



Merchant Shipping Act 1995

1995 CHAPTER 21

PART VI

PREVENTION OF POLLUTION

CHAPTER II

OIL POLLUTION

Enforcement

145 Interpretation of section 144

- (1) This section has effect for the interpretation of the references in section 144 to the institution of proceedings or their conclusion without the master or owner of a ship being convicted of an offence under section 131.
- (2) For the purposes of section 144 in its application to England and Wales—
 - (a) proceedings for an offence under section 131 are instituted—
 - (i) when a justice of the peace issues a summons or warrant under section 1 of the ^{M1}Magistrates' Courts Act 1980 in respect of the offence;
 - (ii) when a person is charged with the offence after being taken into custody without a warrant;
 - (iii) when a bill of indictment is preferred under section 2(2)(b) of the ^{M2}Administration of Justice (Miscellaneous Provisions) Act 1933; and
 - (b) proceedings for the offence are concluded without the master or owner being convicted on the occurrence of one of the following events—
 - (i) the discontinuance of the proceedings;
 - (ii) the acquittal of the master or owner;
 - (iii) the quashing of the master's or owner's conviction of the offence;

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- (iv) the grant of Her Majesty's pardon in respect of the master's or owner's conviction of the offence.
- (3) For the purposes of section 144 in its application to Northern Ireland—
- (a) proceedings for an offence under section 131 are instituted—
 - (i) when a justice of the peace issues a summons or warrant under Article 20 of the ^{M3}Magistrates' Courts (Northern Ireland) Order 1981;
 - (ii) when a person is charged with the offence after being taken into custody without a warrant;
 - (iii) when an indictment is presented under section 2(2)(c), (e) or (f) of the ^{M4}Grand Jury (Abolition) Act (Northern Ireland) 1969; and
 - (b) proceedings for an offence under section 131 are concluded without the master or owner being convicted on the occurrence of one of the following events—
 - (i) the discontinuance of the proceedings;
 - (ii) the acquittal of the master or owner;
 - (iii) the quashing of the master's or owner's conviction of the offence;
 - (iv) the grant of Her Majesty's pardon in respect of the master's or owner's conviction of the offence.
- (4) Where the application of subsection (2)(a) or (3)(a) above would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of those times.
- (5) For the purposes of section 144 in its application to Scotland—
- (a) proceedings for an offence under section 131 are instituted—
 - (i) on the granting by the sheriff of a warrant in respect of the offence on presentation of a petition under section 12 of the ^{M5}Criminal Procedure (Scotland) Act 1975;
 - (ii) when, in the absence of a warrant or citation, the master or owner is first brought before a court competent to deal with the case;
 - (iii) when, in a case where he is liberated upon a written undertaking in terms of section 18(2)(a), 294(2)(a) or 295(1)(a) of the Criminal Procedure (Scotland) Act 1975, the master or owner appears at the specified time;
 - (iv) when, in a case mentioned in (iii) above where the master or owner fails to appear at the specified court at the specified time, the court grants warrant for his apprehension;
 - (v) when summary proceedings are commenced in terms of section 331(3) of the Criminal Procedure (Scotland) Act 1975;
 - (b) proceedings for an offence under section 131 are concluded without the master or owner being convicted on the occurrence of one of the following events—
 - (i) the court makes a finding of not guilty or not proven against the master or owner in respect of the offence;
 - (ii) the proceedings are expressly abandoned (other than *pro loco et tempore*) by the prosecutor or are deserted simpliciter;
 - (iii) the conviction is quashed;
 - (iv) the accused receives Her Majesty's pardon in respect of the conviction.

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Modifications etc. (not altering text)

- C1** S. 145 applied (with modifications) (with application in accordance with reg. 4 of the amending S.I.) by The Merchant Shipping and Fishing Vessels (Control of Vibration at Work) Regulations 2007 (S.I. 2007/3077), regs. 1, **16(7)**
- C2** S. 145 applied (with modifications) (with application in accordance with reg. 4 of the amending S.I.) by The Merchant Shipping and Fishing Vessels (Control of Noise at Work) Regulations 2007 (S.I. 2007/3075), regs. 1, **17(7)**
- C3** S. 145 applied (with modifications) (1.3.2008) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007 (S.I. 2007/3100), regs. 1, **20(7)**
- C4** S. 145 applied (with modifications) (8.12.2008) by The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 (S.I. 2008/2924), regs. 1, **29(7)** (with reg. 3)
- C5** S. 145 applied (with modifications) (8.12.2008) by The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 (S.I. 2008/2924), regs. 1, **28(11)** (with reg. 3)
- C6** S. 145 applied (with modifications) (1.2.2009) by The Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008 (S.I. 2008/3257), regs. 1(2), **38(11)** (with reg. 6(17))
- C7** S. 145 applied (with modifications) (1.2.2009) by The Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008 (S.I. 2008/3257), regs. 1(2), **39(7)** (with reg. 6(17))
- C8** S. 145 applied (with modifications) (1.12.2009) by The Merchant Shipping (Anti-Fouling Systems) Regulations 2009 (S.I. 2009/2796), regs. 1, **12(11)** (with reg. 3)
- C9** S. 145 applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations 2010 (S.I. 2010/323), regs. 1, **25(7)** (with regs. 4, 5)
- C10** S. 145 applied (with modifications) (6.4.2010) by The Merchant Shipping (Passenger Ships) (Safety Code for UK Categorised Waters) Regulations 2010 (S.I. 2010/680), regs. 1(2), **22(9)** (with reg. 3)
- C11** S. 145 applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010 (S.I. 2010/330), regs. 1, **18(7)** (with regs. 4, 5)
- C12** S. 145 applied (with modifications) (6.4.2010) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Work at Height) Regulations 2010 (S.I. 2010/332), regs. 1, **20(7)** (with regs. 4, 5)
- C13** S. 145 applied (with modifications) (10.1.2011) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Artificial Optical Radiation) Regulations 2010 (S.I. 2010/2987), regs. 1, **14(7)**
- C14** S. 145 applied (10.1.2011) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Asbestos) Regulations 2010 (S.I. 2010/2984), regs. 1, **24(7)**
- C15** S. 145 applied (with modifications) (15.8.2013) by The Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013 (S.I. 2013/1785), regs. 1, **17(8)**
- C16** S. 145 applied (with modifications) (17.3.2014) by S.I. 2002/2125, **reg. 17A(9)** (as inserted by The Merchant Shipping (Maritime Labour Convention) (Hours of Work) (Amendment) Regulations 2014 (S.I. 2014/308), regs. 1(2), **2(19)**)
- C17** S. 145 applied (with modifications) (18.7.2014) by The Merchant Shipping (International Safety Management (ISM) Code) Regulations 2014 (S.I. 2014/1512), regs. 1(1), **14(10)** (with reg. 3)
- C18** S. 145 applied (with modifications) (7.8.2014) by The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (S.I. 2014/1613), regs. 1(2), **56(6)**
- C19** S. 145 applied (with modifications) (13.10.2014) by S.I. 1997/2962, **reg. 27B(10)** (as inserted by The Merchant Shipping (Maritime Labour Convention) (Health and Safety) (Amendment) Regulations 2014 (S.I. 2014/1616), regs. 1(2), **2(18)**)

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- C20** S. 145 applied (with modifications) (21.11.2016) by The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Electromagnetic Fields) Regulations 2016 (S.I. 2016/1026), regs. 1, **13(7)** (with reg. 4)
- C21** S. 145 applied (with modifications) (23.10.2017) by The Fishing Vessels (Codes of Practice) Regulations 2017 (S.I. 2017/943), regs. 1, **12(7)** (with reg. 3)
- C22** S. 145 applied (with modifications) (12.3.2018) by The Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations 2018 (S.I. 2018/68), regs. 1(1), **34(11)** (with reg. 5)
- C23** S. 145 applied (with modifications) (12.3.2018) by The Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations 2018 (S.I. 2018/68), regs. 1(1), **35(7)** (with reg. 5)
- C24** S. 145 applied (with modifications) (6.4.2018) by The Merchant Shipping (Maritime Labour Convention) (Hours of Work) Regulations 2018 (S.I. 2018/58), regs. 1, **22(5)(6)** (with regs. 3, 4)
- C25** S. 145 applied (with modifications) (1.3.2019) by The Merchant Shipping (Prevention of Oil Pollution) Regulations 2019 (S.I. 2019/42), regs. 1(1), **38(11)**, **39(7)** (with regs. 2, 5)
- C26** S. 145 applied (with modifications) (30.11.2019) by The Merchant Shipping (Work in Fishing Convention) (Survey and Certification) Regulations 2018 (S.I. 2018/1107), regs. 1(2), **11(8)** (with reg. 3)
- C27** S. 145 applied (with modifications) (22.7.2020) by The Merchant Shipping (Prevention of Pollution by Sewage from Ships) Regulations 2020 (S.I. 2020/620), regs. 1(2), **26(11)**, 27(7)
- C28** S. 145 applied (with modifications) (22.7.2020) by The Merchant Shipping (Prevention of Pollution by Garbage from Ships) Regulations 2020 (S.I. 2020/621), regs. 1(2), **17(11)**
- C29** S. 145 applied (with modifications) (22.7.2020) by The Merchant Shipping (Prevention of Pollution by Garbage from Ships) Regulations 2020 (S.I. 2020/621), regs. 1(2), **18(7)**
- C30** S. 145 applied (with modifications) (26.12.2020) by S.I. 2018/1106, **reg. 28A** (as inserted by The Merchant Shipping (Maritime Labour Convention and Work in Fishing Convention) (Amendment) Regulations 2020 (S.I. 2020/1166), regs. 1, **3(3)**)

Marginal Citations

- M1** 1980 c. 43.
- M2** 1933 c. 36.
- M3** S.I. 1981/1675 (NI 26).
- M4** 1969 c. 15 (N.I.).
- M5** 1975 c. 21.

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