

1971 年英國海上貨物運送法

修正有關海上貨物運送法之條例

1971 年 4 月 8 日

CARRIAGE OF GOODS BY SEA ACT, 1971 (COGSA)

An Act to amend the law with respect to the carriage of goods by sea Act of 8th April 1971

1971 UK-COGSA

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 Parliament assembled, and by the authority of the same, as follows:

本條例由 Spiritual 爵士、Temporal 爵士及下議院各議員於本次議會審議通過並經女王陛下批准及授權頒佈如下：

Article 1 - Application of Hague Rules as amended.

第 1 條 經修正之「海牙規則」之適用

1. In this Act, 'the Rules' means the International Convention for the unification of certain rule of law relating to bills of lading signed at Brussels on 25th August 1924, as amended by the Protocol signed at Brussels on 23rd February 1968 【and by the Protocol signed at Bussels on 21th December 1979】.¹
2. The provisions of the Rules, as set out in the Schedule to this Act, shall have the force of law.
3. Without prejudice to subsection (2) above, the said provisions shall have effect (and have the force of law) in relation to and in connection with the carriage of goods by sea in ships where the port of shipment is a port in the United Kingdom, whether or not the carriage is between ports in two different States within the meaning of Article X of the Rules.
4. Subject to subsection (6) below, nothing in this section shall be taken as applying anything in the Rules to any contract for the carriage of goods by sea, unless the contract expressly or by implication provides for the issue of a bill of lading or any similar document of title.
5. The Secretary of State may from time to time by order made by statutory instrument specify the respective amounts which for the purposes of paragraph 5 of Article IV of the Rules and of Article IV bis of the Rules are to be taken as equivalent to the sums expressed in francs which are mentioned in sub-paragraph (a) of that paragraph. 【Repeals by sect. 5(3) and Schedule of the

1. 於本條例，“本規則”(the Rules)係指 1924 年 8 月 25 日於布魯塞爾簽署並經 1968 年 2 月 23 日於布魯塞爾簽署議定書【及 1979 年 12 月 21 日在布魯塞爾簽署議定書】修訂之，關於統一某些載貨證券規則國際公約。
2. 本規則之規定，一如本法附錄所載，應具有法律效力。
3. 於不損及上述第 2 項之情況下，上述規定對於裝運港為英國港口之船舶海上貨物運送具有效力(並具有法律效力)，無論該運送是否屬於該規則第 10 條所指之二個不同國家間港口之運送。
4. 於適用下列第 6 項之情況下，除契約明示或默示規定簽發一載貨證券或任何其他權利憑證，本條任何規定均不得作為規則之任何部分，繼而適用於任何海上貨物運送契約。
5. 為本規則第 4 條第 5 項及該規則第 4 條之一之目的，國務院得以命令方式，訂出同等於該條 a 款所規定之金法郎等值之數額。【本項已被 1981 年「商船法」第 5 節(3)及其附件所廢止。】

¹ 【】內為 1981 年商船法所修訂。

Merchant Shipping Act 1981】

6. Without prejudice to Article X (c) of the Rules, the Rules shall have the force of law in relation to:

(a) any bill of lading if the contract contained in or evidenced by it expressly provides that the Rules shall govern the contract, and

(b) any receipt which is a non-negotiable document marked as such if the contract contained in or evidenced by it is a contract for the carriage of goods by sea which expressly provides that the Rules are to govern the contract as if the receipt were a bill of lading,

but subject, where paragraph (b) applies, to any necessary modifications and in particular with the omission in Article III of the Rules of the second sentence of paragraph 4 and of paragraph 7.

7. If and so far as the contract contained in or evidenced by a bill of lading or receipt within paragraph (a) or (b) of subsection (6) above applies to deck cargo and live animals, the Rules as given the force of law by that subsection shall have effect as if Article I (c) did not exclude deck cargo and live animals.

In this subsection 'deck cargo' means cargo which by the contract of carriage is stated as being carried on deck and is so carried.

6. 於不損及規則第 10 條(c)款之情況下，該規則對下列事項具有法律效力：

(a) 任何載貨證券，如載貨證券所規定或所證明之契約明示規定適用該規則者，及

(b) 不可流通單據之任何收據，標明該收據所規定或由該收據所證明之契約為一海上貨物運送契約，且明示規定適用本規則，就如同該收據為一載貨證券般。

然於 b 項適用之情況下，應適用任何必要之修正，特別是刪除該規則第 3 條第 4 項第 2 句及第 7 項。

7. 如上述第 6 項(a)及(b)款就載貨證券或收據所規定或證明之契約適用於甲板貨物或有生動物，則該規則依其所賦予之法律效力，應為有效，並視為第 1 條(c)款並未排除甲板貨物及有生動物。

於該項，“甲板貨物”係指運送契約有載明切實上亦是裝載於甲板上之貨物。²

Article 2. - Contracting States, etc

(1) If Her Majesty by Order in Council certifies to the following effect, that is to say, that for the purposes of the Rules:

(a) a State specified in the Order is a contracting State, or is a contracting State in respect of any place or territory so specified; or

(b) any place or territory specified in the Order forms part of a State no specified (whether a contracting State or not), the Order shall, except so far as it has been superseded by a subsequent Order, be conclusive evidence of the matters so certified.

(2) An Order in Council under this section may be varied or revoked by a subsequent Order in Council.

第 2 條 締約國等

(1) 如女王陛下通過議會命令，證明，亦即，就本規則言—

(a) 於該命令中規定之國家是締約國，或該規定之有關任何地方或地區為締約國；或

(b) 於該命令中規定之任何地區或領地構成該規定國家之一部分（無論是否締約國）。

該命令應是所證明事項之確定證據，除非其被另一命令所取代。

(2) 根據本條之議會命令可被議會後來之命令予以變更或廢除。

Article 3. - Absolute warranty of seaworthiness not to be implied in contracts to which Rules apply

第 3 條 適航性之絕對保證並不默示適用於威斯比規則之

² 1981 年商船法增訂 1A 規定如下：

1A. 將特別提款權(special drawing rights)兌換成英鎊

(1) 就規則第 4 條言，一特別提款權於某特定日之價值，將被視為等同於一由國際基金組織所確定，同等於一特別提款權之英鎊金額—

(a) 當日；或

(b) 若該日無可確定之數值，於該日之前之最後一日可確定之數額；

(2) 財政部或代表財政部頒佈之證明—

(a) 英鎊之特定數值已依前述特定日期所確定；或

(b) 對某一特定日期未確定該數額及對某日已使用英鎊確定某一特定數額，該日是在該數額已被確定之特定日期前之最後一日，即為上述(1)項之確定證據；旨在作為該證明之文件，於所有訴訟中可作為證據並被視為該證明，如有反證者除外。

(3) 財政部可就依照上述(2)項簽發任何證明收取合理費用，財政部依據該項所收取之任何費用，應納入統一基金內。(the Consolidated Fund)

契約

There shall not be implied in any contract for the carriage of goods by sea to which the Rules apply by virtue of this Act any absolute undertaking by the carrier of the goods to provide a seaworthy ship.

因本法而適用威斯比規則之任何海上貨物運送契約，運送人對貨物均不默示提供適航船舶之絕對擔保。

Article 4. - Application of Act to British possessions, etc.

- (1) Her Majesty may by Order in Council direct that this Act shall extend, subject to such exceptions, adaptations and modifications as may be specified in the Order, to all or any of the following territories, that is:
 - (a) any colony (not being a colony for whose external relations a country other than the United Kingdom is responsible);
 - (b) any country outside Her Majesty's dominions in which Her Majesty has jurisdiction in right of Her Majesty's Government of the United Kingdom.
- (2) An Order in Council under this section may contain such transitional and other consequential and incidental provisions as appear to Her Majesty to be expedient, including provisions amending or repealing any legislation about the carriage of goods by sea forming part of the law of any of the territories mentioned in paragraphs (a) and (b) above.
- (3) An Order in Council under this section may be varied or revoked by a subsequent Order in Council.

第 4 條 本法對英國屬地等之適用

- (1) 女王陛下可透過議會命令，將本法之適用範圍擴及至下列所有及任何領地，惟應受限於該命令所規定之任何除外、修正或變更：
 - (a) 任何殖民地(不包括其外交關係非由英國負責之殖民地)。
 - (b) 於女王陛下領土之外，女王陛下對其擁有女王陛下之英國政府管轄權之任何國家。
- (2) 依據本條議會命令可包含過渡及其他後來發生及附屬條款，包括修改或廢除構成前款(a)及(b)款所規定之任何地區法律組成部分有關海上貨物運送任何立法之規定。
- (3) 依據本條議會命令可被議會後來之命令予以變更或廢除。

Article 5. -Extension of application of Rules to carriage from ports in British possessions, etc

- (1) Her Majesty may by Order in Council provide that section 1(3) of this Act shall have effect as if the reference therein to the United Kingdom included a reference to all or any of the following territories, that is:
 - (a) the Isle of Man;
 - (b) any of the Channel Islands specified in the Order;
 - (c) any colony specified in the Order (not being a colony for whose external relations a country other than the United Kingdom is responsible);
 - (d) any associated state (as defined by section 1(3) of the West Indies Act 1967) specified in the Order;
 - (e) any country specified in the Order, being a country outside Her Majesty's dominions in which Her Majesty has jurisdiction in right of Her Majesty's Government of the United Kingdom.
- (2) An Order in Council under this section may be varied or revoked by a subsequent Order in Council.

第 5 條 威斯比規則擴大適用於自英國屬地等之港口之運送

- (1) 女王陛下透過議會命令可規定本法第 1 條(3)項於下列領域具有效力，就如同英國職權範圍包括所有或任何下述領地般：
 - (a) 男人島；(the Isle of Man)
 - (b) 該命令明訂之任何海峽島(Channel Islands)；
 - (c) 該命令中規定之任何殖民地(不包括外交關係非由英國負責之殖民地)；
 - (d) 該命令所明訂之任何聯邦(1967 年西印度法第 1(3)條之定義)
 - (e) 於女王陛下領土外，女王陛下對其擁有女王陛下之英國政府具管轄權之任何國家。
- (2) 依據本條議會命令可被議會後來之命令予以變更或廢除。

Article 6 - Supplemental

- (1) This Act may be cited as the Carriage of Goods by Sea Act 1971.
- (2) It is hereby declared that this Act extends to Northern Ireland.
- (3) The following enactments shall be repealed, that is:

第 6 條 附則

- (1) 本法可被引述為 1971 年「海上貨物運送法」。
- (2) 本法擴大適用於北愛爾蘭。
- (3) 下列法規應予廢除：

- (a) The Carriage of Goods by Sea Act 1924;
- (b) section 12 (4) (a) of the Nuclear Installations Act 1965, and without prejudice to section 38 (1) of the Interpretation Act 1889, the reference to the said Act of 1924 in section I (1) (i) (ii) of the Hovercraft Act 1968 shall include a reference to this Act.
- (4) It is hereby declared that for the purposes of Article VIII of the Rules section 502 of the Merchant Shipping Act 1894 (which, as amended by the Merchant Shipping (Liability of Shipowner and Others) Act 1958, entirely exempts shipowner and others in certain circumstances from liability for loss of, or damage to, goods) is a provision relating to limitation of liability.
- (5) This Act shall come into force on such day as her Majesty may by Order in Council appoint and, for the purposes of the transition from the law in force immediately before the day appointed under this subsection to the provisions of this Act, the Order appointing the day may provide that those provisions shall have effect subject to such transitional provisions as may be contained in the Order.
- (a) 1924 年「海上貨物運送法」；
- (b) 1965 年「核裝置法」第 12 條 4 項(a)款，於不損害 1889 年「解釋法」第 38 條 1 項規定之情況下，1924 年法及 1968 年「氣墊船法」第 1 條 1 項 i 及 ii 款所規定之範圍，應包括於本法之範圍內。
- (4) 謹此聲明，就威斯比規則第 8 條，1894 年商船法第 502 條【1995 年「商船法(船舶所有人及其他人責任)」第 186 條】係有關於一定情況下，完全免除船舶所有人及其他人對於貨物滅失或毀損之責任，為一有關責任限制之規定。
- (5) 本條例於女王陛下透過議會命令所指定之某日生效實施之，且為依本項規定指定生效日期前，本法能立即實施之過渡性目的，於適用該命令所規定之過渡條款內容之情況下，該命令得指定哪些條款應於哪些日期實施之。

The Act came into operation on 23 June 1977 (SI 1977 No 981).

本條例於 1977 年 6 月 23 日實施。

Schedule The Hague-Visby Rules.

附錄—海牙威斯比規則

The Hague Rules as amended by the Brussels Protocol 1968.

經 1968 年布魯塞爾議定書修訂之「海牙規則」—【略】