

England, extracts from the Merchant Shipping Acts

England

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England]**

2 **Merchant Shipping Act 1894¹ ***

3 (57 & 58 Vict c 60)

4 **PART V. SAFETY**

5 **Dangerous Goods**

6 **446. Restrictions on carriage of dangerous goods.**

7 (1) A person shall not send or attempt to send by any vessel, British or foreign, and a person not being the master or owner of the vessel, shall not carry or attempt to carry in any such vessel, any dangerous goods, without distinctly marking their nature on the outside of the package containing the same, and giving written notice of the nature of those goods and of the name and address of the sender or carrier thereof to the master or owner of the vessel at or before the time of sending the same to be shipped or taking the same on board the vessel.

8 (2) If any person fails without reasonable cause to comply with this section he shall for each offence be liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding the statutory maximum; but it shall be a defence to show that the accused was merely an agent in the shipment of any such goods as aforesaid, and was not aware and did not suspect and had no reason to suspect that the goods shipped by him were of a dangerous nature.

9 (3) For the purpose of this part of this Act the expression “dan-

¹The Act is printed as amended.

gerous goods” means aquafortis, vitriol, naphtha, benzine, gunpowder, lucifer matches, nitro-glycerine, petroleum, any explosives within the meaning of the Explosives Act 1875, and any other goods which are of a dangerous nature.

447. Penalty for misdescription of dangerous goods.

10

A person shall not knowingly send or attempt to send by, or carry or attempt to carry in, any vessel, British or foreign, any dangerous goods under a false description, and shall not falsely describe the sender or carrier thereof, and if he acts in contravention of this section he shall for each offence be liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding the statutory maximum.

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448. Power to deal with goods suspected of being dangerous.

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(1) The master or owner of any vessel, British or foreign, may refuse to take on board any package or parcel which he suspects to contain any dangerous goods, and may require it to be opened to ascertain the fact.

13

(2) When any dangerous goods, or any goods, which in the judgment of the master or owner of the vessel, are dangerous goods, have been sent or brought aboard any vessel, British or foreign, without being marked as aforesaid, or without such notice having been given as aforesaid, the master or owner of the vessel may cause those goods to be thrown overboard, together with any package or receptacle in which they are contained; and neither the master nor the owner of the vessel shall be subject to any liability, civil or criminal, in any court for so throwing the goods overboard.

14

15 **449. Forfeiture of dangerous goods improperly sent or carried.**

16 (1) Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any vessel, British or foreign, without being marked as aforesaid, or without such notice having been given as aforesaid, or under a false description, or with a false description of the sender or carrier thereof, any court having Admiralty jurisdiction may declare those goods and any package or receptacle in which they are contained, to be, and they shall thereupon be, forfeited, and when forfeited, shall be disposed of as the court direct.

17 (2) The court shall have, and may exercise, the aforesaid powers of forfeiture and disposal notwithstanding that the owner of the goods has not committed any offence under the provisions of this Act relating to dangerous goods, and is not before the court, and has not notice of the proceedings, and notwithstanding that there is no evidence to show to whom the goods belong; nevertheless the court may in their discretion, require such notice as they may direct to be given to the owner or shipper of the goods before they are forfeited.

18 **450. Saving for other enactments relating to dangerous goods.**

19 The provisions of this Part of this Act relating to the carriage of dangerous goods shall be deemed to be in addition to and not in substitution for, or in restraint of, any other enactment for the like object, so nevertheless that nothing in the said provisions shall be deemed to authorise any person to be sued or prosecuted twice in the same matter.

PART VII. DELIVERY OF GOODS 20

Delivery of goods and lien for freight. 21

492. Definitions under Part VII. 22

In this Part of this Act, unless the context otherwise requires: 23

The expression `goods' includes every description of wares and merchandise; 24

The expression `wharf' includes all wharves, quays, docks, and premises in or upon which any goods, when landed from ships, may be lawfully placed; 25

The expression `warehouse' includes all warehouses, buildings and premises in which goods, when landed from ships, may be lawfully placed; 26

The expression `report' means the report required by the customs or excise laws to be made by the master of an importing ship; 27

The expression `entry' means the entry required by the customs or excise laws to be made for the landing or discharge of goods from an importing ship; 28

The expression `shipowner' includes the master of the ship and every other person authorised to act as agent for the owner or entitled to receive the freight, demurrage, or other charges payable in respect of the ship; 29

The expression `owner' used in relation to goods means every person who is for the time entitled, either as owner or agent for the owner, to the possession of the goods, subject in the case of a lien (if any), to that lien; 30

The expression `wharfinger' means the occupier of a wharf as herein-before defined; 31

The expression 'warehouseman' means the occupier of a warehouse as herein-before defined. 4032

33 **493. Power of a shipowner to enter and land goods on default
by owner of goods.**

34 (1) Where the owner of any goods imported in any ship from foreign
parts into the United Kingdom fails to make entry thereof, or, having
made entry thereof, to land the same or take delivery thereof, and to
proceed therewith with all convenient speed, by the times severally
herein-after mentioned, the shipowner may make entry of and land
or unship the goods at the following times:

35 (a) If a time for the delivery of the goods is expressed in the
charter-party, bill of lading, or agreement, then at any time after
the time so expressed;

36 (b) If no time for the delivery of the goods is expressed in the
charterparty, bill of lading, or agreement, then at any time after
the expiration of seventy-two hours, exclusive of a Sunday or
holiday, from the time of the report of the ship.

37 (2) Where a shipowner lands goods in pursuance of this section he
shall place them, or cause them to be placed-

38 (a) if any wharf or warehouse is named in the charter-party, bill
of lading, or agreement as the wharf or warehouse where the
goods are to be placed and if they can be conveniently there
received, on that wharf or in that warehouse, and

39 (b) in any other case on some wharf or in some warehouse on or
in which goods of a like nature are usually placed; the wharf or
warehouse being, if the goods are dutiable, a wharf or warehouse
duly approved by the Commissioners of Customs and Excise for
the landing of dutiable goods.

(3) If at any time before the goods are landed or unshipped the
owner of the goods is ready and offers to land or take delivery
of the same, he shall be allowed to do so, and his entry shall
in that case be preferred to any entry which may have been
made by the shipowner.

(4) If any goods are, for the purpose of convenience in assorting the 41
same, landed at the wharf where the ship is discharged, and the
owner of the goods at the time of that landing has made entry and
is ready and offers to take delivery thereof, and to convey the same
to some other wharf or warehouse, the goods shall be assorted at
landing, and shall, if demanded, be delivered to the owner thereof
within twenty-four hours after assortment; and the expense of and
consequent on that landing and assortment shall be borne by the
shipowner.

(5) If at any time before the goods are landed, or unshipped, the 42
owner thereof has made entry for the landing and warehousing
thereof at any particular wharf or warehouse other than that at
which the ship is discharging, and has offered and been ready to
take delivery thereof, and the shipowner has failed to make that de-
livery, and has also failed at the time of that offer to give the owner
of the goods corrected information of the time at which the goods
can be delivered, then the shipowner shall, before landing or un-
shipping the goods, in pursuance of this section, give to the owner
of the goods or of such wharf or warehouse as last aforesaid twenty-
four hours notice in writing of his readiness to deliver the goods,
and shall, if he lands or unships the same without that notice, do
so at his own risk and expense.

494. Lien for freight on landing goods. 43

If at the time when any goods are landed from any ship, and placed 44
in the custody of any person as a wharfinger or warehouseman,

the shipowner gives to the wharfinger or warehouseman notice in writing that the goods are to remain subject to a lien for freight or other charges payable to the shipowner to an amount mentioned in the notice, the goods so landed shall, in the hands of the wharfinger or warehouseman, continue subject to the same lien, if any, for such charges as they were subject to before the landing thereof; and the wharfinger or warehouseman receiving those goods shall retain them until the lien is discharged as herein-after mentioned, and shall, if he fails so to do, make good to the shipowner any loss thereby occasioned to him.

45 **495. Discharge of lien.**

46 The said lien for freight and other charges shall be discharged-

47 (1) upon the production to the wharfinger or warehouseman of a receipt for the amount claimed as due, and delivery to the wharfinger or warehouseman of a copy thereof or of a release of freight from the shipowner, and

48 (2) upon the deposit by the owner of the goods with the wharfinger or warehouseman of a sum of money equal in amount to the sum claimed as aforesaid by the shipowner;

49 but in the latter case the lien shall be discharged without prejudice to any other remedy which the shipowner may have for the recovery of the freight.

50 **496. Provisions as to deposits by owners of goods.**

51 (1) When a deposit as aforesaid is made with the wharfinger or warehouseman, the person making the same may, within fifteen days after making it, stating in the notice the sums, if any, which

he admits to be payable to the shipowner, or, as the case may be, that he does not admit any sum to be so payable, but if no such notice is given, the wharfinger or warehouseman may, at the expiration of the fifteen days, pay the sum deposited over to the shipowner.

(2) If a notice is given as aforesaid the wharfinger or warehouseman shall immediately apprise the shipowner of it, and shall pay or tender to him out of the sum deposited the sum, if any, admitted by the notice to be payable, and shall retain the balance, or if no sum is admitted to be payable, the whole of the sum deposited, for thirty days from the date of the notice. 52

(3) At the expiration of those thirty days unless legal proceedings have in the meantime been instituted by the shipowner against the owner of the goods to recover the said balance or sum, or otherwise for the settlement of any disputes which may have arisen between them concerning the freight or other charges as aforesaid, and notice in writing of those proceedings has been served on the wharfinger or warehouseman, the wharfinger or warehouseman shall pay the balance or sum to the owner of the goods. 53

(4) A wharfinger or warehouseman shall by any payment under this section be discharged from all liability in respect thereof. 54

497. Sale of goods by warehouseman. 55

(1) If the lien is not discharged, and no deposit is made as aforesaid, the wharfinger or warehouseman may, and, if required by the shipowner, shall, at the expiration of ninety days from the time when the goods were placed in his custody or, if the goods are of a perishable nature, at such earlier period as in his discretion he thinks fit, sell by public auction, either for home use or for exportation, the goods or so much thereof as may be necessary to satisfy the charges herein-after mentioned. 56