



Merchant Shipping Act 1894

1894 CHAPTER 60

PART IX

WRECK AND SALVAGE.

Procedure in Salvage.

547 Determination of salvage disputes.

- (1) Disputes as to the amount of salvage whether of life or property, and whether rendered within or without the United Kingdom arising between the salvor and the owners of any vessel, cargo, apparel, or wreck, shall, if not settled by agreement, arbitration, or otherwise, be determined summarily in manner provided by this Act, in the following cases; namely,—
 - (a) In any case where the parties to the dispute consent:
 - (b) In any case where the value of the property saved does not exceed one thousand pounds :
 - (c) In any case where the amount claimed does not exceed in Great Britain three hundred pounds, and in Ireland two hundred pounds
- (2) Subject as aforesaid, disputes as to salvage shall be determined by the High Court in England or Ireland, or in Scotland the Court of Session, but if the claimant does not recover in any such court in Great Britain more than three hundred pounds, and in any such court in Ireland more than two hundred pounds, he shall not be entitled to recover any costs, charges, or expenses incurred by him in the prosecution of his claim, unless the court before which the case is tried certify that the case is a fit one to be tried otherwise than summarily in manner provided by this Act.
- (3) Disputes relating to salvage may be determined on the application either of the salvor or of the owner of the property saved, or of their respective agents.
- (4) Where a dispute as to salvage is to be determined summarily under this section it shall be referred and determined as follows:—

- (a) In England it shall be referred to and determined by a county court having Admiralty jurisdiction by virtue of the County Courts Admiralty Jurisdiction Act, 1868, or any Act amending the same:
 - (b) In Scotland it shall be referred to and determined by the sheriff's court:
 - (c) In Ireland it shall be referred to the arbitration of and determined by two justices of the peace, or a stipendiary magistrate, or the recorder of any borough having a recorder, or the chairman of quarter sessions in any county, and any such justices, stipendiary magistrate, recorder, or chairman are hereinafter included in the expression " arbitrators."
- (5) Nothing in this Act relating to the procedure in salvage cases shall affect the jurisdiction or procedure in salvage cases of a county court having Admiralty jurisdiction by virtue of the County Courts Admiralty Jurisdiction Act, 1868, or the Court of Admiralty (Ireland) Act, 1867, or any Act amending either of those Acts.

548 Determination of disputes as to salvage summarily.

- (1) Disputes as to salvage which are to be determined summarily in manner provided by this Act shall—
- (a) where the dispute relates to the salvage of wreck be referred to a court or arbitrators having jurisdiction at or near the place where the wreck is found :
 - (b) where the dispute relates to salvage in the case of services rendered to any vessel or to the cargo or apparel thereof or in saving life therefrom be referred to a court or arbitrators having jurisdiction at or near the place where the vessel is lying, or at or near the port in the United Kingdom into which the vessel is first brought after the occurrence by reason whereof the claim of salvage arises.
- (2) Any court or arbitrators to whom a dispute as to salvage is referred for summary determination may, for the purpose of determining any such dispute, call in to their assistance any person conversant with maritime affairs as assessor, and there shall be paid as part of the costs of the proceedings to every such assessor in respect of his services such sum not exceeding five pounds as the Board of Trade may direct.

549 Appeal in case of salvage disputes.

Where a dispute relating to salvage has been determined summarily in manner provided by this Act, any party aggrieved by the decision may appeal therefrom—

- (a) in Great Britain, in like manner as in the case of any other judgment in an Admiralty or maritime cause of the county court or sheriff's court, as the case may be; and
 - (b) in Ireland, to the High Court, but only if the sum in dispute exceeds fifty pounds, and the appellant within ten days after the date of the award gives notice to the arbitrators of his intention to appeal and, within twenty days after the date of the award, takes such proceedings as, according to the practice of the High Court, are necessary for the institution of an appeal.
- (2) In the case of an appeal from arbitrators in Ireland the arbitrators shall transmit to the proper officer of the court of appeal a copy on unstamped paper certified under their hands to be a true copy of the proceedings had before them or their umpire (if any) and of the award so made by them or him, accompanied with their or his certificate in

writing of the gross value of the article respecting which salvage is claimed; and such copy and certificate shall be admitted in the court of appeal as evidence in the case.

550 As to arbitrators in Ireland.

- (1) The Lord Lieutenant in Ireland may appoint, out of the justices for any borough or county, a rota of justices, by whom jurisdiction in salvage cases under this Part of this Act shall be exercised.
- (2) Where no such rota is appointed the salvors may, by writing addressed to the justices clerk, name one justice and the owner of the property saved may in like manner name another justice to be-arbitrators; and if either party fails to name a justice within a reasonable time the case may be tried by two or more justices at petty sessions.
- (3) Where a dispute as to salvage is referred to justices under this Act, they may, if a difference of opinion arises between them, or without such difference, if they think fit, appoint some person Conversant with maritime affairs as umpire to decide the point in dispute.
- (4) The arbitrators, within forty-eight hours after any such dispute has been referred to them, and the umpire (if any) within forty-eight hours after his appointment, shall make an award as to the amount of salvage payable, with power nevertheless for such arbitrators or umpire, by writing, duly signed, to extend the time for so making the award.
- (5) There shall be paid to every umpire appointed as aforesaid, in respect of his services, such sum not exceeding five pounds as the Board of Trade may direct.
- (6) All the costs of such arbitration, including any such payment to an umpire as aforesaid, shall be paid by the parties to the dispute, in such manner, and in such shares and proportions, as the arbitrators or umpire may direct by the award.
- (7) The arbitrators or umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties and their witnesses on oath, and administer the oaths necessary for that purpose.
- (8) A Secretary of State may determine the scale of costs to be awarded in salvage cases determined by arbitrators under this Part of this Act.

551 Valuation of property by receiver.

- (1) Where any dispute as to salvage arises, the receiver of the district where the property is in respect of which the salvage claim is made, may, on the application of either party, appoint a valuer to value that property, and shall give copies of the valuation to both parties.
- (2) Any copy of the valuation purporting to be signed by the valuer, and to be certified as a true copy by the receiver, shall be admissible as evidence in any subsequent proceeding.
- (3) There shall be paid in respect of the valuation by the person applying for the same such fee as the Board of Trade may direct.

552 Detention of property liable for salvage by a receiver.

- (1) Where salvage is due to any person under this Act, the receiver shall—
 - (a) if the salvage is due in respect of services rendered in assisting any vessel, or in saving life therefrom, or in saving the cargo or apparel thereof, detain the vessel and cargo or apparel; and
 - (b) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under the Act, detain the wreck.
- (2) Subject as herein-after mentioned, the receiver shall detain the vessel and the cargo and apparel, or the wreck (herein-after referred to as detained property) until payment is made for salvage, or process is issued for the arrest or detention thereof by some competent court.
- (3) A receiver may release any detained property if security is given to his satisfaction or, if the claim for salvage exceeds two hundred pounds, and any question is raised as to the sufficiency of the security, to the satisfaction in England or Ireland of the High Court, and in Scotland of the Court of Session, including any division of that court, or the Lord Ordinary officiating on the bills during vacation.
- (4) Any security given for salvage in pursuance of this section to an amount exceeding two hundred pounds may be enforced by such court as aforesaid in the same manner as if bail had been given in that court.

553 Sale of detained property by receiver.

- (1) The receiver may sell any detained property if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following cases; namely,—
 - (a) Where the amount is not disputed, and payment of the amount due is not made within twenty days after the amount is due, or,
 - (b) Where the amount is disputed, but no appeal lies from the first court to which the dispute is referred, and payment is not made within twenty days after the decision of the first court, or
 - (c) Where the amount is disputed and an appeal lies from the decision of the first court to some other court, and within twenty days of the decision of the first court neither payment of the sum due is made nor proceedings are commenced for the purpose of appeal.
- (2) The proceeds of sale of detained property shall, after payment of the expenses of the sale, be applied by the receiver in payment of the expenses, fees, and salvage, and, so far as not required for that purpose, shall be paid to the owners of the property, or any other persons entitled to receive the same.

554 Agreement as to salvage.

- (1) Where services for which salvage is claimed are rendered either by the commander or crew or part of the crew of any of Her Majesty's ships or of any other ship, and the salvor voluntarily agrees to abandon his lien upon the ship, cargo, and property alleged to be salvaged, then, upon the master entering into a written agreement attested by two witnesses to abide the decision of the High Court in England, or of a Vice-Admiralty Court or Colonial Court of Admiralty, and thereby giving security in that behalf to an amount agreed on by the parties to the agreement, that agreement shall

bind the ship, and the cargo, and freight respectively, and the respective owners of the ship, cargo, and freight, and their respective heirs, executors, and administrators, for the salvage which may be adjudged to be payable in respect of the ship, cargo, and freight respectively to the extent of the security given.

- (2) Any agreement made under this section may be adjudicated on and enforced in the same manner as a bond executed under the provisions of this Part of this Act relating to salvage by Her Majesty's ships, and on any such agreement being made the salvor and the master shall respectively make the statements required by this Part of this Act to be made in the case of the bond, but their statements need not be made on oath.
- (3) The salvor shall transmit the statements made, as soon as practicable to the court in which the agreement is to be adjudicated upon.

555 Apportionment of salvage under 200l. by receiver.

- (1) Where the aggregate amount of salvage payable in respect of salvage services rendered in the United Kingdom has been finally determined, either summarily in manner provided by this Act or by agreement, and does not exceed two hundred pounds, but a dispute arises as to the apportionment thereof among several claimants, the person liable to pay the amount may apply to the receiver for liberty to pay the same to him ; and the receiver shall, if he thinks fit, receive the same accordingly, and shall grant to the person paying the amount a certificate of the amount paid and of the services in respect of which it is paid, and that certificate shall be a full discharge and indemnity to the person by whom the money is paid, and to his vessel, cargo, apparel, and effects against the claims of all persons whomsoever in respect of the services mentioned in the certificate.
- (2) The receiver shall with all convenient speed distribute any amount received by him under this section among the persons entitled to the same on such evidence, and in such shares and proportions, as he thinks fit, and may retain any money which appears to him to be payable to any person who is absent.
- (3) A distribution made by a receiver in pursuance of this section shall be final and conclusive as against all persons claiming to be entitled to any portion of the amount distributed.

556 Apportionment of salvage by Admiralty courts.

Whenever the aggregate amount of salvage payable in respect of salvage service rendered in the United Kingdom has been finally ascertained, and exceeds two hundred pounds, and whenever the aggregate amount of salvage payable in respect of salvage services rendered elsewhere has been finally ascertained, whatever that amount may be, then if any delay or dispute arises as to the apportionment thereof, any court having Admiralty jurisdiction may cause the same to be apportioned amongst the persons entitled thereto in such manner as it thinks just, and may for that purpose, if it thinks fit, appoint any person to carry that apportionment into effect, and may compel any person in whose hands or under whose control the amount may be to distribute the same, or to bring the same into court to be there dealt with as the court may direct, and may for the purposes aforesaid issue such processes as it thinks fit.