



# Merchant Shipping Act 1894

## 1894 CHAPTER 60

### PART V

#### SAFETY.

##### *Prevention of Collisions.*

#### **418 Collision regulations.**

- (1) Her Majesty may, on the joint recommendation of the Admiralty and the Board of Trade, by Order in Council, make regulations for the prevention of collisions at sea, and may thereby regulate the lights to be carried and exhibited, the fog signals to be carried and used, and the steering and sailing rules to be observed, by ships, and those regulations (in this Act referred to as the collision regulations), shall have effect as if enacted in this Act.
- (2) The collision regulations, together with the provisions of this Part of this Act relating thereto, or otherwise relating to collisions, shall be observed by all foreign ships within British jurisdiction, and in any case arising in a British court concerning matters arising within British jurisdiction foreign ships shall, so far as respects the collision regulations and the said provisions of this Act, be treated as if they were British ships.

#### **419 Observance of collision regulations.**

- (1) All owners and masters of ships shall obey the collision regulations, and shall not carry or exhibit any other lights, or use any other fog signals, than such as are required by those regulations.
- (2) If an infringement of the collision regulations is caused by the wilful default of the master or owner of the ship, that master or owner shall, in respect of each offence, be guilty of a misdemeanor.
- (3) If any damage to person or property arises from the non-observance by any ship of any of the collision regulations, the damage shall be deemed to have been occasioned

by the wilful default of the person in charge of the deck of the ship at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulation necessary.

- (4) Where in a case of collision it is proved to the court before whom the case is tried, that any of the collision regulations have been infringed, the ship by which the regulation has been infringed shall be deemed to be in fault, unless it is shown to the satisfaction of the court that the circumstances of the case made departure from the regulation necessary.
- (5) The Board of Trade shall furnish a copy of the collision regulations to any master or owner of a ship who applies for it.

#### **420 Inspection as to lights and fog signals.**

- (1) A surveyor of ships may inspect any ship, British or foreign, for the purpose of seeing that the ship is properly provided with lights and the means of making fog signals, in conformity with the collision regulations, and if the surveyor finds that the ship is not so provided, he shall give to the master or owner notice in writing, pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.
- (2) Every notice so given shall be communicated in the manner directed by the Board of Trade to the chief officer of customs at any port at which the ship may seek to obtain a clearance or transire; and the ship shall be detained, until a certificate under the hand of a surveyor of ships is produced to the effect that the ship is properly provided with lights and with the means of making fog signals, in conformity with the collision regulations.
- (3) For the purpose of an inspection under this section a surveyor shall have all the powers of a Board of Trade inspector under this Act.
- (4) Where the certificate as to lights and fog signals is refused, an owner may appeal to the court of survey for the port or district where the ship for the time being is in manner directed by the rules of that court.
- (5) On any such appeal the judge of the court of survey shall report to the Board of Trade on the question raised by the appeal, and the Board of Trade, when satisfied that the requirements of the report and of this Act as to lights and fog signals have been complied with, may grant, or direct a surveyor of ships or other person appointed by them to grant, the certificate.
- (6) Subject to any order made by the judge of court of survey the costs of and incidental to the appeal shall follow the event.
- (7) A surveyor in making an inspection under this section shall, if the owner of the ship so require, be accompanied on the inspection by some person appointed by the owner, and, if in that case the surveyor and the person so appointed agree, there shall be no appeal under this section to the court of survey.
- (8) Such fees as the Board of Trade may determine shall be paid in respect of an inspection of lights and fog signals under this section not exceeding those specified in the Sixteenth Schedule to this Act.

**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.

**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) If the master or person in charge of a vessel fails to comply with this section, and no reasonable cause for such failure is shown, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act neglect or default.
- (3) If the master or person in charge fails without reasonable cause to comply with this section, he shall be guilty of a misdemeanor, and, if he is a certificated officer, an inquiry into his conduct may be held, and his certificate cancelled or suspended.

**423 Collisions to be entered in official log.**

- (1) In every case of collision, in which it is practicable so to do, the master of every ship shall immediately after the occurrence cause a statement thereof, and of the circumstances under which the same occurred, to be entered in the official logbook (if any), and the entry shall be signed by the master, and also by the mate or one of the crew.
- (2) If the master fails to comply with this section, he shall for each offence be liable to a fine not exceeding twenty pounds.

**424 Application of collision regulations to foreign ships.**

Whenever it is made to appear to Her Majesty in Council that the Government of any foreign country is willing that the collision regulations, or the provisions of this Part of this Act relating thereto or otherwise relating to collisions, or any of those regulations or provisions should apply to the ships of that country when beyond the limits of British jurisdiction, Her Majesty may, by Order in Council, direct that those regulations and provisions shall, subject to any limitation of time conditions and qualifications contained in the Order, apply to the ships of the said foreign country,

whether within British jurisdiction or not, and that such ships shall for the purpose of such regulations and provisions be treated as if they were British ships.

*Report of Accidents and Loss of Ship.*

**425 Report to Board of Trade of accidents to steamships.**

- (1) When a steamship has sustained or caused any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting her seaworthiness or her efficiency either in her hull or in any part of her machinery, the owner or master shall, within twenty-four hours after the happening of the accident or damage, or as soon thereafter as possible, transmit to the Board of Trade, by letter signed by the owner or master, a report of the accident or damage, and of the probable occasion thereof, stating the name of the ship, her official number (if any), the port to which she belongs, and the place where she is.
- (2) If the owner or master of a steamship fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding fifty pounds.
- (3) This section shall apply to all British ships, and to all foreign steamships carrying passengers between places in the United Kingdom.

**426 Notice of loss of British ship to be given to the Board of Trade.**

- (1) If the managing owner or, in the event of there being no managing owner, the ship's husband, of any British ship has reason, owing to the non-appearance of the ship or to any other circumstance, to apprehend that the ship has been wholly lost, he shall, as soon as conveniently may be, send to the Board of Trade notice in writing of the loss and of the probable occasion thereof, stating the name of the ship, her official number (if any), and the port to which she belongs.
- (2) If a managing owner or ship's husband fails without reasonable cause to comply with this section within a reasonable time, he shall for each offence be liable to a fine not exceeding fifty pounds.

*Life-saving Appliances.*

**427 Rules as to life-saving appliances.**

- (1) The Board of Trade may 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 British 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 and description of the boats, life-boats, life-rafts, life-jackets, and life-buoys to be carried by British ships, according to the class in which they are arranged, and the mode of their construction, also the equipments to be carried by the boats and rafts, and the methods to be provided to get the boats and other life-saving appliances into the water which methods may include oil for use in stormy weather; and

- (c) The quantity, quality, and description of buoyant apparatus to be carried on board British ships carrying passengers, either in addition to or in substitution for boats, life-boats, life-rafts, life-jackets, and life-buoys.
- (2) All such rules shall be laid before Parliament so soon as may be after they are made, and shall not come into operation until they have lain for forty days before both Houses of Parliament during the session of Parliament; and on coming into operation shall have effect as if enacted in this Act.
- (3) Rules under this section shall not apply to any fishing boat for the time being entered in the fishing boat register under Part IV. of this Act.

#### **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;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 life-saving 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.

#### **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 she is properly provided with life-saving appliances in conformity with this Act, and for the purpose of that inspection shall have all the powers of a Board of Trade inspector under this Act.
- (2) If the said surveyor finds that the ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.
- (3) Every notice so given shall be communicated in the 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 the ship shall be detained until a certificate under the hand of any such surveyor is produced to the effect that the ship is properly provided with life-saving appliances in conformity with this Act.

#### *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.

#### **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 be 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.

#### *Signals of Distress.*

#### **434 Signals of distress.**

- (1) Her Majesty in Council may make rules as to what signals shall be signals of distress, and the 'signals fixed by those rules shall be deemed to be signals of distress.

- (2) If a master of a vessel uses or displays, or causes or permits any person under his authority to use or display, any of those signals of distress, except in the case of a vessel being in distress, he shall be liable to pay compensation for any labour undertaken, risk incurred, or loss sustained in consequence of that signal having been supposed to be a signal of distress, and that compensation may, without prejudice to any other remedy, be recovered in the same manner in which salvage is recoverable.

**435 Provision of signals of distress, inextinguishable lights, and life-buoys.**

- (1) Where a ship is a sea-going passenger steamer or emigrant ship within the meaning of the Third Part of this Act, the ship shall be provided to the satisfaction of the Board of Trade—
- (a) with means for making the said signals of distress at night, including means of making flames on the ship which are inextinguishable in water, or such other means of making signals of distress as the Board of Trade may previously approve; and
  - (b) with a proper supply of lights inextinguishable in water, and fitted for attachment to life-buoys.
- (2) If any such ship goes to sea from any port of the United Kingdom without being provided as required by this section, then for each default in any of the above requisites, 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.

*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 of feet on her stem and stern post, and the extent of her clear side in feet and inches, 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) The master of every British sea-going ship shall, upon her leaving any dock, wharf, port, or harbour for the purpose of proceeding to sea, record her draught of water and the extent of her clear side in the official log-book (if any), and shall produce the record to any chief officer of customs whenever required by him, and if he fails without reasonable cause to produce the record shall for each offence be liable to a fine not exceeding twenty pounds.
- (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 five pounds.

- (5) In this section the expression "clear side" means the height from the water to the upper side of the plank of the deck from which the depth of hold as stated in the register is measured, and the measurement of the clear side is to be taken at the lowest part of the side.

#### **437 Marking of deck-lines.**

- (1) Every British ship (except ships under eighty tons register employed solely in the coasting trade, ships employed solely in fishing, and pleasure yachts, and ships employed exclusively in trading or going from place to place in any river or inland water the whole or part of which is in any British possession), shall be permanently and conspicuously marked with lines (in this Act called deck-lines) of not less than twelve inches in length and one inch in breadth, painted longitudinally on each side amidships, or as near thereto as is practicable, and indicating the position of each deck which is above water.
- (2) The upper edge of each of the deck-lines must be level with the upper side of the deck plank next the waterway at the place of marking.
- (3) The deck-lines must be white or yellow on a dark ground, or black on a light ground.
- (4) In this section the expression "amidships" means the middle of the length of the load water-line as measured from the fore side of the stem to the aft side of the stern-post.

#### **438 Marking of load-line.**

- (1) The owner of every British ship proceeding to sea from a port in the United Kingdom (except ships under eighty tons register employed solely in the coasting trade, ships employed solely in fishing, and pleasure yachts) shall, before the time herein-after mentioned, mark upon each of her sides, amidships within the meaning of the last preceding section, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with an horizontal line eighteen inches in length drawn through its centre.
- (2) The centre of this disc shall be placed at such level as may be approved by the Board of Trade below the deck-line marked under this Act and specified in the certificate given there-, under, and shall indicate the maximum load-line in salt water to which it shall be lawful to load the ship.
- (3) The position of the disc shall be fixed in accordance with the tables used at the time of the passing of this Act by the Board of Trade, subject to such allowance as may be made necessary by any difference between the position of the deck-line marked under this Act and the position of the line from which freeboard is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof as may be approved by the Board of Trade.
- (4) In approving any such modifications the Board of Trade shall have regard to any representations made to them by any corporation or association for the survey or registry of shipping for the time being appointed or approved by the Board of Trade, as herein-alter mentioned, for the purpose of approving and certifying the position of the load-line.

**439 Ships with submerged load-lines deemed unsafe.**

If a ship is so loaded as to submerge in salt water the centre of the disc indicating the load-line, the ship shall be deemed to be an unsafe ship within the meaning of the provisions hereafter contained in this Part of this Act, and such submersion shall be a reasonable and probable cause for the detention of the ship.

**440 Time, &c. for marking of load-line in case of foreign-going vessels.**

- (1) Where a ship proceeds on any voyage from a port in the United Kingdom for which the owner is required to enter the ship outwards, the disc indicating the load-line shall be marked, before so entering her, or, if that is not practicable, as soon afterwards as may be.
- (2) The owner of the ship shall upon entering her outwards insert in the form of entry a statement in writing of the distance in feet and inches between the centre of this disc and the upper edge of each of the deck-lines which is above that centre, and if default is made in inserting that statement, the ship may be detained.
- (3) The master of the ship shall enter a copy of that statement in the agreement with the crew before it is signed by any member of the crew, and a superintendent shall not proceed with the engagement of the crew until that entry is made.
- (4) The master of the ship shall also enter a copy of that statement in the official log-book.
- (5) When a ship to which this section applies has been marked with a disc indicating the load-line, she shall be kept so marked until her next return to a port of discharge in the United Kingdom.

**441 Time, &c. for marking of load-line in case of coasting vessels.**

- (1) Where a ship employed in the coasting trade is required to be marked with the disc indicating the load-line, she shall be so marked before the ship proceeds to sea from any port: and the owner shall also once in every twelve months, immediately before the ship proceeds to sea, transmit or deliver to the chief officer of customs of the port of registry of the ship a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the deck-lines which is above that centre.
- (2) The owner, before the ship proceeds to sea after any renewal or alteration of the disc, shall transmit or deliver to the chief officer of customs of the port of registry of the ship notice in writing of that renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.
- (3) If default is made in transmitting or delivering any notice or statement under this section, the owner shall, for each offence, be liable to a fine not exceeding one hundred pounds.
- (4) When a ship to which this section applies has been marked with a disc indicating the load-line, she shall be kept so marked until notice is given of an alteration.

**442 Penalty for offences in relation to marking of load-line.**

- (1) If—

- (a) any owner or master of a British ship fails without reasonable cause to cause his ship to be marked as by this Part of this Act required, or to keep her so marked, or allows the ship to be so loaded as to submerge in salt water the centre of the disc indicating the load-line; or
  - (b) any person conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate, any of the said marks, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy,
- he shall for each offence be liable to a fine not exceeding one hundred pounds.
- (2) If any mark required by this Part of this Act is in any respect, inaccurate so as to be likely to mislead, the owner of the ship shall for each offence be liable to a fine not exceeding one hundred pounds.

#### **443 Regulations as to load-line.**

- (1) The Board of Trade shall appoint the Committee of Lloyd's Register of British and Foreign Shipping, or, at the option of the owner of the ship, any other corporation or association for the survey or registry of shipping approved by the Board of Trade, or any officer of the Board of Trade specially selected by the Board for that purpose, to approve and certify on their behalf from time to time the position of any disc indicating the load-line, and any alteration thereof, and may appoint fees to be taken in respect of any such approval or certificate.
- (2) The Board of Trade may make regulations—
- (a) determining the lines or marks to be used in connexion with the disc, in order to indicate the maximum load-line under different circumstances and at different seasons, and declaring that this Part of this Act is to have effect as if any such line were drawn through the centre of the disc; and
  - (b) as to the mode in which the disc and the lines or marks to be used in connexion therewith are to be marked or affixed on the ship, whether by painting, cutting, or otherwise; and
  - (c) as to the mode of application for, and form of, certificates under this section ; and
  - (d) requiring the entry of those certificates, and other particulars as to the draught of water and freeboard of the ship, in the official log-book of the ship, or other publication thereof on board the ship, and requiring the delivery of copies of those entries.
- (3) All such regulations shall, while in force, have effect as if enacted in this Act, and if any person fails without reasonable cause to comply with any such regulation made with respect to the entry, publication, or delivery of copies of certificates or other particulars as to the draught of water and freeboard of a ship, he shall for each offence be liable to a fine not exceeding one hundred pounds.
- (4) Where in pursuance of the regulations any such certificate is required to be delivered, a statement in writing as to the disc and deck-lines of a ship need not be inserted in the form of entry or transmitted or delivered to a chief officer of customs under the provisions herein-before contained.

**444 Provision as to colonial ships with respect to load-lines.**

Where the legislature of any British possession by any enactment provides for the fixing, marking, and certifying of load-lines on ships registered in that possession, and it appears to Her Majesty the Queen that that enactment is based on the same principles as the provisions of this Part of this Act relating to load-lines, and is equally effective for ascertaining and determining the maximum load-lines to which those ships can be safely loaded in salt water, and for giving notice of the load-line to persons interested, Her Majesty in Council may declare that any load-line fixed and marked and any certificate given in pursuance of that enactment shall, with respect to ships so registered, have the same effect as if it had been fixed, marked, or given in pursuance of this Part of this Act.

**445 Provision as to foreign ships with respect to load-lines.**

- (1) Where the Board of Trade certify that the laws and regulations for the time being in force in any foreign country and relating to overloading and improper loading are equally effective with the provisions of this Act relating thereto, Her Majesty in Council may direct that on proof of a ship of that country having complied with those laws and regulations, she shall not, when - in a port of the United Kingdom, be liable to detention for noncompliance with the said provisions of this Act, nor shall there arise any liability to any fine or penalty which would otherwise arise for non-compliance with those provisions.
- (2) Provided that this section shall not apply in the case of ships of any foreign country in which it appears to Her Majesty that corresponding provisions are not extended to British ships.

*Dangerous Goods.*

**446 Restrictions on carnage 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 liable to a fine not exceeding one hundred pounds; or if he shows that he 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, then not exceeding ten pounds.
- (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 Explosives Act, 1875, and any other goods which are of a dangerous nature.

**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 liable to a fine not exceeding five hundred pounds.

**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) Where 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.

**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 be 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.

**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.

*Loading of Timber.***451 Loading of timber.**

- (1) If a ship, British or foreign, arrives between the last day of October and the sixteenth day of April in any year at any port in the United Kingdom from any port out of the United Kingdom, carrying as deck cargo, that is to say, in any uncovered space upon

deck, or in any covered space not included in the cubical contents forming the ship's registered tonnage, any wood goods as herein-after defined, the master of that ship, and also the owner, if he is privy to the offence, shall be liable to a fine not exceeding five pounds for every hundred cubic feet of wood goods carried in contravention of this section.

- (2) Provided that a master or owner shall not be liable to any fine under this section—
- (a) in respect of any wood goods which the master has considered it necessary to place or keep on deck during the voyage on account of the springing of any leak, or of any other damage to the ship received or apprehended ; or
  - (b) if he proves that the ship sailed from the port at which the wood goods were loaded as deck cargo at such time before the last day of October as allowed a sufficient interval according to the ordinary duration of the voyage for the ship to arrive before that day at the said port in the United Kingdom, but was prevented from so arriving by stress of weather or circumstances beyond his control; or
  - (c) if he proves that the ship sailed from the port at which the wood goods were loaded as deck cargo at such time before the sixteenth day of April as allowed a reasonable interval according to the ordinary duration of the voyage for the ship to arrive after that day at the said port in the United Kingdom, and by reason of an exceptionally favourable voyage arrived before that day.
- (3) For the purposes of this section, the expression " wood goods " means—
- (a) any square, round, waney, or other timber, or any pitch pine, mahogany, oak, teak, or other heavy wood goods whatever; or
  - (b) any more than five spare spars or store spars, whether or not made, dressed, and finally prepared for use ; or
  - (c) any deals, battens, or other light wood goods of any description to a height exceeding three feet above the deck
- (4) Nothing in this section shall affect any ship not bound to a port in the United Kingdom which comes into any port of the United Kingdom under stress of weather, or for repairs, or for any other purpose than the delivery of her cargo.

#### *Carriage of Grain.*

### **452   Obligation to take precautions to prevent grain cargo from shifting.**

- (1) Where a grain cargo is laden on board any British ship all necessary and reasonable precautions (whether mentioned in this Part of this Act or not) shall be taken in order to prevent the grain cargo from shifting.
- (2) If those precautions have not been taken in the case of any British ship, the master of the ship and any agent of the owner who was charged with the loading of the ship or the sending of her to sea, shall each be liable to a fine not exceeding three hundred pounds, and the owner of the ship shall also be liable to the same fine, unless he shows that he took all reasonable means to enforce the observance of this section, and was not privy to the breach thereof.

**453 Precautions against shifting of grain cargo laden in port in Mediterranean or Black Sea, or on coast of North America.**

- (1) Where a British ship laden with a grain cargo at any port in the Mediterranean or Black Sea is bound to ports outside the Straits of Gibraltar, or where a British ship is laden with a grain cargo on the coast of North America, the precautions to prevent the grain cargo from shifting, set out in the Eighteenth Schedule to this Act, shall be adopted, unless the ship is loaded in accordance with regulations for the time being approved by the Board of Trade, or is constructed and loaded in accordance with any plan approved by the Board of Trade.
- (2) If this section is not complied with in the case of any ship, reasonable precautions to prevent the grain cargo of that ship from shifting shall be deemed not to have been taken, and the owner and master of the ship and any agent charged with loading her or sending her to sea shall be liable accordingly to a fine under this Part of this Act.
- (3) Nothing in this section shall exempt a person from any liability, civil or criminal, to which he would otherwise be subject for failing to adopt any reasonable precautions which, although not mentioned in this section, are reasonably required to prevent grain cargo from shifting.

**454 Notice by master of kind and quantity of grain cargo.**

- (1) Before a British ship laden with grain cargo at any port in the Mediterranean or Black Sea and bound to ports outside the Straits of Gibraltar, or laden with grain cargo on the coast of North America, leaves her final port of loading, or within forty-eight hours after leaving that port, the master shall deliver or cause to be delivered to the British consular officer, or, if the port is in a British possession, to the chief officer of customs, at that port, a notice stating—
  - (a) the draught of water and clear side, as defined by this Part of this Act, of the said ship after the loading of her cargo has been completed at the said final port of loading; and
  - (b) the following particulars in respect to the grain cargo; namely,—
    - (i) the kind of grain and the quantity thereof, which quantity may be stated in cubic feet, or in quarters, or bushels, or in tons weight; and
    - (ii) the mode in which the grain cargo is stowed; and
    - (iii) the precautions taken against shifting.
- (2) The master shall also deliver a similar notice to the proper officer of customs in the United Kingdom, together with the report required to be made by the Customs Consolidation Act, 1876, on the arrival of the ship in the United Kingdom.
- (3) Every such notice shall be sent to the Board of Trade, as soon as practicable, by the officer receiving the same.
- (4) If the master fails to deliver any notice required by this section, or if in any such notice he wilfully makes a false statement or wilfully omits a material particular, he shall for each offence be liable to a fine not exceeding one hundred pounds.
- (5) The Board of Trade may, by notice published in the London Gazette, or in such other way as the Board think expedient, exempt ships laden at any particular port or any class of those ships from this section.

**455 Power of Board of Trade for enforcing provisions as to carriage of grain.**

For securing the observance of the provisions of this Part of this Act with respect to grain cargo, any officer having authority in that behalf from the Board of Trade, either general or special, shall have power to inspect any grain cargo, and the mode in which the same is stowed, and for that purpose shall have all the powers of a Board of Trade inspector under this Act.

**456 Definition of grain, &c.**

For the purpose of the provisions of this Part of this Act with respect to grain cargo—

The expression " grain " means any corn, rice, paddy, pulse, seeds, nuts, or nut kernels.

The expression " ship laden with a grain cargo " means a ship carrying a cargo of which the portion consisting of grain is more than one third of the registered tonnage of the ship, and that third shall be computed, where the grain is reckoned in measures of capacity, at the rate of one hundred cubic feet for each ton of registered tonnage, and where the grain is reckoned in measures of weight, at the rate of two tons weight for each ton of registered tonnage.

*Unseaworthy Ships.*

**457 Sending unseaworthy ship to sea a misdemeanor.**

- (1) If any person sends or attempts to send, or is party to sending or attempting to send, a British ship to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered, he shall in respect of each offence be guilty of a misdemeanor, unless he proves either that he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in such an unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purpose of giving that proof he may give evidence in the same manner as any other witness.
- (2) If the master of a British ship knowingly takes the same to sea in such an unseaworthy state that the life of any person is likely to be thereby endangered, he shall in respect of each offence be guilty of a misdemeanor, unless he proves that her going to sea in such an unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purpose of giving such proof he may give evidence in the same manner as any other witness.
- (3) A prosecution under this section shall not, except in Scotland, be instituted otherwise than by, or with the consent of, the Board of Trade, or of the governor of the British possession in which the prosecution takes place.
- (4) A misdemeanor under this section shall not be punishable upon summary conviction.
- (5) This section shall not apply to any ship employed exclusively in trading or going from place to place in any liver or inland water of which the whole or part is in any British possession.

**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, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any ship, 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.

**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 the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, 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, 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, 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

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- 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.
- (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 British register being subsequently closed.
  - (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 under this Act.
  - (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.

#### **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) An action for any costs or compensation payable by the Board of Trade under this section may be brought against the Secretary of that Board by his official title as if he were a corporation sole, and if the cause of action arises in Ireland, and the action is brought in the High Court, that Court may order that the summons or writ may be served on the Crown and Treasury Solicitor for Ireland in such manner and on such terms respecting extension of time and otherwise as the Court thinks fit, and that that service shall be sufficient service of the summons or writ upon the Secretary of the Board of Trade.

#### **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, 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.

#### **462 Application to foreign ships of provisions as to detention.**

Where a foreign ship has taken on board all or any part of her cargo at a port in the United Kingdom, and is whilst at that port unsafe by reason of overloading or improper loading, 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 herein-before 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.

**463 Survey of ships alleged by seamen to be unseaworthy.**

- (1) Whenever in any proceeding against any seaman or apprentice belonging to any ship for the offence of desertion, or absence without leave or for otherwise being absent from his ship without leave, it is alleged by one fourth, or if their number exceeds twenty by not less than five, of the seamen belonging to the ship, that the ship is by reason of unseaworthiness, overloading, improper loading, defective equipment, or for any other reason, not in a fit condition to proceed to sea, or that the accommodation in the ship is insufficient, the court having cognizance of the case shall take such means as may be in their power to satisfy themselves concerning the truth or untruth of the allegation, and shall for that purpose receive the evidence of the persons making the same, and may summon any other witnesses whose evidence they may think it desirable to hear, and shall, if satisfied that the allegation is groundless, adjudicate in the case, but if not so satisfied shall before adjudication cause the ship to be surveyed.
- (2) A seaman or apprentice charged with desertion, or with quitting his ship without leave, shall not have any right to apply for a survey under this section unless he has before quitting his ship complained to the master of the circumstances so alleged in justification.
- (3) For the purposes of this section the court shall require any surveyor of ships appointed under this Act, or any person appointed for the purpose by the Board of Trade, or, if such a surveyor or person cannot be obtained without unreasonable expense or delay, or is not, in the opinion of the court, competent to deal with the special circumstances of the case, then any other impartial surveyor appointed by the court, and having no interest in the ship her freight, or cargo, to survey the ship, and to answer any question concerning her which the court think fit to put.
- (4) Such surveyor or other person shall survey the ship, and make his written report to the court, including an answer to every question put to him by the court, and the court shall cause the report to be communicated to the parties, and, unless the opinions expressed in the report are proved to the satisfaction of the court to be erroneous, shall determine the questions before them in accordance with those opinions.
- (5) Any person making a survey under this section shall for the purposes thereof have all the powers of a Board of Trade inspector under this Act.
- (6) The costs (if any) of the survey shall be determined by the Board of Trade according to a scale of fees to be fixed by them, and shall be paid in the first instance out of the Mercantile Marine Fund.
- (7) If it is proved that the ship is in a fit condition to proceed to sea, or that the accommodation is sufficient, as the case may be, the costs of the survey shall be paid by the person upon whose demand or in consequence of whose allegation the survey was made, and may be deducted by the master or owner out of the wages due or to become due to that person, and shall be paid over to the Board of Trade.
- (8) If it is proved that the ship is not in a fit condition to proceed to sea, or that the accommodation is insufficient, as the case may be, the master or owner of the ship shall pay the costs of the survey to the Board of Trade, and shall be liable to pay to the

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seaman or apprentice, who has been detained in consequence of the said proceeding before the court under this section, such compensation for his detention as the court may award.