



Merchant Shipping Act 1979

1979 CHAPTER 39

Offences

42 Alteration of time for certain summary prosecutions.

- (1) Subsection (1) of section 683 of the ^{M1}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; . . . ^{F1}.
- (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) [^{F2}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, except subsection (1), applies to an offence committed before this section comes into force.

Status: Point in time view as at 01/02/1991.

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

- (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

F1 Words amend [Merchant Shipping Act 1894 \(c. 60\), s. 683\(1\)](#)

F2 Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\), s. 155\(7\), Sch. 7 para. 186](#)

Marginal Citations

M1 [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) [^{F3}level 2 on the standard scale] if the enactment is mentioned in the said Part I;
 - (b) [^{F3}level 3 on the standard scale] if the enactment is mentioned in the said Part II;
 - (c) [^{F3}level 4 on the standard scale] if the enactment is mentioned in the said Part III; and
 - (d) [^{F3}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,
- instead of the fine to which he would be liable for the offence apart from this subsection.

Status: Point in time view as at 01/02/1991.

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- (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 ^{M2}Prevention of Oil Pollution Act 1971 which are mentioned in those Parts) shall have effect with the amendments specified in those Parts.
- (4) ^{F4}
- (6) Nothing in any of the preceding provisions of this section . . . ^{F5} applies to an offence committed before the provision or, as the case may be, the order comes into force.

Textual Amendments

- F3** 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](#)
- F4** [S. 43\(4\)\(5\)](#) repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 78, Sch. 16](#)
- F5** Words repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 78, Sch. 16](#)

Modifications etc. (not altering text)

- C1** [S. 43\(2\)\(b\)](#) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 49\(1\)](#)
- C2** 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

- M2** [1971 c. 60.](#)

44 ^{F6}

Textual Amendments

- F6** [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) ^{F7}
- (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”.

Status: Point in time view as at 01/02/1991.

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

Textual Amendments

- F7** 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)

- C3** 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.

46 Offences by officers of bodies corporate.

- (1) Where [^{F8}an offence under—

- (a) section 23(6) or 28(1) of this Act, or
- (b) any Order in Council made by virtue of section 20(1) of this Act, or
- (c) any regulations made by virtue of section 20(4) or 21(1) of this Act,]

which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

- (2) Where the affairs of a body corporate are managed by its members the preceding subsection shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Textual Amendments

- F8** Words and s. 46(1)(a)–(c) substituted for words by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 48, [Sch. 5](#), (with s. 58(4), Sch. 8 para. 1)

Status:

Point in time view as at 01/02/1991.

Changes to legislation:

There are currently no known outstanding effects for the Merchant Shipping Act 1979, Cross Heading: Offences.