



# Merchant Shipping Act 1995

## 1995 CHAPTER 21

### PART IX

#### SALVAGE AND WRECK

### CHAPTER II

#### WRECK

##### *Vessels in distress*

#### **231 Application of, and discharge of functions under, sections 232, 233 234 and 235.**

- (1) Sections 232, 233, 234 and 235 apply in circumstances where a United Kingdom or foreign vessel is wrecked, stranded, or in distress at any place on or near the coasts of the United Kingdom or any tidal water within United Kingdom waters.
- (2) Where any function is conferred on the receiver by any of those sections that function may be discharged by any officer of customs and excise or any principal officer of the coastguard.
- (3) An officer discharging any such functions of the receiver shall, with respect to any goods or articles belonging to a vessel the delivery of which to the receiver is required by any provision of this Chapter, be treated as the agent of the receiver.
- (4) However, an officer discharging such functions shall not—
  - (a) be entitled to any fees payable to receivers, or
  - (b) be deprived of any right to salvage to which he would otherwise be entitled.
- (5) In any of those sections “shipwrecked persons”, in relation to a vessel, means persons belonging to the vessel.

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### 232 Duty of receiver where vessel in distress.

- (1) In circumstances in which this section applies by virtue of section 231 in relation to any vessel the receiver shall, on being informed of the circumstances, discharge the following functions.
- (2) Subject to subsection [<sup>F1</sup>(3)] below, the receiver shall—
  - (a) forthwith proceed to the place where the vessel is;
  - (b) take command of all persons present; and
  - (c) assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the shipwrecked persons.
- (3) The receiver shall not interfere between the master and crew of the vessel in reference to the management of the vessel unless he is requested to do so by the master.
- (4) Subject to subsection (3) above, if any person intentionally disobeys the direction of the receiver he shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

#### Textual Amendments

- F1** Figure in s. 232(2) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 14**; S.I. 1997/1539, art. 2, **Sch.**

### 233 Powers of receiver in case of vessel in distress.

- (1) [<sup>F2</sup>Subject to subsection (1A) below,] in circumstances where this section applies by virtue of section 231 in relation to any vessel the receiver may, for the purpose of the preservation of shipwrecked persons or of the vessel, cargo and equipment—
  - (a) require such persons as he thinks necessary to assist him;
  - (b) require the master, or other person having the charge, of any vessel near at hand to give such assistance with his men, or vessel, as may be in his power; and
  - (c) require the use of any vehicle that may be near at hand.
- <sup>F3</sup>[(1A) The receiver may not under subsection (1) above impose any requirement on the master or other person having the charge of a vessel owned or operated by the Royal National Lifeboat Institution.]
- (2) If any person refuses, without reasonable excuse, to comply with any requirement made under subsection (1) above he shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

#### Textual Amendments

- F2** Words in s. 233(1) inserted (17.7.1997) by 1997 c. 28, s. 21(1); S.I. 1997/1539, art. 2, **Sch.**
- F3** S. 233(1A) inserted (17.7.1997) by 1997 c. 28, s. 21(2); S.I. 1997/1539, art. 2, **Sch.**

### 234 Power to pass over adjoining land.

- (1) In circumstances where this section applies by virtue of section 231 in relation to any vessel, all persons may, subject to subsections (3) and (4) below, for the purpose of—

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- (a) rendering assistance to the vessel,
  - (b) saving the lives of shipwrecked persons, or
  - (c) saving the cargo or equipment of the vessel,pass and repossess over any adjoining land without being subject to interruption by the owner or occupier and deposit on the land any cargo or other article recovered from the vessel.
- (2) The right of passage conferred by subsection (1) above is a right of passage with or without vehicles.
- (3) No right of passage is conferred by subsection (1) above where there is some public road equally convenient.
- (4) The rights conferred by subsection (1) above shall be so exercised as to do as little damage as possible.
- (5) Any damage sustained by an owner or occupier of land in consequence of the exercise of the rights conferred by this section shall be a charge on the vessel, cargo or articles in respect of or by which the damage is caused.
- (6) Any amount payable in respect of such damage shall, in case of dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage is determined and recoverable under this Part.
- (7) If the owner or occupier of any land—
  - (a) impedes or hinders any person in the exercise of the rights conferred by this section;
  - (b) impedes or hinders the deposit on the land of any cargo or other article recovered from the vessel; or
  - (c) prevents or attempts to prevent any cargo or other article recovered from the vessel from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit;he shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

### **235 Liability for damage in case of plundered vessel.**

- (1) Where, in circumstances in which this section applies by virtue of section 231 in relation to any vessel, the vessel or any part of its cargo and equipment is plundered, damaged or destroyed by persons in circumstances in which those persons commit the offence of riot or, in Scotland, of mobbing and rioting, compensation shall be made to the owner of the vessel, cargo or equipment in accordance with the following provisions of this section.
- (2) Compensation under subsection (1) above in England and Wales shall be made by the [<sup>F4</sup>appropriate local policing body] in the manner provided by the [<sup>F5</sup>Riot Compensation Act 2016] with respect to claims for compensation under that Act.
- [<sup>F6</sup>(2A) In subsection (2), “appropriate local policing body” has the same meaning as in the Riot Compensation Act 2016 (see section 1(3) of that Act).]
- (3) Where the vessel, cargo or equipment is not within a police area, the plundering, damage or destruction shall be treated for the purposes of subsection (2) above as taking place within the nearest police area.

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- (4) Compensation under subsection (1) above in Scotland shall, as if entitlement to it arose under section 10 of the <sup>M1</sup>Riotous Assemblies (Scotland) Act 1822, be made by the council constituted under section 2 of the <sup>M2</sup>Local Government etc. (Scotland) Act 1994 within whose area, or nearest to whose area, the plundering, damage or destruction took place.
- (5) Compensation under subsection (1) above in Northern Ireland shall be made in pursuance of an application under the <sup>M3</sup>Criminal Injuries to Property (Compensation) Act (Northern Ireland) 1971 as modified for the purposes of this section by the <sup>M4</sup>Transfer of Functions (Criminal Injuries to Vessels) (Northern Ireland) Order 1973.

#### Textual Amendments

- F4** Words in s. 235(2) substituted (E.W.) (6.4.2017) by Riot Compensation Act 2016 (c. 8), ss. 10(2)(a)(i), 12(1)(2); S.I. 2017/379, reg. 2
- F5** Words in s. 235(2) substituted (E.W.) (6.4.2017) by Riot Compensation Act 2016 (c. 8), ss. 10(2)(a)(ii), 12(1)(2); S.I. 2017/379, reg. 2
- F6** S. 235(2A) inserted (E.W.) (6.4.2017) by Riot Compensation Act 2016 (c. 8), ss. 10(2)(b), 12(1)(2); S.I. 2017/379, reg. 2

#### Marginal Citations

- M1** 1822 c. 33.
- M2** 1994 c. 39.
- M3** 1971 c. 38 (N.I.).
- M4** S.R. 1973 No. 56 (N.I.).

**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.)