



# Merchant Shipping Act 1979

## 1979 CHAPTER 39

### *Offences*

#### **42 Alteration of time for certain summary prosecutions**

- (1) Subsection (1) of section 683 of the Merchant Shipping Act 1894 (which prevents convictions in summary proceedings in the United Kingdom for certain offences unless the proceedings are begun within the times limited by that subsection) shall not apply to summary proceedings for an indictable offence ; and at the end of that subsection there shall be inserted the words " and, in the case of a summary conviction, before the expiration of three years beginning with the date on which the offence was committed ".
- (2) The said subsection (1) shall not prevent a conviction for an offence in summary proceedings begun before the expiration of three years beginning with the date on which the offence was committed and before—
  - (a) the expiration of the period of six months beginning with the day when evidence which the Secretary of State considers is sufficient to justify a prosecution for the offence came to his knowledge; or
  - (b) the expiration of two months beginning with the day when the accused was first present in the United Kingdom after the expiration of the period mentioned in the preceding paragraph if throughout that period the accused was absent from the United Kingdom.
- (3) For the purposes of the preceding subsection—
  - (a) a certificate of the Secretary of State stating that evidence came to his knowledge on a particular day shall be conclusive evidence of that fact; and
  - (b) a document purporting to be a certificate of the Secretary of State and to be signed on his behalf shall be presumed to be such a certificate unless the contrary is proved.
- (4) Section 18 of the Criminal Law Act 1977 (which among other things contains a provision for England and Wales which corresponds to the first provision in subsection (1) of this section) shall not apply to an offence under the Merchant

Shipping Acts; but nothing in the preceding provisions of this section, except subsection (1), applies to an offence committed before this section comes into force.

- (5) In the application of this section to Scotland—
- (a) in subsection (2)(a) for the words from "Secretary" to "knowledge" there shall be substituted the words "Lord Advocate considers is sufficient to justify a prosecution for the offence came to his knowledge, or, where such evidence is reported to him by the Secretary of State, the expiration of the period of six months beginning with the day when it came to the knowledge of the Secretary of State";
  - (b) in subsection (3)(a) and (b) for the words "Secretary of State" there shall be substituted the words "Lord Advocate or the Secretary of State, as the case may be."

### 43 Alteration of penalties

- (1) A person guilty of an offence under any of the enactments mentioned in the first column of Part I, II, III or IV of Schedule 6 to this Act (which among other things relate to the matters mentioned in the second column of those Parts and provide for maximum fines on summary conviction of from £2 to £50 in the case of enactments mentioned in Part I of that Schedule, from £5 to £100 in the case of enactments mentioned in Part II of that Schedule and from £5 to £400 in the case of enactments mentioned in Parts III and IV of that Schedule) shall be liable on summary conviction to a fine not exceeding—
- (a) £50 if the enactment is mentioned in the said Part I;
  - (b) £200 if the enactment is mentioned in the said Part II;
  - (c) £500 if the enactment is mentioned in the said Part III; and
  - (d) £1,000 if the enactment is mentioned in the said Part IV,
- instead of the fine to which he would be liable for the offence apart from this subsection.
- (2) A person guilty of an offence under any of the enactments mentioned in the first column of Part V of that Schedule (which among other things relate to the matters mentioned in the second column of that Part and provide for maximum fines of from £20 to £1,000 on summary conviction and in some cases for a fine on conviction on indictment) shall be liable—
- (a) on conviction on indictment to a fine; and
  - (b) on summary conviction to a fine not exceeding £1,000,
- instead of the fine to which he would be liable for the offence apart from this subsection.
- (3) The enactments mentioned in Parts VI and VII of that Schedule (which provide for various penalties for the offences under the Merchant Shipping Acts and the Prevention of Oil Pollution Act 1971 which are mentioned in those Parts) shall have effect with the amendments specified in those Parts.
- (4) If it appears to the Secretary of State that the maximum amount of a fine on summary conviction for the time being specified in a provision of the Merchant Shipping Acts or the Prevention of Oil Pollution Act 1971 should be altered in consequence of a change in the value of money since 17th July 1978 or, if the amount has been altered in pursuance of this subsection, since it was last so altered, he may by order provide that the provision shall have effect with the substitution for the amount aforesaid of an

amount specified in the order which he considers is justified by the change; and such an order may provide that paragraph (b) of section 680(1) of the Merchant Shipping Act 1894 (which as amended by the said Part VII provides that certain offences made punishable by a fine not exceeding £1,000 can only be prosecuted summarily) and section 703 of that Act (which as so amended provides for penalties and jurisdiction in Scotland) shall have effect with the substitution for the amounts for the time being specified in that paragraph and the said section 703 of the different amounts specified in the order.

- (5) An order under subsection (1) of section 61 of the Criminal Law Act 1977 (which enables the sums specified in certain enactments to be altered in consequence of changes in the value of money) in respect of the prescribed sum mentioned in section 28 of that Act and an order under section 289D(1) of the Criminal Procedure (Scotland) Act 1975 (which makes corresponding provision for Scotland) shall not apply to a sum specified in a provision of the Acts mentioned in the preceding subsection.
- (6) Nothing in any of the preceding provisions of this section or an order under subsection (4) of this section applies to an offence committed before the provision or, as the case may be, the order comes into force.

#### **44 Offence in respect of dangerously unsafe ship**

- (1) If—
  - (a) a ship in a port in the United Kingdom ; or
  - (b) a ship registered in the United Kingdom which is in any other port,is, having regard to the nature of the service for which the ship is intended, unfit by reason of the condition of the ship's hull, equipment or machinery or by reason of undermanning or by reason of overloading or improper loading to go to sea without serious danger to human life, then, subject to the following subsection, the master and the owner of the ship shall each be guilty of an offence and liable on conviction on indictment to a fine and on summary conviction to a fine not exceeding £50,000.
- (2) It shall be a defence in proceedings for an offence under the preceding subsection to prove that at the time of the alleged offence—
  - (a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters aforesaid which are specified in the charge; or
  - (b) it was reasonable not to have made such arrangements.
- (3) No proceedings for an offence under subsection (1) of this section shall be begun—
  - (a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.
- (4) Section 457 of the Merchant Shipping Act 1894 (under which it is an offence to send an unseaworthy ship to sea) shall cease to have effect.

**45 Amendment of certain offences provisions of Merchant Shipping Act 1970**

- (1) In section 27(1) of the Merchant Shipping Act 1970 (which among other things penalises certain acts and omissions by the master or a member of the crew of a ship which are likely to cause the loss or destruction of or serious damage to the ship)—
  - (a) for the words " or any member of the crew of " there shall be substituted the words " of or any seaman employed in "; and
  - (b) after the words " to the ship " in paragraph (a) and the words " preserve the ship " in paragraph (b) there shall be inserted the words " or its machinery, navigational equipment or safety equipment ".
- (2) In section 28 of that Act (under which a seaman employed in a ship commits an offence if while on duty he is under the influence of drink or a drug to such an extent that his capacity to carry out his duties is impaired) for the word " ship " there shall be substituted the words " fishing vessel " , for the words " on duty " there shall be substituted the words " on board the vessel " and for the words " his duties " there shall be substituted the words " the duties of his employment ".
- (3) In section 95(1)(a) of that Act, (which among other things provides that section 30 of that Act, of which paragraph (c)(iii) penalises combinations by seamen to impede the ship, does not apply to fishing vessels) for the words " 30 and " there shall be substituted the words " and 30(a) and (b), sub-paragraphs (i) and (ii) of section 30(c) and sections ".

**46 Offences by officers of bodies corporate**

- (1) Where such an offence as is mentioned in section 23(6), 28(1) or 44(1) of this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members the preceding subsection shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.