



Merchant Shipping Act 1995

1995 CHAPTER 21

PART IX

SALVAGE AND WRECK

CHAPTER 1

SALVAGE

224 Salvage Convention 1989 to have force of law.

- (1) The provisions of the International Convention on Salvage, 1989 as set out in Part I of Schedule 11 (in this Chapter referred to as “the Salvage Convention”) shall have the force of law in the United Kingdom.
- (2) The provisions of Part II of that Schedule shall have effect in connection with the Salvage Convention, and subsection (1) above shall have effect subject to the provisions of that Part.
- (3) If it appears to Her Majesty in Council that the Government of the United Kingdom has agreed to any revision of the Salvage Convention She may by Order in Council make such modifications of Parts I and II of Schedule 11 as She considers appropriate in consequence of the revision.
- (4) Nothing in subsection (1) or (2) above shall affect any rights or liabilities arising out of any salvage operations started or other acts done before 1st January 1995.
- (5) Nothing in any modification made by virtue of subsection (3) above shall affect any rights or liabilities arising out of any salvage operations started or other acts done before the day on which the modification comes into force.
- (6) As respects any period before the entry into force of the Salvage Convention any reference in the Salvage Convention to a State Party to the Convention shall be read as a reference to the United Kingdom.

Status: Point in time view as at 09/12/2001.

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- (7) A draft of an Order in Council proposed to be made by virtue of subsection (3) above shall not be submitted to Her Majesty in Council unless the draft has been approved by a resolution of each House of Parliament.

Modifications etc. (not altering text)

- C1** S. 224 extended (with modifications) to Jersey (22.8.1997) by S.I. 1997/1773, art. 2, Sch.
 S. 224 extended (with modifications) to specified colonies (30.11.1997) by S.I. 1997/2586, art. 2, Schs. 1, 2

225 Valuation of property by receiver.

- (1) Where any dispute as to salvage arises, the receiver may, on the application of either party, appoint a valuer to value the property.
- (2) When the valuation has been made the receiver shall give copies of it to both parties.
- (3) A 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 proceedings.
- (4) There shall be paid in respect of the valuation by the person applying for it such fee as the Secretary of State may direct.

226 Detention of property liable for salvage by receiver.

- (1) Where salvage is due to any person under this Chapter, the receiver shall—
 - (a) if the salvage is due in respect of services rendered—
 - (i) in assisting a vessel, or
 - (ii) in saving life from a vessel, or
 - (iii) in saving the cargo and equipment of a vessel, detain the vessel and cargo or equipment; and
 - (b) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under this Chapter, detain the wreck.
- (2) Subject to subsection (3) below, the receiver shall detain the vessel and the cargo and equipment, or the wreck, as the case may be, until payment is made for salvage, or process is issued for the arrest or detention of the property by the court.
- (3) The receiver may release any property detained under subsection (2) above if security is given—
 - (a) to his satisfaction, or
 - (b) where—
 - (i) the claim for salvage exceeds £5,000, and
 - (ii) any question is raised as to the sufficiency of the security, to the satisfaction of the court.
- (4) Any security given for salvage under this section to an amount exceeding £5,000 may be enforced by the court in the same manner as if bail had been given in that court.
- (5) In this section “the court” means the High Court or, in Scotland, the Court of Session.

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- (6) As respects Scotland the reference in subsection (2) to process being issued for arrest shall be construed as a reference to warrant for arrestment being granted.

227 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.
- (2) Those cases are—
- (a) where the amount is not disputed, and payment of the amount due is not made within twenty days after the amount is due;
 - (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;
 - (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 an appeal.
- (3) 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 any excess shall be paid to the owners of the property or any other persons entitled to it.
- (4) In this section “detained property” means property detained by the receiver under section 226(2).

228 Apportionment of salvage under £5,000 by the receiver.

- (1) Where—
- (a) the aggregate amount of salvage payable in respect of salvage services rendered in United Kingdom waters has been finally determined and does not exceed £5,000; but
 - (b) a dispute arises as to the apportionment of the amount among several claimants,
- the person liable to pay the amount may apply to the receiver for leave to pay it to him.
- (2) The receiver shall, if he thinks fit, receive the amount and, if he does, he shall give the person paying it a certificate stating the amount paid and the services in respect of which it is paid.
- (3) A certificate under subsection (2) above shall be a full discharge and indemnity to the person by whom it was paid, and to his vessel, cargo, equipment and effects against the claims of all persons in respect of the services mentioned in the certificate.
- (4) The receiver shall with all convenient speed distribute any amount received by him under this section among the persons entitled to it, on such evidence, and in such shares and proportions, as he thinks fit.
- (5) Any decision by the receiver under subsection (4) above shall be made on the basis of the criteria contained in Article 13 of the Salvage Convention.

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- (6) The receiver may retain any money which appears to him to be payable to any person who is absent.
- (7) A distribution made by a receiver under this section shall be final and conclusive as against all persons claiming to be entitled to any part of the amount distributed.

229 Apportionment of salvage by the court.

- (1) Where—
 - (a) the aggregate amount of salvage payable in respect of salvage services rendered in United Kingdom waters has been finally determined and exceeds £5,000; or
 - (b) the aggregate amount of salvage payable in respect of salvage services rendered outside United Kingdom waters (of whatever amount) has been finally determined; but
 - (c) in either case, any delay or dispute arises as to the apportionment of the amount,
 the court may cause the amount of salvage to be apportioned among the persons entitled to it in such manner as it thinks just.
- (2) Any decision of the court under this section shall be made on the basis of the criteria contained in Article 13 of the Salvage Convention.
- (3) For the purpose of making that apportionment, the court may—
 - (a) appoint any person to carry that apportionment into effect;
 - (b) compel any person in whose hands or under whose control the amount may be to distribute it or to pay it into court to be dealt with as the court directs; and
 - (c) issue such process as it thinks fit.
- (4) In this section “the court” means the High Court or, in Scotland, the Court of Session or a sheriff.

230 Salvage claims against the Crown and Crown rights of salvage and regulation thereof.

- (1) Subject to section 29 of the ^{M1}Crown Proceedings Act 1947 (exclusion of proceedings in rem against the Crown) (so far as consistent with the Salvage Convention) the law relating to civil salvage, whether of life or property, except sections 225, 226 and 227, shall apply in relation to salvage services in assisting any of Her Majesty’s ships, or in saving life therefrom, or in saving any cargo or equipment belonging to Her Majesty in right of Her Government in the United Kingdom, in the same manner as if the ship, cargo or equipment belonged to a private person.
- (2) Where salvage services are rendered by or on behalf of Her Majesty, whether in right of Her Government in the United Kingdom or otherwise, Her Majesty shall be entitled to claim salvage in respect of those services to the same extent as any other salvor, and shall have the same rights and remedies in respect of those services as any other salvor.
- (3) No claim for salvage services by the commander or crew, or part of the crew, of any of Her Majesty’s ships shall be finally adjudicated upon without the consent of the Secretary of State to the prosecution of the claim.

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- (4) Any document purporting to give the consent of the Secretary of State for the purposes of subsection (3) above and to be signed by an officer of the Ministry of Defence shall be evidence of that consent.
- (5) If a claim is prosecuted without the consent required by subsection (3) above the claim shall be dismissed with costs.
- (6) The reference in subsection (5) above to dismissal with costs shall in Scotland be construed as a reference to dismissal with the defender being found entitled to expenses.
- (7) “Her Majesty’s ships” has the same meaning in this section as in section 192.
- (8) In the application of this section to Northern Ireland, any reference to Her Majesty’s Government in the United Kingdom includes a reference to Her Government in Northern Ireland.

Marginal Citations

M1 1947 c. 44.

Status:

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