

1992 年英國海上貨物運送法

本條例係取代 1855 年載貨證券法並提供有關載貨證券及某些其他船運文件之新規範

1992 年 7 月 16 日 第 50 號

CARRIAGE OF GOODS BY SEA ACT, 1992 (C.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

July 16, 1992, Chapter 50

1992 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 present Parliament assembled, and by the authority of the same, as follows:—

本條例上議院議員及下議院議員於本次議會審議通過，並經女王陛下批准，經其授權頒佈如下：

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
 - (b) is an undertaking by the carrier to a person identified in

第 1 條 適用本條例之船運證券

- (1) 本法適用於下列證券：
 - (a) 任何載貨證券；
 - (b) 任何海運單；及
 - (c) 任何船舶小提單【或稱交貨單】。
- (2) 本法所稱載貨證券：
 - (a) 不包括無法以背書方式為轉讓之證券，亦不包括無法以非背書轉手方式予以轉讓之無記名證券，然
 - (b) 於符合前述情況之條件下，包括收貨待運之載貨證券。
- (3) 本法所稱海運單係指非載貨證券之任何證券，然其：
 - (a) 是一規定或證明海上貨物運送契約之貨物收據，且
 - (b) 載明運送人依據該運送契約向其交付貨物之人。
- (4) 本法所稱船舶小提單係指無法被稱為載貨證券或海運單之任何證券，然該證券應規定一保證，該保證：
 - (a) 其依照或為與該證券有關之貨物或其中部分貨物之海上運送契約所簽發；且
 - (b) 其是一運送人向該證券所載之

- 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

- 人交付該證券所載下貨物之保證。
- (5) 國務大臣得制定法令使本法亦適用於採用電子傳輸系統或任何其他資訊技術進行交易之下述事項：
- (a) 簽發適用於本法之證券；
 - (b) 前述證券之背書、轉讓或其他轉讓方式；或
 - (c) 有關前述證券所為之任何其他事項。
- (6) 前述第(5)項所述之法令亦得：
- (a) 由國務大臣，就本法適用於該項所述事項，針對本法本條以下各條款作出該大臣認為適當之修正；及
 - (b) 包括增補、附加、補充及過渡性規定。
- 且，該款所賦予之制定法令之權力應以制定法方式予以實施，然該法令依上議院、下議院兩院或其中一院決議宣佈為無效者除外。

第 2 條 船運證券下之權利

- (1) 依照本條下列規定，成為下列之一者：
- (a) 合法之載貨證券持有人；
 - (b) 運送人依貨物運送契約應將有關海運單所載貨物向其交付之人(該人非貨物運送契約之原締約人)；
 - (c) 依照船舶小提單所規定之保證，應將與該小提單有關之貨物向其交付之人；
- 則應(由於其成為載貨證券持有人，或根據情況，成為提領貨物之人)被視為已成為貨物運送契約之締約人，從而被轉讓及賦予該契約所載之一切訴訟權利。
- (2) 某人成為合法載貨證券持有人，而此載貨證券之持有不再授予該持有人擁有與該載貨證券有關貨物之權利(對運送人而言)，該持有人無法取得本條第 1 項所規定任何權利之轉讓，然其因下列原因而成為載貨證券持有人者除外：
- (a) 擁有貨物之權利不再附屬於對證券佔有前，已依照契約或其他安排達成交易者；或
 - (b) 因其他人拒絕依照任何此類安排而從該載貨證券人處接受貨物或證券者。
- (3) 依照本條第 1 項規定，就船舶小提單所賦予任何人之權利：
- (a) 應是依照小提單條款內容而賦予之權利，及
 - (b) 當小提單所載貨物僅為運送契約所載貨物之一部分時，應僅

- 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.
- 限於與小提單有關貨物之權利。
- (4) 對於適用本法之任何證券，如：
- (a) 與該證券所載貨物具有利益或權利，或與之有關之人因違背貨物運送契約致使其遭受損害，然
 - (b) 本條第(1)項已對該證券生效，從而有關上述違約之訴訟權利被轉讓他人時，
- 則該他人有權為受害人之利益行使訴訟權利，然該權利之行使範圍，應與此權利假設係由受害人為其利益自行行使時所享有之許可權利範圍一致。
- (5) 如權利轉讓是因本條第(1)項對任何證券之生效而生，則由該項所規定之轉讓將解除因下列事項所生之權利：
- (a) 如載貨證券，作為運送契約原締約人所具有之權利；或
 - (b) 如適用本法之任何證券，基於第(1)項對於有關證券之前手轉讓生效所生之權利；
- 但該項以海運單所規定或為憑之契約而言，不得損及作為該契約原締約人所具有之任何權利；就船舶小提單而言，不得損及非因第(1)項對該小提單先前生效所生之任何權利。

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
- 第3條 船運證券下之責任
- (1) 於本法第2條第(1)項，對於本法所適用之任何證券生效時，且依該項被賦予權利之任何人：
- (a) 向運送人提領或要求提領任何該證券所載貨物時；
 - (b) 就任何此貨物向運送人依運送契約提出求償時；或
 - (c) 於其被賦予這些權利前，向運送人提領或要求提領任何此項貨物之人時，
- 則該人(因其提領貨物或要求提領貨物或提出求償，或於上述(c)款範圍內，因其被賦予相關權利)須如同該契約原締約人般，承擔該契約項下之同樣責任。
- (2) 當船舶小提單所載貨物僅是運送契約所載貨物之一部分時，因本條對該小提單的生效而生任何人責任之承擔，應不包括任何不屬於該小提單所載之貨物。
- (3) 本條一旦依其規定使任何人承擔任何契約責任時，均不得妨礙作為該

the contract of any person as an original party to the contract.

4 Representations in bills of lading

A bill of lading which—

- (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 [1984 c. 12.] 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.

契約項下原締約人之任何人所承擔之責任。

第 4 條 載貨證券之記載

一載貨證券，於其：

(a) 記載已裝船或已收妥待運之貨物；並

(b) 業經船長簽署，或雖非經船長，然已由運送人以明示，默示或明顯方式授權之人簽署，則該載貨證券，為保護合法載貨證券持有人之利益，對運送人構成貨物已經裝船，或視情況，貨已收妥待運之絕對證據。

第 5 條 解釋等

(1) 在本法中—

“載貨證券”、“海運單”及“船舶小提單”應依前述第 1 條予以解釋；

“運送契約”—

(a) 於載貨證券及海運單，係指該載貨證券或海運單所規定或證明之契約；而

(b) 於船舶小提單，係指於或為該單證所規定之保證之目的所做出之契約。

“持有人”，就載貨證券言，應依下列第(2)項為解釋；

“資訊技術”包括任何電腦或其他技術方式，通過這些方式，資訊或其他事項可無需採用證券形式即可記錄或傳輸。

“電子傳輸系統”與“1984 年電子通訊法”所規定之定義相同。(1984 年第 12 號法令)

(2) 本法稱載貨證券持有人係指下列任何人：

(a) 持有證券之人，因其名稱於該證券中已予指明從而成為該證券所載貨物之受貨人；

(b) 透過證券交付之方式完成任何證券之背書，或於無記名證券情況下，以任何其他方式轉讓證券，而成為持有證券之人；

(c) 因進行任何交易致使其成為持有證券之人，但使之成為前述(a)或(b)款規定之持單人之此類任何交易不應是在下列期間內完成者，亦即：(對運送人而言)持有該證券已不再具有擁有該證券所載貨物之權利之時；

此外，僅要是出於善意而成為持單者，均可被視為本法所指之合法載貨證券持有人。

- (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 [1971 c. 19.] Carriage of Goods by Sea Act 1971.
- (3) 本法所稱於證券中所指定之人，包括於該證券簽發後，依該證券所規定之允許更改該人身份之記載方式，對該人所為之載明；而本法第1條(3)項(b)款所稱證券對有關人之指定，亦應據此予以解釋。
- (4) 於不違背前述第2條第(2)項及第4條規定之前提下，本法任何規定均不得妨礙本法對有關證券所載貨物處於下列狀態情況下之適用：
- (a) 貨物在證券簽發後不復存在；或
(b) 貨物無法辨認(無論是否起因於與其他貨物混淆或其他任何原因)；
- 同時，本法所稱與證券有關之貨物亦應據此予以解釋。
- (5) 本法前述規定的效力，在任何情況下，均不得影響按《1971年海上貨物運送法》第一章和目前產生法律效力的規則(即：海牙/威士比規則)的適用。

6. Short title, repeal, commencement and extent

- (1) This Act may be cited as the Carriage of Goods by Sea Act 1992.
- (2) The [1855 c. 111.] 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.

第6條 簡稱、廢止、生效及適用範圍

- (1) 本法稱為 1992 年海上貨物運送條例。
- (2) 1855 年載貨證券法予以廢止。
- (3) 本條例應於通過日起 2 個月後生效；然本法任何規定均不得對本法生效前所簽發之證券產生效力。
- (4) 本法擴大適用於北愛爾蘭。

