



Merchant Shipping Act 1995

1995 CHAPTER 21

PART XI

ACCIDENT INVESTIGATIONS AND INQUIRIES

Marine accident investigations

268 Formal investigation into marine accidents.

- (1) Where any accident has occurred, the Secretary of State may (whether or not an investigation into it has been carried out under section 267) 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.
- (2) A wreck commissioner or sheriff holding a formal investigation shall conduct it in accordance with rules under section 270(1); 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.
- (3) Subsections (1), (3) and (4) of section 97 of the ^{M1}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.
- (4) Where a formal investigation is held in Scotland the sheriff shall, subject to any rules made under section 270(1), dispose of it as a summary application, and, subject to section 269, his decision on the investigation shall be final.

Changes to legislation: *Merchant Shipping Act 1995, Section 268 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (5) 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 61(1) 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 accident, he may cancel or suspend any certificate issued to the officer under section 47 or censure him; and if he cancels or suspends the certificate the officer shall deliver it forthwith to him or to the Secretary of State.
- (6) If a person fails to deliver a certificate as required under subsection (5) above he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Where a certificate has been cancelled or suspended under this section, the Secretary of State, if of the 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.
- (8) The wreck commissioner or sheriff may make such awards as he thinks just with regard to the costs (or, as the case may be, expenses) of the investigation and of any parties at the investigation, and with regard to the parties by whom those costs or expenses 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.
- (9) Any costs or expenses 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.
- (10) The wreck commissioner or sheriff shall make a report on the investigation to the Secretary of State.
- (11) In its application to Northern Ireland this section shall have effect as if in subsection (3) above for the references to subsections (1), (3) and (4) of section 97 of the ^{M2}Magistrates' Courts Act 1980 there were substituted references to paragraphs (1) and (3) of Article 118 and paragraph (1) of Article 120 of the ^{M3}Magistrates' Courts (Northern Ireland) Order 1981.

Modifications etc. (not altering text)

C1 S. 268 applied (with modifications) (1.9.2002) by [S.I. 2002/1587](#), [reg. 17\(3\)](#), (with reg. 3)

Marginal Citations

M1 1980 c. 43.

M2 1980 c. 43.

M3 [S.I. 1981/1675](#) (NI 26)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 145(2)(a)(ia) inserted by [2003 c. 44 Sch. 36 para. 13\(2\)](#)
- s. 145(2)(a)(ia) words substituted by [2015 c. 2 Sch. 11 para. 16\(2\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 145(2)(a)(ia) by 2003 c. 44, Sch. 36 para. 13 is still prospective.)
- s. 145(2A) inserted by [2003 c. 44 Sch. 36 para. 13\(3\)](#)
- s. 145(2A) words substituted by [2015 c. 2 Sch. 11 para. 16\(3\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 145(2A) by 2003 c. 44, Sch. 36 para. 13 is still prospective.)