

ELIZABETH II

c. 73



Territorial Waters Jurisdiction Act 1878

1878 CHAPTER 73

An Act to regulate the law relating to the Trial of Offences committed on the Sea within a certain distance of the Coasts of Her Majesty's Dominions. [16th August 1878]

Annotations:

Modifications etc. (not altering text)

C1 Act extended by [S.I. 1972/971](#), [Sch. 1](#)

1 Short title.

This Act may be cited as the Territorial Waters Jurisdiction Act 1878.

2 Amendment of law as to jurisdiction of the Admiral.

An offence committed by a person, whether he is or is not a subject of Her Majesty, on the open sea within the territorial waters of Her Majesty's dominions, is an offence within the jurisdiction of the Admiral, although it may have been committed on board or by means of a foreign ship, and the person who committed such offence may be arrested, tried, and punished accordingly.

3 Restriction on institution of proceedings for punishment of offence.

Proceedings for the trial and punishment of a person who is not a subject of Her Majesty, and who is charged with any such offence as is declared by this Act to be within the jurisdiction of the Admiral, shall not be instituted in any court of the United Kingdom, except with the consent of one of Her Majesty's Principal Secretaries of State, and on his certificate that the institution of such proceedings is in his opinion expedient, and shall not be instituted in any of the dominions of Her Majesty out of the United Kingdom, except with the leave of the Governor of the part of the dominions in which such proceedings are proposed to be instituted, and on his certificate that it is expedient that such proceedings should be instituted.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Territorial Waters Jurisdiction Act 1878. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Annotations:

Modifications etc. (not altering text)

- C2** S. 3 excluded by [Petroleum and Submarine Pipelines Act 1975](#) (c. 74), [s. 29\(6\)](#), S.I. 1976/766 art. 5
- C3** Power to exclude s. 3 conferred by Health and Safety at [Work Act 1974](#) (c. 37) s. 84(4)(d)
- C4** Power to exclude s. 3 conferred by [Employment Protection \(Consolidation\) Act 1978](#) (c. 4), [s. 137\(3\)\(e\)](#)
- C5** S. 3 excluded by [Oil and Gas \(Enterprise\) Act 1982](#) (c. 23, SIF 86), [s. 27\(5\)](#), and by [Petroleum Act 1987](#) (c. 12, SIF 86), [ss. 13\(6\)](#), 16(2), and by S.I. 1989/840, [art. 8\(2\)](#)
 S. 3 excluded (15.3.1995) by S.I. 1995/263, [art. 9\(2\)](#)
 S. 3 excluded (30.4.1998) by S.I. 1998/968, [reg. 16\(10\)](#)
 S. 3 excluded (15.2.1999) by 1998 c. 17, [s. 12\(4\)](#), (with Sch. 3 para. 5(1)); S.I. 1999/161, [art. 2](#).
 S. 3 excluded (15.2.1999) by 1998 c. 17, [s. 22\(9\)](#), (with Sch. 3 para. 5(1)); S.I. 1999/161, [art. 2](#).
 S. 3 excluded (15.2.1999) by 1998 c. 17, [s. 41\(6\)](#), (with Sch. 3 para. 5(1)); S.I. 1999/161, [art. 2](#).
 S. 3 excluded (14.3.1999) by S.I. 1999/360, [reg. 18\(10\)](#).
- C6** Power to exclude s. 3 conferred (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992](#) (c. 52), [ss. 287\(3\)\(e\)](#), 302.
 S. 3: power to exclude (22.8.1996) by 1996 c. 18, [ss. 201\(3\)\(e\)](#), 243 (with s. 191, 192, 193, 194, 195, 202)
 S. 3: power to exclude (*prosp.*) by 1998 c. 39, [ss. 42\(3\)\(d\)](#), 56(2) (with s 36)
 S. 3 excluded (19.3.2001) by S.I. 2001/1091, [reg. 18\(8\)](#)
 S. 3 excluded (31.5.2001) by S.I. 2001/1754, [reg. 19\(8\)](#)
 S. 3 excluded (11.7.2001) by S.I. 2001/2127, [arts. 9\(2\)](#)
 S. 3 excluded (15.5.2002) by S.I. 2002/1355, [reg. 18\(8\)](#)

4 Provisions as to procedure.

On the trial of any person who is not a subject of Her Majesty for an offence declared by this Act to be within the jurisdiction of the Admiral, it shall not be necessary to aver in any indictment or information on such trial that such consent or certificate of the Secretary of State or Governor as is required by this Act has been given, and the fact of the same having been given shall be presumed unless disputed by the defendant at the trial; and the production of a document purporting to be signed by one of Her Majesty's Principal Secretaries of State as respects the United Kingdom, and by the Governor as respects any other part of Her Majesty's dominions, and containing such consent and certificate, shall be sufficient evidence for all the purposes of this Act of the consent and certificate required by this Act.

Proceedings before a justice of the peace or other magistrate previous to the committal of an offender for trial or to the determination of the justice or magistrate that the offender is to be put upon his trial shall not be deemed proceedings for the trial of the offence committed by such offender for the purposes of the said consent and certificate under this Act.

5 Saving as to jurisdiction.

Nothing in this Act contained shall be construed to be in derogation of any rightful jurisdiction of Her Majesty, her heirs or successors, under the law of nations, or to affect or prejudice any jurisdiction conferred by Act of Parliament or now by law existing in relation to foreign ships or in relation to persons on board such ships.

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6 Saving as to piracy.

This Act shall not prejudice or affect the trial in manner heretofore in use of any act of piracy as defined by the law of nations, or affect or prejudice any law relating thereto; and where any act of piracy as defined by the law of nations is also any such offence as is declared by this Act to be within the jurisdiction of the Admiral, such offence may be tried in pursuance of this Act, or in pursuance of any other Act of Parliament, law, or custom relating thereto.

7 Definitions.

In this Act, unless there is something inconsistent in the context, the following expressions shall respectively have the meanings herein-after assigned to them; (that is to say,)

“The jurisdiction of the Admiral,” as used in this Act, includes the jurisdiction of the Admiralty of England and Ireland, or either of such jurisdictions as used in any Act of Parliament; and for the purpose of arresting any person charged with an offence declared by this Act to be within the jurisdiction of the Admiral, the territorial waters adjacent to the United Kingdom, or any other part of Her Majesty’s dominions, shall be deemed to be within the jurisdiction of any judge, magistrate, or officer having power within such United Kingdom, or other part of Her Majesty’s dominions, to issue warrants for arresting or to arrest persons charged with offences committed within the jurisdiction of such judge, magistrate, or officer:

“United Kingdom” includes the Isle of Man, the Channel Islands, and other adjacent islands:

F1

“Governor,” . . . F2[F3as respects a British possession which] consists of several constituent colonies, means the Governor General of the whole possession or the Governor of any of the constituent colonies; and as respects any other British possession, means the officer for the time being administering the government of such possession; also any person acting for or in the capacity of Governor shall be included under the term “Governor.”

“Offence” as used in this Act means an act neglect or default of such a description as would, if committed within the body of a county in England, be punishable on indictment according to the law of England for the time being in force:

“Ship” includes every description of ship, boat, or other floating craft:

“Foreign ship” means any ship which is not a British ship.

Annotations:

Amendments (Textual)

- F1 Definition repealed by [Territorial Sea Act 1987 \(c. 49, SIF 29:1\)](#), s. 3, [Sch. 2](#)
F2 Words repealed by [Statute Law \(Repeals\) Act 1976 \(c. 16\)](#), [Sch. 1 Pt. VII](#)
F3 Words substituted by S.R. & O. 1937/230 (Rev. X, p. 545; 1937, p. 963), Sch. Pt. II

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Changes and effects yet to be applied to :

- s. 3 excluded by 2004 c. 20 s. 98(5), s. 113(6), s. 86(6)
- s. 3 excluded by 2008 c. 32 s. 14(2), s. 28(2)
- s. 3 excluded by 2009 c. 23 s. 319
- s. 3 excluded by S.I. 2005/2055 reg. 16(10)
- s. 3 excluded by S.I. 2007/1067 reg. 28
- s. 3 excluded by S.I. 2007/1842 reg. 66
- s. 3 excluded by S.I. 2007/2610 reg. 28
- s. 3 excluded by 2008 c. 32 s. 79O(2) (as inserted) by 2009 c. 23 s. 314(1)
- s. 3 power to exclude conferred by 2008 c. 30 s. 96(5)(b), s. 97(5)(d)
- s. 4 text amended by 2003 c. 44 Sch. 3 para. 29

Commencement Orders yet to be applied to the Territorial Waters Jurisdiction Act 1878:

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2004/2575 art. 2 commences (2004 c. 20)
- S.I. 2005/877 art. 2 commences (2004 c. 20)
- S.I. 2009/45 art. 2 to art. 4 Commencement Order
- S.I. 2009/2809 art. 2 commences (2008 c. 32)