



# Carriage of Goods by Sea Act 1992

## 1992 CHAPTER 50

An Act to replace the Bills of Lading Act 1855 with new provision with respect to bills of lading and certain other shipping documents. [16th July 1992]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Shipping documents etc. to which Act applies**

- (1) This Act applies to the following documents, that is to say—
  - (a) any bill of lading;
  - (b) any sea waybill; and
  - (c) any ship's delivery order.
- (2) References in this Act to a bill of lading—
  - (a) do not include references to a document which is incapable of transfer either by indorsement or, as a bearer bill, by delivery without indorsement; but
  - (b) subject to that, do include references to a received for shipment bill of lading.
- (3) References in this Act to a sea waybill are references to any document which is not a bill of lading but—
  - (a) is such a receipt for goods as contains or evidences a contract for the carriage of goods by sea; and
  - (b) identifies the person to whom delivery of the goods is to be made by the carrier in accordance with that contract.
- (4) References in this Act to a ship's delivery order are references to any document which is neither a bill of lading nor a sea waybill but contains an undertaking which—
  - (a) is given under or for the purposes of a contract for the carriage by sea of the goods to which the document relates, or of goods which include those goods; and

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- (b) is an undertaking by the carrier to a person identified in the document to deliver the goods to which the document relates to that person.
- (5) The Secretary of State may by regulations make provision for the application of this Act to cases where a telecommunication system or any other information technology is used for effecting transactions corresponding to—
- (a) the issue of a document to which this Act applies;
  - (b) the indorsement, delivery or other transfer of such a document; or
  - (c) the doing of anything else in relation to such a document.
- (6) Regulations under subsection (5) above may—
- (a) make such modifications of the following provisions of this Act as the Secretary of State considers appropriate in connection with the application of this Act to any case mentioned in that subsection; and
  - (b) contain supplemental, incidental, consequential and transitional provision;
- and the power to make regulations under that subsection shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

## **2 Rights under shipping documents**

- (1) Subject to the following provisions of this section, a person who becomes—
- (a) the lawful holder of a bill of lading;
  - (b) the person who (without being an original party to the contract of carriage) is the person to whom delivery of the goods to which a sea waybill relates is to be made by the carrier in accordance with that contract; or
  - (c) the person to whom delivery of the goods to which a ship's delivery order relates is to be made in accordance with the undertaking contained in the order,
- shall (by virtue of becoming the holder of the bill or, as the case may be, the person to whom delivery is to be made) have transferred to and vested in him all rights of suit under the contract of carriage as if he had been a party to that contract.
- (2) Where, when a person becomes the lawful holder of a bill of lading, possession of the bill no longer gives a right (as against the carrier) to possession of the goods to which the bill relates, that person shall not have any rights transferred to him by virtue of subsection (1) above unless he becomes the holder of the bill—
- (a) by virtue of a transaction effected in pursuance of any contractual or other arrangements made before the time when such a right to possession ceased to attach to possession of the bill; or
  - (b) as a result of the rejection to that person by another person of goods or documents delivered to the other person in pursuance of any such arrangements.
- (3) The rights vested in any person by virtue of the operation of subsection (1) above in relation to a ship's delivery order—
- (a) shall be so vested subject to the terms of the order; and
  - (b) where the goods to which the order relates form a part only of the goods to which the contract of carriage relates, shall be confined to rights in respect of the goods to which the order relates.
- (4) Where, in the case of any document to which this Act applies—

- (a) a person with any interest or right in or in relation to goods to which the document relates sustains loss or damage in consequence of a breach of the contract of carriage; but
- (b) subsection (1) above operates in relation to that document so that rights of suit in respect of that breach are vested in another person,

the other person shall be entitled to exercise those rights for the benefit of the person who sustained the loss or damage to the same extent as they could have been exercised if they had been vested in the person for whose benefit they are exercised.

- (5) Where rights are transferred by virtue of the operation of subsection (1) above in relation to any document, the transfer for which that subsection provides shall extinguish any entitlement to those rights which derives—
  - (a) where that document is a bill of lading, from a person's having been an original party to the contract of carriage; or
  - (b) in the case of any document to which this Act applies, from the previous operation of that subsection in relation to that document;

but the operation of that subsection shall be without prejudice to any rights which derive from a person's having been an original party to the contract contained in, or evidenced by, a sea waybill and, in relation to a ship's delivery order, shall be without prejudice to any rights deriving otherwise than from the previous operation of that subsection in relation to that order.

### **3 Liabilities under shipping documents**

- (1) Where subsection (1) of section 2 of this Act operates in relation to any document to which this Act applies and the person in whom rights are vested by virtue of that subsection—
  - (a) takes or demands delivery from the carrier of any of the goods to which the document relates;
  - (b) makes a claim under the contract of carriage against the carrier in respect of any of those goods; or
  - (c) is a person who, at a time before those rights were vested in him, took or demanded delivery from the carrier of any of those goods,

that person shall (by virtue of taking or demanding delivery or making the claim or, in a case falling within paragraph (c) above, of having the rights vested in him) become subject to the same liabilities under that contract as if he had been a party to that contract.

- (2) Where the goods to which a ship's delivery order relates form a part only of the goods to which the contract of carriage relates, the liabilities to which any person is subject by virtue of the operation of this section in relation to that order shall exclude liabilities in respect of any goods to which the order does not relate.
- (3) This section, so far as it imposes liabilities under any contract on any person, shall be without prejudice to the liabilities under the contract of any person as an original party to the contract.

### **4 Representations in bills of lading**

A bill of lading which—

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- (a) represents goods to have been shipped on board a vessel or to have been received for shipment on board a vessel; and
- (b) has been signed by the master of the vessel or by a person who was not the master but had the express, implied or apparent authority of the carrier to sign bills of lading,

shall, in favour of a person who has become the lawful holder of the bill, be conclusive evidence against the carrier of the shipment of the goods or, as the case may be, of their receipt for shipment.

## 5 Interpretation etc

### (1) In this Act—

“bill of lading”, “sea waybill” and “ship’s delivery order” shall be construed in accordance with section 1 above;

“the contract of carriage”—

- (a) in relation to a bill of lading or sea waybill, means the contract contained in or evidenced by that bill or waybill; and
- (b) in relation to a ship’s delivery order, means the contract under or for the purposes of which the undertaking contained in the order is given;

“holder”, in relation to a bill of lading, shall be construed in accordance with subsection (2) below;

“information technology” includes any computer or other technology by means of which information or other matter may be recorded or communicated without being reduced to documentary form; and

“telecommunication system” has the same meaning as in the Telecommunications Act 1984.

### (2) References in this Act to the holder of a bill of lading are references to any of the following persons, that is to say—

- (a) a person with possession of the bill who, by virtue of being the person identified in the bill, is the consignee of the goods to which the bill relates;
- (b) a person with possession of the bill as a result of the completion, by delivery of the bill, of any indorsement of the bill or, in the case of a bearer bill, of any other transfer of the bill;
- (c) a person with possession of the bill as a result of any transaction by virtue of which he would have become a holder falling within paragraph (a) or (b) above had not the transaction been effected at a time when possession of the bill no longer gave a right (as against the carrier) to possession of the goods to which the bill relates;

and a person shall be regarded for the purposes of this Act as having become the lawful holder of a bill of lading wherever he has become the holder of the bill in good faith.

### (3) References in this Act to a person’s being identified in a document include references to his being identified by a description which allows for the identity of the person in question to be varied, in accordance with the terms of the document, after its issue; and the reference in section 1(3)(b) of this Act to a document’s identifying a person shall be construed accordingly.

### (4) Without prejudice to sections 2(2) and 4 above, nothing in this Act shall preclude its operation in relation to a case where the goods to which a document relates—

- (a) cease to exist after the issue of the document; or

(b) cannot be identified (whether because they are mixed with other goods or for any other reason);

and references in this Act to the goods to which a document relates shall be construed accordingly.

(5) The preceding provisions of this Act shall have effect without prejudice to the application, in relation to any case, of the rules (the Hague-Visby Rules) which for the time being have the force of law by virtue of section 1 of the Carriage of Goods by Sea Act 1971.

## **6 Short title, repeal, commencement and extent**

(1) This Act may be cited as the Carriage of Goods by Sea Act 1992.

(2) The Bills of Lading Act 1855 is hereby repealed.

(3) This Act shall come into force at the end of the period of two months beginning with the day on which it is passed; but nothing in this Act shall have effect in relation to any document issued before the coming into force of this Act.

(4) This Act extends to Northern Ireland.