

Statutes in Force
Official Revised Edition

**Territorial Waters
Jurisdiction Act 1878**
(41 and 42 Vict. c. 73)

Revised to 1st June 1978

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TERRITORIAL WATERS JURISDICTION ACT 1878 (c. 73)

Ss 1-4

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]

Whereas the rightful jurisdiction of Her Majesty, her heirs and successors, extends and has always extended over the open seas adjacent to the coasts of the United Kingdom and of all other parts of Her Majesty's dominions to such a distance as is necessary for the defence and security of such dominions:

And whereas it is expedient that all offences committed on the open sea within a certain distance of the coasts of the United Kingdom and of all other parts of Her Majesty's dominions, by whomsoever committed, should be dealt with according to law:

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

2. An offence committed by a person, whether he is or is not a subject 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. Amendment of laws as to jurisdiction of the Admiral

3. 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. Restriction on institution of proceedings for punishment of offence

- S.3 excluded by Mineral Workings (Offshore Installations) Act 1971 (c. 61) s. 10(6), Petroleum and submarine Pipelines Act 1975 (c. 74), s. 29(6), S.I. 1976/766, art. 5 and 1977/1232, art. 8(2)*
Power to exclude s.3 conferred by Health and Safety at Work Act 1974 (c. 37) s. 84(4)(d)

4. 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. Provisions as to procedure

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Proceedings before a justice of the peace or other magistrate previous to the committal of an offender 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.

Savings as to
Jurisdiction.

5. Nothing in this Act contained shall be construed to be in derogation of any rightful jurisdictions 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.

Savings as to
Privacy.

6. 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.

Definitions.

7. 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:

"The territorial waters of Her Majesty's dominions," in reference to the sea, means such part of, the sea adjacent to the coast of the United Kingdom, or the coast of some other part of Her Majesty's dominions, as is deemed by international law to be within the territorial sovereignty of Her Majesty; and for the purpose of any offence declared by this Act to be within the jurisdiction of the Admiral, any part of the open sea, within one marine league of the coast measured from low-water mark shall be deemed to be open sea within the territorial waters of Her Majesty's dominions:

"Governor,".....1[2 as respects a British possession which] consists of several constituent, colonies, means the Governor General of the whole possession or the Governor General of any of the constituent colonies; and as respects any other British possession, means

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the officer for the time being administering the government of such possession ; also any person acting for or in the capacity of the 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.

¹Words repealed by State Law (Repeals) Act 1976 (c. 16). Sch. 1 Pt. VII

²Words substituted by S.R. & O. 1937/230 (Rev. X, p. 545; 1937. p. 963). Sch. Pt. II

CRIMINAL LAW: 1**Indictable Offences Act Amendment Act 1868 (c.107)**

- S.4 *Backing of Warrants (Republic of Ireland) Act 1965 (c.45), s. 9(2) saving repealed by Statute Law (Repeals) Act 1978 (c.45), Sch. 1 Pt. I*

Prevention of Crimes Act 1871 (c.112)

- S.7 repealed (S.) by Civic Government (Scotland) Act 1982 (c.45), Sch. 4
- S.13 repealed (S.) by Civic Government (Scotland) Act 1982 (c.45), Sch. 4
for "five pounds" there is substituted "level 1 on the standard scale" by virtue of Criminal Procedure (Scotland) Act 1975 (c.21), ss. 289G, 457A
- S.15 repealed (E.W.) by Criminal Attempts Act 1981 (c.475, Sch. 1 Pt. II and (S.) by Civic Government (Scotland) Act 1982 (c.45), Sch. 4
- S.17 repealed (E.W.) by Statute Law (Repeals) Act 1981 (c.19), Sch. 1 Pt. I from "In Scotland, under the provision" onwards repealed (S.) by Statute Law (Repeals) Act 1981 (c. 19). Sch. 1 Pt. 1
- S.18 repealed (S.) by Statute Law (Repeals) Act 1981 (c.19). Sch. 1 Pt. I
s. 18 except the words "A previous conviction in any one part of the United Kingdom may be proved against a prisoner in any other part of the United Kingdom." repealed (E.W.) (with effect only in relation to Criminal Proceedings) by Police and Criminal Evidence Act 1984 (60, SIF 95). s. 119(2), Sch. 7 Pt. IV
from "and a conviction" to "passing thereof" repealed (E.W.N.I.) by Statute Law (Repeals) Act 1981 (c.19), Sch. 1 Pt. I
- S.22 repealed by Statute Law (Repeals) Act 1981 (c.19), Sch. 1 Pt. I
- Sch. repealed (S.) by Civic Government (Scotland) Act 1982 (c.45), Sch. 4

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List of Omissions

The following provisions referred to in the list of omissions for this Act have been repealed:

- s. 6 repealed in part (NJ.) by Statute Law (Repeals) Act 1981 (c.19) Sch. 1 Pt. I
- s. 9 repealed by Statute Law (Repeals) Act 1981 (c.19).Sch. 1 Pt. I (the repeal of s. 9 by Criminal Law Act 1967 (c.58, SIF 39:1), Sch. 3 Pt. I extended to (E.W.) only)

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Correction: the following crossnote should appear under the heading of the Act: *Act extended by S. 1. 1972/1971, Sch. 1*

- S. 3 power to exclude conferred by Employment Protection (Consolidation) Act 1978 (c.4). s. 137(3)(e)
excluded by Oil and Gas (Enterprise) Act 1982 (c.23), s. 27(5)
excluded by Petroleum Act 1987 (c.12, SIF 86), ss. 13(6), 16(2), and by S.I. 1989/840, 8(2)

CRIMINAL LAW: 1**Territorial Waters Jurisdiction Act 1878 (c.73) (contd.)**

*Mineral Working(Offshore Installations) Act 1971 (c. 61), s. 10(4 repealed
by Oil and Gas (Enterprise) Act 1982 (c.23), Sch. 4
S.I. 1977/1232 revoked by S.I. 1989/840, art.1(2)*

- S.7 in section 7, the definition of “the territorial waters of her Majesty’s dominions”, including the words from “and for the purpose of any offence” to “the territorial waters of Her Majesty’s dominions “ repealed by Territorial Sea Act 1987 (c.49, SIF 29), s.3, Sch.2

Trial of Lunatics Act 1883 (c.38)

- S.4 repealed by Statute Law (Repeals) Act 1969 (c.43), s.. 1(l), Sch. 1

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List of Omissions

The following provision referred to in the list of omissions for this Act has been repealed:

- s. 4 repealed by Statute Law (Repeals) Act 1989 (c.43), s. 1(l), Sch. 1

Criminal Procedure (Scotland) Act 1887 (c.35)

- S.46 repealed by Statute Law (Repeals) Act 1989 (c.43), s. 1(l), Sch. 1
Schs. B,C repealed by S.I. 1981/1766, para. 2(2)
Schs. F,G repealed by Criminal Justice (Scotland) Act 1980 (c. 62), Sch. 8

Penal Servitude Act 1891 (c.69)

- S.7 repealed (E.W.) by Criminal Attempts Act 1981 (c.47), Sch. 1 Pt II

Criminal Justice Administration Act 1914 (c.58)

- S. 28(3) repealed (E.W) by Police and Criminal Evidence Act 1984 (c.60, SIF 95), s. 119(2), Sch. 7 Pt. V

Indictments Act 1915 (c.90)

- S. 5(1) words from "and may make such order" to the end repealed by Prosecution of Offences Act 1985 (c.23, SIF 39:1), s. 31(6), Sch. 2
(5)(c) words “as to cost and" repealed by Prosecution of Offences Act 1985 (c.23, SIF 39:1), s. 31(6), Sch. 2
S. 6 repealed by Prosecution of Offences Act 1985 (c.23, SIF 39:1), s. 31(6), Sch.2

Criminal Justice Act 1925 (c.86)

- S. 11(3) from “against” to the second "or" repealed (E.W.) by Forgery and Counterfeiting Act 1981 (c.45), Sch. 1 Pt. I
S. 12 repealed by Criminal Justice Act 1982 (c.48). Sch. 16
S. 13(3) *Criminal Justice Act 1967 (c.80), s. 2(7) repealed by Magistrates’ Courts Act 1980 (c.43), Sch. 9*