



Merchant Shipping Act 1995

1995 CHAPTER 21

PART XII U.K.

LEGAL PROCEEDINGS

Special evidential provisions

286 Depositions of persons abroad admissible. U.K.

- (1) If the evidence of any person is required in the course of any legal proceeding before a judge or magistrate in relation to the subject matter of the proceeding and it is proved that that person cannot be found in the United Kingdom, any deposition that he may have previously made at a place outside the United Kingdom in relation to the same subject matter shall, subject to subsection (2) below, be admissible in evidence in those proceedings.
- (2) For a deposition to be admissible under subsection (1) above in any proceedings, the deposition—
 - (a) must have been taken on oath;
 - (b) must have been taken before a justice or magistrate in any colony or a British consular officer in any other place;
 - (c) must be authenticated by the signature of the justice, magistrate or officer taking it; and
 - (d) must, if the proceedings are criminal proceedings, have been taken in the presence of the accused;

and, in a case falling within paragraph (d) above, the deposition shall be certified by the justice, magistrate or officer taking it to have been taken in the presence of the accused.

- (3) No proof need be given of the signature or official character of the person appearing to have signed any such deposition and, in any criminal proceedings, a certificate stating that the deposition was taken in the presence of the accused shall, unless the contrary is proved, be evidence (and in Scotland sufficient evidence) of that fact.

Changes to legislation: Merchant Shipping Act 1995, Cross Heading: Special evidential provisions is up to date with all changes known to be in force on or before 17 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) This section also applies to proceedings before any person authorised by law or consent of the parties to receive evidence.
- (5) Nothing in this section affects the admissibility in evidence of depositions under any other enactment or the practice of any court.

287 Admissibility in evidence and inspection of certain documents. U.K.

- (1) The following documents shall be admissible in evidence and, when in the custody of the Registrar General of Shipping and Seamen, shall be open to public inspection—
 - (a) documents purporting to be submissions to or decisions by superintendents or proper officers under section 33;
 - (b) the official log book of any ship kept under section 77 and, without prejudice to section 288(2), any document purporting to be a copy of an entry therein and to be certified as a true copy by the master of the ship;
 - (c) crew agreements, lists of crews made under section 78 and notices given under Part III of additions to or changes in crew agreements and lists of crews;
 - (d) returns or reports under section 108;
 - (e) documents transmitted to the Registrar General of Shipping and Seamen under section 298.
- (2) A certificate issued under section 47 shall be admissible in evidence.

288 Admissibility of documents in evidence. U.K.

- (1) Where a document is by this Act declared to be admissible in evidence the document shall, on its production from proper custody—
 - (a) be admissible in evidence in any court or before any person having by law or consent of parties authority to receive evidence; and
 - (b) subject to all just exceptions, be evidence (or in Scotland sufficient evidence) of the matters stated in the document.
- (2) A copy of, or extract from, any document so made admissible in evidence shall, subject to subsection (3) below, also be admissible in evidence and evidence (and in Scotland sufficient evidence) of the matters stated in the document.
- (3) A copy of, or extract from, a document shall not be admissible by virtue of subsection (2) above unless—
 - (a) it is proved to be an examined copy or extract; or
 - (b) 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 the certified copy or extract to any person who applies for it at a reasonable time and pays such reasonable price as the Secretary of State determines.
- (4) A person shall, on payment of such reasonable price as the Secretary of State determines, be entitled to have a certified copy of any declaration or document a copy of which is made evidence by this Act.
- (5) If any officer having duties of certification under subsection (3) above in relation to any document intentionally certifies any document as being a true copy or extract knowing that the copy or extract is not a true copy or extract he shall be liable—

Changes to legislation: Merchant Shipping Act 1995, Cross Heading: Special evidential provisions is up to date with all changes known to be in force on or before 17 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (6) Subject to subsection (7) 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.
- (7) Subsection (6) above does not apply in respect of actings which constitute an offence under section 300(8).
- (8) Without prejudice to section 6(1) of the ^{M1}Civil Evidence (Scotland) Act 1988 (production of copy documents) subsections (2) and (3) above shall not apply, for the purposes of civil proceedings in Scotland, as respects the admissibility of a copy document; but subsection (5) 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.

Marginal Citations

M1 1988 c. 32.

289 Inspection and admissibility in evidence of copies of certain documents. U.K.

- (1) Where under any enactment a document is open to public inspection when in the custody of the Registrar General of Shipping and Seamen—
- (a) there may be supplied for public inspection a copy or other reproduction of the document instead of the original; but
 - (b) the original shall nevertheless be made available for public inspection if the copy or other reproduction is illegible.
- (2) Where the Registrar General of Shipping and Seamen destroys any document which has been sent to him under or by virtue of any enactment, and keeps a copy or other reproduction of that document, then—
- (a) any enactment providing for that document to be admissible in evidence or open to public inspection, and
 - (b) in the case of a document falling within subsection (1) above, that subsection, shall apply to the copy or other reproduction as if it were the original.
- (3) For the purposes of this section, and of section 288(2) in its application to documents in the custody of the Registrar General of Shipping and Seamen, a copy is to be taken to be the copy of a document notwithstanding that it is taken from a copy or other reproduction of the original.

Changes to legislation: Merchant Shipping Act 1995, Cross Heading: Special evidential provisions is up to date with all changes known to be in force on or before 17 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

290 Proof, etc of exemptions. E+W+N.I.

- (1) Where any exception, exemption, excuse or qualification applies in relation to an offence under this Act—
 - (a) it may be proved by the defendant, but
 - (b) need not be specified or negatived in any information or complaint;and, if so specified or negatived, shall not require to be proved by the informant or complainant.
- (2) This section applies in relation to an offence whether or not the exception, exemption, excuse or qualification is contained in the section creating the offence.
- (3) This section does not apply to Scotland.

Changes to legislation:

Merchant Shipping Act 1995, Cross Heading: Special evidential provisions is up to date with all changes known to be in force on or before 17 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 145(2)(a)(ia) inserted by [2003 c. 44 Sch. 36 para. 13\(2\)](#)
- s. 145(2)(a)(ia) words substituted by [2015 c. 2 Sch. 11 para. 16\(2\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 145(2)(a)(ia) by 2003 c. 44, Sch. 36 para. 13 is still prospective.)
- s. 145(2A) inserted by [2003 c. 44 Sch. 36 para. 13\(3\)](#)
- s. 145(2A) words substituted by [2015 c. 2 Sch. 11 para. 16\(3\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 145(2A) by 2003 c. 44, Sch. 36 para. 13 is still prospective.)