



Merchant Shipping Act 1979

1979 CHAPTER 39

1–12 F1

Textual Amendments

F1 Ss. 1–13(3) repealed by Pilotage Act 1983 (c. 21, SIF 111), s. 69(3), Sch. 4

13
(1) F2
(4) F3
(5) F4

Textual Amendments

F2 Ss. 1–13(3) repealed by Pilotage Act 1983 (c. 21, SIF 111), s. 69(3), Sch. 4

F3 S. 13(4) repealed (with saving) by Pilotage Act 1983 (c. 21, SIF 111), s. 69, Sch. 2 para. 4, Sch. 4

F4 S. 13(5) repealed by Pilotage Act 1983 (c. 21, SIF 111), s. 69(3), Sch. 4

Carriage of passengers and luggage by sea

14 Scheduled convention to have force of law.

- (1) The provisions of the Convention relating to the Carriage of Passengers and their Luggage by Sea as set out in Part I of Schedule 3 to this Act (hereafter in this section and in Parts II and III of that Schedule referred to as “the Convention”) shall have the force of law in the United Kingdom.
- (2) The provisions of Part II of that Schedule shall have effect in connection with the Convention and the preceding subsection shall have effect subject to the provisions of that Part.

Status: Point in time view as at 28/07/1994. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

- (3) On and after the date when this subsection and Part III of Schedule 3 to this Act come into force Parts I and II of that Schedule shall have effect with the modifications specified in the said Part III.
- (4) If it appears to Her Majesty in Council that there is a conflict between the provisions of this section or of Part I or II of Schedule 3 to this Act and any provisions relating to the carriage of passengers or luggage for reward by land, sea or air in—
- (a) any convention which has been signed or ratified by or on behalf of the government of the United Kingdom before the passing of this Act (excluding the Convention); or
 - (b) any enactment of the Parliament of the United Kingdom giving effect to such a convention,
- She may by Order in Council make such modifications of this section or that Schedule or any such enactment as She considers appropriate for resolving the conflict.
- (5) If it appears to Her Majesty in Council that the government of the United Kingdom has agreed to any revision of the Convention She may by Order in Council make such modifications of Parts I and II of Schedule 3 to this Act as She considers appropriate in consequence of the revision.
- (6) Nothing in subsection (1), (2) or (3) of this section or in any modification made by virtue of subsection (4) or (5) of this section shall affect any rights or liabilities arising out of an occurrence which took place before the day on which the said subsection (1), (2) or (3), or as the case may be the modification, comes into force.
- (7) This section shall bind the Crown, and any Order in Council made by virtue of this section may provide that the Order or specified provisions of it shall bind the Crown.

15 Provisions supplementary to s. 14.

- (1) Her Majesty may by Order in Council provide that the preceding section and Schedule 3 to this Act shall extend, with such modifications, if any, as are specified in the Order, to any of the following countries, namely—
- (a) the Isle of Man;
 - (b) any of the Channel Islands;
 - (c) any colony;
 - (d) any country outside Her Majesty's dominions in which Her Majesty has jurisdiction in right of the government of the United Kingdom.
- (2) A draft of an Order in Council proposed to be made by virtue of subsection (4) or (5) of the preceding section shall not be submitted to Her Majesty in Council unless the draft has been approved by a resolution of each House of Parliament; and any statutory instrument made by virtue of subsection (1) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) An order made by virtue of section 52(2) of this Act which appoints a day for the coming into force of Part III of Schedule 3 to this Act may contain such transitional provisions as the Secretary of State considers appropriate in connection with the coming into force of that Part.

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16 Application of Schedule 3 to international carriage before coming into force of s. 14(1) and (2) and to domestic carriage.

- (1) Her Majesty may by Order in Council provide that, during any period before the coming into force of subsections (1) and (2) of section 14 of this Act, Part I of Schedule 3 to this Act—
 - (a) shall have the force of law in the United Kingdom, with such modifications as are specified in the Order, in relation to, and to matters connected with, any contract of carriage for international carriage which is made in the United Kingdom and any contract of carriage for international carriage under which a place in the United Kingdom is the place of departure or destination; and
 - (b) shall, as modified in pursuance of the preceding paragraph, have effect in relation to, and to matters connected with, any such contract subject to the provisions of Part II of that Schedule or to those provisions with such modifications as are specified in the Order.
- (2) Her Majesty may by Order in Council provide that Part I of Schedule 3 to this Act—
 - (a) shall have the force of law in the United Kingdom, with such modifications as are specified in the Order, in relation to, and to matters connected with, a contract of carriage where the places of departure and destination under the contract are in the area consisting of the United Kingdom, the Channel Islands and the Isle of Man and under the contract there is no intermediate port of call outside that area; and
 - (b) shall, as modified in pursuance of the preceding paragraph, have effect in relation to, and to matters connected with, any such contract subject to the provisions of Part II of that Schedule or to those provisions with such modifications as are specified in the Order.
- (3) An Order in Council made by virtue of subsection (1) or (2) of this section may contain such provisions, including provisions modifying section 28 of the ^{M1}Unfair Contract Terms Act 1977 (which relates to certain contracts as respects which the Convention mentioned in section 14(1) of this Act does not have the force of law in the United Kingdom), as the Secretary of State considers appropriate for the purpose of dealing with matters arising in connection with any contract to which the said section 28 applies before the Order is made.
- (4) If an order appointing a day for the coming into force of subsections (1) and (2) of section 14 of this Act is made in pursuance of section 52(2) of this Act at a time when an Order in Council made by virtue of subsection (1) of this section is in force, the order appointing the day may contain such provisions as the Secretary of State considers appropriate (including provisions modifying provisions of Schedule 3 to this Act as they have effect by virtue of those subsections) for the purpose of dealing with matters arising, in connection with such a contract as is mentioned in subsection (1) of this section, in consequence of the coming into force of subsections (1) and (2) of the said section 14.
- (5) An Order in Council made by virtue of subsection (1) or (2) of this section may provide that the Order or specified provisions of it shall bind the Crown; but a draft of an Order in Council proposed to be made by virtue of either of those subsections shall not be submitted to Her Majesty in Council, and no order shall be made containing provisions authorised by the preceding subsection, unless the draft of the Order in Council or, as the case may be, a draft of the other order has been approved by a resolution of each House of Parliament.

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- (6) In subsections (1) and (2) of this section expressions to which meanings are assigned by article 1 of the Convention set out as mentioned in section 14(1) of this Act have those meanings but any reference to a contract of carriage excludes such a contract which is not for reward.

Marginal Citations

M1 1977 c. 50.

Liability of shipowners and salvors

17 Limitation of liability.

- (1) The provisions of the Convention on Limitation of Liability for Maritime Claims 1976 as set out in Part I of Schedule 4 to this Act (hereafter in this section and in Part II of that Schedule referred to as “the Convention”) shall have the force of law in the United Kingdom.
- (2) The provisions of Part II of that Schedule shall have effect in connection with the Convention, and the preceding subsection shall have effect subject to the provisions of that Part.

Modifications etc. (not altering text)

C1 Ss. 17, 18 applied with modifications by S.I. 1986/1305, arts. 6, 8

18 Exclusion of liability.

- (1) Subject to subsection (3) of this section, the owner of a British ship shall not be liable for any loss or damage in the following cases, namely—
- (a) where any property on board the ship is lost or damaged by reason of fire on board the ship; or
 - (b) where any gold, silver, watches, jewels or precious stones on board the ship are lost or damaged by reason of theft, robbery or other dishonest conduct and their nature and value were not at the time of shipment declared by their owner or shipper to the owner or master of the ship in the bill of lading or otherwise in writing.
- (2) Subject to subsection (3) of this section, where the loss or damage arises from anything done or omitted by any person in his capacity as master or member of the crew or (otherwise than in that capacity) in the course of his employment as a servant of the owner of the ship, the preceding subsection shall also exclude the liability of—
- (a) the master, member of the crew or servant; and
 - (b) in a case where the master or member of the crew is the servant of a person whose liability would not be excluded by that subsection apart from this paragraph, the person whose servant he is.
- (3) This section does not exclude the liability of any person for any loss or damage resulting from any such personal act or omission of his as is mentioned in article 4 of the Convention in Part I of Schedule 4 to this Act.

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- (4) In this section “owner”, in relation to a ship, includes any part owner and any charterer, manager or operator of the ship.

Modifications etc. (not altering text)

- C2** Ss. 17, 18 applied with modifications by S.I. 1986/1305, arts. 6, 8
C3 S. 18 restricted (1.5.1994) by 1993 c. 22, s. 8(3), Sch. 4 para.6(1)(b); S.I. 1993/3137, art. 3(2), Sch.2

19 Provisions supplementary to ss. 17 and 18.

- (1) The enactments mentioned in Schedule 5 to this Act shall have effect with the amendments there specified (which are consequential on sections 17 and 18 of this Act).

^{F5}(2)

^{F5}(3)

- (4) Nothing in the said sections 17 and 18 or the said Schedule 4 shall apply in relation to any liability arising out of an occurrence which took place before the coming into force of those sections, and subsection (1) of this section and Schedule 5 to this Act shall not affect the operation of any enactment in relation to such an occurrence.

Textual Amendments

- F5** S. 19(2)(3) repealed (1.5.1994) by 1993 c. 22, s. 8(4), Sch. 5 Pt.II; S.I. 1993/3137, art. 3(2), Sch.2.

Prevention of pollution from ships etc.

20 Prevention of pollution from ships etc.

- (1) Her Majesty may by Order in Council make such provision as She considers appropriate for the purpose of giving effect to any provision of any of the following which have been ratified by the United Kingdom, namely—

- (a) the International Convention for the Prevention of Pollution from Ships (including its protocols, annexes and appendices) which constitutes attachment 1 to the final act of the International Conference on Marine Pollution signed in London on 2nd November 1973;
- (b) the Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil which constitutes attachment 2 to the final act aforesaid;
- (c) the Protocol relating to the said Convention which constitutes attachment 2 to the final act of the International Conference on Tanker Safety and Pollution Prevention signed in London on 17th February 1978;
- (d) any international agreement not mentioned in the preceding paragraphs which relates to the prevention, reduction or control of pollution of the sea or other waters by matter from ships;

and in paragraph (d) of this subsection the reference to an agreement includes an agreement which provides for the modification of another agreement, including the modification of an agreement mentioned in paragraphs (a) to (c) of this subsection.

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- (2) The powers conferred by the preceding subsection to make provision for the purpose of giving effect to an agreement include power to provide for the provision to come into force although the agreement has not come into force.
- (3) Without prejudice to the generality of subsection (1) of this section, an Order under that subsection may in particular include provision—
- (a) for applying for the purpose mentioned in that subsection any enactment or instrument relating to the pollution of the sea or other waters and any of the following enactments, namely—
 - sections 446 to 450 of the ^{M2}Merchant Shipping Act 1894 (which relate to dangerous goods),
 - sections [^{F6}56] to 58 of the ^{M3}Merchant Shipping Act 1970 (which relate to investigations of shipping casualties),
 - [^{F7}section 33 of the Merchant Shipping Act 1988 (which relates to investigations of marine accidents);]
 - sections 10 to 13 of and Schedules 2 and 3 to the ^{M4}Merchant Shipping Act 1974 (which relate to oil tankers);
 - (b) with respect to the carrying out of surveys and inspections for the purpose aforesaid, the issue, duration and recognition of certificates for that purpose ^{F8} . . . ;
 - (c) for repealing the provisions of any enactment or instrument so far as it appears to Her Majesty that those provision are not required having regard to any provision made or proposed to be made by virtue of this section;
 - (d) with respect to the application of the Order to the Crown and the extra-territorial operation of any provision made by or under the Order;
 - (e) for the extension of any provisions of the Order, with or without modifications, to any of the Channel Islands, the Isle of Man, any colony and any country or place outside Her Majesty's dominions in which Her Majesty has jurisdiction in right of the government of the United Kingdom;
 - [^{F9}(f) that a contravention of a provision made by or under the Order shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years and a fine;
 - (fa) that any such contravention shall be an offence punishable only on summary conviction by a maximum fine of an amount not exceeding level 5 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or such less amount as is prescribed by the Order;]
 - (g) for detaining any ship in respect of which such a contravention is suspected to have occurred and, in relation to such a ship, for applying section 692 of the ^{M5}Merchant Shipping Act 1894 (which relates to the detention of a ship) with such modifications, if any, as are prescribed by the Order;

and nothing in any of the preceding provisions of this subsection shall be construed as prejudicing the generality of any other of those provisions and in particular [^{F10}neither paragraph (f) nor paragraph (fa) shall] prejudice paragraph (a).

[^{F11}(3A) Section 74 of the Criminal Justice Act 1982 (construction of references to “statutory maximum”) shall have effect for the purposes of paragraph (f) of the preceding subsection as if that paragraph were contained in that Act.]

- (4) An Order under subsection (1) of this section may—
- (a) make different provision for different circumstances;

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- [^{F12}(aa) make provision in terms of any document which the Secretary of State or any person considers relevant from time to time;]
- (b) provide for exemptions from any provisions of the Order;
- (c) provide for the delegation of functions exercisable by virtue of the Order;
- (d) include such incidental, supplemental and transitional provisions as appear to Her Majesty to be expedient for the purposes of the Order;
- (e) authorise the making of regulations and other instruments for any of the purposes of this section (except the purposes of paragraphs (a) and (c) of the preceding subsection) and apply the ^{M6}Statutory Instruments Act 1946 to instruments made under the Order; and
- (f) provide that any enactment or instrument applied by the Order shall have effect as so applied subject to such modifications as may be specified in the Order.

[^{F13}(4A) Where an Order in Council under subsection (1) of this section authorises the making of regulations for the purpose of giving effect to an agreement mentioned in paragraphs (a) to (cc) or falling within paragraph (d) of that subsection the Order also authorises the making of regulations for the purpose of giving effect to an agreement which provides for the modification of such an agreement.

This subsection applies in relation to Orders in Council and international agreements whenever made.

- (4B) Regulations made by virtue of paragraph (e) of subsection (4) of this section—
 - (a) may make provision corresponding to the provision authorised for an Order by paragraphs (a) to (d) of subsection (4) of this section; and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

(5) An Order in Council in pursuance of paragraph (b) or (d) of subsection (1) of this section may apply to areas of land or sea or other waters within the seaward limits of the territorial waters of the United Kingdom notwithstanding that the agreement in question does not relate to those areas.

(6) A draft of an Order in Council proposed to be made by virtue of subsection (1) of this section shall not be submitted to Her Majesty in Council unless the draft has been approved by a resolution of each House of Parliament or the Order is to contain a statement that it is made only for any of the following purposes, namely, the purpose of giving effect of an agreement mentioned in paragraphs (a) to (c) of that subsection, the purpose of providing as authorised by subsection (2) of this section in relation to such an agreement and the purposes of the preceding subsection, or the Order extends only to a territory mentioned in subsection (3)(e) of this section; and a statutory instrument containing an Order which contains such a statement shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) ^{F14}

Textual Amendments

- F6** Figure substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 57(4), [Sch. 6](#) (with s. 58(4), [Sch. 8 para. 1](#))
- F7** Entry in s. 20(3)(a) inserted (28.7.1994) by [1994 c. 28, s. 3\(2\)](#); [S.I. 1994/1988, art. 2, Sch. 1](#)

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- F8** Words in s. 20(3)(b) repealed (1.5.1994) by 1993 c. 22, s. 8(4), **Sch. 5 Pt. II**; S.I. 1993/3137, art. 3(2), **Sch. 2**
- F9** S. 20(3) paras. (f)(fa) substituted (*retrospectively*) for para. (f) by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 49(2)(a)(4)
- F10** Words substituted (*retrospectively*) by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 49(2)(b)(4)
- F11** S. 20(3A) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 49(2)(c)
- F12** S. 20(4)(aa) inserted (28.7.1994) by 1994 c. 28, s. 3(3); S.I. 1994/1988, art. 2, **Sch. 1**
- F13** S. 20(4A)(4B) inserted (28.7.1994) by 1994 c. 28, s. 3(4); S.I. 1994/1988, art. 2, **Sch. 1**
- F14** S. 20(7)(8) added by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 49(2)(d) and repealed by S.I. 1984/703 (N.I. 3), **Sch. 7**

Modifications etc. (not altering text)

- C4** S. 20(1) extended by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 148(2)

Marginal Citations

- M2** 1894 c. 60.
M3 1970 c. 36.
M4 1974 c. 43.
M5 1894 c. 60.
M6 1946 c. 36.

VALID FROM 01/01/1995

[^{F15}20A Further provision for prevention of pollution from ships.

- (1) Her Majesty may by Order in Council make such provision as She considers appropriate for the purpose of giving effect to any provision of the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) for the protection and preservation of the marine environment from pollution by matter from ships.
- (2) Without prejudice to the generality of subsection (1) of this section, an Order under that subsection may in particular include provision—
- (a) corresponding to any provision that is authorised for the purposes of section 20 of this Act by subsections (3) and (4) of that section; and
 - (b) specifying areas of sea above any of the areas for the time being designated under section 1(7) of the Continental Shelf Act 1964 as waters within which the jurisdiction and rights of the United Kingdom are exercisable in accordance with Part XII of that Convention for the protection and preservation of the marine environment;
- and provision authorising the making of regulations authorises the amendment or revocation of regulations made by virtue of paragraph (e) of the said subsection (4).
- (3) A draft of an Order in Council proposed to be made by virtue of subsection (1) of this section shall not be submitted to Her Majesty in Council unless the draft has been approved by a resolution of each House of Parliament.]

Textual Amendments

- F15** S. 20A inserted (1.1.1995) by 1994 c. 28, s. 4; S.I. 1994/2971, art. 2, **Sch.** (which amending Act was repealed (1.1.1996) by 1995 c. 21, s. 314(1), **Sch. 12**)

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Safety and health on ships

21 Safety and health on ships.

- (1) The Secretary of State may by regulations [^{F16}hereafter in this section and in the following section referred to as “safety regulations”)] make such provision as he considers appropriate for all or any of the following purposes, namely—
- (a) for securing the safety of United Kingdom ships and persons on them and for protecting the health of persons on United Kingdom ships;
 - (b) for giving effect to any provisions of an international agreement ratified by the United Kingdom so far as the agreement relates to the safety of other ships or persons on them or to the protection of the health of persons on other ships.
 - [^{F17}(c) for securing the safety of other ships and persons on them while they are within a port in the United Kingdom.]
- (2) In the preceding subsection “United Kingdom ship” means a ship which—
- (a) is registered in the United Kingdom; or
 - (b) is not registered under the law of any country but is wholly owned by persons each of whom is either a citizen of the United Kingdom and Colonies or a body corporate which is established under the law of a part of the United Kingdom and has its principal place of business in a part of the United Kingdom;
- and the power conferred by the preceding subsection to make provision for giving effect to an agreement includes power to provide for the provision to come into force although the agreement has not come into force.
- (3) [^{F18}Regulations in pursuance of paragraph (a) or (b) of subsection (1) of this section may make provision with respect to any of the following matters, and regulations in pursuance of paragraph (c) of that subsection may make provision with respect to any of the following matters so far as relates to safety, namely—]
- (a) the design, construction, maintenance, repair, alteration, inspection, surveying and marking of ships and their machinery and equipment;
 - (b) the packaging, marking, loading, placing, moving, inspection, testing and measuring of cargo and anything on a ship which is not cargo, machinery or equipment;
 - (c) the carrying out of any operation involving a ship;
 - (d) the use of the machinery and equipment of a ship and of anything on a ship which is not cargo, machinery or equipment;
 - (e) the manning of ships, including the employment on ships of persons qualified to attend to the health and safety of persons on the ships;
 - (f) the arrangements for ensuring communication between persons in different parts of a ship and between persons in the ship and other persons;
 - (g) the access to, presence in and egress from a ship, and different parts of it, of persons of any description;
 - (h) the ventilation, temperature and lighting of different parts of a ship;
 - (i) the steps to be taken to prevent or control noise, vibration and radiation in and from a ship and the emission in or from a ship of smoke, gas and dust;
 - (j) the steps to be taken to prevent, detect and deal with outbreaks of fire on a ship;
 - (k) the steps to be taken to prevent any collision involving a ship and in consequence of any collision involving a ship;

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- (l) the steps to be taken, in a case where a ship is in distress or stranded or wrecked, for the purpose of saving the ship and its machinery, equipment and cargo and the lives of persons on or from the ship, including the steps to be taken by other persons for giving assistance in such a case;
- (m) the removal, by jettisoning or otherwise, of its equipment and of other things from a ship for the purpose of avoiding, removing or reducing danger to persons or property;
- (n) the steps to be taken, in a case where danger of any kind occurs or is suspected on a ship, for removing or reducing the danger and for warning persons who are not on the ship of the danger or suspected danger;
- (o) the making of records and the keeping of documents relating to ships and the keeping and use on a ship of information to facilitate the navigation of the ship;
- (p) the keeping of registers and the issue of certificates in cases for which registration or a certificate is required by virtue of the regulations;
- (q) the furnishing of information; and
- ^{F19}(r)

^{F20}but the mention of specific matters in this subsection shall not be construed as restricting the generality of the power conferred by paragraph (a), (b) or (c) of subsection (1) of this section.]

^{F21}(3A) The power to make regulations conferred by subsection (1)(a) above shall extend also to the making of regulations for the prevention of collisions between seaplanes on the surface of water and between ships and seaplanes and subsection (3)(k) above and subsections (4) to (6) below and section 22(1) shall have effect accordingly.]

(4) Safety regulations—

- (a) may make provision in terms of approvals given by the Secretary of State or another person and in terms of any document which the Secretary of State or another person considers relevant from time to time;
- (b) may provide for the cancellation of an approval given in pursuance of the regulations and for the alteration of the terms of such an approval; and
- (c) must provide for any approval in pursuance of the regulations to be given in writing and to specify the date on which it takes effect and the conditions (if any) on which it is given.

(5) Without prejudice to subsection (1)(b) of the following section, safety regulations may provide—

- (a) for the granting by the Secretary of State or another person, on such terms (if any) as the Secretary of State or other person may specify, of exemptions from specified provisions of the regulations for classes of cases or individual cases; and
- (b) for the alteration or cancellation of exemptions granted in pursuance of the regulations.

(6) Safety regulations may provide—

- (a) that in such cases as are prescribed by the regulations a ship shall be liable to be detained and that section 692 of the ^{M7}Merchant Shipping Act 1894 (which relates to the detention of a ship) shall have effect, with such modifications (if any) as are prescribed by the regulations, in relation to the ship;
- ^{F22}(b) that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on

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conviction on indictment by imprisonment for a term not exceeding two years and a fine;

- (ba) that any such contravention shall be an offence punishable only on summary conviction by a maximum fine of an amount not exceeding level 5 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or such less amount as is prescribed by the regulations;
- (bb) that, in such cases as are prescribed by the regulations, such persons as are so prescribed shall each be guilty of an offence created by virtue of paragraph (b) or (ba) of this subsection;]
- [^{F23}(c) that, notwithstanding anything in paragraph (b) or (ba) of this subsection, a person convicted summarily of an offence under the regulations of a kind which is stated by the regulations to correspond to an offence which is triable either summarily or on indictment under an enactment specified in the regulations which authorises or authorised a fine on summary conviction of a maximum amount exceeding the statutory maximum shall be liable to a fine not exceeding that maximum amount.]

(7) F24

Textual Amendments

- F16** Words inserted by Safety at [Sea Act 1986 \(c. 23, SIF 111\)](#), **s. 11(4)(a)**
- F17** [S. 21\(1\)\(c\)](#) added by Safety at [Sea Act 1986 \(c. 23, SIF 111\)](#), **s. 11(1)**
- F18** Words substituted by Safety at [Sea Act 1986 \(c. 23, SIF 111\)](#), **s. 11(2)**
- F19** [S. 21\(3\)\(r\)](#) repealed (1.5.1994) by [1993 c. 22, s. 8\(4\)](#), **Sch. 5 Pt. II**; S.I. 1993/3137, art. 3(2), **Sch.2**
- F20** Words added by Safety at [Sea Act 1986 \(c. 23, SIF 111\)](#), **s. 11(4)(b)**
- F21** [S. 21\(3A\)](#) inserted (1.5.1994) by [1993 c. 22, s. 8\(3\)](#), **Sch. 4 para. 13(1)**; S.I. 1993/3137, art. 3(2), **Sch.2**
- F22** [S. 21\(6\)](#) paras. (b)(ba)(bb) substituted (*retrospectively*) for para. (b) by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 49(3)(a)(i)(4)**
- F23** [S. 21\(6\)\(c\)](#) substituted (*retrospectively*) by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 49(3)(a)(ii)(4)**
- F24** [S. 21\(7\)\(8\)](#) added by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 49(3)(b)** and repealed by S.I. 1984/703, (N.I. 3), Sch. 7

Modifications etc. (not altering text)

- C5** [S. 21](#) extended with modifications by S.I. 1989/1350, **art. 4**
- C6** [S. 21](#) amended (1.5.1994) by [1993 c. 22, s. 8\(3\)](#), **Sch. 4 para. 6(4)**; S.I. 1993/3137, art. 3(2), **Sch. 2**

Marginal Citations

- M7** [1894 c. 60](#)

22 Provisions supplementary to s. 21.

- (1) Safety regulations may—
 - (a) make different provisions for different circumstances and, in particular, make provision for an individual case;
 - (b) be made so as to apply only in such circumstances as are prescribed by the regulations;
 - (c) be made so as to extend outside the United Kingdom;

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- (d) contain such incidental, supplemental and transitional provisions as the Secretary of State considers appropriate.
- [^{F25}(e) make provision for compensation to be paid, where a signal is used or displayed otherwise than in accordance with the regulations, for any expense or loss caused in consequence of the signal's being taken for a signal of distress;
- and any compensation falling to be paid by virtue of regulations under paragraph (e) above may, without prejudice to any other remedy, be recovered in the same manner as salvage.]
- (2) Where the Secretary of State proposes to make safety regulations or he or another person proposes to give an approval in pursuance of safety regulations it shall be the duty of the Secretary of State or other person, before he gives effect to the proposal, to consult such persons in the United Kingdom (if any) as he considers will be affected by the proposal.
- (3) The Secretary of State may by regulations—
- (a) make such repeals or other modifications of provisions of the Merchant Shipping Acts, of any instruments made under those Acts and of the ^{M8}Anchors and Chain Cables Act 1967 as he considers appropriate in consequence or in anticipation of the making of safety regulations;
- (b) make such repeals or other modifications of provisions [^{F26}of the County Courts Act 1984 and] of any enactment passed and any instrument made before the passing of this Act as he considers appropriate in connection with any modification made or to be made in pursuance of the preceding paragraph;
- (c) provide for anything done under a provision repealed or otherwise modified by virtue of either of the preceding paragraphs to have effect as if done under safety regulations and make such other transitional provision and such incidental and supplemental provision as he considers appropriate in connection with any modification made by virtue of either of those paragraphs.
- (4) Nothing in subsections (3) to (6) of the preceding section or subsection (1) of this section shall be construed as prejudicing the generality of subsection 1 of the preceding section.

Textual Amendments

F25 S. 22(1)(e) and words inserted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para. 13(3)**; S.I. 1993/3137, art. 3(2), **Sch.2**

F26 Words inserted by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), **Sch. 2 para. 69**

Modifications etc. (not altering text)

C7 S. 22 extended with modifications by S.I. 1989/1350, **art. 4**

C8 S. 22 amended (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para. 6(4)**; S.I. 1993/3137, art. 3(2), **Sch. 2**

Marginal Citations

M8 1967 c. 64.

Status: Point in time view as at 28/07/1994. This version of this Act contains provisions that are not valid for this point in time.

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Discipline

23 Breaches by seamen of codes of conduct and local industrial agreements.

(1) For the purpose of maintaining discipline on board ships registered in the United Kingdom the Secretary of State may by regulations make provision—

- (a) for the hearing on shore in the United Kingdom, by a body established or approved by the Secretary of State in pursuance of the regulations, of a complaint by the master or owner of a ship registered in the United Kingdom, other than a fishing vessel, alleging that during a period when a person (hereafter in this subsection referred to as “the seaman”) was employed on board the ship he contravened, either on or off the ship and in the United Kingdom or elsewhere, a provision of a code of conduct approved by the Secretary of State for the purposes of this section;
- (b) for enabling the body to dismiss the complaint if it finds the allegation not proved and, if it finds the allegation proved, to warn or reprimand the seaman or to recommend to the Secretary of State that the seaman shall, either for a period specified in the recommendation or permanently, cease to be entitled to a discharge book in pursuance of section 71 of the ^{M9}Merchant Shipping Act 1970 and shall be required to surrender any such book which has been issued to him;
- (c) for enabling the seaman to appeal against such a recommendation to another body established or approved as aforesaid and for enabling the body to confirm or cancel the recommendation or, in the case of a recommendation that the seaman shall cease to be entitled to a discharge book permanently or for a particular period, to substitute for it a recommendation that he shall cease to be so entitled, instead of permanently, for a period specified in the substituted recommendation or, instead of for the particular period, for a shorter period so specified;
- (d) for securing that a recommendation in pursuance of regulations made by virtue of paragraph (b) above that the seaman shall permanently cease to be entitled to a discharge book is not submitted to the Secretary of State unless it has been confirmed, either on appeal or otherwise, by a body which is or was authorised by regulations made by virtue of the preceding paragraph to entertain an appeal against the recommendation;
- (e) for the establishment or approval for the purposes of this section of such number of bodies as the Secretary of State thinks fit and with respect to the composition, jurisdiction and procedure of any body established or approved for those purposes;
- (f) for the payment out of money provided by Parliament of such remuneration and allowances as the Secretary of State may with the consent of the Minister for the Civil Service determine to any member of a body established by the Secretary of State in pursuance of the regulations;

and regulations made by virtue of this subsection may make different provision for different circumstances and may contain such incidental and supplemental provisions as the Secretary of State considers appropriate.

(2) In relation to fishing vessels registered in the United Kingdom the preceding subsection shall have effect with the substitution for paragraph (a) of the following paragraph—

- (a) for the hearing on shore in the United Kingdom, by a body established or approved by the Secretary of State in pursuance of the regulations, of

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a complaint by the master or owner of a fishing vessel registered in the United Kingdom alleging that during a period when a person (hereafter in this subsection referred to as “the seaman”) was employed on board the vessel, he contravened, either on or off the vessel and in the United Kingdom or elsewhere, a local industrial agreement relating to his employment in the vessel and for requiring the body to have regard to the agreement in determining whether the allegation is proved;

and regulations made by virtue of the preceding subsection may include provision authorising persons to determine, for the purposes of that paragraph, what agreements are or were local industrial agreements and which local industrial agreement relates or related to a person’s employment in a particular vessel.

- (3) Without prejudice to the generality of subsection (1) of this section, regulations made by virtue of that subsection may include provision for any proceedings in pursuance of the regulations to take place notwithstanding the absence of the seaman to whom the proceedings relate; and nothing in regulations made by virtue of that subsection or done in pursuance of regulations so made shall be construed as affecting any power to institute, prosecute, entertain or determine proceedings (including criminal proceedings) under any other enactment or at common law.
- (4) When the Secretary of State proposes to make any regulations in pursuance of subsection (1) of this section it shall be his duty, before he makes the regulations, to consult about the proposal such organisations in the United Kingdom as he considers are representative of persons likely to be affected by the regulations.
- (5) The power conferred by section 71 of the ^{M10}Merchant Shipping Act 1970 to make regulations relating to discharge books—
- (a) shall include power to provide for a person to cease to be entitled to a discharge book in consequence of a recommendation made by virtue of this section;
 - (b) includes power to provide for the re-issue of discharge books which have been surrendered in consequence of such a recommendation.
- (6) A person who, in the United Kingdom or elsewhere—
- (a) obtains employment as a seaman on board a ship registered in the United Kingdom and does so when he is disentitled to a discharge book by virtue of regulations made by virtue of paragraph (a) of the preceding subsection; or
 - (b) employs as such a seaman a person who he knows or has reason to suspect is disentitled as aforesaid,
- 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.
- (7) Sections 34 to 38 of the ^{M11}Merchant Shipping Act 1970 and paragraph 2 of Schedule 2 to that Act (which relate to discipline on board ships registered in the United Kingdom) shall cease to have effect.

Modifications etc. (not altering text)

C9 Ss. 23(6), 25(1) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 49(1)

C10 The text of s. 23(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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Marginal Citations

M9 1970 c. 36.

M10 1970 c. 36.

M11 1970 c. 36.

24 Determination of amount of deductions from seamen's wages.

The power to make regulations conferred by section 9 of the ^{M12}Merchant Shipping Act 1970 (which among other things relates to deductions from the wages of a seaman) shall include power to provide that the amount of a deduction of a description specified in the regulations from wages in respect of employment in a fishing vessel is to be determined by a body established or approved by the Secretary of State in pursuance of regulations made by virtue of the preceding section.

Marginal Citations

M12 1970 c. 36.

25 Unauthorised liquor on fishing vessels.

- (1) A person who, in the United Kingdom or elsewhere—
 - (a) takes any unauthorised liquor on board a fishing vessel registered in the United Kingdom; or
 - (b) has any unauthorised liquor in his possession on board such a vessel; or
 - (c) permits another person to take on board such a vessel, or to have in his possession on board such a vessel, any unauthorised liquor; or
 - (d) wilfully obstructs another person in the exercise of powers conferred on the other person by subsection (3) of this section,shall, subject to the following subsection, 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) It shall be a defence in proceedings for an offence under paragraph (a) or (b) of the preceding subsection to prove—
 - (a) that the accused believed that the liquor in question was not unauthorised liquor in relation to the vessel in question and that he had reasonable grounds for the belief; or
 - (b) that the accused did not know that the liquor in question was in his possession;and it shall be a defence in proceedings for an offence under paragraph (c) of the preceding subsection to prove as mentioned in paragraph (a) of this subsection.
- (3) If an authorised person has reason to believe that an offence under paragraph (a) or (b) of subsection (1) of this section has been committed by another person in connection with a fishing vessel, the authorised person—
 - (a) may go on board the vessel and search it and any property on it and may, if the other person is on board the vessel, search him there in an authorised manner; and
 - (b) may take possession of any liquor which he finds on the vessel and has reason to believe is unauthorised liquor and may detain the liquor for the period

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needed to ensure that the liquor is available as evidence in proceedings for the offence.

(4) In this section—

“an authorised manner” means a manner authorised by regulations made by the Secretary of State;

“authorised person”, in relation to a vessel, means a mercantile marine superintendent, a proper officer as defined by section 97(1) of the ^{M13}Merchant Shipping Act 1970, a person appointed in pursuance of section 76(1)(c) of that Act (which relates to inspectors), the master of the vessel in question, the owner of the vessel and any person instructed by the said master or owner to prevent the commission of offences under subsection (1) of this section in relation to the vessel;

“liquor” means spirits, wine, beer, cider, perry and any other fermented, distilled or spirituous liquor; and

“unauthorised liquor” means, in relation to a vessel, liquor as to which permission to take it on board the vessel has been given neither by the master nor the owner of the vessel nor by a person authorised by the said owner to give such permission.

(5) Any reference in the preceding subsection to the owner of a vessel shall be construed—

- (a) as excluding any member of the crew of the vessel; and
- (b) subject to the preceding paragraph, as a reference to the person or all the persons who, in the certificate of registry of the vessel, is or are stated to be the registered owner or owners of the vessel.

Modifications etc. (not altering text)

C11 Ss. 23(6), 25(1) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 49(1)**

Marginal Citations

M13 1970 c. 36.

Inspectors

26 Extension of power to appoint Department of Trade inspectors.

In section 728 of the ^{M14}Merchant Shipping Act 1894 (under which the Secretary of State may appoint a person as an inspector to report to him whether, among other things, the provisions of regulations made by virtue of that Act have been complied with) after the words “by virtue of this Act” there shall be inserted the words “or the terms of any approval, licence, consent, direction or exemption given by virtue of such regulations”

Modifications etc. (not altering text)

C12 The text of s. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

C13 S. 26 excluded (1.5.1994) by [1993 c. 22, s. 8\(3\)](#), [Sch. 4 para. 56\(e\)](#); [S.I. 1993/3137, art. 3\(2\)](#), [Sch.2](#)

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Marginal Citations

M14 1894 c. 60.

27 Powers of Department of Trade inspectors.

(1) An inspector appointed in pursuance of section 728 of the ^{M15}Merchant Shipping Act 1894—

- (a) may at any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time)—
 - (i) enter any premises in the United Kingdom, or
 - (ii) board any ship which is registered in the United Kingdom wherever it may be and any other ship which is present in the United Kingdom or the territorial waters of the United Kingdom,if he has reason to believe that it is necessary for him to enter the premises or board the ship for the purpose of performing his functions as such an inspector;
- (b) may, on entering any premises by virtue of paragraph (a) above or on boarding a ship by virtue of that paragraph, take with him any other person authorised in that behalf by the Secretary of State and any equipment or materials required to assist him in performing the said functions;
- (c) may make such examination and investigation as he considers necessary for the purpose of performing the said functions;
- (d) may, as regards any premises or ship which he has power to enter or board, give a direction requiring that the premises or ship or any part of the premises or ship or any thing in the premises or ship or such a part shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purposes of any examination or investigation under paragraph (c) above;
- (e) may take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (c) above;
- (f) may take samples of any articles or substances found in any premises or ship which he has power to enter or board and of the atmosphere in or in the vicinity of any such premises or ship;
- (g) may, in the case of any article or substance which he finds in any such premises or ship and which appears to him to have caused or to be likely to cause danger to health or safety, cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless that is in the circumstances necessary for the purpose of performing the said functions);
- (h) may, in the case of any such article or substance as is mentioned in paragraph (g) above, take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—
 - (i) to examine it and do to it anything which he has power to do under that paragraph,
 - (ii) to ensure that it is not tampered with before his examination of it is completed,
 - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under the Merchant Shipping Acts or under ^[F27]instruments] made by virtue of any provision of those Acts;

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- (i) may require any person who he has reasonable cause to believe is able to give any information relevant to any examination or investigation under paragraph (c) above—
 - (i) to attend at a place and time specified by the inspector, and
 - (ii) to answer (in the absence of persons other than any persons whom the inspector may allow to be present and a person nominated to be present by the person on whom the requirement is imposed) such questions as the inspector thinks fit to ask, and
 - (iii) to sign a declaration of the truth of his answers;
 - (j) may require the production of, and inspect and take copies of or of any entry in,—
 - (i) any books or documents which by virtue of any provision of the Merchant Shipping Acts are required to be kept; and
 - (ii) any other books or documents which he considers it necessary for him to see for the purposes of any examination or investigation under paragraph (c) above;
 - (k) may require any person to afford him such facilities and assistance with respect to any matters or things within that person's control, or in relation to which that person has responsibilities as the inspector considers are necessary to enable him to exercise any of the powers conferred on him by this subsection.
- (2) It is hereby declared that nothing in the preceding provisions of this section authorises a person unnecessarily to prevent a ship from proceeding on a voyage.
- (3) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with the taking of samples under subsection (1)(f) above and subsection (6) below and provision as to the way in which samples that have been so taken are to be dealt with.
- (4) Where an inspector proposes to exercise the power conferred by subsection (1)(g) above in the case of an article or substance found in any premises or ship, he shall, if so requested by a person who at the time is present in and has responsibilities in relation to the premises or ship, cause anything which is to be done by virtue of that power to be done in the presence of that person unless the inspector considers that its being done in that person's presence would be prejudicial to the safety of that person.
- (5) Before exercising the power conferred by subsection (1)(g) above, an inspector shall consult such persons as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under that power.
- (6) Where under the power conferred by subsection (1)(h) above an inspector takes possession of any article or substance found in any premises or ship, he shall leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that he has taken possession of it under that power; and before taking possession of any such substance under that power an inspector shall, if it is practicable for him to do so, take a sample of the substance and give to a responsible person at the premises or on board the ship a portion of the sample marked in a manner sufficient to identify it.

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- (7) No answer given by a person in pursuance of a requirement imposed under subsection (1)(i) above shall be admissible in evidence against that person or the husband or wife of that person in any proceedings except proceedings in pursuance of subsection (1)(c) of the following section in respect of a statement in or a declaration relating to the answer; and a person nominated as mentioned in the said subsection (1) (i) shall be entitled, on the occasion on which the questions there mentioned are asked, to make representations to the inspector on behalf of the person who nominated him.

Textual Amendments

- F27** Word in s. 27(1)(h)(iii) substituted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para.57**; S.I. 1993/3137, art. 3(2), **Sch.2**

Modifications etc. (not altering text)

- C14** S. 27 extended by S.I. 1987/311, **reg. 16**
C15 S. 27 applied by Merchant Shipping Act 1988 (c. 12, SIF 111), **ss. 14(6), 33(8)**, (with s. 58(4), Sch. 8 para. 1) and by S.I. 1989/1172, **reg. 6(2)**
C16 S. 27 modified by Merchant Shipping Act 1988 (c. 12, SIF 111), **s. 39(6)**, (with s. 58(4), Sch. 8 para. 1)
C17 S. 27 extended with modifications by S.I. 1989/1350, art. 2, **Sch. 1** (as substituted by S.I. 1990/2594, art. 3)
C18 S. 27 amended (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4, para. 17(b)**; S.I. 1993/3137, art. 3(2), **Sch. 2**

Marginal Citations

- M15** 1894 c. 60.

28 Provisions supplementary to s. 27.

- (1) A person who—
- wilfully obstructs a Department of Trade inspector in the exercise of any power conferred on him by the preceding section; or
 - 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
 - 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—
- 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
 - 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

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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.

- (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 ^{M16}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 ^{M17}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 ^{M18}Merchant Shipping Act 1964 the words from “and for that purpose” to “Acts” ;
- section 11(2) of the ^{M19}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 ^{M20}Fishing Vessels (Safety Provisions) Act 1970 the words from “and” onwards;
- and in section 14(3) of the ^{M21}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 ^{M22}Interpretation Act 1978 (which relates to the repeal and re-enactment of enactments)—
- (a) in sections 386(2), 459(6), . . . ^{F28} 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 ^{M23}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 ^{M24}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

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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 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

- F28** 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)

- C19** [S. 28](#) applied with modifications by [S.I. 1989/2594](#), [art. 3](#)
- C20** [S. 28](#) extended with modifications by [S.I. 1989/1350](#), [art. 2](#), [Sch. 1](#) (as substituted by [S.I. 1990/2594](#), [art. 3](#))
- C21** [S. 28\(1\)](#) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 49\(1\)](#)
- C22** 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.
- C23** [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

- M16** 1894 c. 60.
M17 1894 c. 60.
M18 1964 c. 47.
M19 1967 c. 27.
M20 1970 c. 27.
M21 1949 c. 43.
M22 1978 c. 30.
M23 1970 c. 36.
M24 1971 c. 60.

Deaths on ships

29 Inquiries as to whether person has died on United Kingdom ship etc.

In section 61 of the ^{M25}Merchant Shipping Act 1970 (which among other things provides for an inquiry into the death of a person in a ship registered in the United Kingdom),—

- (a) at the end of subsection (1)(a) there shall be inserted the words “in a boat or life-raft from such a ship ; or” ; and

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(b) after subsection (1) there shall be inserted the following subsections—

“(1A) Subject to subsection (4) of this section, where it appears to the Secretary of State that—

- (a) in consequence of an injury sustained or a disease contracted by a person, when he was the master of or a seaman employed in a ship registered in the United Kingdom, he ceased to be employed in the ship and subsequently died ; and
- (b) the death occurred in a country outside the United Kingdom during the period of one year beginning with the day when he so ceased, the Secretary of State may arrange for an inquiry into the cause of the death to be held by a superintendent or proper officer.

(1B) Subject to subsection (4) of this section, where it appears to the Secretary of State that a person may—

- (a) have died in a ship registered in the United Kingdom or in a boat or life-raft from such a ship ; or
- (b) have been lost from such a ship, boat or liferaft and have died in consequence of having been so lost.

the Secretary of State may arrange for an inquiry to be held by a superintendent or proper officer into whether the person died as aforesaid and, if the superintendent or officer finds that he did, into the cause of the death.”

(2) In subsection (3)(a) of that section (which provides for a report of the findings of an inquiry under that section to be made available to the next of kin of the deceased if the deceased was employed in the ship) for the words “if the deceased person” there shall be substituted the words “if the person to whom the report relates” and for the words “deceased person’s name” there shall be substituted the words “name of the person to whom the report relates”.

(3) In section 97(5) of the said Act of 1970 (which provides that references in that Act to dying in a ship include dying in a ship’s boat and being lost from a ship’s boat) after the word “Act” there shall be inserted the words “(except section 61)”.

Modifications etc. (not altering text)

C24 The text of s. 29 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M25 1970 c. 36.

30 Record of certain deaths on ships etc.

(1) At the end of subsection (1) of section 72 of the ^{M26} Merchant Shipping Act 1970 (of which paragraph (a) enables regulations to be made requiring the master of a ship registered in the United Kingdom to make a return of any death occurring in the ship and of the death outside the United Kingdom of any person employed in the ship) there shall be inserted the words “; and

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- (c) requiring the Registrar General of Shipping and Seamen to record such information as may be specified in the regulations about such a death as is mentioned in paragraph (a) above in a case where it appears to him that the master of the ship cannot perform the duty imposed on him by virtue of that paragraph in respect of the death because he has himself died or is incapacitated or missing and either—
- (i) the death in question has been the subject of an inquest held by the coroner or an inquiry held in pursuance of section 61 of this Act or in pursuance of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 and the findings of the inquest or inquiry include a finding that the death occurred, or
 - (ii) a post-mortem examination, or a preliminary investigation in Northern Ireland, has been made of the deceased's body and in consequence the coroner is satisfied that an inquest is unnecessary, or
 - (iii) in Scotland, it does not appear to the Lord Advocate, under section 1(1)(b) of the said Act of 1976, to be expedient in the public interest that an inquiry under that Act should be held.” ;and in subsection (2) of that section (which enables regulations to require a certified copy of a return under that section to be sent to the appropriate Registrar General concerned with the registration of deaths) after the word “return” there shall be inserted the words “or record”.

(2) Where—

- (a) an inquest is held [^{F29}on a dead body or] touching a death or a post-mortem examination, or a preliminary investigation in Northern Ireland, is made of a dead body as a result of which the coroner is satisfied that an inquest is unnecessary; and
- (b) it appears to the coroner that the death in question is such as is mentioned in paragraph (a) of section 72(1) of the ^{M27}Merchant Shipping Act 1970 or in that paragraph as extended (with or without amendments) by virtue of section 92 of that Act,

it shall be the duty of the coroner to send to the Registrar General of Shipping and Seamen particulars in respect of the deceased of a kind prescribed by regulations made by the Secretary of State.

Textual Amendments

F29 Words repealed (E.W.N.I.) by Coroners Act 1980 (c. 38, SIF 33), s. 1, Sch. 2

Modifications etc. (not altering text)

C25 The text of s. 30(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M26 1970 c. 36.

M27 1970 c. 36.

Status: Point in time view as at 28/07/1994. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

Miscellaneous

31 ^{F30}

Textual Amendments

F30 Ss. 31, 32(2)(3), 37(4) repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), 58(2), Sch.7, (with s. 58(4), Sch.8 para. 1)

32 Shipping casualties.

In section 464 of the ^{M28}Merchant Shipping Act 1894 (which specifies the shipping casualties which may be the subject of inquiries and investigations under Part VI of that Act)—

- (a) in paragraph (4) (which refers to loss of life by reason of a casualty happening to or on board a ship) after the word “life” there shall be inserted the words “or serious personal injury” and after the word “ship” there shall be inserted the words “,or any boat or life-raft from a ship,” ;
- (b) after that paragraph there shall be inserted the following paragraph—

“(4A) when any person is lost from a ship, or any boat or life-raft from a ship, on or near the coasts of the United Kingdom ;”
- (c) after paragraph (7) there shall be inserted the following paragraph—

“(8) when events occur which the Secretary of State determines are of a kind likely to cause events which, if they occurred, would constitute a shipping casualty by virtue of any of the preceding paragraphs.”

(2) ^{F31}

Textual Amendments

F31 Ss. 31, 32(2)(3), 37(4) repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), 58(2), Sch.7, (with s. 58(4), Sch.8 para. 1)

Modifications etc. (not altering text)

C26 The text of s. 32 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.

Marginal Citations

M28 1894 c. 60.

33 Commissioners of Northern Lighthouses and Irish Lights.

- (1) Sections 640 and 641 of the ^{M29}Merchant Shipping Act 1894 (which provide for the control by the Trinity House of certain activities of the Commissioners of Northern Lighthouses and the Commissioners of Irish Lights) and section 637 of that Act (which authorises the Trinity House and their servants to enter lighthouses in a lighthouse

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area which are vested in the said Commissioners or the Trinity House) shall cease to have effect.

- (2) In section 668(4) of the Merchant Shipping Act 1894 (which authorises the Commissioners of Northern Lighthouses to elect not more than four other persons as members of their body) for the words “four other persons” there shall be substituted the words “five other persons ; but a person shall not be elected in pursuance of this subsection after section 33(2) of the Merchant Shipping Act 1979 comes into force unless either he appears to the Commissioners to have special knowledge and experience of nautical matters or three persons who so appear are members of the said body”.

Modifications etc. (not altering text)

C27 The text of s. 33 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M29 1894 c. 60.

34 Repeal of spent provisions, and amendment, of Part XI of Merchant Shipping Act 1894.

- (1) Sections 670 to 672 and 675 of the Merchant Shipping Act 1894 (which relate to colonial light dues and became spent after the abolition of the dues in 1960) shall to have effect.
- (2) In section 677 of that Act, paragraph (m) (which provides for the payment out of money provided by Parliament of the cost of publishing information about foreign lighthouses, buoys and beacons) shall be omitted.
- (3) The Secretary of State may by order provide that references or a particular reference to a buoy or beacon in Part XI of that Act shall be construed as including, in such circumstances as are specified in the order, equipment of a kind so specified which is intended as an aid to the navigation of ships.

Modifications etc. (not altering text)

C28 The text of s. 34(1)(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

35 Amendment of s. 503 of Merchant Shipping Act 1894 etc.

- (1) Nothing in section 503 of the ^{M30}Merchant Shipping Act 1894 (which relates to the limitation of liability in certain cases of loss of life, injury or damage) shall apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to any property of, a person who is on board or employed in connection with the ship in question if—
- (a) he is so on board or employed under a contract of service governed by the law of any part of the United Kingdom; and

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Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

- (b) the liability arises from an occurrence which took place after the coming into force of this subsection and before the coming into force of the following subsection;

and in this subsection “ship” has the same meaning as in the said section 503.

- (2) The provisions having the force of law under section 17 of this Act shall not apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to any property of, a person who is on board the ship in question or employed in connection with that ship or with the salvage operations in question if—

- (a) he is so on board or employed under a contract of service governed by the law of any part of the United Kingdom; and
- (b) the liability arises from an occurrence which took place after the coming into force of this subsection;

and in this subsection “ship” and “salvage operations” have the same meaning as in those provisions.

Marginal Citations

M30 1894 c. 60.

36 Amendments of Merchant Shipping (Mercantile Marine Fund) Act 1898.

- (1) Section 2(1) and (2) of the ^{M31}Merchant Shipping (Mercantile Marine Fund) Act 1898 (which relate to colonial light dues and of which subsection (1) became spent after the abolition of the dues in 1960) shall cease to have effect ; and in section 2(3) of that Act (which among other things provides for the payment out of the General Lighthouse Fund of contributions in respect of the lighthouse on Cape Spartel, Morocco) for the words “lighthouse on Cape Spartel, Morocco”, there shall be substituted the words “lights on the islands of Abu Ail and Jabal at Tair in the Red Sea”.
- (2) For subsection (2) of section 5 of that Act (which enables the scales, rules and exemptions set out in Schedule 2 to that Act for the levying of light dues to be altered by Order in Council) there shall be substituted the following subsection—
- “(2) The Secretary of State may by statutory instrument make regulations with respect to the amounts and the levying of such dues (including the cases in which the dues are not to be levied) and the regulations may make different provision for different circumstances; and any statutory instrument made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (3) In Schedule 3 to the ^{M32}said Act of 1898, paragraph II (which relates to certain lighthouses off the coast of Sri Lanka as to which an arrangement was made on 27th February 1976 between the government of that country and the government of the United Kingdom providing for their transfer to the government of that country) shall be omitted; but any expenditure incurred by the government of the United Kingdom in pursuance of that arrangement either before or after the passing of this Act shall be defrayed out of the General Lighthouse Fund.

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Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

Modifications etc. (not altering text)

- C29** The text of s. 36(1)(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M31** 1898 c. 44.
M32 1898 c. 44.

37 Amendments of ss. 15, 43, 52, 54, 76(1), 92 and 101(4) of Merchant Shipping Act 1970 and s. 23 of the Prevention of Oil Pollution Act 1971.

- (1) Section 15 of the ^{M33}Merchant Shipping Act 1970 (which among other things provides that where a seaman’s employment in a ship ends because the ship is wrecked or lost or is sold abroad or ceases to be registered in the United Kingdom he shall in certain cases be entitled to wages for two months after the ending of the employment) shall apply to a master as it applies to a seaman; . . . ^{F32}.
- (2) The power to make regulations conferred by section 43 of the ^{M34}Merchant Shipping Act 1970 (which authorises the Secretary of State to make regulations requiring certain ships to carry the number specified in the regulations of officers and other seamen who are qualified in accordance with the regulations) shall include power to make regulations providing that existing certificates shall, except in such cases as are specified in the regulations, be deemed for the purposes of such of the provisions of that Act as are so specified to be issued in pursuance of that section and to confer on the persons to whom they were issued such qualifications for the purposes of that section as are so specified.
- (3) In the preceding subsection “existing certificate” means a certificate granted in pursuance of section 93, 99 or 414 of the ^{M35}Merchant Shipping Act 1894 (which relate to certificates of competency or service as masters, mates and engineers and as skippers and second hands of fishing boats), a certificate referred to in an Order in Council made by virtue of section 102 of that Act (which relates to Commonwealth certificates of competency), a certificate granted in pursuance of subsection (2) of section 27 of the ^{M36}Merchant Shipping Act 1906 or by an institution approved in pursuance of that subsection (which relates to cooks) and a certificate granted in pursuance of section 5 of the ^{M37}Merchant Shipping Act 1948 (which relates to seamen who may be rated as A.B.).
- (4) ^{F33}
- (5) In section 76(1) of the ^{M38}Merchant Shipping Act 1970 (which enables inspections to be carried out for the purpose of seeing that the provisions of the Merchant Shipping Acts and regulations and rules made under those Acts are complied with)—
- (a) references to the Merchant Shipping Acts shall include references to this Act and,
- (b) ^{F34}
- (6) Without prejudice to the operation of section 50(1) of this Act, in section 92 of the ^{M39}Merchant Shipping Act 1970 (which among other things enables provisions of that Act to be extended to unregistered . . . ^{F35} ships) the references to that Act shall be construed as including references to sections 23 and 25 of this Act.

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- (7) At the end of section 101(4) of the Merchant Shipping Act 1970 (which authorises the appointment of different days for the coming into force of different provisions of that Act) there shall be inserted the words “or for different purposes of the same provision”.
- (8) In section 23 of the Prevention of Oil Pollution Act 1971 (which among other things authorises the Secretary of State to exempt from provisions of that Act certain discharges of crude oil produced as a result of operations for exploring the seabed or for exploiting its resources) for the words from “crude oil” onwards there shall be substituted the word “oil”.

Textual Amendments

- F32** Words amend [Merchant Shipping Act 1970 \(c. 36\), s. 15\(1\)](#)
- F33** [Ss. 31, 32\(2\)\(3\), 37\(4\)](#) repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\), s. 57\(5\), 58\(2\), Sch.7](#), (with s. 58(4), Sch.8 para. 1)
- F34** [S. 37\(5\)\(b\)](#) amends [Merchant Shipping Act 1970 \(c. 36\), s. 76\(1\)](#)
- F35** Word 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)

- C30** The text of s. 37(7)(8) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M33** 1970 c. 36.
- M34** 1970 c. 36.
- M35** 1894 c. 60.
- M36** 1906 c. 48.
- M37** 1948 c. 44.
- M38** 1970 c. 36.
- M39** 1970 c. 36.

VALID FROM 22/11/1994

38 Replacement of gold francs by special drawing rights for certain purposes of Merchant Shipping (Oil Pollution) Act 1971 and Merchant Shipping Act 1974.

- [^{F36}(1) In section 4 of the ^{M40}Merchant Shipping (Oil Pollution) Act 1971 (which among other things enables a ship’s owner to limit in certain circumstances his liability under section 1 of that Act so that it does not exceed 2,000 gold francs for each ton of the ship’s tonnage or 210 million gold francs, whichever is less)—
- (a) for the words “2,000 gold francs” and “210 million gold francs” in subsection (1)(b) there shall be substituted respectively the words “133 special drawing rights” and “14 million special drawing rights”; and
- (b) subsections (3) to (5) (which relate to the value of gold francs) shall cease to have effect.]

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- (2) In section 5 of that Act (which among other things relates to payment into court of the amount of a limit determined in pursuance of that section), after subsection (2) there shall be inserted the following subsection—

“(2A) A payment into court of the amount of a limit determined in pursuance of this section shall be made in sterling ; and—

- (a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—
- (i) the day on which the determination is made, or
- (ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed ;
- (b) a certificate given by or on behalf of the Treasury stating—
- (i) that a particular sum in sterling has been so fixed for the day on which the determination was made, or
- (ii) that no sum has been so fixed for that day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the determination was made,

shall be conclusive evidence of those matters for the purposes of this Act ;

- (c) a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.”

- [^{F37}(3) For the purposes of sections 10(2) and 11(1) of that Act (which refer to Article VII of the International Convention on Civil Liability for Oil Pollution Damage signed in Brussels in 1969) references in that Article to Article V of the Convention shall be construed as references to Article V as amended by Article II of the protocol dated 19th November 1976 to the Convention; . . . ^{F38}.]

- (4) The ^{M41}Merchant Shipping Act 1974 shall have effect with the following amendments, namely—

[^{F39}(a) section 1(6) and (7) (which relate to the value of gold francs) shall cease to have effect ;

- (b) in section 2(7)(a) (which provides for a person’s contributions to the International Fund there mentioned to be of an amount determined under articles 11 and 12 of the convention which established the Fund) and in section 4(10) (which provides for the liability of the said Fund to be subject to the limits imposed by article 4 of the said convention) after the words “the Fund Convention” there shall be inserted the words “(as amended by Article III of the protocol dated 19th November 1976 to that Convention)” ;]

- (c) at the end of section 4 (which relates to compensation from the said Fund for persons suffering pollution damage) there shall be inserted the following subsection—

“(13) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (12) above shall be steps to obtain payment in sterling ; and—

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- (a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—
 - (i) the day on which the judgment is given, or
 - (ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed ;
- (b) a certificate given by or on behalf of the Treasury stating—
 - (i) that a particular sum in sterling has been so fixed for the day on which the judgment was given, or
 - (ii) that no sum has been so fixed for that day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the judgment was given,

shall be conclusive evidence of those matters for the purposes of this Act ;
- (c) a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.”;
- [^{F39}(d) in section (5)(1)(a) and (b) (which specify the portion of the aggregate amount of a liability for which the said Fund is to give indemnity) for the words “1,500 francs” and “2,000 francs” there shall be substituted respectively the words “100 special drawing rights” and “133 special drawing rights” and for the words “125 million francs” and “210 million francs” there shall be substituted respectively the words “8,333,000 special drawing rights” and “14 million special drawing rights” ;
- (e) at the end of section 5 there shall be inserted the following subsection—
 - “(8) For the purpose of converting into sterling the amount in special drawing rights adjudged to be payable by the Fund by way of indemnity in such proceedings as are mentioned in subsection (4) of this section, paragraphs (a) to (c) of subsection (13) of section 4 of this Act shall have effect—
 - (a) if the liability in question has been limited in pursuance of section 5 of the Merchant Shipping (Oil Pollution) Act 1971, as if—
 - (i) for the reference in the said paragraph (a) to the amount there mentioned there were substituted a reference to the amount adjudged as aforesaid, and
 - (ii) for any reference to the day on which the judgment is or was given there were substituted a reference to the day on which the determination of the limit was made in pursuance of the said section 5 ; and
 - (b) if the liability in question has not been so limited, with the modification made by paragraph (a)(i) of this subsection and as if for any reference to the day on which the judgment is or was given there were substituted a reference to the day on which the said amount was so adjudged.”;

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- (f) in section 6(5)(a) (which refers to provisions of the said article 4 as set out in Schedule 1 to that Act) after the words “as set out” there shall be inserted the words “as amended” ;
- (g) in Schedule 1 for the words “450 million francs” wherever they occur there shall be substituted the words “30 million special drawing rights” and for the words “900 million francs” there shall be substituted the words “60 million special drawing rights”.]
- (5) It is hereby declared that the powers to make Orders in Council conferred by section 18 of the said Act of 1971 and section 20 of the said Act of 1974 (which provide for the extension of those Acts to any of the countries mentioned in those sections and for those Acts to have effect as if references in them to the United Kingdom included references to any of those countries) include power to make Orders in Council in respect of those Acts as amended by this section.
- (6) An order made by virtue of section 52(2) of this Act which appoints a day for the coming into force of any of the preceding provisions of this section may contain such transitional provisions as the Secretary of State considers appropriate in connection with the coming into force of the provision in question.

Textual Amendments

- F36** s. 38(1) repealed (*prosp.*) by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 57(5), 58(2), [Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)
- F37** [S. 38\(3\)](#) repealed (*prosp.*) by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 57(5), 58(2), [Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)
- F38** Words amend [Merchant Shipping \(Oil Pollution\) Act 1971 \(c. 59\)](#), [s. 14\(2\)](#)
- F39** [S. 38\(4\)\(a\)\(b\)](#), (d)–(g) repealed (*prosp.*) by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 57(5), 58(2), [Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)

Modifications etc. (not altering text)

- C31** The text of s. 38(1)(2)(4) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Commencement Information

- I1** [S. 38](#) partly in force; [s. 38](#) not in force at Royal Assent see [s. 52\(2\)](#); [s. 38\(4\)](#) in force at 22.11.1994 by [S.I. 1994/2789](#), art. 2, [Sch.](#)

Marginal Citations

- M40** 1971 c. 59.
M41 1974 c. 43.

39 Attachment of earnings.

- (1) At the beginning of paragraph (e) of section 24(2) of the ^{M42}Attachment of Earnings Act 1971 (under which wages of a seaman are not to be treated as earnings for the purposes of that Act unless he is a seaman of a fishing boat) there shall be inserted the words “except in relation to a maintenance order”.
- [^{F40}(2) As respects Scotland, the wages of a seaman of a fishing boat shall cease to be exempt from arrestment and the wages of any other seaman shall cease to be exempt from

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arrestment under a maintenance order; and in this subsection “maintenance order” means an order of any court or authority enforceable in Scotland for the payment of any periodical or capital sum due or awarded in respect of a marriage or other family relationship.]

- (3) Accordingly section 11(1)(a) of the ^{M43}Merchant Shipping Act 1970 (which provides that the wages of a seaman employed in a ship registered in the United Kingdom shall not be subject to attachment [^{F41}or arrestment]) shall have effect, as respects England and Wales, subject to the said Act of 1971 as amended by subsection (1) of this section [^{F41}and, as respects Scotland, subject to the preceding subsection.]

Textual Amendments

F40 S. 39(2) repealed (S.) by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(3), **Sch 8**, (with Sch. 7 para. 5)

F41 Words repealed (S.) by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(3), **Sch. 8**, (with Sch. 7 para. 5)

Modifications etc. (not altering text)

C32 The text of ss. 39(1), 40(1) 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.

Marginal Citations

M42 1971 c. 32.

M43 1970 c. 36.

40 Foreign action affecting shipping.

- (1) In section 14 of the Merchant Shipping Act 1974 (which relates to foreign action affecting shipping)—
 - (a) ^{F42}
 - (b) in subsection (8) (which prohibits the disclosure of information otherwise than with the informant’s consent or for the purposes of the section) after paragraph (c) there shall be inserted the words “or”
 - (d) “in pursuance of a Community obligation to a Community institution”;
 - (c) ^{F42}
- (2) ^{F42}

Textual Amendments

F42 Ss. 40(1)(a)(c)(d)(2), 45(1) 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)

C33 The text of ss. 39(1), 40(1) 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.

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41 Application of Merchant Shipping Acts to certain structures etc.

- (1) The Secretary of State may by order provide that a thing designed or adapted for use at sea and described in the order is or is not to be treated as a ship for the purposes of any provision specified in the order of the Merchant Shipping Acts or the ^{M44}Prevention of Oil Pollution Act 1971 or an instrument made by virtue of any of those Acts; and such an order may—
 - (a) make different provision in relation to different occasions;
 - (b) if it provides that a thing is to be treated as a ship for the purposes of a provision specified in the order, provide that the provision shall have effect in relation to the thing with such modifications as are so specified.
- (2) Where the Secretary of State proposes to make an order in pursuance of the preceding subsection it shall be his duty, before he makes the order, to consult such persons about the proposal as appear to him to represent the persons in the United Kingdom who he considers are likely to be affected by the order.

Marginal Citations

M44 1971 c. 60.

Offences

42 Alteration of time for certain summary prosecutions.

- (1) Subsection (1) of section 683 of the ^{M45}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; . . . ^{F43}.
- (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) [^{F44}Section 127(2)–(4) of the Magistrates' Courts Act 1980] (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,

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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,”.

Textual Amendments

F43 Words amend [Merchant Shipping Act 1894 \(c. 60\), s. 683\(1\)](#)

F44 Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\), s. 155\(7\), Sch. 7 para. 186](#)

Marginal Citations

M45 [1894 c. 60.](#)

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) [^{F45}level 2 on the standard scale] if the enactment is mentioned in the said Part I;
- (b) [^{F45}level 3 on the standard scale] if the enactment is mentioned in the said Part II;
- (c) [^{F45}level 4 on the standard scale] if the enactment is mentioned in the said Part III; and
- (d) [^{F45}level 5 on the standard scale] 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,

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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 ^{M46}Prevention of Oil Pollution Act 1971 which are mentioned in those Parts) shall have effect with the amendments specified in those Parts.

(4) F46

(6) Nothing in any of the preceding provisions of this section . . . F47 applies to an offence committed before the provision or, as the case may be, the order comes into force.

Textual Amendments

F45 Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#); (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#) and (N.I.) [S.I. 1984/703 \(N.I. 3\), art. 5](#)

F46 [S. 43\(4\)\(5\)](#) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 78, Sch. 16](#)

F47 Words repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 78, Sch. 16](#)

Modifications etc. (not altering text)

C34 [S. 43\(2\)\(b\)](#) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 49\(1\)](#)

C35 The text of [s. 43\(3\)](#) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M46 [1971 c. 60.](#)

44 F48

Textual Amendments

F48 [S. 44](#) repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\), s. 57\(5\), Sch. 7](#), (with [s. 58\(4\), Sch. 8 para. 1](#))

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

(1) F49

(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”.

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Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

Textual Amendments

F49 Ss. 40(1)(a)(c)(d)(2), 45(1) 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)

C36 The text of s. 45(2)(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

^{F50} **46**

Textual Amendments

F50 S. 46 repealed (1.5.1994) by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**

Supplemental

^{F51} **47**

Textual Amendments

F51 S. 47 repealed (1.5.1994) by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2** and expressed to be repealed (1.1.1996) by 1995 c. 21, ss. 314(1), 316(2), **Sch. 12** (with s.312(1), Sch. 14 para. 1)

48 Application to hovercraft.

The enactments and instruments with respect to which provision may be made by Order in Council in pursuance of section 1(1)(h) of the ^{M47}Hovercraft Act 1968 shall include this Act and any instrument made under it.

Marginal Citations

M47 1968 c. 59.

49 Orders and regulations.

- (1) Any power to make an order or regulations conferred on the Secretary of State by this Act shall be exercisable by statutory instrument.
- (2) Section 738 of the ^{M48}Merchant Shipping Act 1894 (which among other things provides for the publication in the London Gazette, the laying before Parliament and the alteration and revocation of Orders in Council made under that Act or any Act amending that Act) shall not apply to an Order in Council made under this Act.

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- (3) No order shall be made in pursuance of section 3(1), 4(2), 8(5), 10(3) or 34(3) of this Act . . . ^{F52} unless a draft of the order . . . ^{F52} has been approved by resolution of each House of Parliament.
- (4) Any statutory instrument containing an order made by virtue of section 2(3), 41(1) or 43(4) of this Act or paragraph 11 of Part II of Schedule 3 or paragraph 3 or 5 of Part II of Schedule 4 to this Act or containing regulations made by virtue of section 11(2) (a), . . . ^{F53}, 22(3), 23(1), 25(4) or 30(2) of this Act . . . ^{F53} shall be subject to annulment in pursuance of a resolution by either House of Parliament.
- [^{F54}(4A) [^{F55}Except where subsection (4B) of this section applies,] Regulations of the following descriptions under section 21(1) of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament—
- (a) regulations under paragraph (a) of that subsection,
 - (b) regulations under paragraph (b) of that subsection which—
 - (i) relate to an international agreement laid before Parliament before 4th April 1979, or
 - (ii) relate to safety matters and give effect to amendments in force to an international agreement already implemented under that paragraph, and
 - (c) regulations under paragraph (c) of that subsection which contain a statement that they are made only for the purpose of applying to certain other ships the provisions of an international agreement implemented under paragraph (b) of that subsection;
- and regulations of any other description under section 21(1) of this Act shall not be made unless a draft of the regulations has been approved by resolution of each House of Parliament.]
- [^{F56}(4B) Regulations falling within paragraphs (a) to (c) of subsection (4A) of this section, if contained in the same instrument as any regulations requiring to be approved in draft by virtue of that subsection, shall also require to be so approved.]
- (5) Any statutory instrument containing an order made by virtue of paragraph 8(1) of Part II of Schedule 4 to this Act shall be laid before Parliament after being made.

Textual Amendments

F52 Words repealed by Safety at Sea Act 1986 (c. 23, SIF 111), s. 11(4)(c)

F53 Words repealed by Safety at Sea Act 1986 (c. 23, SIF 111), s. 11(4)(d)

F54 S. 49(4A) inserted by Safety at Sea Act 1986 (c. 23, SIF 111), s. 11(3)

F55 Words inserted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 48, Sch. 5, (with s. 58(4), Sch. 8 para. 1)

F56 S. 49(4B) inserted Merchant Shipping Act 1988 (c. 12, SIF 111), s. 48, Sch. 5, (with s. 58(4), Sch. 8 para. 1)

Marginal Citations

M48 1894 c. 60.

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VALID FROM 22/11/1994

50 Interpretation and repeals.

- (1) This Act shall be construed as one with the Merchant Shipping Acts.
- (2) In this Act—
 - ^{F57}
 - “contravention” includes failure to comply;
 - “functions” includes powers and duties;
 - “the Merchant Shipping Acts” means the Merchant Shipping Acts 1894 to 1977 . . . ^{F58} and, except in sections 22(3)(a) and 37(5) of this Act and the preceding subsection, this Act; and
 - “modifications” includes additions, omissions and alterations, and related expressions shall be construed accordingly.
- (3) Section 4 of the ^{M49}Aliens restriction (Amendment) Act 1919 (which prohibits an alien from holding a pilotage certificate for a pilotage district in the United Kingdom except in certain cases) shall cease to have effect.
- (4) The enactments mentioned in the first and second columns of Schedule 7 to this Act are hereby repealed to the extent specified in the third column of that Schedule. . . . ; but nothing in Part I of that Schedule shall affect the operation of any enactment in relation to such an occurrence as mentioned in section 19(4) of this Act.

Textual Amendments

F57 Definition repealed by [Pilotage Act 1987 \(c. 21, SIF 111\)](#), s 32(5), [Sch. 3](#)

F58 Words inserted by [Pilotage Act 1983 \(c. 21, SIF 111\)](#), s. 69(2), [Sch. 3 para. 7](#) and repealed by [Pilotage Act 1987 \(c. 21, SIF 111\)](#), s. 32(5), [Sch. 3](#)

Modifications etc. (not altering text)

C37 The text of s. 50(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

C38 The text of s. 50(4) is in the form in which it was originally enacted: it was not wholly reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Commencement Information

I2 [S. 50](#) partly in force; [s. 50](#) not in force at Royal Assent see [s. 52\(2\)](#); [s. 50\(4\)](#) in force for specified purposes at 22.11.1994 by [S.I. 1994/2789](#), art. 2, [Sch.](#)

Marginal Citations

M49 1919 c. 92.

51 Expenses etc.

- (1) There shall be paid out of money provided by Parliament—

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- (a) any administrative expenses incurred by a Minister of the Crown or a government department under this Act; and
 - (b) any increase attributable to this Act in the sums which, under any other Act, are payable out of money so provided.
- (2) The Treasury shall be entitled to charge a reasonable fee for any certificate given by or on behalf of the Treasury in pursuance of any provision contained in subsection (2) or (4)(c) of section 38 of this Act or paragraph 4 of Part III of Schedule 3 or paragraph 7 of Part II of Schedule 4 to this Act.
- (3) Any fees received by a Minister of the Crown by virtue of this Act shall be paid into the Consolidated Fund.

52 Citation and commencement.

- (1) This Act may be cited as the Merchant Shipping Act 1979 and this Act and the Merchant Shipping Acts 1894 to 1977 may be cited together as the Merchant Shipping Acts 1894 to 1979.
- (2) This Act shall come into force on such day as the Secretary of State may appoint by order, and different days may be appointed in pursuance of this subsection for different provisions of this Act or for different purposes of the same provision.

Modifications etc. (not altering text)

- C39** Power of appointment conferred by s. 52(2) partly exercised: [S.I. 1979/807](#), 1578, 1980/354, 923, 1981/405, 1982/1616, 1983/440, 1312, 1985/1827, 1986/1052, 1987/635, 719, 1989/1881
- [S. 52\(2\)](#) power partly exercised (2.11.1994): 22.11.1994 appointed for specified provisions by [S.I. 1994/2789](#), art. 2, [Sch.](#)

Status:

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Changes to legislation:

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