



Merchant Shipping Act 1894

1894 CHAPTER 60

PART VII

DELIVERY OF GOODS.

Delivery of Goods and Lien for Freight.

492 Definitions under Part VII.

In this Part of this Act, unless the context otherwise requires—

The expression " goods " includes every description of wares and merchandise :

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

The expression " warehouse " includes all warehouses, buildings, and premises in which goods, when landed from ships, may be lawfully placed :

The expression " report " means the report required by the customs laws to be made by the master of an importing ship :

The expression " entry " means the entry required by the customs laws to be made for the landing or discharge of goods from an importing ship :

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:

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 :

The expression " wharfinger " means the occupier of a wharf as herein-before defined:

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

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

- (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:—
 - (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:
 - (b) If no time for the delivery of the goods is expressed in the charter party, 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.
- (2) Where a shipowner lands goods in pursuance of this section he shall place them, or cause them to be placed—
 - (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
 - (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 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 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 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 delivery, and has also failed at the time of that offer to give the owner of the goods correct information of the time at which the goods can be delivered, then the shipowner shall, before landing or unshipping 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.

If at the time when any goods are landed from any ship, and placed 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.

495 Discharge of lien.

The said lien for freight and other charges shall be discharged—

- (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
- (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; 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.

496 Provisions as to deposits by owners of goods.

- (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, give to the wharfinger or warehouseman notice in writing to retain it, stating in the notice the sums, if any, which lie 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.
- (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.
- (4) A wharfinger or warehouseman shall by any payment under this section be discharged from all liability in respect thereof.

497 Sale of goods by warehouseman.

- (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.

Status: This is the original version (as it was originally enacted).

- (2) Before making the sale the wharfinger or warehouseman shall give notice thereof by advertisement in two local newspapers circulating in the neighbourhood, or in one daily newspaper published in London, and in one local newspaper, and also, if the address of the owner of the goods has been stated on the manifest of the cargo, or on any of the documents which have come into the possession of the wharfinger or warehouseman, or is otherwise known to him, send notice of the sale to the owner of the goods by post.
- (3) The title of a bona fide purchaser of the goods shall not be invalidated by reason of the omission to send the notice required by this section, nor shall any such purchaser be bound to inquire whether the notice has been sent.

498 Application of proceeds of sale.

The proceeds of sale shall be applied by the wharfinger or warehouseman as follows, and in the following order:—

- (i) First, if the goods are sold for home use, in payment of any customs or excise duties owing in respect thereof; then
- (ii) In payment of the expenses of the sale; then
- (iii) In payment of the charges of the wharfinger or warehouseman and the shipowner according to such priority as may be determined by the terms of the agreement (if any) in that behalf between them; or, if there is no such agreement—
 - (a) in payment of the rent, rates, and other charges due to the wharfinger or warehouseman in respect of the said goods; and then
 - (b) in payment of the amount claimed by the shipowner as due for freight or other charges in respect of the said goods;

and the surplus, if any, shall be paid to the owner of the goods.

499 Warehouseman's rent and expenses.

Whenever any goods are placed in the custody of a wharfinger or warehouseman, under the authority of this Part of this Act, the wharfinger or warehouseman shall be entitled to rent in respect of the same, and shall also have power, at the expense of the owner of the goods, to do all such reasonable acts as in the judgment of the wharfinger or warehouseman are necessary for the proper custody and preservation of the goods, and shall have a lien on the goods for the rent and expenses.

500 Warehousemen's protection.

Nothing in this Part of this Act shall compel any wharfinger or warehouseman to take charge of any goods which he would not have been liable to take charge of if this Act had not been passed ; nor shall he be bound to see to the validity of any Hen claimed by any shipowner under this Part of this Act.

501 Saving for powers under local Acts.

Nothing in this Part of this Act shall take away or abridge any powers given by any local Act to any harbour authority, body corporate, or persons, whereby they are enabled to expedite the discharge of ships or the landing or delivery of goods; nor shall

anything in this Part of this Act take away or diminish any rights or remedies given to any shipowner or wharfinger or warehouseman by any local Act.