

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,  
12th September, 1922.

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Hon. Mr. Lee.

SEA CARRIAGE OF GOODS.

ANALYSIS.

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A BILL INTITULED

AN ACT relating to the Sea Carriage of Goods.

Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

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| 5  | 1. (1.) This Act may be cited as the Sea Carriage of Goods Act, 1922.  | Short Title.  |
| 10 | (2.) This Act shall come into operation on the day on which His Majesty's assent thereto is notified by the Governor-General by a Proclamation published in the <i>Gazette</i> , or on such later date (being not later than three months after the date of the Proclamation) as is specified in that behalf in the Proclamation.  | Commencement.   |
| 15 | 2. In this Act and in every bill of lading or other shipping document to which this Act relates the term "owner" shall be deemed to include any charterer to whom a ship may be demised.   | "Owner" to include "charterer."<br>Cf. 1909, No. 36, sec. 43.                     |
| 20 | 3. If the owner of any ship transporting merchandise or property to or from any port in New Zealand exercises due diligence to make the ship in all respects seaworthy, and properly manned, equipped, and supplied, neither the ship, her owners, or agent shall become or be held responsible for damage or loss resulting from faults or errors in navigation or in the management of the ship, nor shall the ship, her owners, agent, or master be held liable for losses arising from dangers of the sea or other navigable waters, acts of God, or public enemies, or the inherent defect, quality, or vice of the thing carried, or from insufficiency of | Owner of ship not liable for damage in certain cases.<br>1908, No. 178, sec. 293. |
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package, or seizure under legal process, or for loss resulting from any act or omission of the shipper or owner of the goods, his agent or representative, or from saving or attempting to save life or property at sea, or from any deviation in rendering such service.

4. (1.) Where any bill of lading or other shipping document contains— 5

(a.) Any clause, covenant, or agreement whereby the manager, agent, master, or owner of any ship, or the ship itself, shall be relieved from liability for loss or damage arising from the harmful or improper condition of the ship's hold, negligence, fault, or failure in proper loading, stowage, custody, care, or proper delivery of any and all lawful merchandise or property committed to its or their charge; or 10

(b.) Any covenant or agreement whereby the obligations of the owners of the ship to exercise due diligence to properly equip, man, provision, and outfit the ship, to make the hold of the ship fit and safe for the reception of cargo, and to make her seaworthy and capable of performing her intended voyage, or whereby the obligations of the master, officers, agents, or servants to carefully handle and stow her cargo, and to care for and properly deliver the same, are in any wise lessened or avoided,— 15 20

such clause, covenant, or agreement shall be null and void and of no effect, unless the Court before which any question relating thereto is tried adjudges the same to be just and reasonable. 25

(2.) This section shall not apply to the transportation of live animals.

5. (1.) Any clause written or stamped upon the face of a bill of lading or other shipping document relating to the carriage of goods, purporting to describe the condition or defect of packages or goods referred to therein, shall be null and void unless the attention of the shipper or his agent or, where there is no agent at the port of shipment known to the shipowner, then of the person delivering the packages or goods alongside the ship, has been called to the condition or defect of such packages or goods at the time of their delivery to the ship, and such condition or defect noted on the receipt then given, or, where no receipt is given, on any shipping document given at the ship's side on the delivery of the goods, and the fact that attention has been so called has been noted on the bill of lading or other shipping document given in respect of such packages or goods. 30 35 40

(2.) When any package has been acknowledged in a bill of lading or other shipping document to have been received in good or apparent good order and condition, and is delivered in other than apparent good order and condition, and is found to have been tampered with or pillaged, the production of *bona fide* invoices shall be *prima facie* evidence that the contents of the package were in accordance therewith, unless such package is one of a number of packages delivered to the same consignee, in which case the production of such invoices as aforesaid shall only be accepted as such *prima facie* evidence as aforesaid if the consignee proves that the goods claimed to have been pillaged or not delivered were not contained in one or more of the other packages. 45 50

Restriction as to provisions of bills of lading. 1908, No. 178, sec. 300

As to condition of goods on delivery to ship.

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6. (1.) When any person takes or puts, or causes to be taken or put, on board any ship any gold, silver, bank-notes, diamonds, watches, jewels, precious stones, or passengers' luggage, he shall furnish to the owner or agent of the ship a list of such articles, with their value, and in the event of their being lost or destroyed the owner of the ship shall not be liable to pay a greater amount than such declared value.

As to carriage of gold, silver, or diamonds, &c 1908, No. 178, sec. 301

(2.) If the value of the articles is not declared at or before the time of shipment, the owner of the ship shall not, in the event of their loss or destruction, be liable to pay more than *fifty* pounds.

(3.) The owner of the ship may charge a special rate of freight for the carriage of such articles, whether they are put or taken on board as cargo or passengers' luggage.

7. (1.) The agents in New Zealand of any ship not registered in New Zealand shall be deemed to be the legal representatives of the master and owner of the ship after the departure of the ship from the port at which she was discharged for the purpose of receiving and paying claims for short-delivery, damage, or pillage of cargo, and the amount of any such claim may be recovered from such agents in any Court of competent jurisdiction:

Short delivery and pillage. Ibid., sec. 302

Provided that it shall be lawful for such agents, by notice in writing delivered to the Collector of Customs not later than twenty-four hours before the departure of any ship, to decline to accept any responsibility under this section in respect of that ship, in which case the master and some other person approved by the Collector shall, before the ship is allowed her clearance, enter into a joint and several bond in a sum not exceeding the value of her cargo, as shown by the ship's papers, for the payment of any sum which, together with costs, may be recovered against the agents of such ship.

(2.) No proceedings for the recovery of any claim under this section shall be taken unless notice of the claim is given to the agents not later than *fourteen* days after the delivery of the cargo in respect of which the claim is made.

8. Every bill of lading or other shipping document relating to the carriage of goods issued by the manager, agent, master, or owner of a ship, and signed by any person purporting to be authorized to sign the same, shall be binding on the master and the owner of the ship as if the bill of lading or other document had been signed by the master.

Bill of lading to be binding if signed by authorized person. Ibid., sec. 303

#### *New.*

8A. (1.) In this section the expression "received for shipment" bill of lading means a shipping document issued in accordance with the provisions of this section, signed by a person purporting to be authorized to sign the same, and acknowledging that the goods to which the document relates have been received for shipment.

Special provisions as to "received for shipment" bills of lading.

(2.) No "received for shipment" bill of lading shall be issued—

(a.) Until the goods are in the possession of the owner of the ship or of some person duly authorized on his behalf:

(b.) Except for a named ship in which space has been actually reserved:

(c.) Earlier than twenty-one days before the time when the ship is expected to be in port in readiness to load,

but the issue of a "received for shipment" bill of lading shall be sufficient evidence until the contrary is proved that the requirements of this subsection have been complied with.

(3.) Every "received for shipment" bill of lading shall contain a provision that, in the event of the goods being unavoidably shut out from the named ship, the shipowner shall forward the goods by his next-available ship or, at his option, by a ship of some other owner or by a ship sailing within a specified number of days, but otherwise on the same terms and conditions, *mutatis mutandis*, as if the goods were actually shipped by the named ship.

(4.) Every "received for shipment" bill of lading shall for all purposes be deemed to be a valid bill of lading with the same effect and capable of negotiation in all respects and with the same consequences as if it were a bill of lading acknowledging that the goods to which it relates had been actually shipped on board.

Contracts for carriage of goods from New Zealand to be governed by New Zealand law. 1911, No. 37, sec. 9.

9. (1.) All parties to any bill of lading or other shipping document relating to the carriage of goods from any place in New Zealand to any place outside New Zealand shall be deemed to have intended to contract according to the laws of New Zealand in force for the time being, and any stipulation or agreement to the contrary, or purporting to oust or restrict the jurisdiction of the Courts of New Zealand in respect of that bill of lading or document, shall be null and void.

(2.) Every bill of lading or other shipping document relating to the carriage of goods from any place in New Zealand to any place outside New Zealand shall bear upon the face of it in conspicuous type a clause in the following terms or to the effect thereof:—

"It is agreed that this [bill of lading, or as the case may be] shall be subject to the Sea Carriage of Goods Act, 1922. Every provision or exception herein which by that Act is made illegal or void when contained in bills of lading or other documents to which that Act refers is hereby cancelled and annulled as effectively as if the provisions of that Act had been set out herein as the overriding and paramount conditions of carriage, and this notwithstanding anything to the contrary herein expressed or implied."

(3.) Every owner, master, or agent who issues any such bill of lading or other shipping document without complying with this section shall be liable on summary conviction to a fine of *one hundred* pounds.

Repeals.

10. Sections two hundred and ninety-three, three hundred, three hundred and one, three hundred and two, and three hundred and three of the Shipping and Seamen Act, 1908, and section nine of the Shipping and Seamen Amendment Act, 1911, are hereby repealed.