



Merchant Shipping Act 1894

1894 CHAPTER 60 57 and 58 Vict

PART V

SAFETY

Modifications etc. (not altering text)

C1 Pt. V amended by [Merchant Shipping \(Safety Convention\) Act 1949 \(c. 43\)](#), ss. [23\(3\)\(4\)](#), [24\(1\)\(2\)](#)

Prevention of Collisions

418 F1

Textual Amendments

F1 S. 418 repealed (with saving) to the extent that s. 418 relates to ships by [S.I. 1983/708](#), [regs. 1\(4\)\(a\)](#), 2
S. 418 wholly repealed (1.5.1994) by [1993 c. 22](#), s. [8\(3\)\(4\)](#), [Sch. 4 para. 13\(2\)](#), [Sch. 5 Pt.II](#); [S.I. 1993/3137](#), [art. 3\(2\)](#)

419 F2

Textual Amendments

F2 S. 419 repealed (with saving) to the extent that s. 419 relates to ships by [S.I. 1983/708](#), [regs. 1\(4\)\(a\)](#), 2
S. 419 wholly repealed (1.5.1994) by [1993 c. 22](#), s. [8\(3\)\(4\)](#), [Sch. 4 para. 13\(2\)](#), [Sch. 5 Pt.II](#); [S.I. 1993/3137](#), [art. 3\(2\)](#)

420 F3

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1894, Part V. (See end of Document for details)

Textual Amendments

F3 S. 420 repealed (with saving) by S.I. 1983/708, reg. 2, **Sch. 2 Pt. I**

421 Saving for local rules of navigation in harbours, &c.

- (1) Any rules made before or after the passing of this Act under the authority of any local Act, concerning lights and signals to be carried, or the steps for avoiding collision to be taken, by vessels navigating the waters of any harbour, river, or other inland navigation, shall, notwithstanding anything in this Act, have full effect.
- (2) Where any such rules are not and cannot be made, Her Majesty in Council on the application of any person having authority over such waters, or, if there is no such person, any person interested in the navigation thereof, may make such rules, and those rules shall, as regards vessels navigating the said waters, be of the same force as if they were part of the collision regulations.

Modifications etc. (not altering text)

- C2** S. 421 extended by S.I. 1972/971, **Sch. 1** Pt. A and by **Civil Aviation Act 1982 (c. 16, SIF 9)**, s. 97(1), **Sch. 14 para. 7**
- C3** S. 421(2) extended by **Mersey Channels Act 1897 (c. 21)**, s. 2

422 Duty of vessel to assist the other in case of collision.

- (1) In every case of collision between two vessels, it shall be the duty of the master or person in charge of each vessel, if and so far as he can do so without danger to his own vessel crew and passengers (if any),
 - (a) to render to the other vessel her master crew and passengers (if any) such assistance as may be practicable, and may be necessary to save them from any danger caused by the collision, and to stay by the other vessel until he has ascertained that she has no need of further assistance, and also
 - (b) to give to the master or person in charge of the other vessel the name of his own vessel and of the port to which she belongs, and also the names of the ports from which she comes and to which she is bound.
- (2) ^{F4}
- (3) If the master or person in charge fails without reasonable cause to comply with this section, he shall be guilty of [^{F5}an offence and—
 - (a) in the case of a failure to comply with subsection (1)(a) of this section, liable on conviction on indictment to a fine and imprisonment for a term not exceeding two years and on summary conviction to a fine not exceeding fifty thousand pounds and imprisonment for a term not exceeding six months; and
 - (b) in the case of a failure to comply with subsection (1)(b) of this section, liable on conviction on indictment to a fine and on summary conviction to a fine not exceeding one thousand pounds,
 and in either case], and, if he is a certificated officer, an inquiry into his conduct may be held, and his certificate cancelled or suspended.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1894, Part V. (See end of Document for details)

Textual Amendments

- F4 S. 422(2) repealed by [Maritime Conventions Act 1911 \(c. 57\), s. 4\(2\)](#)
- F5 Words substituted by [Merchant Shipping Act 1979 \(c. 39\), Sch. 6 Pt. VII para. 6](#)

Modifications etc. (not altering text)

- C4 S. 422 extended by S.I. 1972/971, [Sch. 1 Pt. A](#)
- C5 S. 76 applied by [Merchant Shipping Act 1988 \(c. 12, SIF 111\), s. 22\(10\)](#)

423 F6

Textual Amendments

- F6 Ss. 423, 425, 426 repealed by [Merchant Shipping Act 1970 \(c. 36\), s. 100, Sch. 5](#)

424 F7

Textual Amendments

- F7 S. 424 repealed (with saving) by S.I. 1983/708, [reg. 2, Sch. 2 Pt. I](#)

425, F8
426.

Textual Amendments

- F8 Ss. 423, 425, 426 repealed by [Merchant Shipping Act 1970 \(c. 36\), s. 100, Sch. 5](#)

Life-saving Appliances

[^{F9}427 **Rules as to life-saving appliances.**

- (1) [^{F10}The Board of Trade] may, in relation to any ships to which this section applies, make rules (in this Act called “rules for life-saving appliances”) with respect to all or any of the following matters, namely:—
 - (a) the arranging of ships into classes, having regard to the services in which they are employed, to the nature and duration of the voyage, and to the number of persons carried;
 - (b) the number, description, and mode of construction of the boats, life rafts, line-throwing appliances, life-jackets, and lifebuoys to be carried by ships, according to the classes in which the ships are arranged;
 - (c) the equipment to be carried by any such boats and rafts and the methods to be provided to get the boats and other life-saving appliances into the water, including oil for use in stormy weather;

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- (d) the provision in ships of a proper supply of lights inextinguishable in water, and fitted for attachment to lifebuoys;
- (e) the quantity, quality and description of buoyant apparatus to be carried on board ships . . . ^{F11}, either in addition to or in substitution for boats, life rafts, life-jackets and lifebuoys;
- (f) the position and means of securing the boats, life rafts, life-jackets, lifebuoys and buoyant apparatus;
- (g) the marking of the boats, life rafts and buoyant apparatus so as to show their dimensions and the number of persons authorised to be carried on them;
- (h) the manning of the lifeboats and the qualifications and certificates of lifeboat men;
- (j) the provision to be made for mustering the persons on board, and for embarking them in the boats (including provision for the lighting of, and the means of ingress to and egress from, different parts of the ship);
- (k) the provision of suitable means situated outside the engine-room whereby any discharge of water into the boats can be prevented;
- (l) the assignment of specific duties to each member of the crew in the event of emergency;
- (m) the methods to be adopted and the appliances to be carried in ships for the prevention, detection and extinction of fire;
- ^{F12}(mm) [the provision in ships of plans or other information relating to the means of preventing, detecting, controlling and extinguishing outbreaks of fire;]
- (n) the practice in ships of boat-drills and fire-drills;
- (o) the provision in ships of means of making effective distress-signals by day and by night;
- (p) the provision, in ships engaged on voyages in which pilots are likely to be embarked, of suitable pilot-ladders, and of ropes, lights and other appliances designed to make the use of such ladders safe, and
- (q) the examination [^{F13}and maintenance] at intervals to be prescribed by the rules of any appliances or equipment required by the rules to be carried.

(2) This section applies to—

- ^{F14}(a) [British ships, except ships registered in a Dominion within the meaning of the Statute of Westminster 1931, or in India, Pakistan, Ceylon, Ghana, Malaysia, the Republic of Cyprus, Nigeria, Sierra Leone, Tanganyika, Jamaica, Trinidad and Tobago, Uganda, Kenya, Zanzibar, Malawi, Malta, The Gambia, Guyana, Singapore, Barbados, Mauritius, Fiji, the Bahamas, Bangladesh, Grenada, Seychelles, Solomon Islands, Tuvalu, Dominica, Saint Lucia, Kiribati, Saint Vincent and the Grenadines Papua New Guinea, Western Samoa or Nauru [^{F15}or Zimbabwe][^{F16}or the New Hebrides][^{F17}or Belize][^{F18}or Antigua and Barbuda][^{F19}or Saint Christopher and Nevis][^{F20}or Brunei or Maldives]or in any territory administered by His Majesty's government in any such Dominion;]
- (b) other ships while they are within any port in the United Kingdom:

Provided that this section shall not apply to a ship by reason of her being within a port in the United Kingdom if she would not have been in any such port but for stress of weather or any other circumstance that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled].

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1894, Part V. (See end of Document for details)

Textual Amendments

- F9 S. 427 substituted by Merchant Shipping (Safety Convention) Act 1949 (c. 43), s. 2(1)
- F10 Words substituted by virtue of S.I. 1965/145, arts. 2, 3(2), Sch. 1
- F11 Words repealed by Merchant Shipping Act 1964 (c. 47), s. 9(a)
- F12 S. 427(1)(mm) inserted by Merchant Shipping Act 1964 (c. 47), s. 9(b)
- F13 Words inserted by Merchant Shipping Act 1964 (c. 47), s. 9(c)
- F14 S. 427(2)(a) printed as amended by enactments listed in Chronological Table of the Statutes
- F15 Words inserted by S.I. 1980/701, Sch. para. 8 (18.4.1980)
- F16 Words inserted by New Hebrides Act 1980 (c. 16, SIF 26:26A), Sch. 1 para. 5 (30.7.1980)
- F17 Words inserted by Belize Act 1981 (c. 52, SIF 26:7A), Sch. 2 para. 4 (21.9.1981)
- F18 Words inserted by S.I. 1981/1105, Sch. para. 6 (1.11.1981)
- F19 Words inserted by S.I. 1983/882, Sch. para. 5 (19.9.1983)
- F20 Words inserted by Brunei and Maldives Act 1985 (c. 3, SIF 26:9A), Sch. (11.3.1985)

428 Duties of owners and masters as to carrying life-saving appliances.

It shall be the duty of the owner and master of every British ship to see that his ship is provided, in accordance with the rules for life-saving appliances, with such of those appliances as, having regard to the nature of the service on which the ship is employed, and the avoidance of undue encumbrance of the ship's deck, are best adapted for securing the safety of her crew and passengers.

429 Appointment of consultative committee for framing rules.

- (1) For the purpose of preparing and advising on the rules for life-saving appliances, the Board of Trade may appoint a committee, the members of which shall be nominated by the Board in accordance with the Seventeenth Schedule to this Act.
- (2) A member of the committee shall hold office for two years from the date of his appointment, but shall be eligible for re-appointment.
- (3) There shall be paid to the members of the committee, out of the Mercantile Marine Fund, such travelling and other allowances as the Board of Trade may fix.
- (4) Her Majesty may, by Order in Council, alter the Seventeenth Schedule to this Act.

430 Penalty for breach of rules.

- (1) In the case of any ship—
 - (a) if the ship is required by the rules for life-saving appliances to be provided with such appliances and proceeds on any voyage or excursion without being so provided in accordance with the rules applicable to the ship; or
 - (b) if any of the appliances with which the ship is so provided are lost or rendered unfit for service in the course of the voyage or excursion through the wilful fault or negligence of the owner or master; or
 - (c) if the master wilfully neglects to replace or repair on the first opportunity any such appliances lost or injured in the course of the voyage or excursion; or
 - (d) if such appliances are not kept so as to be at all times fit and ready for use;
 - [^{F21}(e) if any provision of the rules for life-saving appliances applicable to the ship is contravened or not complied with;]

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then the owner of the ship (if in fault) shall for each offence be liable to a fine not exceeding one hundred pounds, and the master of the ship (if in fault) shall for each offence be liable to a fine not exceeding fifty pounds.

- (2) Nothing in the foregoing enactments with respect to lifesaving appliances shall prevent any person from being liable under any other provision of this Act, or otherwise, to any other or higher fine or punishment than is provided by those enactments, provided that a person shall not be punished twice for the same offence.
- (3) If the court before whom a person is charged with an offence punishable under those enactments thinks that proceedings ought to be taken against him for the offence under any other provision of this Act, or otherwise, the court may adjourn the case to enable such proceedings to be taken.

Textual Amendments

F21 S. 430(1)(e) inserted by Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9), s. 5(2)

Modifications etc. (not altering text)

C6 S. 430(1) amended by Merchant Shipping Act 1979 (c. 39, SIF 111), s. 43(2), **Sch. 6 Pt. V** and Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 49(1)

[^{F22}**431** Survey of ship with respect to life-saving appliances.

- (1) A surveyor of ships may inspect any ship for the purpose of seeing that the rules for life-saving appliances have been complied with in her case, . . . ^{F23}
- (2) If the surveyor finds that the rules for life-saving appliances have not been complied with, he shall give written notice to the owner or master stating in what respect the said rules have not been complied with, and what, in his opinion, is required to rectify the matter.
- (3) Every notice so given shall be communicated in manner directed by the Board of Trade to the Chief Officer of Customs of any port at which the ship may seek to obtain a clearance or transire, and a clearance or transire shall not be granted to the ship and the ship shall be detained until a certificate under the hand of a surveyor of ships is produced to the effect that the matter has been rectified.]

Textual Amendments

F22 S. 431 substituted by Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9), s. 5(3)

F23 Words repealed by Merchant Shipping Act 1979 (c. 39), **Sch. 7 Pt. II**

Modifications etc. (not altering text)

C7 S. 431 amended by Fees (Increase) Act 1923 (c. 4), s. 2(3)

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Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1894, Part V. (See end of Document for details)

General Equipment

432 Adjustment of compasses and provision of hose.

- (1) Every British sea-going steamship if employed to carry passengers, shall have her compasses properly adjusted from time to time; and every British sea-going steamship not used wholly as a tug shall be provided with a hose capable of being connected with the engines of the ship, and adapted for extinguishing fire in any part of the ship.
- (2) If any such British sea-going steamship plies or goes to sea from any port in the United Kingdom and any requirement of this section is not complied with, then for each matter in which default is made, the owner (if in fault) shall be liable to a fine not exceeding one hundred pounds, and the master (if in fault) shall be liable to a fine not exceeding fifty pounds.

Modifications etc. (not altering text)

- C8** S. 432(2) amended by Merchant Shipping Act 1979 (c. 39, SIF 111), s. 43(2), **Sch. 6 Pt. V** and Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 49(1)**

433 Placing undue weight on safety valve.

A person shall not place an undue weight on the safety valve of any steamship, and if he does so he shall, in addition to any other liability he may incur by so doing, be liable for each offence to a fine not exceeding one hundred pounds.

Modifications etc. (not altering text)

- C9** S. 433 amended by Merchant Shipping Act 1979 (c. 39, SIF 111), s. 43(2), **Sch. 6 Pt. V** and Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 49(1)**

434 F24

Textual Amendments

- F24** S. 434 repealed by Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9), **Sch. 4 Pt. I**

435 F25

Textual Amendments

- F25** S. 435 repealed by Merchant Shipping (Safety Convention) Act 1949 (c. 43), **Sch. 3**

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1894, Part V. (See end of Document for details)

Draught of Water and Load-Line

436 Ship’s draught of water to be recorded.

(1) The Board of Trade may, in any case or class of cases in which they think it expedient to do so, direct any person appointed by them for the purpose, to record, in such manner and with such particulars as they direct, the draught of water of any sea-going ship, as shown on the scale . . . ^{F26} on her stem and stern post, and the extent of her [^{F27} freeboard], . . . ^{F26} upon her leaving any dock, wharf, port, or harbour for the purpose of proceeding to sea, and the person so appointed shall thereupon keep that record, and shall forward a copy thereof to the Board of Trade.

(2) That record or copy, if produced out of the custody of the Board of Trade, shall be admissible in evidence in manner provided by this Act.

(3) ^{F28}

(4) The master of a sea-going ship shall, upon the request of any person appointed to record the ship’s draught of water, permit that person to enter the ship and to make such inspections and take such measurements as may be requisite for the purpose of the record; and if any master fails to do so, or impedes, or suffers anyone under his control to impede, any person so appointed in the execution of his duty, he shall for each offence be liable to a fine not exceeding [^{F29} ^{F30}£1,000][^{F29} level 5 on the standard scale].

[^{F31}(5) In this section the expression “freeboard” means, in the case of any ship which is marked with a deck-line, the height from the water to the upper edge of the deck-line, and, in the case of any other ship, the height amidships from the water to the upper edge of the deck from which the depth of hold as stated in the register is measured.]

Textual Amendments
F26 Words repealed by S.I. 1973/1979, reg. 2(4)
F27 Word substituted by Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9), s. 62(1)
F28 S. 436(3) repealed by Merchant Shipping Act 1970 (c. 36), s. 100, Sch. 5
F29 Words “level 5 on the standard scale” substituted (E.W.S) for “£1000” by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G
F30 Word substituted by virtue of Merchant Shipping Act 1979 (c. 39), s. 43(1), Sch. 6 Pt. IV
F31 S. 436(5) substituted by Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9), s. 62(3)

437– ^{F32}
445

Textual Amendments
F32 Ss. 437–445 repealed by Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9), Sch. 4 Pt. II

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1894, Part V. (See end of Document for details)

Dangerous Goods

446 Restrictions on carriage of dangerous goods.

- (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.
- (2) If any person fails without reasonable cause to comply with this section, he shall for each offence be [^{F33}liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds; 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, . . . ^{F34}
- (3) For the purpose of this Part of this Act the expression “dangerous goods” means aquafortis, vitriol, naphtha, benzine, gunpowder, lucifer matches, nitro-glycerine, petroleum, any explosives within the meaning of the ^{M1}Explosives Act 1875, and any other goods which are of a dangerous nature.

Textual Amendments

F33 Words substituted by [Merchant Shipping Act 1979 \(c. 39\), Sch. 6 Pt. VII para. 7\(a\)](#)

F34 Words repealed by [Merchant Shipping Act 1979 \(c. 39\), Sch. 7 Pt. II](#)

Modifications etc. (not altering text)

C10 [S. 446](#) extended by [S.I. 1972/971, Sch. 1 Pt. A](#)

C11 [S. 446\(2\)](#) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 49\(1\)](#)

Marginal Citations

M1 [1875 c. 17.](#)

447 Penalty for misdescription of dangerous goods.

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 [^{F35}liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds].

Textual Amendments

F35 Words substituted by [Merchant Shipping Act 1979 \(c. 39\), Sch. 6 Pt. VII para. 8](#)

Modifications etc. (not altering text)

C12 [S. 447](#) extended by [S.I. 1972/971, Sch. 1 Pt. A](#)

C13 [S. 447](#) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 49\(1\)](#)

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1894, Part V. (See end of Document for details)

448 Power to deal with goods suspected of being dangerous.

- (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.
- (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.

Modifications etc. (not altering text)

C14 Ss. 448–450 extended by S.I. 1972/971, **Sch. 1** Pt. A

449 Forfeiture of dangerous goods improperly sent or carried.

- (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 disposed of as the court direct.
- (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.

Modifications etc. (not altering text)

C15 Ss. 448–450 extended by S.I. 1972/971, **Sch. 1** Pt. A

450 Saving for other enactments relating to dangerous goods.

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.

Modifications etc. (not altering text)

C16 Ss. 448–450 extended by S.I. 1972/971, **Sch. 1** Pt. A

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1894, Part V. (See end of Document for details)

451 F36

Textual Amendments

F36 S. 451 repealed by [Merchant Shipping Act 1906 \(c. 48\)](#), [Sch. 2](#)

452– F37
456

Textual Amendments

F37 Ss. 452–456 repealed by [Merchant Shipping \(Safety Convention\) Act 1949 \(c. 43\)](#), [Sch. 3](#)

Unseaworthy Ships

457 F38

Textual Amendments

F38 S. 457 repealed by [Merchant Shipping Act 1979 \(c. 39\)](#), [Sch. 7 Pt. II](#)

458 Obligation of shipowner to crew with respect to use of reasonable efforts to secure seaworthiness.

- (1) In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, . . . ^{F39}there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship, that the owner of the ship, and the master, and every agent charged with the loading of the ship, or the preparing of the ship for sea, or the sending of the ship to sea, shall use all reasonable means to insure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep her in a seaworthy condition for the voyage during the voyage.
- (2) Nothing in this section—
 - (a) shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable; or
 - (b) shall apply to any ship employed exclusively in trading or going from place to place in any river or inland water of which the whole or part is in any British possession.

Textual Amendments

F39 Words repealed by [Merchant Shipping Act 1970 \(c. 36\)](#), s. 100, [Sch. 5](#)

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1894, Part V. (See end of Document for details)

Modifications etc. (not altering text)

C17 S. 458 restricted (1.5.1994) by 1993 c. 22, s. 8(3), Sch. 4 para. 6(1)(a); S.I. 1993/3137, art. 3(2)

459 Power to detain unsafe ships, and procedure for detention.

(1) Where a British ship, being in any port in the United Kingdom, is an unsafe ship, that is to say, is by reason of [^{F40}any of the matters mentioned in subsection (1A) of this section], unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, such ship may be provisionally detained for the purpose of being surveyed [^{F41}or for ascertaining the sufficiency of her crew] and either finally detained or released as follows:—

- (a) The Board of Trade, if they have reason to believe, on complaint or otherwise, that a British ship is unsafe, may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed.
- (b) When a ship has been provisionally detained there shall be forthwith served on the master of the ship a written statement of the grounds of her detention, and the Board of Trade may, if they think fit, appoint some competent person or persons to survey the ship and report thereon to the Board.
- (c) The Board of Trade on receiving the report may either order the ship to be released or, if in their opinion the ship is unsafe, may order her to be finally detained, either absolutely, or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or re-loading of cargo, [^{F41}or the manning of the ship] as the Board think necessary for the protection of human life, and the Board may vary or add to any such order.
- (d) Before the order for final detention is made a copy of the report shall be served upon the master of the ship, and within seven days after that service the owner or master of the ship may appeal to the court of survey for the port or district where the ship is detained in manner directed by the rules of that court.
- (e) Where a ship has been provisionally detained, the owner or master of the ship, at any time before the person appointed under this section to survey the ship makes that survey, may require that he shall be accompanied by such person as the owner or master may select out of the list of assessors for the court of survey, and in that case if the surveyor and assessor agree, the Board of Trade shall cause the ship to be detained or released accordingly, but if they differ, the Board of Trade may act as if the requisition had not been made, and the owner and master shall have the like appeal touching the report of the surveyor as is before provided by this section.
- (f) Where a ship has been provisionally detained, the Board of Trade may at any time, if they think it expedient, refer the matter to the court of survey for the port or district where the ship is detained.
- (g) The Board of Trade may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

[^{F42}(1A) The matters referred to in subsection (1) of this section are—

- (a) the condition, or the unsuitability for its purpose, of —
 - (i) the ship or its machinery or equipment, or
 - (ii) any part of the ship or its machinery or equipment;
- (b) undermanning;
- (c) overloading or unsafe or improper loading;

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- (d) any other matter relevant to the safety of the ship;
and the reference in that subsection to proceeding to sea shall, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.]
- (2) Any person appointed by the Board of Trade for the purpose (in this Act referred to as a detaining officer) shall have the same power as the Board have under this section of ordering the provisional detention of a ship for the purpose of being surveyed, and of appointing a person or persons to survey her; and if he thinks that a ship so detained by him is not unsafe may order her to be released.
- (3) A detaining officer shall forthwith report to the Board of Trade any order made by him for the detention or release of a ship.
- (4) An order for the detention of a ship, provisional or final, and an order varying the same, shall be served as soon as may be on the master of the ship.
- (5) A ship detained under this section shall not be released by reason of her [^{F43}subsequently ceasing to be a British ship].
- (6) The Board of Trade may with the consent of the Treasury appoint fit persons to act as detaining officers under this section, and may remove any such officer; and a detaining officer shall be paid such salary or remuneration (if any) out of money provided by Parliament as the Treasury direct, and shall for the purpose of his duties have all the powers of a Board of Trade inspector [^{F44}under section 27 of the ^{M2}Merchant Shipping Act 1979].
- (7) A detaining officer and a person authorised to survey a ship under this section shall for that purpose have the same power as a person appointed by a court of survey to survey a ship, and the provisions of this Act with respect to the person so appointed shall apply accordingly.

Textual Amendments

- F40** Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), **Sch. 6** (with s. 58(4), Sch. 8 para. 1)
- F41** Words inserted by Merchant Shipping Act 1897 (c. 59), s. 1(1)
- F42** S. 459(1A) inserted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), **Sch. 6** (with s. 58(4), Sch. 8 para. 1)
- F43** Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), **Sch. 6** (with s. 58(4), Sch. 8 para. 1)
- F44** Words substituted by Merchant Shipping Act 1979 (c. 39), s. 28(7)(a)

Modifications etc. (not altering text)

- C18** S. 459 extended by Merchant Shipping Act 1897 (c. 59), s. 1(1) and Merchant Shipping (Load Lines) Act 1967 (c. 27), ss. 3(4), 13(5)(a), 17(4)(a)
- C19** Ss. 459-561 restricted (13.6.1992) by S.I. 1992/1293, art. 12, **Sch.**

Marginal Citations

- M2** 1979 c. 39.

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460 Liability for costs and damages.

- (1) If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of a ship under this Part of this Act as an unsafe ship, the Board of Trade shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.
- (2) If a ship is finally detained under this Act, or if it appears that a ship provisionally detained was, at the time of that detention, an unsafe ship within the meaning of this Part of this Act, the owner of the ship shall be liable to pay to the Board of Trade their costs of and incidental to the detention and survey of the ship, and those costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.
- (3) For the purpose of this section the costs of and incidental to any proceeding before a court of survey, and a reasonable amount in respect of the remuneration of the surveyor or officer of the Board of Trade, shall be part of the costs of the detention and survey of the ship, and any dispute as to the amount of those costs may be referred to one of the officers following, namely, in England or Ireland to one of the masters or registrars of the High Court, and in Scotland to the Auditor of the Court of Session, and the officer shall, on request by the Board of Trade, ascertain and certify the proper amount of those costs.
- (4)

F45

Textual Amendments

F45 S. 460(4) repealed by [Crown Proceedings Act 1947 \(c. 44\)](#), [Sch. 2](#)

Modifications etc. (not altering text)

C20 Reference to Ireland to be construed as exclusive of Republic of Ireland: S.R. & O. 1923/405 (Rev. X, p. 298: 1923, p. 400), art. 2

C21 S. 460 modified by [S.I. 1984/1203](#), [regs. 2\(4\)](#), 47

C22 [Ss. 459-461](#) restricted (13.6.1992) by [S.I. 1992/1293](#), art. 12, [Sch.](#)

C23 S. 460(1) applied with modifications by [S.I. 1982/1699](#), [regs. 3](#), [12\(3\)](#), [1983/808](#), [regs. 3](#), [14](#), [1983/1398](#), [regs. 2\(1\)\(2\)](#), [33\(1\)\(2\)](#), [1984/408](#), [regs. 3](#), [14](#), [1985/1664](#), [regs. 3](#), [15](#), [1986/144](#), [regs. 2](#), [13](#), [1988/1547](#), [reg. 12](#), [1988/1636](#), [reg. 9](#), [1988/1637](#), [reg. 15](#), [1988/1638](#), [reg. 12](#), [1988/1639](#), [reg. 15](#), [1988/1641](#), [reg. 16](#), [1989/102](#), [reg. 10](#)

[S. 460\(1\)](#) modified (15.2.1993) by [S.I. 1993/69](#), [reg.47](#)

C24 S. 460(3) modified by [S.I. 1982/1699](#), [regs. 3](#), [12\(3\)](#)

461 Power to require from complainant security for costs .

- (1) Where a complaint is made to the Board of Trade or a detaining officer that a British ship is unsafe, the Board or officer may, if they or he think fit, require the complainant to give security to the satisfaction of the Board for the costs and compensation which he may become liable to pay as herein-after mentioned.
- (2) Provided that such security shall not be required where the complaint is made by one fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of the Board or officer frivolous or vexatious, and the Board or officer shall,

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if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

- (3) Where a ship is detained in consequence of any complaint, and the circumstances are such that the Board of Trade are liable under this Act to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Board of Trade all such costs and compensation as the Board incur or are liable to pay in respect of the detention and survey of the ship.

Modifications etc. (not altering text)

C25 Ss. 459-561 restricted (13.6.1992) by S.I. 1992/1293, art. 12, Sch.

462 Application to foreign ships of provisions as to detention.

Where a foreign ship . . . ^{F46} at a port in the United Kingdom ^{F46} is ^{F46} unsafe [^{F47}by reason of any of the matters mentioned in section 459(1A) of this Act, the provisions]of this Part of this Act with respect to the detention of ships shall apply to that foreign ship as if she were a British ship, with the following modifications:—

- (i) A copy of the order for the provisional detention of the ship shall be forthwith served on the consular officer for the country to which the ship belongs at or nearest to the said port;
- (ii) Where a ship has been provisionally detained, the consular officer, on the request of the owner or master of the ship, may require that the person appointed by the Board of Trade to survey the ship shall be accompanied by such person as the consular officer may select, and in that case, if the surveyor and that person agree, the Board of Trade shall cause the ship to be detained or released accordingly, but if they differ, the Board of Trade may act as if the requisition had not been made, and the owner and master shall have the like appeal to a court of survey touching the report of the surveyor as is hereinbefore provided in the case of a British ship; and
- (iii) Where the owner or master of the ship appeals to the court of survey, the consular officer, on his request, may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were a British ship, would be appointed otherwise than by the Board of Trade.

Textual Amendments

F46 Words repealed by Merchant Shipping Act 1906 (c. 48), Sch. 2

F47 Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), Sch. 6 (with s. 58(4), Sch. 8 para. 1)

Modifications etc. (not altering text)

C26 S. 462 extended by Merchant Shipping Act 1906 (c. 48), s. 2(2) and Merchant Shipping (Load Lines) Act 1967 (c. 27), ss. 13(5)(b), 17(4)(b)

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Textual Amendments

F48 [S. 463](#) repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), ss. 48, 57(5), Schs. 5, 7, (with s. 58(4), Sch. 8 para. 1)

Status:

Point in time view as at 01/02/1991.

Changes to legislation:

There are currently no known outstanding effects for the Merchant Shipping Act 1894, Part V.