



# Merchant Shipping Act 1979

## 1979 CHAPTER 39

### *Inspectors*

#### **28 Provisions supplementary to s. 27.**

- (1) A person who—
- (a) wilfully obstructs a Department of Trade inspector in the exercise of any power conferred on him by the preceding section; or
  - (b) without reasonable excuse, does not comply with a requirement imposed in pursuance of the preceding section or prevents another person from complying with such a requirement; or
  - (c) without prejudice to the generality of the preceding paragraph, makes a statement or signs a declaration which he knows is false, or recklessly makes a statement or signs a declaration which is false, in purported compliance with a requirement made in pursuance of subsection (1)(i) of the preceding section.
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (2) In relation to a person, other than a Department of Trade inspector, who has the powers conferred on such an inspector by the preceding section—
- (a) that section and the preceding subsection shall have effect as if for references to such an inspector there were substituted references to the person; and
  - (b) that section shall have effect as if for references to the functions of such an inspector there were substituted references to the functions in connection with which those powers are conferred on the person.
- (3) Nothing in the preceding section shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court or, as the case may be, on an order for the production of documents in an action in the Court of Session.

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- (4) A person who complies with a requirement imposed on him in pursuance of paragraph (i)(i) or (k) of subsection (1) of the preceding section shall be entitled to recover from the person who imposed the requirement such sums in respect of the expenses incurred in complying with the requirement as are prescribed by regulations made by the Secretary of State, and the regulations may make different provision for different circumstances; and any payments in pursuance of this subsection shall be made out of money provided by Parliament.
- (5) References in the Merchant Shipping Acts to a Department of Trade inspector are to an inspector appointed in pursuance of section 728 of the <sup>M1</sup>Merchant Shipping Act 1894.
- (6) Sections 729 and 730 of the Merchant Shipping Act 1894 (which relate to the powers and to obstruction of inspectors) shall cease to have effect and the following enactments (which provide for certain persons to have the powers of a Department of Trade inspector in connection with the functions there mentioned) shall cease to have effect, namely—
- section 420(3) of the <sup>M2</sup>Merchant Shipping Act 1894 and in sections 369(3) and 431(1) of that Act the words from “and” onwards;
- in section 7(2) of the <sup>M3</sup>Merchant Shipping Act 1964 the words from “and for that purpose” to “Acts” ;
- section 11(2) of the <sup>M4</sup>Merchant Shipping (Load Lines) Act 1967 and in sections 17(1) and 24(6) of that Act the words from “and” onwards ;
- in section 1(3) of the <sup>M5</sup>Fishing Vessels (Safety Provisions) Act 1970 the words from “and” onwards;
- and in section 14(3) of the <sup>M6</sup>Merchant Shipping (Safety Convention) Act 1949 (which also provides as aforesaid) for the words from “shall have all the powers” onwards there shall be substituted the words “may go on board the ship and inspect it and anything on it”.
- (7) Without prejudice to the operation of section 17(2) of the <sup>M7</sup>Interpretation Act 1978 (which relates to the repeal and re-enactment of enactments)—
- (a) in sections 386(2), 459(6), . . . <sup>F1</sup> 465(2), 471(3)(b), 488(2) and 517(3) of the Merchant Shipping Act 1894 (which refer to the powers of a Department of Trade inspector under that Act) for the words “under this Act” there shall be substituted the words “under section 27 of the Merchant Shipping Act 1979” ;
- (b) in sections 55(2) and 61(2) of the <sup>M8</sup>Merchant Shipping Act 1970 and in paragraph 5(2) of Schedule 2 to, that Act (which refer to the powers conferred on an inspector by section 729 of the Merchant Shipping Act 1894) for the words “section 729 of the Merchant Shipping Act 1894” there shall be substituted the words “section 27 of the Merchant Shipping Act 1979” ; and
- (c) in section 18 of the <sup>M9</sup>Prevention of Oil Pollution Act 1971 (which among other things applies the said section 729 to inspectors appointed under the said section 18)—
- (i) in subsection (3) for the words “Section 729 of the Merchant Shipping Act 1894” there shall be substituted the words “Sections 27 and 28(1), (3) and (4) of the Merchant Shipping Act 1979” and for paragraph (a), there shall be substituted the following paragraph—
- “(a) any reference to a ship included any vessel, any reference to the Merchant Shipping Acts (except

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the second reference in subparagraph (iii) of section 27(1)(h)) were a reference to this Act and the reference in that sub-paragraph to regulations were omitted ;”

- (ii) in subsections (4) and (5) for the words “under section 729” there shall be substituted the words “under section 27” and in subsection (5) the words from “and in subsection (3)” onwards shall be omitted ;
- (iii) in subsection (8) after the words “by virtue of this section” there shall be inserted the words “and the obstruction is not punishable by virtue of the said section 28(1)”.

#### Textual Amendments

- F1** Figures 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)

- C1** [S. 28](#) applied with modifications by [S.I. 1989/2594](#), **art. 3**
- C2** [S. 28](#) extended with modifications by [S.I. 1989/1350](#), **art. 2**, **Sch. 1** (as substituted by [S.I. 1990/2594](#), **art. 3**)
- C3** [S. 28\(1\)](#) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 49(1)**
- C4** The text of s. 28(6)(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.
- C5** [S. 28\(7\)\(b\)](#) amended by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 57(4), **Sch. 6**, (with s. 58(4), Sch. 8 para. 1)

#### Marginal Citations

- M1** 1894 c. 60.
- M2** 1894 c. 60.
- M3** 1964 c. 47.
- M4** 1967 c. 27.
- M5** 1970 c. 27.
- M6** 1949 c. 43.
- M7** 1978 c. 30.
- M8** 1970 c. 36.
- M9** 1971 c. 60.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Merchant Shipping Act 1979, Section 28.