



# Merchant Shipping Act 1995

## 1995 CHAPTER 21

### PART XII

#### LEGAL PROCEEDINGS

##### *Prosecution of offences*

#### **274 Time limit for summary offences.**

- (1) Subject to subsections (2) and (3) below, no person shall be convicted of an offence under this Act in summary proceedings unless—
  - (a) the proceedings were commenced within six months beginning with the date on which the offence was committed; or
  - (b) in a case where the accused happens during that period to be out of the United Kingdom, the proceedings were commenced within two months after he first happens to arrive within the United Kingdom and before the expiration of three years beginning with the date on which the offence was committed.
- (2) Nothing in subsection (1) above shall apply in relation to any indictable offence.
- (3) Subsection (1) above 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 paragraph (a) above if throughout that period the accused was absent from the United Kingdom.
- (4) For the purpose of subsection (3) above—
  - (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

*Status: Point in time view as at 21/07/2022.*

*Changes to legislation: Merchant Shipping Act 1995, Cross Heading: Prosecution of offences is up to date with all changes known to be in force on or before 15 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)*

- (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.
- (5) In the application of this section to Scotland—
- (a) in subsection (3)(a) above, 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 (4)(a) and (b) above, for the words “Secretary of State” there shall be substituted the words “ Lord Advocate or the Secretary of State, as the case may be, ”.

#### **275 Time limit for summary orders.**

No order for the payment of money shall be made under this Act in proceedings before a magistrates’ court unless—

- (a) the proceedings were commenced within six months beginning with the date on which the matter of complaint arose; or
- (b) in a case where both or either of the parties to the proceedings happen during that period to be out of the United Kingdom, the proceedings were commenced within six months after they both first happen to arrive, or to be at one time, within the United Kingdom.

#### **276 Summary offences: Scotland.**

In Scotland 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 level 4 on the standard scale or both may be tried in a summary manner before the district court.

#### **277 Offences by officers of bodies corporate.**

- (1) Where a body corporate is guilty of an offence under this Act or any instrument made under it, 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.

#### **Modifications etc. (not altering text)**

- C1** S. 277 extended (with modifications) to Jersey (1.12.1997) by [S.I. 1997/2598](#), arts. 2, 3, [Sch. 1](#)  
S. 277 extended (with modifications) to Guernsey (11.3.1998) by [S.I. 1998/260](#), arts. 2, 3, [Sch. 1](#)  
s. 277 applied (20.1.1998) by [S.I. 1997/3022](#), [reg. 7](#)

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## [<sup>F1</sup>277A Accessories and abettors

Any person who-knowingly or wilfully aids, abets, counsels, causes, procures or commands the commission of an offence under this Act shall be liable to be dealt with, tried and punished as a principal offender.]

### Textual Amendments

**F1** S. 277A inserted (Jersey) (1.12.1997) by [S.I. 1997/2598, art. 3](#) and (Guernsey) (11.3.1998) by [S.I. 1998/260, art. 3](#)

## 278 Offences by partners, etc. in Scotland.

Where, in Scotland, a partnership or unincorporated association (other than a partnership) is guilty of an offence under this Act or any instrument made under it, 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.

### Modifications etc. (not altering text)

**C2** S. 277 applied (20.1.1998) by [S.I. 1997/3022, reg. 7](#)

**Status:**

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**Changes to legislation:**

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