

Merchant Shipping Act 1995

1995 CHAPTER 21

An Act to consolidate the Merchant Shipping Acts 1894 to 1994 and other enactments relating to merchant shipping

[19th July 1995]

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:—

Part IX Salvage and Wreck

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.

(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.

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.

(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.

(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 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.

(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.

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.

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 (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.

233 Powers of receiver in case of vessel in distress

(1) 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.

(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.

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—

- (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 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 Riotous Assemblies (Scotland) Act 1822, be made by the council constituted under section 2 of the 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 Criminal Injuries to Property (Compensation) Act (Northern Ireland) 1971 as modified for the purposes of this

section by the Transfer of Functions (Criminal Injuries to Vessels) (Northern Ireland) Order 1973.

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 respect 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 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—
- (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.

(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) 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.

(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).

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.

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;
- (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—

(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.

Chapter III Supplemental

Administration

248 Functions of Secretary of State as to wreck

(1) The Secretary of State shall have the general superintendence throughout the United Kingdom of all matters relating to wreck.

(2) The Secretary of State may, with the consent of the Treasury, appoint one or more persons to be receiver of wreck for the purposes of this Part and a receiver so appointed shall discharge such functions as are assigned to him by the Secretary of State.

(3) Such public notice of appointments to the office of receiver shall be given as appears to the Secretary of State to be appropriate.

249 Expenses and fees of receivers

(1) There shall be paid to the receiver the expenses properly incurred by him in the discharge of his functions and also, in respect of such matters as may be prescribed by regulations made by the Secretary of State, such fees as may be so prescribed.

(2) The receiver shall not be entitled to any other remuneration.

(3) The receiver shall, in addition to all other rights and remedies for the recovery of those expenses and fees, have the same rights and remedies in respect of those expenses and fees as a salvor has in respect of salvage due to him.

(4) Whenever any dispute arises as to the amount payable to the receiver in respect of expenses or fees, that dispute shall be determined by the Secretary of State whose decision shall be final.

Coastguard services

250 Remuneration for services of coastguard

(1) Subject to subsection (2) below, where services are rendered by any officers or men of the coastguard service in watching or protecting shipwrecked property the owner of the property shall pay in respect of those services remuneration according to a scale fixed by the Secretary of State.

(2) No liability in respect of those services arises under subsection (1) above where—

(a) the services have been declined by the owner of the property or his agent at the time they were tendered; or

(b) salvage has been claimed and awarded for the services.

(3) Remuneration under this section shall—

(a) be recoverable by the same means,

(b) be paid to the same persons, and

(c) be accounted for and applied in the same manner,
as fees received by the receiver under section 249.

(4) The scale fixed by the Secretary of State shall not exceed the scale by which remuneration to officers and men of the coastguard for extra duties in the ordinary service of the Commissioners of Customs and Excise is for the time being regulated.

Release from customs and excise control

251 Release of goods from customs and excise control

(1) The Commissioners of Customs and Excise shall, subject to taking security for the protection of the revenue in respect of the goods, permit all goods saved from any ship stranded or wrecked on its homeward voyage to be forwarded to the port of its original destination.

(2) The Commissioners of Customs and Excise shall, subject to taking such security, permit all goods saved from any ship stranded or wrecked on her outward voyage to be returned to the port at which they were shipped.

(3) In this section "goods" includes wares and merchandise.

Removal of wrecks

252 Powers of harbour and conservancy authorities in relation to wrecks

(1) Where any vessel is sunk, stranded or abandoned in, or in or near any approach to, any harbour or tidal water under the control of a harbour authority or conservancy authority in such a manner as, in the opinion of the authority, to be, or be likely to become, an obstruction or danger to navigation or to lifeboats engaged in lifeboat service in that harbour or water or approach thereto, that authority may exercise any of the following powers.

(2) Those powers are—

(a) to take possession of, and raise, remove or destroy the whole or any part of the vessel and any other property to which the power extends;

(b) to light or buoy the vessel or part of the vessel and any such other property until it is raised, removed or destroyed; and

(c) subject to subsections (5) and (6) below, to sell, in such manner as the authority think fit, the vessel or part of the vessel so raised or removed and any other property recovered in the exercise of the powers conferred by paragraph (a) or (b) above;

(d) to reimburse themselves, out of the proceeds of the sale, for the expenses incurred by them in relation to the sale.

(3) The other property to which the powers conferred by subsection (2) above extend is every article or thing or collection of things being or forming part of the equipment, cargo, stores or ballast of the vessel.

(4) Any surplus of the proceeds of a sale under subsection (2)(c) above shall be held by the authority on trust for the persons entitled thereto.

(5) Except in the case of property which is of a perishable nature or which would deteriorate in value by delay, no sale shall be made under subsection (2)(c) above until at least seven days notice of the intended sale has been given by advertisement in a local newspaper circulating in or near the area over which the authority have control.

(6) At any time before any property is sold under subsection (2)(c) above, the owner of the property shall be entitled to have it delivered to him on payment of its fair market value.

(7) The market value of property for the purposes of subsection (6) above shall be that agreed on between the authority and the owner or, failing agreement, that determined by a person appointed for the purpose by the Secretary of State.

(8) The sum paid to the authority in respect of any property under subsection (6) above shall, for the purposes of this section, be treated as the proceeds of sale of the property.

(9) Any proceeds of sale arising under subsection (2)(c) above from the sale of a vessel and any other property recovered from the vessel shall be treated as a common fund.

(10) This section is without prejudice to any other powers of a harbour authority or conservancy authority.

253 Powers of lighthouse authorities in relation to wrecks

(1) Where—

(a) any vessel is sunk, stranded or abandoned in any fairway or on the seashore or on or near any rock, shoal or bank in the United Kingdom or any of the adjacent seas or islands; and

(b) there is no harbour authority or conservancy authority having power to raise, remove or destroy the vessel;

the general lighthouse authority for the place in or near which the vessel is situated shall, if in the authority's opinion the vessel is, or is likely to become, an obstruction or danger to navigation or to lifeboats engaged in lifeboat service, have the same powers in relation thereto as are conferred by section 252.

(2) Where a general lighthouse authority have incurred expenses in the exercise of their powers under this section in relation to any vessel, then—

(a) if the proceeds of any sale made under section 252 in connection with the exercise of those powers in relation to the vessel are insufficient to reimburse the authority for the full amount of those expenses, the authority may recover the amount of the deficiency from the relevant person, or

(b) if there is no such sale, the authority may recover the full amount of those expenses from the relevant person.

(3) Any expenses so incurred which are not recovered by the authority either out of the proceeds of any such sale or in accordance with subsection (2) above shall be paid out of the General Lighthouse Fund, but section 213 shall apply to those expenses as if they were expenses of the authority falling within subsection (1) of that section other than establishment expenses.

(4) In this section “the relevant person”, in relation to any vessel, means the owner of the vessel at the time of the sinking, stranding or abandonment of the vessel.

254 Referral of questions as to powers between authorities

(1) If any question arises between a harbour authority or conservancy authority and a general lighthouse authority as to their respective powers under sections 252 and 253 in relation to any place in or near an approach to a harbour or tidal water, that question shall, on the application of either authority, be referred to the Secretary of State for his decision.

(2) Any decision of the Secretary of State under this section shall be final.

Interpretation

255 Interpretation

(1) In this Part—

“receiver” means a receiver of wreck appointed under section 248;

“salvage” includes, subject to the Salvage Convention, all expenses properly incurred by the salvor in the performance of the salvage services;

“the Salvage Convention” has the meaning given by section 224(1);

“salvor” means, in the case of salvage services rendered by the officers or crew or part of the crew of any ship belonging to Her Majesty, the person in command of the ship;

“tidal water” means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides, and not being a harbour;

“vessel” includes any ship or boat, or any other description of vessel used in navigation; and

“wreck” includes jetsam, flotsam, lagan and derelict found in or on the shores of the sea or any tidal water.

(2) Fishing boats or fishing gear lost or abandoned at sea and either—

(a) found or taken possession of within United Kingdom waters; or

(b) found or taken possession of beyond those waters and brought within those waters;

shall be treated as wreck for the purposes of this Part.

(3) In the application of this Part in relation to Scotland, any reference to a justice of the peace includes a reference to a sheriff.