



Merchant Shipping Act 1894

1894 CHAPTER 60

PART II

MASTERS AND SEAMEN.

Property of deceased Seamen.

169 Property of seamen who die during voyage.

- (1) If any seaman or apprentice to the sea service belonging to a British ship the voyage of which is to terminate in the United Kingdom, whether a foreign-going or a home trade ship, dies during that voyage, the master of the ship shall take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.
- (2) The master may, if he think fit, cause any of the effects to be sold by auction at the mast or otherwise by public auction.
- (3) The master shall enter in the official log-book the following particulars:—
 - (a) A statement of the amount of the money and a description of the effects :
 - (b) In case of a sale, a description of each article sold, and the sum received for each :
 - (c) A statement of the sum due to the deceased for wages and of the amount of deductions (if any) to be made from the wages.
- (4) The entry shall be signed by the master and attested by a mate and some other member of the crew.
- (5) The said money, effects, proceeds of sale of effects, and balance of wages, are in this Act referred to as the property of the seaman or apprentice.

170 Dealing with and account of property of seamen who die during voyage.

- (1) Where a seaman or apprentice dies as aforesaid and the ship before coming to a port in the United Kingdom touches and remains for forty-eight hours at some port elsewhere,

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the master shall report the case to the British consular officer at such port, or if the port is in a British possession, to the officer of customs there, and shall give to the officer any information he requires as to the destination of the ship and probable length of the voyage.

- (2) That officer may, if he thinks it expedient, require the property to be delivered and paid to him, and shall thereupon give to the master a receipt thereof, and endorse under his hand upon the agreement with the crew such particulars with respect thereto as the Board of Trade require.
- (3) The receipt shall be produced by the master to a superintendent within forty-eight hours after his arrival at his port of destination in the United Kingdom.
- (4) Where a seaman or apprentice dies as aforesaid and the ship proceeds at once to a port in the United Kingdom without touching and remaining as aforesaid at a port elsewhere, or the consular officer or officer of customs does not require the delivery and payment of the property as aforesaid, the master shall, within forty-eight hours after his arrival at his port of destination in the United Kingdom, deliver and pay the property to the superintendent at that port.
- (5) In all cases where a seaman or apprentice dies during the progress of a voyage or engagement, the master shall give to the Board of Trade, or to the superintendent or officer to whom delivery and payment is made as aforesaid, such account in such form as they respectively require of the property of the deceased.
- (6) A deduction claimed by the master in such account shall not be allowed unless verified, if an official log-book is required to be kept, by an entry in that book made and attested as required by this Act, and also by such other vouchers (if any) as may reasonably be required by the Board of Trade or by the superintendent or officer to whom the account is given.
- (7) A superintendent in the United Kingdom shall grant to a master, upon due compliance with such provisions of this section as relate to acts to be done at the port of destination, a certificate to that effect; and an officer of customs shall not clear inwards a foreign-going ship without the production of that certificate.

171 Penalty for non-compliance with provisions as to property of deceased seamen.

- (1) If the master of the ship fails to comply with the provisions of this Act with respect to taking charge of the property of a deceased seaman or apprentice, or to making in the official log-book the proper entries relating thereto, or to procuring the proper attestation of those entries as required by this Act, or to the payment or delivery of the property, he shall be accountable for the property to the Board of Trade, and shall pay and deliver the same accordingly, and shall in addition for each offence be liable to a fine not exceeding treble the value of the property not accounted for, or if such value is not ascertained not exceeding fifty pounds.
- (2) If any such property is not duly paid, delivered, or accounted for by the master, the owner of the ship shall pay, deliver, and account for the same, and such property shall be recoverable from him accordingly, and if he fails to account for and deliver or pay the same, he shall in addition to his liability for the same be liable to a fine not exceeding treble the value of the property not accounted for, delivered, or paid over, or, if such value be not ascertained, not exceeding fifty pounds.

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- (3) The property may be recovered in the same court and manner in which the wages of seamen may be recovered under this Act.

172 Property of deceased seamen left abroad but not on board ship.

If any seaman or apprentice to the sea service belonging to a British ship the voyage of which is to terminate in the United Kingdom, or who has within six months preceding his death belonged to any such ship, dies at any place out of the United Kingdom, leaving any money or effects not on board the ship to which he belonged at the time of his death or to which he last belonged before his death, the chief officer of customs in the case of a British possession, and in other cases the British consular officer at or near the place, shall claim and take charge of such money and effects, and such money and effects shall be deemed to be property of a deceased seaman or apprentice within the meaning of this Part of this Act.

173 Dealing with property of deceased seamen by officers abroad.

- (1) A chief officer of customs in a British possession and a British consular officer may, as he thinks fit, sell any of the property of a deceased seaman or apprentice delivered to him or of which he takes charge under this Act, and the proceeds of any such sale shall be deemed to form part of the said property.
- (2) Every such officer shall quarterly, or at such times as the Board of Trade require, remit the property in such manner, and shall render such accounts in respect thereof as the Board of Trade require.

174 Recovery of wages, &c. of seamen lost with their ship.

- (1) Where a seaman or apprentice is lost with the ship to which he belongs the Board of Trade may recover the wages due to him from the owner of the ship, in the same court and in the same manner in which seamen's wages are recoverable, and shall deal with those wages in the same manner as with the wages of other deceased seamen and apprentices under this Act.
- (2) In any proceeding for the recovery of the wages, if it is shown by some official return produced out of the custody of the Registrar-General of Shipping and Seamen, or by other evidence, that the ship has twelve months or upwards before the institution of the proceeding left a port of departure, she shall, unless it is shown that she has been heard of within twelve months after that departure, be deemed to have been lost with all hands on board, either immediately after the time she was last heard of, or at such later time as the court hearing the case may think probable.
- (3) Any duplicate agreement or list of the crew made out, or statement of a change of the crew delivered, under this Act, at the time of the last departure of the ship from the United Kingdom, or a certificate purporting to be a certificate from a consular or other public officer at any port out of the United Kingdom, stating that certain seamen and apprentices were shipped in the ship from the said port, shall, if produced out of the custody of the Registrar-General of Shipping and Seamen, or of the Board of Trade, be, in the absence of proof to the contrary, sufficient proof that the seamen and apprentices therein named as belonging to the ship were on board at the time of the loss.

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175 Property of seamen dying at home.

If a seaman or apprentice to the sea service dies in the United Kingdom, and is at the time of his death entitled to claim from the master or owner of a ship in which he has served any effects or unpaid wages, the master or owner shall pay and deliver or account for such property to the superintendent at the port where the seaman or apprentice was discharged or was to have been discharged, or to the Board of Trade, or as that Board direct.

176 Payment over of property of deceased seamen by Board of Trade.

- (1) Where any property of a deceased seaman or apprentice comes into the hands of the Board of Trade, or any agent of that Board, the Board of Trade, after deducting for expenses incurred in respect of that seaman or apprentice or of his property such sum as they think proper to allow, shall, subject to the provisions of this Act, deal with the residue as follows:—
 - (a) If the property exceeds in value one hundred pounds, they shall pay and deliver the residue to the legal personal representative of the deceased:
 - (b) If the property do not exceed in value one hundred pounds, the Board may as they think fit either pay or deliver the residue to any claimant who is proved to their satisfaction to be the widow or a child of the deceased, or to be entitled to the personalty of the deceased either under his will (if any) or any statute of distribution or otherwise, or to be a person entitled to take out representation, although no such representation has been taken out, and shall be thereby discharged from all further liability in respect of the residue so paid or delivered; or
 - (c) They may, if they think fit, require representation to be taken out, and pay and deliver the residue to the legal personal representative of the deceased.
- (2) Every person to whom any such residue is so paid or delivered shall apply the same in due course of administration.

177 Dealing with deceased seaman's property when he leaves a will.

- (1) Where a deceased seaman or apprentice has left a will the Board of Trade may refuse to pay or deliver the above-mentioned residue—
 - (a) if the will was made on board ship, to any person claiming under the will, unless the will is in writing, and is signed or acknowledged by the testator in the presence of, and is attested by, the master or first or only mate of the ship, and
 - (b) if the will was not made on board ship, to any person claiming under the will, and not being related to the testator by blood or marriage, unless the will is in writing, and is signed or acknowledged by the testator in the presence of, and is attested by, two witnesses, one of whom is a superintendent, or is a minister of religion officiating in the place in which the will is made, or, where there are no such persons, a justice, British consular officer, or an officer of customs.
- (2) Whenever the Board of Trade refuse under this section to pay or deliver the residue to a person claiming under a will the residue shall be dealt with as if no will had been made.

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178 Claims by creditors.

- (1) A creditor shall not be entitled to claim from the Board of Trade the property of a deceased seaman or apprentice, or any part thereof, by virtue of representation obtained as creditor.
- (2) A creditor shall not be entitled by any means whatever to obtain payment of his debt out of the property, if the debt accrued more than three years before the death of the deceased, or if the demand is not made within two years after the death.
- (3) The demand shall be made by the creditor delivering to the Board of Trade an account in writing in a form approved by the Board, stating the particulars of his demand and the place of his abode, and signed by him and verified by a statutory declaration.
- (4) If before the demand is made, any claim to the property of the deceased made by any person has been allowed, that Board shall give notice to the creditor of the allowance of the claim.
- (5) If no claim has been allowed, the Board of Trade shall investigate the creditor's account, and may for that purpose require him to prove the same, and to produce all books, accounts, vouchers, and papers relating thereto; and if by means of them the creditor satisfies the Board of Trade of the justice of the demand, either in the whole or in part, the same shall be allowed and paid accordingly, so far as the property then in the hands of the Board of Trade will extend for that purpose, and the Board of Trade shall thereby be discharged from all further liability in respect of money so paid; but if the Board are not satisfied as to the claim, or if such books, accounts, vouchers, or papers as aforesaid are not produced, and sufficient reason is not given for their non-production, the demand shall be disallowed.
- (6) In any case whatever the Board of Trade may delay the investigation of any demand made by a creditor for the payment of his debt for one year from the time of the first delivery of the demand; and if in the course of that time a claim to the property of the deceased is made by any person as widow, next of kin, or legatee, and allowed by the Board of Trade under this Act, the Board of Trade may pay and deliver the same to that person.
- (7) Where the property has been paid and delivered by the Board of Trade to any person as a widow, next of kin, or legatee of the deceased, whether before or after the demand made by" the creditor, the creditor shall have the same rights and remedies against that person as if he had received the property as the legal personal representative of the deceased.

179 Dealing with unclaimed property of deceased seaman.

Where no claim to the property of a deceased seaman or apprentice received by the Board of Trade is substantiated within six years after the receipt thereof the Board may in their absolute discretion, if any subsequent claim is made, either allow or refuse the claim, and, subject to the allowance of any such claim, shall apply such property in manner provided by Part Twelve of this Act (relating to the Mercantile Marine Fund).

180 Forgery of documents, &c. for purpose of obtaining property of deceased seamen.

If any person, for the purpose of obtaining, either for himself or for any other person, any property of any deceased seaman or apprentice to the sea service,—

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- (a) forges or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered any document purporting to show or assist in showing any right to such property; or
- (b) makes use of any document which has been so forged or fraudulently altered as aforesaid; or
- (c) gives or assists in giving, or procures to be given, any false evidence, knowing the same to be false; or
- (d) makes or assists in making, or procures to be made, any false representation, knowing the same to be false ; or
- (e) assists in procuring any false evidence or representation to be given or made, knowing the same to be false,—

that person shall for each offence be liable to penal servitude for a term not exceeding five years, or to imprisonment for a term not exceeding two years with or without hard labour, or on summary conviction to imprisonment with or without hard labour for any period not exceeding six months.

181 Property of seamen discharged from Royal Navy.

Where a seaman invalided or discharged from any of Her Majesty's ships is sent home in a merchant ship, and dies during the voyage, the provisions of this Act respecting the property of deceased seamen shall apply, with this qualification, that the property shall be delivered, paid over, and disposed of in such manner as the Accountant-General of Her Majesty's Navy directs.