



# Merchant Shipping Act 1988

## 1988 CHAPTER 12

### PART III

#### MISCELLANEOUS PROVISIONS RELATING TO MERCHANT SHIPPING ETC.

##### *Inquiries*

#### **44 Power to summon witness to inquiry into fitness or conduct of officer or other seaman**

- (1) The persons holding an inquiry under section 52 or 54 of the Merchant Shipping Act 1970 (inquiries into fitness or conduct of officers or other seamen) may—
  - (a) by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry; and
  - (b) take evidence on oath (and for that purpose administer oaths) or, instead of administering an oath, require the person examined to make a solemn affirmation.
- (2) If on the failure of a person to attend such an inquiry in answer to a summons under this section—
  - (a) the persons holding the inquiry are satisfied by evidence on oath—
    - (i) that the person in question is likely to be able to give material evidence or produce any document which relates to any matter in question at the inquiry, and
    - (ii) that he has been duly served with the summons, and
    - (iii) that a reasonable sum has been paid or tendered to him for costs and expenses, and
  - (b) it appears to them that there is no just excuse for the failure, they may issue a warrant to arrest him and bring him before the inquiry at a time and place specified in the warrant.

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*Status: This is the original version (as it was originally enacted).*

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- (3) If any person attending or brought before such an inquiry refuses without just excuse to be sworn or give evidence, or to produce any document, the persons holding the inquiry may—
- (a) commit him to custody until the end of such period not exceeding one month as may be specified in the warrant or until he gives evidence or produces the document (whichever occurs first), or
  - (b) impose on him a fine not exceeding £1,000,
- or both.
- (4) A fine imposed under subsection (3)(b) shall be treated for the purposes of its collection, enforcement and remission as having been imposed by the magistrates' court for the area in which the inquiry in question was held, and the persons holding the inquiry shall, as soon as practicable after imposing the fine, give particulars of it to the clerk of that court.
- (5) This section does not apply to Scotland.

**45 Procedure where inquiry into fitness or conduct of officer or other seaman is held by sheriff**

Where an inquiry under section 52 or 54 of the Merchant Shipping Act 1970 (inquiries into fitness or conduct of officers or other seamen) is held in Scotland by a sheriff—

- (a) he shall (subject to rules made under section 58(1) of that Act (rules of procedure)) dispose of the inquiry as a summary application; and
- (b) (subject to section 57 of that Act (re-hearings and appeals)) his decision on the inquiry shall be final.