



Merchant Shipping Act 1995

1995 CHAPTER 21

PART IV

SAFETY

Unsafe ships

98 Owner and master liable in respect of dangerously unsafe ship.

- (1) If a ship which—
- (a) is in a port in the United Kingdom, or
 - (b) is a United Kingdom ship and is in any other port,
- is dangerously unsafe, then, subject to subsections (4) and (5) below, the master and the owner of the ship shall each be guilty of an offence.
- (2) Where, at the time when a ship is dangerously unsafe, any responsibilities of the owner with respect to the matters relevant to its safety have been assumed (whether wholly or in part) by any person or persons other than the owner, and have been so assumed by that person or (as the case may be) by each of those persons either—
- (a) directly, under the terms of a charter-party or management agreement made with the owner, or
 - (b) indirectly, under the terms of a series of charter-parties or management agreements,
- the reference to the owner in subsection (1) above shall be construed as a reference to that other person or (as the case may be) to each of those other persons.
- (3) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to [^{F1}a fine not exceeding £50,000][^{F1}a fine];
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (4) It shall be a defence in proceedings for an offence under this section to prove that at the time of the alleged offence—

Status: Point in time view as at 31/03/2023.

Changes to legislation: Merchant Shipping Act 1995, Section 98 is up to date with all changes known to be in force on or before 14 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)

- (a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters relevant to its safety which are specified in the charge (or, in Scotland, which are labelled in the complaint, petition or indictment); or
 - (b) it was reasonable for such arrangements not to have been made.
- (5) It shall also be a defence in proceedings for an offence under this section to prove—
- (a) that, under the terms of one or more charter-parties or management agreements entered into by the accused, the relevant responsibilities, namely—
 - (i) where the accused is the owner, his responsibilities with respect to the matters relevant to the ship’s safety, or
 - (ii) where the accused is liable to proceedings under this section by virtue of subsection (2) above, so much of those responsibilities as had been assumed by him as mentioned in that subsection,
 had at the time of the alleged offence been wholly assumed by some other person or persons party thereto; and
 - (b) that in all the circumstances of the case the accused had taken such steps as it was reasonable for him to take, and exercised such diligence as it was reasonable for him to exercise, to secure the proper discharge of the relevant responsibilities during the period during which they had been assumed by some other person or persons as mentioned in paragraph (a) above;
- and, in determining whether the accused had done so, regard shall be had in particular to the matters mentioned in subsection (6) below.
- (6) Those matters are—
- (a) whether prior to the time of the alleged offence the accused was, or in all the circumstances ought reasonably to have been, aware of any deficiency in the discharge of the relevant responsibilities; and
 - (b) the extent to which the accused was or was not able, under the terms of any such charter-party or management agreement as is mentioned in subsection (5) (a) above—
 - (i) to terminate it, or
 - (ii) to intervene in the management of the ship,
 in the event of any such deficiency, and whether it was reasonable for the accused to place himself in that position.
- (7) No proceedings for an offence under this section shall be instituted—
- (a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
 - (b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.
- (8) In this section—
- “management agreement”, in relation to a ship, means any agreement (other than a charter-party or a contract of employment) under which the ship is managed, either wholly or in part, by a person other than the owner (whether on behalf of the owner or on behalf of some other person); and
- “relevant responsibilities” shall be construed in accordance with subsection (5) above.

Status: Point in time view as at 31/03/2023.

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- (9) References in this section to responsibilities being assumed by a person under the terms of a charter-party or management agreement are references to their being so assumed by him whether or not he has entered into a further charter-party or management agreement providing for them to be assumed by some other person.

Textual Amendments

- F1** Words in s. 98(3) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 27\(5\)](#) (with reg. 5(1))

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