



# Merchant Shipping Act 1995

## 1995 CHAPTER 21

### PART V

#### FISHING VESSELS

#### CHAPTER I

#### SKIPPER AND SEAMEN

#### *Offences by seamen*

#### <sup>F1</sup>117 Drunkenness on duty.

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#### Textual Amendments

**F1** S. 117 repealed (30.3.2004) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), s. 87, **Sch. 8**; S.I. 2004/827, art. 3(j)(jj)

PROSPECTIVE

#### 118 Unauthorised liquor.

- (1) A person who, in the United Kingdom or elsewhere—
- (a) takes any unauthorised liquor on board a United Kingdom fishing vessel;
  - (b) has any unauthorised liquor in his possession on board such a vessel;
  - (c) permits another person to take on board such a vessel, or to have in his possession on board such a vessel, any unauthorised liquor; or

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: Merchant Shipping Act 1995, Cross Heading: Offences by seamen is up to date with all changes known to be in force on or before 19 April 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*

- (d) intentionally obstructs another person in the exercise of powers conferred on the other person by subsection (5) below,  
shall, subject to subsections (3) and (4) below, be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable—
- (a) on summary conviction, to 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.
- (3) It shall be a defence in proceedings for an offence under subsection (1)(a) or (b) above to prove—
- (a) that the accused believed that the liquor in question was not unauthorised liquor in relation to the vessel in question and that he had reasonable grounds for the belief; or
  - (b) that the accused did not know that the liquor in question was in his possession.
- (4) It shall be a defence in proceedings for an offence under subsection (1)(c) above to prove that the accused believed that the liquor in question was not unauthorised liquor in relation to the vessel in question and that he had reasonable grounds for the belief.
- (5) If an authorised person has reason to believe that an offence under subsection (1)(a) or (b) above has been committed by another person in connection with a fishing vessel, the authorised person—
- (a) may go on board the vessel and search it and any property on it and may, if the other person is on board the vessel, search him there in an authorised manner; and
  - (b) may take possession of any liquor which he finds on the vessel and has reason to believe is unauthorised liquor and may detain the liquor for the period needed to ensure that the liquor is available as evidence in proceedings for the offence.
- (6) In this section—
- “an authorised manner” means a manner authorised by regulations made by the Secretary of State;
- “authorised person”, in relation to a vessel, means—
- (a) a superintendent;
  - (b) a proper officer;
  - (c) a person appointed in pursuance of section 258(1)(c);
  - (d) the master of the vessel in question;
  - (e) the owner of the vessel in question;
  - (f) any person instructed by the master or owner to prevent the commission of offences under subsection (1) above in relation to the vessel;
- “liquor” means spirits, wine, beer, cider, perry and any other fermented, distilled or spirituous liquor; and
- “unauthorised liquor” means, in relation to a vessel, liquor as to which permission to take it on board the vessel has been given neither by the master nor the owner of the vessel nor by a person authorised by the owner of the vessel to give such permission.
- (7) Any reference in subsection (6) above to the owner of a vessel shall be construed—
- (a) as excluding any member of the crew of the vessel; and

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- (b) subject to that, as a reference to the person or all the persons who, in the certificate of registration of the vessel, is or are stated to be the registered owner or owners of the vessel.

#### Commencement Information

- I1** S. 118 not in force at Royal Assent see s. 314, Sch. 14 para. 5

### 119 Disciplinary offences.

- (1) Section 59(1)(a) and (b) shall not apply to fishing vessels and persons serving in them.
- (2) In relation to United Kingdom fishing vessels, section 60 shall have effect with the substitution for subsection (2) of the following—
- (2) Regulations may provide for the hearing on shore in the United Kingdom, by a disciplinary body, of a complaint by the master or owner of such a fishing vessel against a seaman alleging that during his employment in the vessel, the seaman contravened a local industrial agreement relating to his employment on the vessel and for requiring the disciplinary body to have regard to the agreement in determining whether the allegation is proved.
- The alleged contravention may be one on or off the ship and in the United Kingdom or elsewhere.
- (3) Regulations under section 60 may include provision authorising persons to determine, for the purposes of that section in its application to United Kingdom fishing vessels what agreements are or were local industrial agreements and which local industrial agreement relates or related to a person's employment in a particular vessel.

#### Commencement Information

- I2** S. 119 partly in force; s. 119(1) in force at 1.1.1996, see ss. 314, 316(2), Sch. 14 para. 5

**Status:**

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**Changes to legislation:**

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**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.)