



Merchant Shipping Act 1970

1970 CHAPTER 36

Civil liability for absence without leave, smuggling and fines imposed under immigration laws

39 Civil liability for absence without leave.

- (1) The following provisions of this section shall apply with respect to the liability of a seaman employed in a ship registered in the United Kingdom to damages for being absent from his ship at a time when he is required under his contract of employment to be on board.
- (2) If he proves that his absence was due to an accident or mistake or some other cause beyond his control and that he took all reasonable precautions to avoid being absent his absence shall not be treated as a breach of contract.
- (3) Where subsection (2) of this section does not apply, then—
 - (a) if no special damages are claimed his liability shall be £10;
 - (b) if special damages are claimed his liability shall not be more than £100.
- (4) In the application of this section to Scotland for the references to special damages there shall be substituted references to damages in respect of specific expense incurred or loss sustained.

Modifications etc. (not altering text)

- C1** Ss. 39 to 42 extended by S.I. 1991/1365, reg. 2, **Sch. Pt. I**
- C2** Ss. 39 to 42 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**
- C3** S. 39 extended by S.I. 1991/1366, reg. 3, **Sch. 2 Pt. I**

40 Civil liability for smuggling.

If a seaman employed in a ship registered in the United Kingdom is found in civil proceedings before a court in the United Kingdom to have committed an act of

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Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1970, Cross Heading: Civil liability for absence without leave, smuggling and fines imposed under immigration laws. (See end of Document for details)

smuggling, whether within or outside the United Kingdom, he shall be liable to make good any loss or expense that the act has caused to any other person.

Modifications etc. (not altering text)

- C4** Ss. 39 to 42 extended by S.I. 1991/1365, reg. 2, **Sch. Pt.I**
- C5** Ss. 39 to 42 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**
- C6** S. 40 extended by S.I. 1991/1366, reg. 3, **Sch. 2 Pt. I**

41 Civil liability for fines imposed under immigration laws.

- (1) The following provisions of this section shall apply where, at a time when a ship registered in the United Kingdom is in the national or territorial waters of any country outside the United Kingdom, a seaman employed in the ship is absent without leave and present in that country in contravention of that country's laws.
- (2) If, by reason of the contravention, a penalty is incurred under those laws by the persons employing the seaman the penalty shall be treated as being attributable to his absence without leave and may, subject to the provisions of section 39 of this Act, be recovered from him as special damages for breach of contract (or, in Scotland, as damages in respect of specific expense incurred or loss sustained).
- (3) If, by reason of the contravention, a penalty is incurred under those laws by any other person the amount thereof, or, if that amount exceeds £100, £100, may be recovered by him from the seaman.

Modifications etc. (not altering text)

- C7** Ss. 39 to 42 extended by S.I. 1991/1365, reg. 2, **Sch. Pt.I**
- C8** Ss. 39 to 42 extended by S.I. 1991/1366, reg. 2, **Sch. 1 Pt. I**

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