

Territorial Waters Jurisdiction Act, 1878

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Territorial Waters Jurisdiction Act, 1878(41 and 42 VICT., C 73)Last Updated 26th July, 2019[Dated 16.8.1878.]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. 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 :Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords Spiritual and Temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. Short title.

- This Act may be cited as The Territorial Waters Jurisdiction Act, 1878.

2. Amendment of the law as to the 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. Note. - In respect of this Act the Law Commission of India has made the following observation : "This statute empowers the Admiralty in England or in any of the British Dominions to have jurisdiction over any offence committed within the "territorial waters" of the U.K. or of a Dominion as the case may be, - even though the offence may have been committed by a foreign national or on board a foreign ship. The territorial waters being a part of the territory of State, India is competent to enact a law of her own defining the limits of its territorial waters." - Fifth Report, dated 11-5-1957.

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 dominions in which such proceedings are proposed to be instituted, and on his certificate that it is expedient that such proceedings should be instituted.

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.

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 hereinafter assigned to them, that is to say, "Jurisdiction of the Admiral". - "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". - "United Kingdom" includes the Isle of Man, the Channel Islands, and other adjacent islands: "Territorial waters of Her Majesty's dominions." - "The territorial waters of Her Majesty's dominions" in reference to the sea, means such parts 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." - "Governor," as respects India, means the Governor-General and as respects a British possession " [which consists of several constituent colonies] [Substituted by A.O.(P).] 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 term "Governor." "Offence." - "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 country in England, be punishable on indictment according to the law of England for the time being in force : "Ship." - "Ship" includes every description of ship, boat, or other floating craft : "Foreign ship." - "Foreign ship" means any ship which is not a British ship.