

Merchant Shipping (Shipping Casualties, Appeals and Rehearings) Rules

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FIRST SCHEDULE

**SECOND SCHEDULE Classification of assessors and qualifications prescribed
for each class**

Legislative History

**MERCHANT SHIPPING ACT
(CHAPTER 179, SECTION 254)**

MERCHANT SHIPPING (SHIPPING CASUALTIES, APPEALS AND REHEARINGS) RULES

R 1

REVISED EDITION 1990

(25th March 1992)

[23rd December 1910]

Citation

1. These Rules may be cited as the Merchant Shipping (Shipping Casualties, Appeals and Rehearings) Rules.

Definitions

2. In these Rules, unless the context otherwise requires —

“investigation” means a formal investigation into a shipping casualty or into a charge of incompetency or misconduct.

“Judge” means the Judge or District Judge appointed to hold an investigation.

“Attorney-General” includes the Solicitor-General and any person authorised by either of them to act as his Deputy.

“imperial certificate of competency” means a certificate of competency granted under the Act, and includes a certificate of competency declared under section 102 of the Merchant Shipping Act 1984 to be of the same force as if granted under that Act.

Conduct of investigation

3. Every investigation shall be conducted on behalf of the Government by the Attorney-General.

Summoning of assessors

4. When any investigation has been ordered, the Minister shall summon the assessors in the Form 1 set out in the First Schedule and he shall at the same time cause notice of the sitting to be served upon the Attorney-General and upon the owner, master and officers of the ship and any other person who in his opinion ought to be served in the Form 2 set out in the First Schedule.

Notice of investigation

5. When an investigation has been ordered, the Attorney-General may cause a notice, (referred to in these Rules as a notice of investigation) to be served upon the persons served with notices of the sitting as well as upon any person who in his opinion ought to be served with such notice. The notice shall contain a statement of the questions which, on the information then in possession of the Attorney-General, he intends to raise on the hearing of the investigation, and shall be in the Form 3 set out in the First Schedule, with such variations as circumstances may require. The Attorney-General may, at any time before the hearing of the investigation, by a subsequent notice amend, add to, or omit any of the questions specified in the notice of investigation.

Parties to proceedings

6. The Attorney-General, the owner, the master, and any certificated officer or other person upon whom a notice of investigation has been served, shall be deemed to be parties to the proceedings.

Other parties

7. Any other person may, by leave of the Judge, appear, and any person who appears under this rule shall thereupon become a party to the proceedings.

Notice to produce

8. A party may give to any other party notice in writing to produce any documents (saving all just exceptions) relating to the matters in question, and which are in the possession or under the control of such other party; and, if the notice is not complied with, secondary evidence of the contents of the documents may be given by the party who gave the notice.

Notice to admit

9. A party may give to any other party notice in writing to admit any documents (saving all just exceptions), and in case of neglect or refusal to admit after such notice, the party so neglecting or refusing shall be liable for all the costs of proving the documents, whatever may be the result, unless the Judge is of opinion that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice has been given, except where the omission to give the notice has, in the opinion of the officer by whom the costs are taxed, caused a saving of expense.

Evidence

10. Affidavits and statutory declarations may, by permission of the Judge (and saving all just exceptions) be used as evidence at the hearing if sworn or taken in the manner provided by the Evidence Act [Cap. 97,].

Proceedings in Court

11. At the time and place appointed for holding the investigation the Court may proceed with the investigation, whether the parties, upon whom a notice of investigation has been served, or any of them, are present or not.

Procedure at investigation

12. The proceedings on the investigation shall commence with the production and examination of witnesses by the Attorney-General. These witnesses, after being examined on behalf of the Attorney-General, may be cross-examined by the parties in such order as the Judge may direct and may then be re-examined by the Attorney-General. Questions asked, and documents tendered as evidence in the course of the examination of these witnesses, shall not be open to objection merely on the ground that they do or may raise questions which are not contained in, or which vary from, the statement of the case, or the questions specified in the notice of investigation or subsequent notices referred to in rule 5.

Questions for opinion of Court

13. When the examination of the witnesses produced by the Attorney-General has been concluded, the Attorney-General shall state in open Court the questions in reference to the casualty, and the conduct of the certificated officers, or other persons connected therewith, upon which the opinion of the Court is desired. In framing the questions for the opinion of the Court, the Attorney-General may make such modifications in, additions to, or omissions from the questions in the notice of investigation or subsequent notices referred to in rule 5 as, having regard to the evidence which has been given, the Attorney-General may think fit.

Court to hear parties to investigation

14. After the questions for the opinion of the Court have been stated, the Court shall proceed to hear the parties to the investigation, and determine the questions so stated. Each party to the investigation shall be entitled to address the Court and produce witnesses, or recall any of the witnesses who have already been examined for further examination, and generally adduce evidence. The parties shall be heard and their witnesses examined, cross-examined, and re-examined in such order as the Judge shall direct. The Attorney-General may also produce and examine further witnesses, who may be cross-examined by the parties, and re-examined by the Attorney-General.

Address to Court

15. When the whole of the evidence in relation to the questions for the opinion of the Court has been concluded, any of the parties who desires so to do may address the Court