



Merchant Shipping Act 1894

1894 CHAPTER 60

PART VI

SPECIAL SHIPPING INQUIRIES AND COURTS.

Naval Courts on the High Seas and Abroad.

480 Cases in which naval courts may be summoned.

A court (in this Act called a naval court) may be summoned by any officer in command of any of Her Majesty's ships on any foreign station, or, in the absence of such an officer, by any consular officer, in the following cases; (that is to say,)

- (i) Whenever a complaint which appears to that officer to require immediate investigation is made to him by the master of any British ship, or by a certificated mate, or by any one or more of the seamen belonging to any such ship ;
- (ii) Whenever the interest of the owner of any British ship or of the cargo thereof appears to that officer to require it; and
- (iii) Whenever any British ship is wrecked, abandoned, or otherwise lost at or near the place where that officer may be, or whenever the crew or part of the crew of any British ship which has been wrecked, abandoned, or lost abroad arrive at that place.

481 Constitution of naval courts.

- (1) A naval court shall consist of not more than five and not less than three members, of whom, if possible, one shall be an officer in the naval service of Her Majesty not below the rank of lieutenant, one a consular officer, and one a master of a British merchant ship, and the rest shall be either officers in the naval service of Her Majesty, masters of British merchant ships, or British merchants, and the court may include the officer summoning the same, but shall not include the master or consignee of the ship to which the parties complaining or complained against belong.

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- (2) The naval or consular officer in the court, if there is only one such officer, or, if there is more than one, the naval or consular officer who, according to any regulations for settling their respective ranks for the time being in force, is of the highest rank, shall be the president of the court.

482 Functions of naval courts.

- (1) A naval court shall hear the complaint or other matter brought before them under this Act, or investigate the cause of the wreck, abandonment, or loss, and shall do so in such manner as to give every person against whom any complaint or charge is made an opportunity of making a defence.
- (2) A naval court may, for the purpose of the hearing and investigation, administer an oath, summon parties and witnesses, and compel their attendance and the production of documents.

483 Powers of naval courts.

- (1) Every naval court may, after hearing and investigating the case, exercise the following powers; (that is to say,)
- (a) The court may, if unanimous that the safety of the ship or crew or the interest of the owner absolutely requires it, remove the master, and appoint another person to act in his stead; but no such appointment shall be made without the consent of the consignee of the ship if at the place where the case is heard:
 - (b) The court may, in cases in which they are authorised by this ' Act and subject to the provisions of this Act, cancel or suspend ' the certificate of any master, mate, or engineer:
 - (c) The court may discharge a seaman from his ship:
 - (d) The court may order the wages of a seaman so discharged or any part of those wages to be forfeited, and may direct the same either to be retained by way of compensation to the owner, or to be paid into the Exchequer, in the same manner as fines under this Act :
 - (e) The court may decide any questions as to wages or fines or forfeitures arising between any of the parties to the proceedings:
 - (f) The court may direct that all or any of the costs incurred by the master or owner of any ship in procuring the imprisonment of any seaman or apprentice in a foreign port, or in his maintenance whilst so imprisoned, shall be paid out of and deducted from the wages of that seaman or apprentice, whether then or subsequently earned:
 - (g) The court may exercise the same powers with regard to persons charged before them with the commission of offences at sea or abroad as British consular officers can under the Thirteenth Part of this Act:
 - (h) The court may punish any master of a ship or any of the crew of a ship respecting whose conduct a complaint is brought before them for any offence against this Act, which, when committed by the said master or member of the crew, is punishable on summary conviction, and shall for that purpose have the same powers as a court of summary jurisdiction would have if the case were tried in the United Kingdom:

Provided that—

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- (i) where an offender is sentenced to imprisonment, the senior naval or consular officer present at the place where the court is held shall in writing confirm the sentence and approve the place of imprisonment, whether on land or on board ship, as a proper place for the purpose; and
 - (ii) copies of all sentences passed by any naval court summoned to hear any such complaint as aforesaid, shall be sent to the commander-in-chief or senior naval officer of the station:
- (j) The court may, if it appears expedient, order a survey of any ship which is the subject of investigation to be made, and such survey shall accordingly be made, in the same way, and the surveyor who makes the same shall have the same powers as if such survey had been directed by a competent court in pursuance of the Fifth Part of this Act, in the course of proceedings against a seaman or apprentice for the offence of desertion.
 - (k) The court may order the costs of the proceedings before them, or any part of those costs, to be paid by any of the parties thereto, and may order any person making a frivolous or vexatious complaint to pay compensation for any loss or delay caused thereby; and any costs or compensation so ordered to be paid shall be paid by that person accordingly, and may be recovered in the same manner in which the wages of seamen are recoverable, or may, if the case admits, be deducted from the wages due to that person.
- (2) All orders duly made by a naval court under the powers hereby given to it, shall in any subsequent legal proceedings be conclusive as to the rights of the parties.
 - (3) All orders made by any naval court shall, whenever practicable, be entered in the official log-book of the ship to which the parties to the proceedings before the court belong, and signed by the president of the court.

484 Report of proceedings of naval courts.

- (1) Every naval court shall make a report to the Board of Trade containing the following particulars; (that is to say,)
 - (a) A statement of the proceedings of the court, together with the order made by the court, and a report of the evidence;
 - (b) An account of the wages of any seaman or apprentice who is discharged from his ship by the court;
 - (c) If summoned to inquire into a case of wreck or abandonment, a statement of the opinion of the court as to the cause of that wreck or abandonment, with such remarks on the conduct of the master and crew as the circumstances require.
- (2) Every such report shall be signed by the president of the court, and shall be admissible in evidence in manner provided by this Act.

485 Penalty for preventing complaint or obstructing investigation.

If any person wilfully and without due cause prevents or obstructs the making of any complaint to an officer empowered to summon a naval court, or the conduct of any hearing or investigation by any naval court, he shall for each offence be liable to a fine not exceeding fifty pounds, or be liable to imprisonment, with or without hard labour, for any period not exceeding twelve weeks.

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486 Application of provisions as to naval courts.

- (1) The provisions of this Part of this Act with regard to naval courts on the high seas and abroad shall apply to all seagoing ships registered in the United Kingdom (with the exception, in their application elsewhere than in Scotland, of fishing boats exclusively employed in fishing on the coasts of the United Kingdom) and to all ships registered in a British possession, when those ships are out of the jurisdiction of their respective governments, and where they apply to a ship, shall apply to the owners, master, and crew of that ship.
- (2) For the purpose of the said provisions an unregistered British ship shall be deemed to have been registered in the United Kingdom.