



Merchant Shipping Act 1894

1894 CHAPTER 60 57 and 58 Vict

PART XIII

LEGAL PROCEEDINGS

Modifications etc. (not altering text)

C1 Power to extend Pt. XIII conferred by [Foreign Jurisdiction Act 1890 \(c. 37\)](#), s. 5, [Sch. 1](#)

Prosecution of Offences

680 Prosecution of offences.

- (1) Subject to any special provisions of this Act . . . ^{F1},—
- (a) an offence under this Act declared to be a misdemeanor, shall be punishable by fine [^{F2}and by imprisonment] not exceeding two years, . . . ^{F3}, but may, instead of being prosecuted as a misdemeanor, be prosecuted summarily in manner provided by the Summary Jurisdiction Acts, and if so prosecuted shall be punishable only with imprisonment for a term not exceeding six months, . . . ^{F3}, [^{F2}and with a fine not exceeding one thousand pounds];
 - (b) an offence under this Act made punishable with imprisonment for any term not exceeding six months, . . . ^{F3}, or by a fine not exceeding [^{F4}level 5 on the standard scale], shall be prosecuted summarily in manner provided by the Summary Jurisdiction Acts.
- (2) Any offence committed or fine recoverable under a byelaw made in pursuance of this Act may be prosecuted or recovered in the same manner as an offence or fine under this Act.

(3) ^{F5}

[^{F6}(4) Subsection (2) above shall extend to Scotland, but save as aforesaid this section shall not extend to Scotland.]

Status: Point in time view as at 01/10/1995.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1894, Part XIII. (See end of Document for details)

Textual Amendments

- F1 Words repealed by Criminal Justice Act 1982 c. 48, SIF 39:1), Sch. 15 para. 3(a), Sch. 16, Sch. 17 para. 18
- F2 Words substituted by Merchant Shipping Act 1979 (c. 39), **Sch. 6 Pt. VII para. 9**
- F3 Words omitted by virtue of (E.W.) Criminal Justice Act 1948 (c. 58), **s. 1(2)** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21), **s. 221(2)** and repealed (N.I.) by Criminal Justice Act (Northern Ireland) 1953 (c. 14), **s. 1(2)**
- F4 Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 14 para. 2(1)**
- F5 S. 680(3) added by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 14 para. 2(2)** and repealed by S.I. 1984/703 (N.I. 3), **Sch. 7**
- F6 S. 680(4) inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 15 para. 3(b)**, Sch. 17 para. 18

Modifications etc. (not altering text)

- C2 S. 680(1)(a) amended by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 49(1)**

681 Application of Summary Jurisdiction Acts in certain cases.

- (1) The Summary Jurisdiction Acts shall, so far as applicable, apply—
 - (a) to any proceeding under this Act before a court of summary jurisdiction, whether connected with an offence punishable on summary conviction or not; and
 - (b) to the trial of any case before one justice of the peace, where, under this Act, such a justice may try the case.
- (2) Where under this Act any sum may be recovered as a fine under this Act, that sum, if recoverable before a court of summary jurisdiction, shall, in England [^{F7}or Northern Ireland], be recovered as a civil debt, in manner provided by the Summary Jurisdiction Acts.

Textual Amendments

- F7 Words in s. 681(2) inserted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para.58**; S.I. 1993/3137, **art. 3(2)**

682 ^{F8}

Textual Amendments

- F8 S. 682 repealed by Courts Act 1971 (c. 23), **Sch. 11 Pt. IV**

683 Limitation of time for summary proceedings.

- (1) Subject to any special provisions of this Act neither a conviction for an offence nor an order for payment of money shall be made under this Act in any summary proceeding instituted in the United Kingdom, unless that proceeding is commenced within six months [^{F9}beginning with] the commission of the offence, or [^{F9}beginning with the date on which] the cause of complaint arises as the case may be; or, if both or either of the parties to the proceeding happen during that time to be out of the United

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Kingdom, unless the same is commenced, in the case of a summary conviction within two months, and in the case of a summary order within six months, after they both first happen to arrive, or to be at one time, within the United Kingdom [^{F10}and, in the case of a summary conviction, before the expiration of three years beginning with the date on which the offence was committed].

- (2) Subject to any special provisions of this Act neither a conviction for an offence nor an order for payment of money shall be made under this Act in any summary proceeding instituted in any British possession, unless that proceeding is commenced within six months after the commission of the offence or after the cause of complaint arises as the case may be; or if both or either of the parties to the proceeding happen during that time not to be within the jurisdiction of any court capable of dealing with the case, unless the same is commenced in the case of a summary conviction within two months, and in the case of a summary order within six months after they both first happen to arrive, or to be at one time, within that jurisdiction.
- (3) No law for the time being in force under any Act, ordinance, or otherwise, which limits the time within which summary proceedings may be instituted shall affect any summary proceeding under this Act.
- (4) ^{F11}

Textual Amendments

- F9** Words in s. 683 substituted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para.59**; S.I. 1993/3137, **art. 3(2)**
F10 Words inserted by **Merchant Shipping Act 1979 (c. 39), s. 42(1)**
F11 S. 683(4) repealed by **Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), Sch. 1 Pt. XI**

Modifications etc. (not altering text)

- C3** S. 683(1) restricted by **Merchant Shipping Act 1979 (c. 39), s. 42**
S. 683 excluded (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para.59**; S.I. 1993/3137, **art. 3(2)**

Jurisdiction

684 Provision as to jurisdiction in case of offences.

For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed and every cause of complaint to have arisen either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

Modifications etc. (not altering text)

- C4** S. 684 applied (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para.60**; S.I. 1993/3137, **art. 3(2)**

685 Jurisdiction over ships lying off the coasts.

- (1) Where any district within which any court, justice of the peace, or other magistrate, has jurisdiction either under this Act or under any other Act or at common law for any purpose whatever is situate on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river, or other navigable water, every such court, justice, or

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magistrate shall have jurisdiction over any vessel being on, or lying or passing off, that coast, or being in or near that bay, channel, lake, river, or navigable water, and over all persons on board that vessel or for the time being belonging thereto, in the same manner as if the vessel or persons were within the limits of the original jurisdiction of the court, justice, or magistrate.

- (2) The jurisdiction under this section shall be in addition to and not in derogation of any jurisdiction or power of a court under the Summary Jurisdiction Acts.

686 Jurisdiction in case of offences on board ship.

- (1) Where any person, being a British subject, is charged with having committed any offence on board any British ship on the high seas or in any foreign port or harbour or on board any foreign ship to which he does not belong, or, not being a British subject, is charged with having committed any offence on board any British ship on the high seas, and that person is found within the jurisdiction of any court in Her Majesty's dominions, which would have had cognizance of the offence if it had been committed on board a British ship within the limits of its ordinary jurisdiction, that court shall have jurisdiction to try the offence as if it had been so committed.

^{F12}(2)

Textual Amendments

F12 S. 686(2) repealed (1.5.1994) by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, **art. 3(2)**

Modifications etc. (not altering text)

C5 S. 686 restricted by **Merchant Shipping Act 1970 (c. 36), s. 77(2)**; and s. 686(1) restricted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para.61**; S.I. 1993/3137, **art. 3(2)**

[687 ^{F13}Offences committed by British seamen.

- (1) Any act in relation to property or person done in or at any place (ashore or afloat) outside the United Kingdom by any master or seaman who at the time is employed in a United Kingdom ship, which, if done in any part of the United Kingdom, would be an offence under the law of any part of the United Kingdom, shall—
- (a) be an offence under that law, and
 - (b) be treated for the purposes of jurisdiction and trial as if it had been done within the jurisdiction of the Admiralty of England.
- (2) Subsection (1) above also applies in relation to a person who had been so employed within the period of three months expiring with the time when the act was done.
- (3) Subsections (1) and (2) above apply to omissions as they apply to acts.]

Textual Amendments

F13 S. 687 substituted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para.62**; S.I. 1993/3137, **art. 3(2)**

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[687A ^{F14}Offences by officers of bodies corporate.

- (1) Where a body corporate is guilty of an offence under the Merchant Shipping Acts or any instrument made under those Acts, and that offence 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 such a 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, subsection (1) above 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

F14 Ss. 687A, 687B inserted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para.63**; S.I. 1993/3137, **art. 3(2)**

^{F15}687B Offences by partners, etc in Scotland

Where, in Scotland, a partnership or unincorporated association (other than a partnership) is guilty of an offence under the Merchant Shipping Acts or any instrument made under those Acts, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner in the partnership or, as the case may be, a person concerned in the management or control of the association, he as well as the partnership or association shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Textual Amendments

F15 Ss. 687A, 687B inserted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para.63**; S.I. 1993/3137, **art. 3(2)**

Damage occasioned by Foreign Ship

[^{F16}688 Power to arrest foreign ship that has occasioned damage.

- (1) Whenever any injury has in any part of the world been caused to any property belonging to Her Majesty or to any of Her Majesty's subjects by any foreign ship, and at any time thereafter that ship is found in any port or river of the United Kingdom or within three miles of the coast thereof, a judge of any court of record in the United Kingdom (and in Scotland the Court of Session and also the sheriff of the [^{F17}sheriffdom] within whose jurisdiction the ship may be) may, upon its being shown to him by any person applying summarily that the injury was probably caused by the misconduct or want of skill of the master or mariners of the ship, issue an order directed to any [^{F18}officer of customs and excise] or other officer named by the judge, court, or sheriff, requiring him to detain the ship until such time as the owner, master, or consignee thereof has made satisfaction in respect of the injury, or has given security, to be approved by the judge, court, or sheriff, to abide the event of any action, suit, or other legal proceeding that may be instituted in respect of the injury, and to pay all costs and damages that may be awarded thereon; and any [^{F18}officer of customs and excise] or other officer to whom the order is directed shall detain the ship accordingly.

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- (2) Where it appears that, before an application can be made under this section, the ship in respect of which the application is to be made will have departed from the limits of the United Kingdom or three miles from the coast thereof, the ship may be detained for such time as will allow the application to be made, and the result thereof to be communicated to the officer detaining the ship, and that officer shall not be liable for any costs or damages in respect of the detention unless the same is proved to have been made without reasonable grounds.
- (3) In any legal proceeding in relation to any such injury aforesaid, the person giving security shall be made defendant or defender, and shall be stated to be the owner of the ship that has occasioned the damage; and the production of the order of the judge, court, or sheriff made in relation to the security shall be conclusive evidence of the liability of the defendant or defender to the proceeding.]

Textual Amendments

- F16** S. 688 repealed (E.W.)(N.I.) by [Administration of Justice Act 1956 \(c. 46\)](#), s. 7, Sch. 1 Pt. I para. 7, Pt. III, Sch. 2
- F17** Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), [Sch. 1 para. 1](#)
- F18** Words substituted by virtue of [Customs and Excise Management Act 1979 \(c. 2\)](#), [Sch. 4 para. 1](#)

Provisions in case of Offences Abroad

689 Conveyance of offenders and witnesses to United Kingdom or British possession.

- (1) Whenever any complaint is made to any British consular officer—
- (a) that any offence against property or person has been committed at any place, either ashore or afloat, out of Her Majesty's dominions by any master, [^{F19} or seaman], who at the time when the offence was committed, or within three months before that time, was employed in any British ship; or
 - (b) that any offence on the high seas has been committed by any master, [^{F19} or seaman] belonging to any British ship,
- that consular officer may inquire into the case upon oath, and may, if the case so requires, take any steps in his power for the purpose of placing the offender under the necessary restraint and of sending him as soon as practicable in safe custody to the United Kingdom, or to any British possession in which there is a court capable of taking cognizance of the offence, in any ship belonging to Her Majesty or to any of Her subjects, to be there proceeded against according to law.
- (2) The consular officer may [^{F20}, where no more convenient means of transport is available (or is available only at disproportionate expense),] order the master of any ship belonging to any subject of Her Majesty bound to the United Kingdom or to such British possession as aforesaid to receive and afford a passage and subsistence during the voyage to any such offender as aforesaid, and to the witnesses, so that the master be not required to receive more than one offender for every one hundred tons of his ship's registered tonnage, or more than one witness for every fifty tons of that tonnage; and the consular officer shall endorse upon the agreement of the ship such particulars with respect to any offenders or witnesses sent in her as the Board of Trade require.

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- (3) Any master of a ship to whose charge an offender has been so committed shall, on his ship's arrival in the United Kingdom or in such British possession as aforesaid, give the offender into the custody of some police officer or constable ^{F20} . . .
- (4) If any master of a ship, when required by any British consular officer to receive and afford a passage and subsistence to any offender or witness, does not receive him and afford a passage and subsistence to him, or does not deliver any offender committed to his charge into the custody of some police officer or constable as herein-before directed, he shall for each offence be liable to a fine not exceeding [^{F21} [^{F22}£1,0]] [^{F21}level 5 on the standard scale].
- (5) The expense of imprisoning any such offender and of conveying him and the witnesses to the United Kingdom or to such British possession as aforesaid in any manner other than in the ship to which they respectively belong, shall, where not paid as part of the costs of the prosecution, be paid out of moneys provided by Parliament.

Textual Amendments

- F19** Words substituted by [Merchant Shipping Act 1970 \(c. 36\), Sch. 3 para. 2](#)
- F20** Words in s. 689(2) inserted (1.5.1994) by 1993 c. 22, s. 8(3), [Sch. 4 para. 64\(a\)](#); S.I. 1993/3137, [art. 3\(2\)](#)
Words in s. 689(3) repealed (1.5.1994) by 1993 c. 22, s. 8(3)(4), [Sch. 4 para. 64\(b\)](#), [Sch. 5 Pt.II](#); S.I. 1993/3137, [art. 3\(2\)](#)
- F21** Words “level 5 on the standard scale” substituted (E.W.S) for “£1000” by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)
- F22** Word substituted by virtue of [Merchant Shipping Act 1979 \(c. 39\), s. 43\(1\), Sch. 6 Pt. IV](#)

Modifications etc. (not altering text)

- C6** [S. 689](#) restricted (1.5.1994) by 1993 c. 22, s. 8(3), [Sch. 4 para. 6\(1\)\(a\)](#); S.I. 1993/3137, [art. 3\(2\)](#)

690 ^{F23}

Textual Amendments

- F23** [S. 690](#) repealed by [Merchant Shipping Act 1970 \(c. 36\), s. 100, Sch. 5](#)

691 Depositions to be received in evidence when witness cannot be produced.

- (1) Whenever in the course of any legal proceeding instituted in any part of Her Majesty's dominions before any judge or magistrate, or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject matter of that proceeding, then upon due proof, if the proceeding is instituted in the United Kingdom that the witness cannot be found in that kingdom, or if in any British possession that he cannot be found in that possession, any deposition that the witness may have previously made on oath in relation to the same subject matter before any justice or magistrate in Her Majesty's dominions, or any British consular officer elsewhere, shall be admissible in evidence, provided that—
 - (a) if the deposition was made in the United Kingdom, it shall not be admissible in any proceeding instituted in the United Kingdom; and

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- (b) if the deposition was made in any British possession, it shall not be admissible in any proceeding instituted in that British possession; and
 - (c) if the proceeding is criminal it shall not be admissible, unless it was made in the presence of the person accused.
- (2) A deposition so made shall be authenticated by the signature of the judge, magistrate, or consular officer before whom it is made; and the judge, magistrate, or consular officer shall certify, if the fact is so, that the accused was present at the taking thereof.
- (3) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition, and in any criminal proceeding a certificate under this section shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.
- (4) Nothing herein contained shall affect any case in which depositions taken in any proceeding are rendered admissible in evidence by any Act of Parliament, or by any Act or ordinance of the legislature of any colony, so far as regards that colony, or interfere with the power of any colonial legislature to make those depositions admissible in evidence, or to interfere with the practice of any court in which depositions not authenticated as herein-before mentioned are admissible.

Detention of Ship and Distress on Ship

692 Enforcing detention of ship.

- (1) Where under this Act a ship is to be or may be detained, any commissioned officer on full pay in the naval or military service of Her Majesty, or any officer of the Board of Trade, or any [^{F24}officer of customs and excise], or any British consular officer may detain the ship, and if the ship after detention or after service on the master of any notice of or order for detention proceeds to sea before it is released by competent authority, the master of the ship, and also the owner, and any person who sends the ship to sea, if that owner or person is party or privy to the offence, shall be [^{F25}liable on conviction on indictment to a fine and on summary conviction to a fine not exceeding fifty thousand pounds.].
- (2) Where a ship so proceeding to sea takes to sea when on board thereof in the execution of his duty any officer authorised to detain the ship, or any surveyor or officer of the Board of Trade or any [^{F24}officer of customs and excise], the owner and master of the ship shall each be liable to pay all expenses of and incidental to the officer or surveyor being so taken to sea, and also [^{F26}on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds.]
- (3) Where under this Act a ship is to be detained, an [^{F24}officer of customs and excise] shall, and where under this Act a ship may be detained an [^{F24}officer of customs and excise] may, refuse to clear that ship outwards or to grant a transire to that ship.
- (4) Where any provision of this Act provides that a ship may be detained until any document is produced to the proper [^{F24}officer of customs and excise], the proper officer shall mean, unless the context otherwise requires, the officer able to grant a clearance or transire to such ship.
- [^{F27X1}(5) In its application to the Isle of Man, this section shall have effect as if for any reference to an officer of customs there were substituted a reference to an officer of the Isle of Man Harbour Board.]

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[^{F28X1}(5) Any reference in this section to proceeding to sea includes a reference to going on a voyage or excursion that does not involve going to sea, and references to sending or taking to sea shall be construed accordingly.]

Editorial Information

- X1** S. 692(5) commencing “In its application” inserted at the end of S. 692 by S.I. 1980/399, **Sch. Pt. I para. 9** and another S. 692(5) commencing “Any reference” added by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), **Sch. 6** (with s. 58(4), Sch. 8 para. 1)

Textual Amendments

- F24** Words substituted by virtue of Customs and Excise Management Act 1979 (c. 2), **Sch. 4 para. 1**
F25 Words substituted by Merchant Shipping Act 1979 (c. 39), **Sch. 6 Pt. VII para. 10**
F26 Words substituted by Merchant Shipping Act 1979 (c. 39), **Sch. 6 Pt. VII para. 11**
F27 S. 692(5) inserted by S.I. 1980/399, **Sch. Pt. I para. 9**
F28 S. 692(5) added by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), **Sch. 6** (with s. 58(4), Sch. 8 para. 1)

Modifications etc. (not altering text)

- C7** Power to modify s. 692 conferred by Merchant Shipping Act 1979 (c. 39), **s. 21(6)(a)**
C8 S. 692 extended (with modifications) by S.I. 1983/708, **regs. 2, 6**
C9 S. 692 modified by S.I. 1980/529, **reg. 30**, 1980/538, reg. 54, 1981/572, reg. 81, 1981/573, reg. 9, 1981/583, reg. 8, 1981/1729, reg. 17, 1981/1747, reg. 15, 1982/1699, regs. 3, 12(4), 1983/808, regs. 3, 14, 1983/1398, regs. 2(1)(2), 33(1)(2), 1984/408, regs. 3, 14, 1984/1203, regs. 2(4), 47, 1984/1216, regs. 1(3), 87, 1984/1217, regs. 1(3)(a), 65, 1984/1218, regs. 1(4), 147, 1985/1217, regs. 2, 9, 1985/1218, regs. 1, 76, 1985/1664, regs. 3, 15
C10 S. 692 applied by Aviation and Maritime Security Act 1990 (c.31, SIF 39:2), **s. 35(4)**
C11 S. 692 applied with modifications by S.I. 1989/100, **reg. 14**, 1989/1798, reg. 6
C12 S. 692 applied with modifications (2.4.1991) by S.I. 1991/65, **reg.12**
C13 S. 692 extended (with modifications) (1.2.1992) by S.I. 1992/3, **reg.46**
C14 S. 692 applied (with modifications) (28.7.1992) by S.I. 1992/1564, **reg. 8**
C15 S. 692 modified (31.10.1995) by S.I. 1995/2498, **reg. 18**
C16 S. 692 modified (1.8.1995) by S.I. 1995/1802, **reg. 15**
C17 S. 692 applied (with modifications) by S.I. 1995/157, **reg. 9**
C18 S. 692(1)–(3) applied with modifications by S.I. 1986/144, **reg. 13**, 1986/1066, reg. 29, 1986/1068, reg. 11, 1986/1073, reg. 11, 1987/549, reg. 11, 1987/550, reg. 11, 1987/551, reg. 30, 1988/38, reg. 7, 1988/1547, reg. 12, 1988/1636, reg. 9, 1988/1637, reg. 15, 1988/1638, reg. 12, 1988/1639, reg. 15, 1988/1641, reg. 16, 1988/1716, reg. 11, 1989/102, reg. 10, 1990/660, reg. 8, 1990/2605, reg. 18(1) S. 692(1)–(3) modified by: (15.2.1993) S.I. 1993/69, **reg.47**; (13.5.1993 and 1.4.1994) S.I. 1993/1072, **regs. 1,19**; (1.10.1993) S.I. 1993/1213, **reg.16**
C19 S. 692(1) applied with modifications by Prevention of Oil Pollution Act 1971 (c.60, SIF 111), **s. 19A(2)** (as inserted by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 148(1), **Sch. 14 para. 3**)
C20 S. 692(1)(2) applied with modifications (12.2.1992) by S.I. 1983/1398, **reg. 36(2)** (as inserted by S.I. 1992/98, **reg. 2**)
C21 S. 692(1)–(3) applied (with modifications) (31.10.1992) by S.I. 1992/2359, **reg. 25(1)**
C22 S. 692(1)–(3) modified (19.5.1994) by S.I. 1994/1383, **reg. 8**
C23 S. 692(1)–(3) applied (with modifications) (1.10.1994) by S.I. 1994/2464, **reg. 11**
C24 S. 692(2) amended by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 49(1)**
C25 S. 692(2) applied with modifications by Prevention of Oil Pollution Act 1971 (c. 60, SIF 111), **s. 19A(2)** (as inserted by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 148(1), **Sch. 14 para. 3**)

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C26 S. 692(5) modified by S.I 1988/1636, reg. 9, 1988/1637, reg. 15, 1988/1638, reg. 12, 1988/1639, reg. 15, 1988/1641, reg. 16
S. 692(5) modified (15.2.1993) by S.I. 1993/69, **reg.47**

693 Sums ordered to be paid leviable by distress on ship.

Where any court, justice of the peace, or other magistrate, has power to make an order directing payment to be made of any seaman’s wages, fines, or other sums of money, then, if the party so directed to pay the same is the master or owner of a ship, and the same is not paid at the time and in manner prescribed in the order, the court, justice of the peace, or magistrate who made the order may, in addition to any other powers they may have for the purpose of compelling payment, [^{F29}—

(a) except in Scotland, direct the amount remaining unpaid to be levied by distress,

(b) in Scotland, grant warrant authorising the ^{F30}arrestment and sale, of the ship and its equipment.]

Textual Amendments

F29 Words in s. 693 substituted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para.65**; S.I. 1993/3137, **art. 3(2)**

F30 Word “arrestment” substituted (S.) for word “pounding” by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(1), **Sch. 6 para. 10** (with Sch. 7 para. 5)

Evidence, Service of Documents, and Declarations

^{F31}**694**

Textual Amendments

F31 S. 694 repealed (21.3.1994) by 1993 c. 22, s. 8(4), **Sch. 5 Pts.I, II**; S.I. 1993/3137, **art. 3(2)**

695 Admissibility of documents in evidence.

(1) Where a document is by this Act declared to be admissible in evidence, such document shall, on its production from the proper custody, be admissible in evidence in any court or before any person having by law or consent of parties authority to receive evidence, and, subject to all just exceptions, shall be evidence [^{F32}and in Scotland sufficient evidence] of the matters stated therein in pursuance of this Act or by any officer in pursuance of his duties as such officer.

(2) A copy of any such document or extract therefrom shall also be so admissible in evidence [^{F32}and be evidence, and in Scotland sufficient evidence, of those matters] if proved to be an examined copy or extract, or if it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted, and that officer shall furnish such certified copy or extract to any person applying at a reasonable time for the same, upon payment of a reasonable sum for the same . . . ^{F33} but a person shall be entitled to have—

(a) ^{F34}

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- (b) a certified copy of any declaration, or document, a copy of which is made evidence by this Act,
on the payment . . . ^{F33} for each copy.
- (3) If any such officer wilfully certifies any document as being a true copy or extract knowing the same not to be a true copy or extract, he shall for each offence be guilty of a misdemeanor, and be liable on conviction to imprisonment for any term not exceeding [^{F35}two years].
- [^{F35}(3A) Without prejudice to section 6(1) of the Civil Evidence (Scotland) Act 1988 (production of copy documents), subsection (2) above shall not apply, for the purposes of civil proceedings in Scotland, as respects the admissibility of a copy document; but subsection (3) above shall apply to a person purporting to authenticate any such document and to authentication as it applies to an officer purporting to certify any such document and to certification.]
- [^{F35}(4) Subject to subsection (5) below, in Scotland if any person forges the seal, stamp or signature of any document (or copy document) declared by this Act to be admissible in evidence or tenders in evidence any such document (or copy document) with, and knowing it to have, a false or counterfeit seal, stamp or signature he shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding six months or to both; or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding seven years or to both.
- (5) Subsection (4) above does not apply in respect of actings which constitute an offence under section 722(1) of this Act.]

Textual Amendments

- F32** Words inserted by Merchant Shipping Act 1970 (c. 36), **Sch. 3 para. 3**
- F33** Words repealed by Merchant Shipping (Safety Convention) Act 1949 (c. 43), **Sch. 3**
- F34** S. 695(2)(a) repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), **Sch. 7** (with s. 58(4), Sch. 8 para. 1)
- F35** S. 695(4) repealed (E.W.N.I.) by Forgery and Counterfeiting Act 1981 (c. 45, SIF 39:7), s. 30, **Sch. Pt. I**; and substituted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para.72**; S.I. 1993/3137, **art. 3(2)**
Words in s. 695(3) substituted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para. 67(b)**; S.I. 1993/3137, **art. 3(2)**
S. 695(3A) inserted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para. 67(c)**; S.I. 1993/3137, **art. 3(2)**

Modifications etc. (not altering text)

- C27** Reference to penal servitude to be construed as reference to imprisonment: Criminal Justice Act 1948 (c. 58), s. **1(2)**Criminal Procedure (Scotland) Act 1975 (c. 21), s. **221(1)** and Criminal Justice Act (Northern Ireland) 1953 (c. 14), s. **1(1)**
S. 695(2) amended (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para. 67(a)**; S.I. 1993/3137, **art. 3(2)**

[^{F36}696 **Service of documents.**

- (1) Any document authorised or required to be served on any person may be served on that person—
- (a) by delivering it to him;
- (b) by leaving it at his proper address; or

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- (c) by sending it by post to him at his proper address.
- (2) Any such document authorised or required to be served on the master of a ship may be served—
- (a) where there is a master, by leaving it for him on board the ship with the person appearing to be in command or charge of the ship;
 - (b) where there is no master—
 - (i) on the managing owner of the ship; or
 - (ii) if there is no managing owner, on any agent of the owner; or
 - (iii) where no such agent is known or can be found, by leaving a copy of the document fixed to the mast of the ship.
- (3) Any document authorised or required to be served on any person may—
- (a) in the case of a body corporate, be served on the secretary or clerk of that body;
 - (b) in the case of a partnership, be served on a partner or a person having the control or management of the partnership business or, in Scotland, on the firm.
- (4) Any notice authorised or required by, or by regulations under, the Merchant Shipping (Registration, etc.) Act 1993 to be served on the Secretary of State may be served by post.
- (5) Any notice authorised by Part I of the Merchant Shipping Act 1984 to be given to an inspector may be given by delivering it to him or by leaving it at, or sending it by post to, his office.
- (6) Any document authorised or required by or under any enactment to be served on the registered owner of a registered ship shall be treated as duly served on him if served on such person, in such circumstances and by such method, as may be specified in registration regulations.
- (7) For the purposes of this section and of section 7 of the Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of any person on whom any document is to be served shall be his last known address, except that—
- (a) in the case of a body corporate or their secretary or clerk it shall be the address of the registered or principal office of that body;
 - (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be the principal office of the partnership;
- and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be their principal office in the United Kingdom.
- (8) If the person to be served with any notice has (whether in pursuance of registration regulations or otherwise) specified an address in the United Kingdom other than his proper address within the meaning of subsection (7) above as the one at which he or someone on his behalf will accept notices of the same description as that notice, that address shall also be treated for the purposes of this section and section 7 of the Interpretation Act 1978 as his proper address.
- (9) For the purposes of the said section 7 a letter containing—
- (a) a notice to be served on any person in pursuance of subsection (6) above, or
 - (b) a notice authorised or required to be served under registration regulations on a representative person (within the meaning of those regulations),

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shall be deemed to be properly addressed if it is addressed to that person at the address for the time being recorded in relation to him in the register; and a letter containing any other notice under registration regulations shall be deemed to be properly addressed if it is addressed to the last known address of the person to be served (whether of his residence or of a place where he carries on business).]

Textual Amendments

F36 S. 696 substituted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para.68**; S.I. 1993/3137, **art. 3(2)**

697 Proof, &c. of exemption.

[^{F37}(1)] Any exception, exemption, proviso, excuse, or qualification, in relation to any offence under this Act, whether it does or does not accompany in the same section the description of the offence, may be proved by the defendant, but need not be specified or negatived in any information or complaint, and, if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant.

[^{F37}(2) This section does not apply to Scotland.]

Textual Amendments

F37 S. 697 renumbered as s. 697(1) and s. 697(2) added (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para.69**; S.I. 1993/3137, **art. 3(2)**

^{F38}**698**

Textual Amendments

F38 S. 698 repealed (21.3.1994) by 1993 c. 22, s. 8(4), **Sch. 5 Pts.I, II**; S.I. 1993/3137, **art. 3(2)**

Application of Penalties and Costs of Prosecutions

^{F39}**699**

Textual Amendments

F39 S. 699 repealed (1.5.1994) by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, **art. 3(2)**

^{F40}**700**

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Textual Amendments

F40 S. 700 repealed (1.5.1994) by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, **art. 3(2)**

701 ^{F41}

Textual Amendments

F41 S. 701 repealed by Costs in **Criminal Cases Act 1908 (c. 15)**, **Sch.**

Procedure in Scotland

702 Offences punishable as misdemeanors.

^{F42} . . . In Scotland every offence which by this Act is described as a felony or misdemeanor may be prosecuted by indictment ^{F42} ^{F43} and shall be punishable [^{F44}, subject to any maximum penalty prescribed in respect of any particular offence in this Act,] with a fine ^{F42} . . . or with imprisonment . . . ^{F45}, or with both, as the court may think fit. ^{F42} . . .

Textual Amendments

F42 Words in s. 702 repealed (1.5.1994) by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, **art. 3(2)**

F43 Words repealed by virtue of **Merchant Shipping Act 1906 (c. 48)**, **s. 82(3)**

F44 Words inserted by **Merchant Shipping Act 1979 (c. 39)**, **Sch. 6 Pt. VII para. 13**

F45 Words omitted by virtue of **Criminal Procedure (Scotland) Act 1975 (c. 21)**, **s. 221(2)**

Modifications etc. (not altering text)

C28 S. 702 amended by **Merchant Shipping Act 1906 (c. 48)**, **s. 82(3)**

703 Summary proceedings.

[^{F46}In Scotland—

[subject to section 43(2) of the ^{M1}Merchant Shipping Act 1979 (which among
^{F47}(a) other things makes certain offences triable either summarily or on indictment), any offence under this Act which was triable only summarily immediately before 1st January 1980 (the date of commencement of the said section 43) shall continue to be so triable and shall be deemed to have been so triable at all times since that date;

(aa) subject to any special provisions of this Act —

(i) an offence under this Act described as a misdemeanour shall be triable either summarily or on indictment and, subject to any other penalty prescribed in respect of any particular offence, shall be punishable on summary conviction with a fine not exceeding the statutory maximum or imprisonment for a term not exceeding 6 months or both, and on conviction on indictment with a fine or imprisonment for a term not exceeding 2 years or both;

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- (ii) subject to sub-paragraph (i) above, an offence under this Act made punishable with imprisonment for any term not exceeding 6 months or with a fine or a maximum fine which does not exceed level 5 on the standard scale shall be triable only summarily;
- (iii) an offence under this Act not falling within paragraph (a) above or the preceding provisions of this paragraph shall be triable either summarily or on indictment:

Provided that in relation to the period before the commencement of section 54 of the Criminal Justice Act 1982 sub-paragraph (ii) above shall have effect as if for “level 5 on the standard scale” there were substituted “£1,0”;

- (b) all prosecutions in respect of offences under this Act in respect of which the maximum penalty which may be imposed does not exceed imprisonment for a period of three months or a fine of [^{F48}two hundred pounds][^{F48}level 4 on the standard scale] or both may be tried in a summary manner before the district court.]

Textual Amendments

- F46** S. 703 substituted by Merchant Shipping Act 1979 (c. 39), Sch. 6 Pt. VII para. 14
- F47** S. 703(a)(aa) substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), Sch. 15 para. 5, Sch. 17 para. 18
- F48** Words “level 4 on the standard scale” substituted (S.) for “two hundred pounds” by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 56, Sch. 7 para. 1

Marginal Citations

- M1** 1979 c.39 (111).

^{F49}704

Textual Amendments

- F49** S. 704 repealed (1.5.1994) by 1993 c. 22, s. 8(3)(4), Sch. 4 para. 75, Sch. 5 Pt.II; S.I. 1993/3137, art. 3(2)

^{F50}705

Textual Amendments

- F50** S. 705 repealed (1.5.1994) by 1993 c. 22, s. 8(3)(4), Sch. 4 para. 75, Sch. 5 Pt.II; S.I. 1993/3137, art. 3(2)

^{F51}706

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Textual Amendments

F51 S. 706 repealed (1.5.1994) by 1993 c. 22, s. 8(3)(4), Sch. 4 para. 75, **Sch. 5 Pt.II**; S.I. 1993/3137, **art. 3(2)**

F52 ~~707~~

Textual Amendments

F52 S. 707 repealed (1.5.1994) by 1993 c. 22, s. 8(3)(4), Sch. 4 para. 75, **Sch. 5 Pt.II**; S.I. 1993/3137, **art. 3(2)**

F53 ~~708~~

Textual Amendments

F53 S. 708 repealed (1.5.1994) by 1993 c. 22, s. 8(3)(4), Sch. 4 para. 75, **Sch. 5 Pt.II**; S.I. 1993/3137, **art. 3(2)**

F54 ~~709~~

Textual Amendments

F54 S. 709 repealed (1.5.1994) by 1993 c. 22, s. 8(3)(4), Sch. 4 para. 75, **Sch. 5 Pt.II**; S.I. 1993/3137, **art. 3(2)**

710 General rules, so far as applicable, to extend to penalties and proceedings in Scotland.

Nothing in this Act shall be held in any way to annul or restrict the common law in Scotland with regard to the prosecution [^{F55}of offences at the instance or on the authority or with the concurrence of the Lord Advocate or on the authority of the High Court or to any punishment consequent on such prosecution], or the rights of owners or creditors in regard to enforcing a judicial sale of any ship and tackle, or to give to the High Court in England any jurisdiction in respect of salvage in Scotland which it has not heretofore had or exercised.

Textual Amendments

F55 Words in s. 710 substituted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para.76**; S.I. 1993/3137, **art. 3(2)**

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Prosecution of Offences in Colonies

711 Prosecution of offences in British possession.

Any offence under this Act shall, in any British possession, be punishable by any court or magistrate by whom an offence of a like character is ordinarily punishable, or in such other manner as may be determined by any Act or ordinance having the force of law in that possession.

Application of Part XIII

712 Application of Part XII

This Part of this Act shall, except where otherwise provided, apply to the whole of Her Majesty's dominions.

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Merchant Shipping Act 1894, Part XIII.