



Merchant Shipping Act 1894

1894 CHAPTER 60

PART VI

SPECIAL SHIPPING INQUIRIES AND COURTS.

Power as to Certificates of Officers, &c.

469 Power of Board of Trade as to certificate.

The Board of Trade may suspend or cancel the certificate of any master, mate, or engineer if it is shown that he has been convicted of any offence.

470 Power of court of investigation or inquiry as to certificates.

- (1) The certificate of a master, mate, or engineer may be cancelled or suspended—
 - (a) by a court holding a formal investigation into a shipping casualty under this Part of this Act, or by a naval court constituted under this Act, if the court find that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default, provided that, if the court holding a formal investigation is a court of summary jurisdiction, that court shall not cancel or suspend a certificate unless one at least of the assessors concurs in the finding of the court:
 - (b) by a court holding an inquiry under this Part of this Act into the conduct of a master, mate, or engineer, if they find that he is incompetent, or has been guilty of any gross act of misconduct, drunkenness, or tyranny, or that in a case of collision he has failed to render such assistance or give such information as is required under the Fifth Part of this Act:
 - (c) by any naval or other court where under the powers given by this Part of this Act the holder of the certificate is superseded or removed by that court.
- (2) Where any case before any such court as aforesaid involves a question as to the cancelling or suspending of a certificate, that court shall, at the conclusion of the case

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or as soon afterwards as possible, state in open court the decision to which they have come with respect to the cancelling or suspending thereof,

- (3) The court shall in all cases send a full report on the case with the evidence to the Board of Trade, and shall also, if they determine to cancel or suspend any certificate, send the certificate cancelled or suspended to the Board of Trade with their report.
- (4) A certificate shall not be cancelled or suspended by a court under this section, unless a copy of the report, or a statement of the case on which the investigation or inquiry has been ordered, has been furnished before the commencement of the investigation or inquiry to the holder of the certificate.

471 Inquiry into conduct of certificated officer.

- (1) If the Board of Trade, either on the report of a local marine board or otherwise, have reason to believe that any master, mate, or certificated engineer is from incompetency or misconduct unfit to discharge his duties, or that in a case of collision he has failed to render such assistance or give such information as is required under the Fifth Part of this Act, the Board may cause an inquiry to be held.
- (2) The Board may either themselves appoint a person to hold the inquiry or direct the local marine board at or nearest the place at which it is convenient for the parties or witnesses to attend to hold the same, or where there is no local marine board before which the parties and witnesses can conveniently attend, or the local marine board is unwilling to hold the inquiry, may direct the inquiry to be held before a court of summary jurisdiction.
- (3) Where the inquiry is held by a local marine board, or by a person appointed by the Board of Trade, that board or person—
 - (a) shall hold the inquiry, with the assistance of a local stipendiary magistrate, or, if there is no such magistrate available, of a competent legal assistant appointed by the Board of Trade; and
 - (b) shall have all the powers of a Board of Trade inspector under this Act; and
 - (c) shall give any master, mate, or engineer against whom a charge is made an opportunity of making his defence either in person or otherwise, and may summon him to appear; and
 - (d) may make such order with regard to the costs of the inquiry as they think just; and
 - (e) shall send a report upon the case to the Board of Trade.
- (4) Where the inquiry is held by a court of summary jurisdiction, the inquiry shall be conducted and the results reported in the same manner, and the court shall have the like powers, as in the case of a formal investigation into a shipping casualty under this Part of this Act, provided that, if the Board of Trade so direct, it shall be the duty of the person who has brought the charge against the master, mate, or engineer, to the notice of the Board of Trade to conduct the case, and that person shall in that case, for the purpose of this Act, be deemed to be the party having the conduct of the case.

472 Removal of master by Admiralty Court.

- (1) Any of the following courts; namely,—
 - In England and Ireland the High Court,
 - In Scotland the Court of Session,

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Elsewhere in Her Majesty's dominions any colonial court of Admiralty or Vice-Admiralty Court,

may remove the master of any ship within the jurisdiction of that court, if that removal is shown to the satisfaction of the court by evidence on oath to be necessary.

- (2) The removal may be made upon the application of any owner of the ship or his agent, or of the consignee of the ship, or of any certificated mate, or of one third or more of the crew of the ship.
- (3) The court may appoint a new master instead of the one removed; but, where the owner, agent, or consignee of the ship is within the jurisdiction of the court, such an appointment shall not be made without the consent of that owner, agent, or consignee.
- (4) The court may also make such order and require such security in respect of the costs of the matter as the court thinks fit.

473 Delivery of certificate cancelled or suspended.

- (1) A master, mate, or engineer whose certificate is cancelled or suspended by any court or by the Board of Trade shall deliver his certificate—
 - (a) if cancelled or suspended by a court to that court on demand:
 - (b) if not so demanded, or if it is cancelled or suspended by the Board of Trade, to that Board, or as that Board direct.
- (2) If a master, mate, or engineer fail to comply with this section, he shall, for each offence, be liable to a fine not exceeding fifty pounds.

474 Power of Board of Trade to restore certificate.

The Board of Trade may, if they think that the justice of the case requires it, re-issue and return the certificate of a master, mate, or engineer which has been cancelled or suspended, whether in the United Kingdom or in a British possession, or shorten the time for which it is suspended, or grant in place thereof a certificate of the same or any lower grade.