



Merchant Shipping Act 1995

1995 CHAPTER 21

PART IX

SALVAGE AND WRECK

CHAPTER II

WRECK

Vessels in distress

231 Application of, and discharge of functions under, sections 232, 233 234 and 235.

- (1) Sections 232, 233, 234 and 235 apply in circumstances where a United Kingdom or foreign vessel is wrecked, stranded, or in distress at any place on or near the coasts of the United Kingdom or any tidal water within United Kingdom waters.
- (2) Where any function is conferred on the receiver by any of those sections that function may be discharged by any officer of customs and excise or any principal officer of the coastguard.
- (3) An officer discharging any such functions of the receiver shall, with respect to any goods or articles belonging to a vessel the delivery of which to the receiver is required by any provision of this Chapter, be treated as the agent of the receiver.
- (4) However, an officer discharging such functions shall not—
 - (a) be entitled to any fees payable to receivers, or
 - (b) be deprived of any right to salvage to which he would otherwise be entitled.
- (5) In any of those sections “shipwrecked persons”, in relation to a vessel, means persons belonging to the vessel.

Status: Point in time view as at 27/03/2007.

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232 Duty of receiver where vessel in distress.

- (1) In circumstances in which this section applies by virtue of section 231 in relation to any vessel the receiver shall, on being informed of the circumstances, discharge the following functions.
- (2) Subject to subsection [^{F1}(3)] below, the receiver shall—
 - (a) forthwith proceed to the place where the vessel is;
 - (b) take command of all persons present; and
 - (c) assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the shipwrecked persons.
- (3) The receiver shall not interfere between the master and crew of the vessel in reference to the management of the vessel unless he is requested to do so by the master.
- (4) Subject to subsection (3) above, if any person intentionally disobeys the direction of the receiver he shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Textual Amendments

- F1** Figure in s. 232(2) substituted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 14**; S.I. 1997/1539, art. 2, **Sch.**

233 Powers of receiver in case of vessel in distress.

- (1) [^{F2}Subject to subsection (1A) below,] in circumstances where this section applies by virtue of section 231 in relation to any vessel the receiver may, for the purpose of the preservation of shipwrecked persons or of the vessel, cargo and equipment—
 - (a) require such persons as he thinks necessary to assist him;
 - (b) require the master, or other person having the charge, of any vessel near at hand to give such assistance with his men, or vessel, as may be in his power; and
 - (c) require the use of any vehicle that may be near at hand.
- ^{F3}[(1A) The receiver may not under subsection (1) above impose any requirement on the master or other person having the charge of a vessel owned or operated by the Royal National Lifeboat Institution.]
- (2) If any person refuses, without reasonable excuse, to comply with any requirement made under subsection (1) above he shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Textual Amendments

- F2** Words in s. 233(1) inserted (17.7.1997) by 1997 c. 28, s. 21(1); S.I. 1997/1539, art. 2, **Sch.**
- F3** S. 233(1A) inserted (17.7.1997) by 1997 c. 28, s. 21(2); S.I. 1997/1539, art. 2, **Sch.**

234 Power to pass over adjoining land.

- (1) In circumstances where this section applies by virtue of section 231 in relation to any vessel, all persons may, subject to subsections (3) and (4) below, for the purpose of—

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- (a) rendering assistance to the vessel,
 - (b) saving the lives of shipwrecked persons, or
 - (c) saving the cargo or equipment of the vessel,pass and repass over any adjoining land without being subject to interruption by the owner or occupier and deposit on the land any cargo or other article recovered from the vessel.
- (2) The right of passage conferred by subsection (1) above is a right of passage with or without vehicles.
- (3) No right of passage is conferred by subsection (1) above where there is some public road equally convenient.
- (4) The rights conferred by subsection (1) above shall be so exercised as to do as little damage as possible.
- (5) Any damage sustained by an owner or occupier of land in consequence of the exercise of the rights conferred by this section shall be a charge on the vessel, cargo or articles in respect of or by which the damage is caused.
- (6) Any amount payable in respect of such damage shall, in case of dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage is determined and recoverable under this Part.
- (7) If the owner or occupier of any land—
 - (a) impedes or hinders any person in the exercise of the rights conferred by this section;
 - (b) impedes or hinders the deposit on the land of any cargo or other article recovered from the vessel; or
 - (c) prevents or attempts to prevent any cargo or other article recovered from the vessel from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit;he shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

235 Liability for damage in case of plundered vessel.

- (1) Where, in circumstances in which this section applies by virtue of section 231 in relation to any vessel, the vessel or any part of its cargo and equipment is plundered, damaged or destroyed by persons in circumstances in which those persons commit the offence of riot or, in Scotland, of mobbing and rioting, compensation shall be made to the owner of the vessel, cargo or equipment in accordance with the following provisions of this section.
- (2) Compensation under subsection (1) above in England and Wales shall be made by the compensation authority in the manner provided by the ^{M1}Riot (Damages) Act 1886 with respect to claims for compensation under that Act.
- (3) Where the vessel, cargo or equipment is not within a police area, the plundering, damage or destruction shall be treated for the purposes of subsection (2) above as taking place within the nearest police area.
- (4) Compensation under subsection (1) above in Scotland shall, as if entitlement to it arose under section 10 of the ^{M2}Riotous Assemblies (Scotland) Act 1822, be made

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by the council constituted under section 2 of the ^{M3}Local Government etc. (Scotland) Act 1994 within whose area, or nearest to whose area, the plundering, damage or destruction took place.

- (5) Compensation under subsection (1) above in Northern Ireland shall be made in pursuance of an application under the ^{M4}Criminal Injuries to Property (Compensation) Act (Northern Ireland) 1971 as modified for the purposes of this section by the ^{M5}Transfer of Functions (Criminal Injuries to Vessels) (Northern Ireland) Order 1973.

Marginal Citations

- M1** 1886 c. 38.
M2 1822 c. 33.
M3 1994 c. 39.
M4 1971 c. 38 (N.I.).
M5 S.R. 1973 No. 56 (N.I.).

Dealing with wreck

236 Duties of finder etc of wreck.

- (1) If any person finds or takes possession of any wreck in United Kingdom waters or finds or takes possession of any wreck outside United Kingdom waters and brings it within those waters he shall—
- (a) if he is the owner of it, give notice to the receiver stating that he has found or taken possession of it and describing the marks by which it may be recognised;
 - (b) if he is not the owner of it, give notice to the receiver that he has found or taken possession of it and, as directed by the receiver, either hold it to the receiver's order or deliver it to the receiver.
- (2) If any person fails, without reasonable excuse, to comply with subsection (1) above he shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale and if he is not the owner of the wreck he shall also—
- (a) forfeit any claim to salvage; and
 - (b) be liable to pay twice the value of the wreck—
 - (i) if it is claimed, to the owner of it; or
 - (ii) if it is unclaimed, to the person entitled to the wreck.
- (3) Any sum payable under subsection (2)(b) above to the owner of the wreck or to the persons entitled to the wreck may, in England and Wales and Northern Ireland, be recovered summarily as a civil debt.
- (4) In Scotland any sum payable under subsection (2)(b) above to the owner of the wreck or to the persons entitled to the wreck shall, for the purposes of the sum's recovery, be regarded as a debt due to the owner or, as the case may be, to those persons.

237 Provisions as respects cargo, etc.

- (1) Where a vessel is wrecked, stranded, or in distress at any place on or near the coasts of the United Kingdom or any tidal water within United Kingdom waters, any cargo

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or other articles belonging to or separated from the vessel which are washed on shore or otherwise lost or taken from the vessel shall be delivered to the receiver.

- (2) If any person (whether the owner or not)—
- (a) conceals or keeps possession of any such cargo or article, or
 - (b) refuses to deliver any such cargo or article to the receiver or to any person authorised by the receiver to require delivery,
- he shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (3) The receiver or any person authorised by him may take any such cargo or article (if necessary by force) from any person who refuses to deliver it.

238 Receiver to give notice of wreck.

- (1) Where the receiver takes possession of any wreck he shall, within 48 hours—
- (a) make a record describing the wreck and any marks by which it is distinguished; and
 - (b) if in his opinion the value of the wreck exceeds £5,000, also transmit a similar description to the chief executive officer of Lloyd’s in London.
- (2) The record made by the receiver under subsection (1)(a) above shall be kept by him available for inspection by any person during reasonable hours without charge.
- (3) The notice sent under subsection (1)(b) above to the chief executive officer of Lloyd’s shall be posted by him in some conspicuous position for inspection.

239 Claims of owners to wreck.

- (1) The owner of any wreck in the possession of the receiver who establishes his claim to the wreck to the satisfaction of the receiver within one year from the time when the wreck came into the receiver’s possession shall, on paying the salvage, fees and expenses due, be entitled to have the wreck delivered or the proceeds of sale paid to him.
- (2) Where—
- (a) a foreign ship has been wrecked on or near the coasts of the United Kingdom, or
 - (b) any articles belonging to or forming part of or of the cargo of a foreign ship which has been wrecked on or near the coasts of the United Kingdom are found on or near the coast or are brought into any port,
- the appropriate consular officer shall, in the absence of the owner and of the master or other agent of the owner, be treated as the agent of the owner for the purposes of the custody and disposal of the wreck and such articles.
- (3) In subsection (2) above “the appropriate consular officer”, in relation to a foreign ship, means the consul general of the country to which the ship or, as the case may be, the owners of the cargo may have belonged or any consular officer of that country authorised for the purpose by any treaty or arrangement with that country.

240 Immediate sale of wreck in certain cases.

- (1) The receiver may at any time sell any wreck in his possession if, in his opinion—

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- (a) it is under the value of £5,000;
- (b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept; or
- (c) it is not of sufficient value to pay for storage.

^{F4}[(1A) The receiver may also sell any wreck in his possession before the end of the year referred to in section 239(1) if—

- (a) in his opinion it is unlikely that any owner will establish a claim to the wreck within that year; and
- (b) no statement has been given to the receiver under section 242(1) in relation to the place where the wreck was found.]

(2) [^{F5}Subject to subsection (3) below,] the proceeds of sale shall, after defraying the expenses of the sale, be held by the receiver for the same purposes and subject to the same claims, rights and liabilities as if the wreck had remained unsold.

^{F6}[(3) Where the receiver sells any wreck in a case falling within subsection (1A) above, he may make to the salvors an advance payment, of such amount as he thinks fit and subject to such conditions as he thinks fit, on account of any salvage that may become payable to them in accordance with section 243(5).]

Textual Amendments

- F4** S. 240(1A) inserted (17.7.1997) by 1997 c. 28, s. 22(2); S.I. 1997/1539, art. 2, Sch.
- F5** Words in s. 240(2) inserted (17.7.1997) by 1997 c. 28, s. 22(3); S.I. 1997/1539, art. 2, Sch.
- F6** S. 240(3) inserted (17.7.1997) by 1997 c. 28, s. 22(3); S.I. 1997/1539, art. 2, Sch.

Unclaimed wreck

241 Right of Crown to unclaimed wreck.

Her Majesty and Her Royal successors are entitled to all unclaimed wreck found in the United Kingdom or in United Kingdom waters except in places where Her Majesty or any of Her Royal predecessors has granted the right to any other person.

242 Notice of unclaimed wreck to be given to persons entitled.

- (1) Any person who is entitled to unclaimed wreck found at any place in the United Kingdom or in United Kingdom waters shall give the receiver a statement containing the particulars of his entitlement and specifying an address to which notices may be sent.
- (2) Where a statement has been given to the receiver under subsection (1) above and the entitlement is proved to the satisfaction of the receiver, the receiver shall, on taking possession of any wreck found at a place to which the statement refers, within 48 hours, send to the specified address a description of the wreck and of any marks distinguishing it.

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243 Disposal of unclaimed wreck.

- (1) Where, as respects any wreck found in the United Kingdom or in United Kingdom waters and in the possession of the receiver, no owner establishes a claim to it within one year after it came into the receiver's possession, the wreck shall be dealt with as follows.
- (2) If the wreck is claimed by any person who has delivered the statement required by section 242 and has proved to the satisfaction of the receiver his entitlement to receive unclaimed wreck found at the place where the wreck was found, the wreck shall, on payment of all expenses, costs, fees and salvage due in respect of it, be delivered to that person.
- (3) If the wreck is not claimed by any person in accordance with section 242, the receiver shall sell the wreck and pay the proceeds as directed by subsection (6) below, after making the deductions required by subsection (4) below and paying to the salvors the amount of salvage determined under subsection (5) below.
- (4) The amounts to be deducted by the receiver are—
 - (a) the expenses of the sale;
 - (b) any other expenses incurred by him; and
 - (c) his fees.
- (5) The amount of salvage to be paid by the receiver to the salvors shall be such amount as the Secretary of State directs generally or in the particular case.
- (6) The proceeds of sale (after making those deductions and salvage payments) shall be paid by the receiver for the benefit of Her Majesty—
 - (a) if the wreck is claimed in right of the Duchy of Lancaster, to the receiver-general of the duchy or his deputies as part of its revenues;
 - (b) if the wreck is claimed in right of the Duchy of Cornwall, to the receiver-general of the duchy or his deputies as part of its revenues; and
 - (c) in any other case, into the Consolidated Fund.

244 Effect of delivery of wreck etc under this Part.

- (1) Delivery of wreck or payment of the proceeds of sale of wreck by the receiver under this Chapter shall discharge the receiver from all liability in respect of the delivery or payment.
- (2) Delivery of wreck by the receiver under this Chapter shall not, however, prejudice or affect any question which may be raised by third parties concerning the right or title to the wreck or concerning the title to the soil of the place at which the wreck was found.

Offences in respect of wreck

245 Taking wreck to foreign port.

- (1) A person commits an offence if he takes into any foreign port and sells—
 - (a) any vessel stranded, derelict or otherwise in distress found on or near the coasts of the United Kingdom or any tidal water within United Kingdom waters;

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- (b) any part of the cargo or equipment of, or anything belonging to, such a vessel; or
 - (c) any wreck found within those waters.
- (2) A person who is guilty of an offence under this section shall be liable, on conviction on indictment, to imprisonment for a term not exceeding five years.

246 Interfering with wrecked vessel or wreck.

- (1) Subject to subsection (2) below, a person commits an offence if, without the permission of the master, he boards or attempts to board any vessel which is wrecked, stranded or in distress.
- (2) No offence is committed under subsection (1) above if the person is the receiver or a person lawfully acting as the receiver or if he acts by command of the receiver or a person so acting.
- (3) A person commits an offence if—
- (a) he impedes or hinders or attempts to impede or hinder the saving of—
 - (i) any vessel stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water; or
 - (ii) any part of the cargo or equipment of any such vessel; or
 - (iii) any wreck;
 - (b) he conceals any wreck;
 - (c) he defaces or obliterates any mark on a vessel; or
 - (d) he wrongfully carries away or removes—
 - (i) any part of any vessel stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water;
 - (ii) any part of the cargo or equipment of any such vessel; or
 - (iii) any wreck.
- (4) The master of a vessel may forcibly repel any person committing or attempting to commit an offence under subsection (1) above.
- (5) A person who is guilty of an offence under this section shall be liable, on summary conviction—
- (a) in the case of an offence under subsection (1) above, to a fine not exceeding level 3 on the standard scale;
 - (b) in the case of an offence under subsection (3) above, to a fine not exceeding level 4 on the standard scale.

247 Powers of entry etc.

- (1) Where the receiver has reason to believe that—
- (a) any wreck is being concealed by or is in the possession of some person who is not the owner of it; or
 - (b) any wreck is being otherwise improperly dealt with,
- he may apply to a justice of the peace for a search warrant.
- (2) Where a search warrant is granted under subsection (1) above to the receiver, the receiver may, by virtue of the warrant—

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- (a) enter any house, or other place (wherever situated) or any vessel; and
 - (b) search for, seize and detain any wreck found there.
- (3) If any seizure of wreck is made under this section in consequence of information given by any person to the receiver, the person giving the information shall be entitled, by way of salvage, to such sum, not exceeding £100, as the receiver may allow.

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