIF 111), ss. 48, 57(5), Schs. 5, 7, (with s. 58(4), Sch. 8 para. 1)

Application of sections 62 to 66 to masters

67 Application of sections 62 to 66 to masters.

In sections 62 to [[F77]64]of this Act "seaman " (notwithstanding the definition in section 742 of the [M6]Merchant Shipping Act 1894) includes the master of a ship.

Textual Amendments

F77 Figures substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), **Sch. 6**, (with s. 58(4), Sch. 8 para. 1)

Modifications etc. (not altering text)

C109 Ss. 67 to 69 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. I**

C110 Ss. 67 to 69 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

C111 S. 67 extended by S.I. 1991/1366, reg. 3, **Sch. 2 Pt. I**

Marginal Citations

M6 1894 c. 60.

Documentation, reports and returns

68 Official log books.

(1) Except as provided by regulations under this section an official log book in a form approved by the Board of Trade shall be kept in every ship registered in the United Kingdom.

(2) The Board of Trade may make regulations prescribing the particulars to be entered in official log books, the persons by whom such entries are to be made, signed or witnessed, and the procedure to be followed in the making of such entries and in their amendment or cancellation.

(3) The regulations may require the production or delivery of official log books to such persons, in such circumstances and within such times as may be specified therein.

(4) Regulations under this section may exempt ships of any description from any requirements thereof, either generally or in such circumstances as may be specified in the regulations.

(5) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding **[**[F78]level 2 on the standard scale**]**.

(6) If a person wilfully destroys or mutilates or renders illegible any entry in an official log book he shall be liable on summary conviction to a fine not exceeding **[**[F79]level 4 on the standard scale**]**.

Textual Amendments

F78 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

F79 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C112 Ss. 67 to 69 extended by S.I. 1991/1365, **reg. 2** ,Sch. Pt. I

C113 Ss. 67 to 69 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

69 Lists of crew.

(1) Except as provided by regulations made under this section the master of every ship registered in the United Kingdom shall make and maintain a list of the crew containing such particulars as may be required by the regulations.

(2) The Board of Trade may make regulations—

(a) specifying the particulars to be entered in a list of the crew;

(b) limiting the time for which a list of the crew may remain in force;

(c) providing for the maintenance by such persons and either in such place as may be specified in the regulations or, if it is so specified, in the ship, of a copy or copies of each list of a crew, and for the notification to such persons of any changes therein;

(d) for the production of a list of the crew to such persons, in such circumstances and within such time as may be specified in the regulations; and

(e) for the delivery to a superintendent or proper officer or the Registrar General of Shipping and Seamen, in such circumstances as may be specified in the regulations, of a list of the crew or a copy thereof maintained under the regulations and for the notification to him of any changes in such a list.

(3) Regulations under this section may enable a list of the crew to be contained in the same document as a crew agreement and may treat any particulars entered in the crew agreement as forming part of the particulars entered in the list.

(4) Regulations under this section may exempt from the requirements thereof such descriptions of ship as may be specified in the regulations and may make different provision for different circumstances.

(5) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding **[**[F80]level 2 on the standard scale**]**.

Textual Amendments

F80 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C114 Ss. 67 to 69 extended by S.I. 1991/1365, reg. 2, **Sch. Pt.I**

C115 Ss. 67 to 69 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

70 British seamen's cards.

(1) The Board of Trade may make regulations providing—

(a) for the issue to British seamen of cards (in this section referred to as "British seamen's cards ") in such form and containing such particulars with respect to the holders thereof and such other particulars (if any) as may be prescribed by the regulations, and for requiring British seamen to apply for such cards;

(b) for requiring the holders of British seamen's cards to produce them to such persons and in such circumstances as may be prescribed by the regulations;

(c) for the surrender of British seamen's cards in such circumstances as may be prescribed by the regulations;

(d) for any incidental or supplementary matters for which the Board think it expedient for the purposes of the regulations to provide;

and any provision of the regulations having effect by virtue of paragraph (a) of this subsection may be so framed as to apply to all British seamen or any description of them and as to have effect subject to any exemptions for which provision may be made by the regulations.

(2) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding **[**[F81]level 2 on the standard scale**]**.

(3) In this section "British seamen " means persons who are not aliens within the meaning of the **[**[F82]British Nationality Act 1981**]**and are employed, or ordinarily employed, as masters or seamen.

(4) If a person makes a statement which he knows to be false or recklessly makes a statement which is false in a material particular for the purpose of obtaining for himself or another person a British seaman's card he shall be liable on summary conviction to a fine not exceeding **[**[F83]level 4 on the standard scale**]**.

Textual Amendments

F81 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

F82 Words substituted by the British Nationality Act 1981 (c. 61, SIF 87), s. 52(6), **Sch. 7**

F83 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

71 Discharge books.

(1) The Board of Trade may make regulations providing—

(a) for the issue to persons who are or have been employed in ships registered in the United Kingdom of discharge books in such form and containing such particulars with respect to the holders thereof and such other particulars (if any) as may be prescribed by the regulations and for requiring such persons to apply for such discharge books;

(b) for requiring the holders of discharge books to produce them to such persons and in such circumstances as may be prescribed by the regulations;

(c) for the surrender of discharge books in such circumstances as may be prescribed by the regulations;

(d) for any incidental or supplementary matters for which the Board think it expedient for the purposes of the regulations to provide;

and any provision of the regulations having effect by virtue of paragraph (a) of this subsection may be so framed as to apply to all such persons as are mentioned in that paragraph or any description of such persons and as to have effect subject to any exemptions for which provision may be made by the regulations.

(2) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding **[**[F84]level 2 on the standard scale**]**.

Textual Amendments

F84 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C116 S. 71 amended and extended (*prosp.*) by Merchant Shipping Act 1979 (c. 39), **ss. 23(5)**, 52(2)

72 Returns of births and deaths in ships, etc.

(1) The Board of Trade may make regulations—

(a) requiring the master of any ship registered in the United Kingdom to make a return to a superintendent or proper officer for transmission to the Registrar General of Shipping and Seamen of any birth or death occurring in the ship and of the death, wherever occurring outside the United Kingdom, of any person employed in the ship, and to notify any such death to such person (if any) as the deceased may have named to him as his next of kin; and

(b) requiring the master of any ship not registered in the United Kingdom which calls at a port in the United Kingdom in the course of or at the end of a voyage to make a return to a superintendent for transmission to the Registrar General of Shipping and Seamen of any birth or death of a citizen of the United Kingdom and Colonies which has occurred in the ship during the voyage.

[[F85](c) requiring the Registrar General of Shipping and Seamen to record such information as may be specified in the regulations about such a death as is mentioned in paragraph (a) above in a case where it appears to him that the master of the ship cannot perform the duty imposed on him by virtue of that paragraph in respect of the death because he has himself died or is incapacitated or missing and either—

(i) the death in question has been the subject of an inquest held by the coroner or an inquiry held in pursuance of section 61 of this Act or in pursuance of the [M7]Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 and the findings of the inquest or inquiry include a finding that the death occurred, or

(ii) a post-mortem examination, or a preliminary investigation in Northern Ireland, has been made of the deceased's body and in consequence the coroner is satisfied that an inquest is unnecessary, or

(iii) in Scotland, it does not appear to the Lord Advocate, under section 1(1)(b) of the said Act of 1976, to be expedient in the public interest that an inquiry under that Act should be held.**]**

(2) Regulations under this section may require the Registrar General of Shipping and Seamen to send a certified copy of any return **[**[F85]or record**]** made there under to the Registrar General for England and Wales, the Registrar General of Births, Deaths and Marriages for Scotland or the Registrar General for Northern Ireland, as the case may require.

(3) The Registrar General to whom any such certified copies are sent shall record the information contained therein in a register kept by him for the purpose and to be called the marine register, and may also record in that register such additional information as appears to him desirable for the purpose of ensuring the completeness and correctness of the register; and the enactments relating to the registration of births and deaths in England, Scotland and Northern Ireland shall have effect as if the marine register were a register of births (other than still-births) or deaths or certified copies of entries in such a register and had been transmitted to the Registrar General in accordance with those enactments.

(4) Regulations under the preceding provisions of this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding **[**[F86]level 2 on the standard scale**]**.

(5) Regulations under this section may contain provisions for authorising the registration of the following births and deaths occurring outside the United Kingdom in circumstances where no return is required to be made under the preceding provisions of this section—

(a) any birth or death of a citizen of the United Kingdom and Colonies which occurs in a ship not registered in the United Kingdom;

(b) any death of a citizen of the United Kingdom and Colonies who has been employed in such a ship which occurs elsewhere than in the ship; and

(c) any death of a person who has been employed in a ship registered in the United Kingdom which occurs elsewhere than in the ship.

Textual Amendments

F85 Words inserted by Merchant Shipping Act 1979 (c. 39), **s. 30(1)**

F86 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Marginal Citations

M7 1976 c. 14.

[F87]73 . . . . . .

Textual Amendments

F87 S. 73 repealed (1.6.1994) by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), **Sch. 7** (with s. 58(4), Sch. 8 para. 1); S.I. 1994/1201, art. 2, **Sch.**

74 Handing over of documents on change of master.

If a person ceases to be the master of a ship registered in the United Kingdom during a voyage of the ship he shall deliver to his successor the documents relating to the ship or its crew which are in his custody; and if he fails without reasonable cause to do so he shall be liable on summary conviction to a fine not exceeding **[**[F88]level 3 on the standard scale**]**.

Textual Amendments

F88 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C117 S. 74 extended by S.I. 1991/1365, reg. 2, **Sch. Pt.I**

C118 S. 74 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

75 Admissibility in evidence and inspection of certain documents.

(1) The following documents shall be admissible in evidence and, when in the custody of the Registrar General of Shipping and Seamen, shall be open to public inspection, that is to say,—

(a) crew agreements, lists of crews made under section 69 of this Act and notices given under this Act of additions to or changes in crew agreements and lists of crews;

(b) the official log book of any ship kept under section 68 of this Act and, without prejudice to section 695(2) of the [M8]Merchant Shipping Act 1894, any document purporting to be a copy of an entry therein and to be certified as a true copy by the master of the ship;

[[F89](c) documents purporting to be submissions to or decisions by superintendants or proper officers under section 10 of this Act;**]**

(d) returns or reports under section 72 of this Act or under regulations made under section 19 of this Act.

(2) A certificate issued under section 43 of this Act shall be admissible in evidence.

Textual Amendments

F89 S. 75(1)(c) repealed (*prosp.*) by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 57(5), 58(2), **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)

Modifications etc. (not altering text)

C119 S. 75(2) modified by S.I. 1984/1115, **reg. 7(1)** and by S.I. 1986/1935, **reg. 6**

Marginal Citations

M8 1894 c. 60.

[F90 75A Inspection and admissibility in evidence of copies of certain documents.

(1) Where under any enactment a document is open to public inspection when in the custody of the Registrar General of Shipping and Seamen—

(a) there may be supplied for public inspection a copy or other reproduction of the document instead of the original; but

(b) the original shall nevertheless be made available for public inspection if the copy or other reproduction is illegible.

(2) Where the Registrar General of Shipping and Seamen destroys any document which has been sent to him under or by virtue of any enactment, and keeps a copy or other reproduction of that document, then—

(a) any enactment providing for the document to be admissible in evidence or open to public inspection, and

(b) in the case of a document falling within subsection (1), that subsection,

shall apply to the copy or other reproduction as if it were the original.

(3) For the purposes of this section, and of section 695(2) of the M9 Merchant Shipping Act 1894 in its application to documents in the custody of the Registrar General of Shipping and Seamen, a copy is to be taken to be the copy of a document notwithstanding that it is taken from a copy or other reproduction of the original.]

Textual Amendments

F90 S. 75A inserted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 48, **Sch. 5**, (with s. 58(4), Sch. 8 para. 1)

Marginal Citations

M9 1894 c.60 (**111**).

Inspections

76 Inspections.

(1) For the purpose of seeing that the provisions of the Merchant Shipping Acts and regulations and rules made thereunder **[**[F91]or that the terms of any approval, licence, consent, direction or exemption given by virtue of such regulations**]** are duly complied with any of the following persons, that is to say,—

(a) a surveyor of ships;

(b) a superintendent;

(c) any person appointed by the Board of Trade, either generally or in a particular case, to exercise powers under this section;

may at all reasonable times go on board a ship and inspect the ship and its equipment or any part thereof, any articles on board, and any document carried in the ship in pursuance of the Merchant Shipping Acts or regulations or rules made thereunder; and if the ship is registered in the United Kingdom the powers conferred by this subsection may also be exercised outside the United Kingdom and may be so exercised by a proper officer as well as by the persons mentioned in paragraphs (a) to (c) of this subsection.

(2) A person exercising powers under this section shall not unnecessarily detain or delay a ship but may, if he considers it necessary in consequence of an accident or for any other reason, require a ship to be taken into dock for a survey of its hull or machinery.

(3) Where any such person as is mentioned in paragraphs (a) to (c) of subsection (1) of this section has reasonable grounds for believing that there are on any premises provisions or water intended for supply to a ship registered in the United Kingdom which, if provided on the ship, would not be in accordance with **[**[F92]Safety regulations made under section 21 of the Merchant Shipping Act 1979 containing requirements as to the provisions and water to be provided on ships**]**, he may enter the premises and inspect the provisions or water for the purpose of ascertaining whether they would be in accordance with those regulations.

(4) If any person obstructs a person in the exercise of his powers under this section, or fails to comply with a requirement made under subsection (2) thereof, he shall be liable on summary conviction to a fine not exceeding **[**[F93]level 5 on the standard scale**]**.

Textual Amendments

F91 Words inserted by Merchant Shipping Act 1979 (c. 39), **s. 37(5)(b)**

F92 Words substituted by S.I. 1989/102, **reg. 1(3)(b)**

F93 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C120 Ss. 76 to 79 extended by S.I. 1991/1365, reg. 2, **Sch. Pt.I**

C121 Ss. 76 to 79 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**

C122 S. 76 extended by S.I. 1991/1366, reg. 3, **Sch. 2 Pt.I**

C123 S. 76(1) extended by Merchant Shipping Act 1979 (c. 39), **s. 37(5)(a)**

Status: *Point in time view as at 01/05/1995.*
Changes to legislation: *There are currently no known outstanding effects for the Merchant Shipping Act 1970. (See end of Document for details)*

Stowaways, unauthorised presence on board ship and master's power of arrest

77 Stowaways.

(1) If a person, without the consent of the master or of any other person authorised to give it, goes to sea or attempts to go to sea in a ship registered in the United Kingdom he shall be liable on summary conviction to a fine not exceeding **[**[F94]level 3 on the standard scale**]**.

(2) Nothing in section 686 of the [M10]Merchant Shipping Act 1894 shall be taken to limit the jurisdiction of any court in the United Kingdom to deal with an offence under this section which has been committed in a country outside the United Kingdom by a person who is not a British subject.

Textual Amendments

F94 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C124 Ss. 76 to 79 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. I**

C125 Ss. 76 to 79 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

Marginal Citations

M10 1894 c. 60.

78 Unauthorised presence on board ship.

Where a ship registered in the United Kingdom or any other country is in a port in the United Kingdom and a person who is neither in Her Majesty's service nor authorised by law to do so—

(a) goes on board the ship without the consent of the master or of any other person authorised to give it; or

(b) remains on board the ship after being requested to leave by the master, a constable, or an officer of the Board of Trade or of customs and excise;

he shall be liable on summary conviction to a fine not exceeding **[**[F95]level 5 on the standard scale**]**.

Textual Amendments

F95 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C126 Ss. 76 to 79 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. I**

C127 Ss. 76 to 79 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

79 Master's power of arrest.

The master of any ship registered in the United Kingdom may cause any person on board the ship to be put under restraint if and for so long as it appears to him necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship.

Modifications etc. (not altering text)

C128 Ss. 76 to 79 extended by S.I. 1991/1365, reg. 2, **Sch. Pt.I**

C129 Ss. 76 to 79 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt.I**

Administrative provisions

80 Registrar General of Shipping and Seamen.

(1) The Board of Trade shall appoint, and may remove, an officer to be styled the Registrar General of Shipping and Seamen, who shall exercise such functions as are conferred on him by the Merchant Shipping Acts and keep such records and perform such other duties as the Board of Trade may direct.

(2) The Board of Trade may appoint and remove persons to perform on behalf of the Registrar General of Shipping and Seamen such of his functions as the Board or the Registrar General of Shipping and Seamen may direct.

81 Appointment of superintendents.

The Board of Trade shall appoint, and may remove, officers to be styled mercantile marine superintendents, who shall exercise the functions conferred on superintendents by the Merchant Shipping Acts.

82 Appointment of wreck commissioners.

(1) The Lord Chancellor may appoint such number of persons as he thinks fit to be wreck commissioners and may remove any wreck commissioners appointed by him.

[[F96](1A) A wreck commissioner shall vacate his office on the day on which he attains the age of seventy years; but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five years).**]**

(2) Before appointing a person to act as wreck commissioner in Northern Ireland the Lord Chancellor shall consult the Lord Chief Justice of Northern Ireland.

Textual Amendments

F96 S. 82(1A) inserted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para. 59** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, **art. 2**

83 Remuneration of wreck commissioners and assessors.

There shall be paid to any wreck commissioner or assessor appointed under this Act such remuneration, out of moneys provided by Parliament, as the Lord Chancellor may with the consent of the Treasury determine.

[F97]84 . . . . . .

Textual Amendments

F97 S. 84 repealed (1.5.1994) by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch. 2**

Miscellaneous

85 Amendment of Merchant Shipping (Safety Convention) [M11]Act 1949.

(1) For sections 3 and 6 of the [M12]Merchant Shipping (Safety Convention) Act 1949 there shall be substituted the sections set out in Schedule I to this Act.

(2) In section 5(2) of that Act (rules for direction finders) the words "being ships of sixteen hundred tons gross tonnage or upwards " shall be omitted.

(3) Before making rules under any of those sections the Board of Trade shall consult with organisations in the United Kingdom appearing to them representative of persons who will be affected by the rules.

Modifications etc. (not altering text)

C130 "Those sections " means ss. 3, 5 and 6 of the Merchant Shipping (Safety Convention) Act 1949 (c. 43)

C131 The text of s. 85(1)(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M11 1949 c. 43.

M12 1949 c. 43.

86 Nautical publications.

(1) The Board of Trade may make rules specifying such charts, directions or information as appear to the Board necessary or expedient for the safe operation of ships and those rules may require ships registered in the United Kingdom, or such descriptions of ships registered in the United Kingdom as may be specified in the rules, to carry, either at all times or on such voyages as may be specified in the rules, copies of the charts, directions or information so specified.

(2) If a ship goes to sea or attempts to go to sea without carrying copies of the charts, directions or information which it is required to carry by rules under this section the master or owner shall be liable on summary conviction to a fine not exceeding **[**[F98]level 4 on the standard scale**]**.

Textual Amendments

F98 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

[F99]87 . . . . . .

Textual Amendments

F99 S. 87 repealed (1.5.1994) by 1993 c. 22, s. 8(3)(4), Sch. 4 para. 8, **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch. 2**

88 Increase of penalty for sailing while ship under detention.

In section 692(1) of the [M13]Merchant Shipping Act 1894 (enforcing detention of ship) for the words "one hundred pounds " there shall be substituted the words " two hundred pounds ".

Modifications etc. (not altering text)

C132 The text of s. 88 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M13 1894 c.60

[F100]89 . . . . . .

Textual Amendments

F100 S. 89 repealed (1.6.1994) by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 48, 57(5), Schs. 5, **7**, (with s. 58(4), Sch. 8 para. 1); S.I. 1994/1201, art. 2, **Sch.**

[F101]90 . . . . . .

Textual Amendments

F101 S. 90 repealed (1.5.1994) by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**

91 Tonnage measurement and certificates.

For subsections (5) and (6) of section I of the [M14]Merchant Shipping Act 1965 (tonnage regulations) there shall be substituted the following subsections—

"(5) Regulations under this section may make provision for the alteration (notwithstanding section 82 of the principal Act) of the particulars relating to the registered tonnage of a ship.

(6) Regulations under this section may provide for the issue by the Board of Trade or by persons appointed by such organisations as may be authorised in that behalf by the Board of Trade of certificates of the registered tonnage of any ship or of the tonnage which is to be taken for any purpose specified in the regulations as the tonnage of a ship not registered in the United Kingdom, and for the cancellation and delivery up of such certificates in such circumstances as may be prescribed by the regulations.

(6A) Regulations under this section requiring the delivery up of any certificate may make a failure to comply with the requirement an offence punishable on summary conviction with a fine not exceeding £100."

Modifications etc. (not altering text)

C133 The text of s. 91 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M14 1965 c.47.

Unregistered ships and ships registered outside the United Kingdom

[F102]92 . . . . . .

Textual Amendments

F102 Ss. 92-94 repealed (1.5.1994) by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch. 2**

[F103]93 . . . . . .

Textual Amendments

F103 Ss. 92-94 repealed (1.5.1994) by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**

[F104]94 . . . . . .

Textual Amendments

F104 Ss. 92-94 repealed (1.5.1994) by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**

Fishing vessels and non-sea-going ships

95 Fishing vessels.

(1) In the application of this Act to fishing vessels and persons serving in them—

(a) **[**[F105]section 6**][**[F106], sub-paragraphs (i) and (ii) of section 30(c) and sections**]** 32, . . . [F107][F108]. . . and 93 do not apply and the provisions contained in Part I of Schedule 2 to this Act apply in addition to the other provisions of this Act; and

(b) sections 7 and 8 apply as set out in Part II of that Schedule;

and nothing in Schedule 2 to this Act applies to fishing vessels not registered in the United Kingdom or to persons serving in them.

(2) Section 15 of this Act does not apply to so much of the wages of a seaman employed in a fishing vessel as is in any manner related to the catch.

(3) In its application to persons serving in fishing vessels section 87 of this Act shall have effect as if for the words "merchant navy uniform ", wherever they occur, there were substituted the words "fishing fleet uniform ".

(4) Nothing in section 11 of this Act shall affect the operation of **[**[F109]the Attachment of Earnings Act 1971**][**[F110]or, without prejudice to . . . [F111]Article 97(2) of the Judgements Enforcement (Northern Ireland) Order 1981, of . . . [F111] Articles 98 to 105 of that Order**][**[F112]of 1981 and Articles 101 to 107 of the Magistrates' Courts (Northern Ireland) Order 1981**]** in relation to wages due to a person employed in a fishing vessel; . . . [F113]

(5) The Board of Trade may grant exemptions from any requirements of this Act or of any regulations made under this Act—

(a) with respect to any fishing vessel or to a fishing vessel of any description; or

(b) with respect to any person or a person of any description serving in a fishing vessel or in a fishing vessel of any description;

and nothing in any other provision of this Act conferring a power to provide for or grant exemptions shall be taken to restrict the power conferred by this subsection.

[F114](6) . . . . . .

Textual Amendments

F105 Words substituted by virtue of Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), **Sch. 6**, (with s. 58(4), Sch. 8 para. 1)

F106 Words substituted by Merchant Shipping Act 1979 (c. 39), **s. 45(3)**

F107 Words repealed by Merchant Shipping Act 1979 (c. 39), ss. 52(2), **Sch. 7 Pt. II**

F108 Word repealed (1.6.1994) by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), **Sch. 7** (with s. 58(4), Sch. 8 para. 1); S.I. 1994/1201, art. 2, **Sch.**

F109 Words substituted by Attachment of Earnings Act 1971 (c. 32, SIF 45:1), **s. 27(3)**

F110 Words substituted by S.I. 1981/226, (N.I. 6), Sch. 2 para. 17

F111 Words repealed by S.I. 1981/1675, (N.I. 26), Sch. 6 Pt. I para. 19(*a*)

F112 Words inserted by S.I. 1981/1675, (N.I. 26), Sch. 6 Pt. I para. 19(*b*)

F113 Words repealed by S.I. 1979/296, (N.I. 3), Sch. 5

F114 S. 95(6) repealed (1.5.1994) by 1993 c. 22, s. 8(4), **Sch. 5 Pt. II**; S.I. 1993/3137, art. 3(2), **Sch. 2**

Modifications etc. (not altering text)

C134 S. 95 extended by S.I. 1991/1365, **reg. 2 Sch. Pt. 1**.

96 Non-sea-going ships.

(1) The preceding provisions of this Act other than sections 19, 20, **[**[F115]27, 32 (in its application in relation to section 27),**]**43 to 60, **[**[F116]76,**]**88, 90 and 91 do not apply to ships which are not sea-going ships or to masters or seamen employed in ships which are not sea-going ships.

[[F117](2) In relation to ships which are not sea-going ships –

(a) section 32 of this Act shall (in its application in relation to section 27) have effect as if the words "goes to sea in a ship " were omitted and the words "is on board a ship while it is on a voyage or excursion " were inserted after "to give it "; and

(b) section 45 of this Act shall have effect as if for the words "goes to sea or attempts to go to sea " there were substituted the words "goes on a voyage or excursion or attempts to do so " and the words "if in the United Kingdom " were omitted.**]**

Textual Amendments

F115 Words inserted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 48, **Sch. 5**, (with s. 58(4), Sch. 8 para. 1)

F116 Words inserted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 48, **Sch. 5**, (with s. 58(4), Sch. 8 para. 1)

F117 S. 96(2) substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 48, **Sch. 5**, (with s. 58(4), Sch. 8 para. 1)

Supplementary

97 Interpretation.

(1) In this Act—

"crew agreement " has the meaning assigned to it by section 1(2) of this Act;

"enactment " includes an enactment of the Parliament of Northern Ireland;

"proper officer " means a consular officer appointed by Her Majesty's Government in the United Kingdom and, in relation to a port in a country outside the United Kingdom which is not a foreign country, also any officer exercising in that port functions similar to those of a superintendent;

"relief and maintenance " includes the provision of surgical or medical treatment and such dental and optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency;

"ship's boat " includes a life-raft; and

"the Merchant Shipping Acts " means the Merchant Shipping Acts 1894 to 1967, the [M15]Fishing Vessels (Safety Provisions) Act 1970 and this Act.

(2) References in this Act to going to sea include references to going to sea from any country outside the United Kingdom.

(3) For the purposes of this Act a seaman is discharged from a ship when his employment in that ship is terminated.

(4) For the purposes of this Act a seaman discharged from a ship in any country and left there shall be deemed to be left behind in that country notwithstanding that the ship also remains there.

(5) References in this Act **[**[F118](except section 61)**]** to dying in a ship include references to dying in a ship's boat and to being lost from a ship or ship's boat.

(6) Any power conferred by this Act to provide for or grant an exemption includes power to provide for or grant the exemption subject to conditions.

(7) If the Parliament of Northern Ireland passes provisions amending or replacing any enactment of that Parliament referred to in this Act the reference shall be construed as a reference to the enactment as so amended or, as the case may be, as a reference to those provisions.

Textual Amendments

F118 Words inserted by Merchant Shipping Act 1979 (c. 39), **s. 29(3)**

Marginal Citations

M15 1970 c. 27.

98 Expenses and receipts.

(1) Any expenses incurred by the Board of Trade under this Act shall be defrayed out of moneys provided by Parliament.

(2) Any fees received by the Board of Trade under this Act shall be paid into the Consolidated Fund.

99 Regulations and rules.

(1) Any regulations or rules made under this Act shall be made by statutory instrument, which, **[**[F119]except in the case of regulations made under section 36 of this Act or paragraph 2 of Schedule 2 to this Act**]**, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) Before making regulations under any provision of this Act other than sections 84 and 90 the Board of Trade shall consult with organisations in the United Kingdom appearing to them representative of masters and seamen who will be affected by the regulations and of persons employing such masters and seamen.

Textual Amendments

F119 Words repealed (*prosp.*) by Merchant Shipping Act 1979 (c. 39), ss. 52(2), **Sch. 7 Pt. II**

100 Amendments, savings, transitional provisions and repeals.

(1) The enactments mentioned in Schedule 3 to this Act shall have effect subject to the minor and consequential amendments specified therein.

(2) This Act shall have effect subject to the savings and transitional provisions contained in Schedule 4 to this Act.

(3) The enactments specified in Schedule 5 to this Act (which include some which are obsolete and some not affected by the preceding provisions of this Act) are hereby repealed to the extent specified in the third column of that Schedule.

Modifications etc. (not altering text)

C135 The text of s. 100(1)(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Commencement Information

I1 S. 101(3) partly in force; s. 101(3) not in force at Royal Assent see 101(4); s. 101(3) in force so far as it relates to specified repeals in Sch. 5 at: 1.1.1973 and 6.4.1974 by S.I. 1972/1977; 1.10.1974 by S.I. 1974/1194; 18.11.1974 by S.I. 1974/1908; 1.7.1979 by S.I. 1978/797; 1.8.1979 by S.I. 1979/809; 1.9.1981 by S.I. 1981/1186; 16.7.1982 by S.I. 1982/840; 1.1.1987 and 1.9.1987 by S.I. 1986/2066; 1.5.1995 by S.I. 1995/965; 1.8.1995 by S.I. 1995/1426

101 Citation, construction and commencement.

(1) This Act may be cited as the Merchant Shipping Act 1970.

(2) This Act, the Merchant Shipping Acts 1894 to 1967 and the [M16]Fishing Vessels (Safety Provisions) Act 1970 may be cited together as the Merchant Shipping Acts 1894 to 1970.

(3) This Act shall be construed as one with the Merchant Shipping Acts 1894 to 1967 and the Fishing Vessels (Safety Provisions) Act 1970.

(4) This Act shall come into force on such date as the Board of Trade may by order made by statutory instrument appoint, and different days may be so appointed for different provisions of this Act **[**[F120]or for different purposes of the same provision**]**.

Subordinate Legislation Made

P1 S. 101(4) power partly exercised: different dates appointed for specified provisions by: S.I. 1972/1977; 1974/1194; 1974/1908; 1975/2156; 1978/797; 1979/809; 1981/1186; 1982/840; 1982/1617; 1986/2066; 1995/965; 1995/1426;

Textual Amendments

F120 Words inserted by Merchant Shipping Act 1979 (c. 39), **s. 37(7)**

Marginal Citations

M16 1970 c. 27.

Status:
Point in time view as at 01/05/1995.

Changes to legislation:
There are currently no known outstanding effects for the Merchant Shipping Act 1970.