

ORDRE EN CONSEIL

Ratifiant un Projet de Loi intitulé

Loi ayant rapport au Transport de Marchandises sur Mer.

(Enregistré sur les Records de l'Île de Guernesey le
4 septembre 1926.)



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ORDRE EN CONSEIL.

À LA COUR ROYALE DE L'ÎLE DE GUERNESEY.

*Le 4 septembre 1926, pardevant Messire Havilland
Walter de Sausmarez, Chevalier, Baillif, présents, etc.*

Monsieur le Baillif ayant ce jour communiqué à la Cour un Ordre de Sa Majesté en Conseil en date du 28 juin 1926, ratifiant un projet de loi intitulé "Loi ayant rapport au Transport de Marchandises sur Mer."

La Cour, après avoir eu lecture du dit Ordre, ouïes les conclusions des Officiers du Roi, a ordonné que le dit Ordre sera enregistré sur les Records de cette Ile, duquel Ordre la teneur suit:—

At the Court at Buckingham Palace,

The 28th day of June, 1926.

Present,

The King's Most Excellent Majesty

LORD PRESIDENT

LORD STEWARD

SECRETARY SIR W. JOYNSON-HICKS

COLONEL G. LANE-FOX.

Whereas there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 7th day of June, 1926, in the words following, viz.:—

"Your Majesty having been pleased, by Your General Order of Reference of the 10th day of May, 1910, to refer unto this Committee the humble Petition of the States of the Island of Guernsey setting forth:—

1. That for the reasons set forth in the pre-

LE 4 SEPTEMBRE 1926.

amble thereof, the Royal Court on the 1st day of May, 1926, adopted a Bill or Projet de Loi intituled 'Loi ayant rapport au Transport de Marchandises sur Mer,' and requested the Bailiff to submit the same to the States for their approval. 2. That on the 19th day of May, 1926, the said Bill or Projet de Loi was duly considered by the States of Deliberation, when a resolution was passed approving the same and authorizing the President to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 3. That the said Bill or Projet de Loi is in the words and figures set forth in the Schedule to the said Petition. And most humbly praying that Your Majesty would be graciously pleased to grant Your Royal Sanction to the Bill or Projet de Loi of the States of Guernsey intituled 'Loi ayant rapport au Transport de Marchandises sur Mer,' and to order and direct that the same shall have the force of law within the Island of Guernsey.

"The Lords of the Committee, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

His Majesty, having taken the said Report into consideration, is pleased, by and with the advice of His Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Island of Guernsey.

And His Majesty doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

And the Lieutenant-Governor or Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other His Majesty's Officers, for the time being, in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

M. P. A. HANKEY.

**"PROJET DE LOI" referred to in the foregoing
Order in Council.**

**PROJET DE LOI INTITULÉ LOI AYANT RAP-
PORT AU TRANSPORT DE MARCHANDISES
SUR MER.**

Attendu qu'à une conférence Internationale sur le droit maritime tenue à Bruxelles au mois d'octobre 1922, les délégués se sont accordés de recommander à leurs Gouvernements respectifs l'adoption d'un brouillon d'une convention pour l'unification de certains règlements ayant rapport aux connaissements;

Attendu que l'Acte du Parlement intitulé "The Carriage of Goods by Sea Act 1924" donne force de loi aux dits règlements dans le but de régler les droits et obligations se rattachant aux porteurs de marchandises sur mer en rapport aux connaissements;

Attendu qu'il est expédient de donner effet légal aux dits règlements dans les Iles de ce Bailliage, le Projet de Loi qui ensuit rédigé en Anglais aura force de loi dans les dites Iles de ce Bailliage.

ARTICLE I.

Subject to the provisions of this law, the Rules contained in the schedule to this law shall have effect in relation to and in connection with the carriage of goods by sea in ships carrying goods from any port in the Islands of the Bailiwick to any other port whether in or outside the said Islands.

ARTICLE II.

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

ARTICLE III.

Every bill of lading or similar document of title issued in the Islands of the Bailiwick which contains, or is evidence of, any contract to which the Rules apply shall contain an express statement that it is to have effect subject to the provisions of the said Rules as applied by this law.

ARTICLE IV.

Article VI. of the Rules shall, in relation to the carriage of goods by sea in ships carrying goods from any port in the Islands of the Bailiwick to any port in Great Britain or Northern Ireland or to a port in the Irish Free State, have effect as though the said Article referred to goods of any class instead of to particular goods and as though the proviso to the second paragraph of the said Article were omitted.

ARTICLE V.

Where under the custom of any trade the weight of any bulk cargo inserted in the bill of lading is a weight ascertained or accepted by a third party other than the carrier or the shipper and the fact that the weight is so ascertained or accepted is stated in the bill of lading, then notwithstanding anything in the Rules, the bill of lading shall not be deemed to be prima facie evidence against the carrier of the receipt of goods of the weight so inserted in the bill of lading, and the accuracy thereof at the time of shipment shall not be deemed to have been guaranteed by the shipper.

ARTICLE VI.

Nothing in this law shall affect the operation of sections four hundred and forty-six to four hundred and fifty, both inclusive, five hundred and two and five hundred and three of the Merchant Shipping Act, 1894, as amended by any subsequent enactment, or the operation of any other enactment for the time being in force limiting the liability of the owners of sea-going vessels.

ARTICLE VII.

The Rules shall not by virtue of this Act apply to any contract for the carriage of goods by sea made

before the day on which the Order of His Majesty in Council sanctioning the present law is registered on the Records of the Island of Guernsey.

SCHEDULE.

Rules relating to Bills of Lading.

ARTICLE I.

DEFINITIONS.

In these Rules the following expressions have the meanings hereby assigned to them respectively, that is to say—

- (a) "Carrier" includes the owner or the charterer who enters into a contract of carriage with a shipper:
- (b) "Contract of carriage" applies only to contracts of carriage covered by a bill of lading or any similar document of title, in so far as such document relates to the carriage of goods by sea, including any bill of lading or any similar document as aforesaid issued under or pursuant to a charter party from the moment at which such bill of lading or similar document of title regulates the relations between a carrier and a holder of the same:
- (c) "Goods" includes goods, wares, merchandises, and articles of every kind whatsoever, except live animals and cargo which by the contract of carriage is stated as being carried on deck and is so carried:
- (d) "Ship" means any vessel used for the carriage of goods by sea:
- (e) "Carriage of goods" covers the period from the time when the goods are loaded on to the time when they are discharged from the ship.

ARTICLE II.

RISKS.

Subject to the provisions of Article VI., under every contract of carriage of goods by sea the carrier, in relation to the loading, handling, stowage, carriage, custody, care, and discharge of such goods, shall be subject to the responsibilities

and liabilities, and entitled to the rights and immunities hereinafter set forth.

ARTICLE III.

RESPONSIBILITIES AND LIABILITIES.

1. The carrier shall be bound, before and at the beginning of the voyage, to exercise due diligence to—

- (a) Make the ship seaworthy:
- (b) Properly man, equip, and supply the ship:
- (c) Make the holds, refrigerating and cool chambers, and all other parts of the ship in which goods are carried, fit and safe for their reception, carriage and preservation.

2. Subject to the provisions of Article IV., the carrier shall properly and carefully load, handle, stow, carry, keep, care for and discharge the goods carried.

3. After receiving the goods into his charge, the carrier, or the master or agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things—

- (a) The leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage:
- (b) Either the number of packages or pieces, or the quantity, or weight, as the case may be, as furnished in writing by the shipper:
- (c) The apparent order and condition of the goods.

Provided that no carrier, master or agent of the carrier, shall be bound to state or show in the bill of lading any marks, number, quantity, or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received, or which he has had no reasonable means of checking.

4. Such a bill of lading shall be prima facie evidence of the receipt by the carrier of the goods as

therein described in accordance with paragraph 3 (a), (b), and (c).

5. The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of shipment of the marks, number, quantity, and weight, as furnished by him, and the shipper shall indemnify the carrier against all loss, damages, and expenses arising or resulting from inaccuracies in such particulars. The right of the carrier to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.

6. Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under the contract of carriage, or, if the loss or damage be not apparent, within three days, such removal shall be prima facie evidence of the delivery by the carrier of the goods as described in the bill of lading.

The notice in writing need not be given if the state of the goods has at the time of their receipt been the subject of joint survey or inspection.

In any event the carrier and the ship shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered.

In the case of any actual or apprehended loss or damage the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods.

7. After the goods are loaded the bill of lading to be issued by the carrier, master or agent of the carrier, to the shipper shall, if the shipper so demands, be a "shipped" bill of lading, provided that if the shipper shall have previously taken up any document of title to such goods, he shall surrender the same as against the issue of the "shipped" bill of lading, but at the option of the carrier such document of title may be noted at the port of shipment by the carrier, master, or agent with the name or names of the ship or ships upon which the goods

have been shipped and the date or dates of shipment, and when so noted the same shall for the purpose of this Article be deemed to constitute a "shipped" bill of lading.

8. Any clause, covenant or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to or in connection with goods arising from negligence, fault or failure in the duties and obligations provided in this Article or lessening such liability otherwise than as provided in these Rules, shall be null and void and of no effect.

A benefit of insurance or similar clause shall be deemed to be a clause relieving the carrier from liability.

ARTICLE IV.

RIGHTS AND IMMUNITIES.

1. Neither the carrier nor the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy, and to secure that the ship is properly manned, equipped and supplied, and to make the holds, refrigerating and cool chambers and all other parts of the ship in which goods are carried fit and safe for their reception, carriage and preservation in accordance with the provisions of paragraph 1 of Article III.

Whenever loss or damage has resulted from unseaworthiness, the burden of proving the exercise of due diligence shall be on the carrier or other person claiming exemption under this section.

2. Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from—

- (a) Act, neglect, or default of the master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship;
- (b) Fire, unless caused by the actual fault or privity of the carrier;
- (c) Perils, dangers and accidents of the sea or other navigable waters;
- (d) Act of God;
- (e) Act of war;

- (f) Act of public enemies:
- (g) Arrest or restraint of princes, rulers or people, or seizure under legal process:
- (h) Quarantine restrictions:
- (i) Act or omission of the shipper or owner of the goods, his agent or representative:
- (j) Strikes or lock-outs or stoppage or restraint of labour from whatever cause, whether partial or general:
- (k) Riots and civil commotions:
- (l) Saving or attempting to save life or property at sea:
- (m) Wastage in bulk or weight or any other loss or damage arising from inherent defect, quality, or vice of the goods:
- (n) Insufficiency of packing:
- (o) Insufficiency or inadequacy of marks:
- (p) Latent defects not discoverable by due diligence:
- (q) Any other cause arising without the actual fault or privity of the carrier, or without the fault or neglect of the agents or servants of the carrier, but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage.

3. The shipper shall not be responsible for loss or damage sustained by the carrier or the ship arising or resulting from any cause without the act, fault or neglect of the shipper, his agents or his servants.

4. Any deviation in saving or attempting to save life or property at sea, or any reasonable deviation shall not be deemed to be an infringement or breach of these Rules or of the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom.

5. Neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with goods in an amount exceeding 100*l.* per package or unit, or the equivalent of that sum in other currency, unless the nature and value of such goods have been declared by the

shipper before shipment and inserted in the bill of lading.

This declaration if embodied in the bill of lading shall be prima facie evidence, but shall not be binding or conclusive on the carrier.

By agreement between the carrier, master or agent of the carrier and the shipper another maximum amount than that mentioned in this paragraph may be fixed, provided that such maximum shall not be less than the figure above named.

Neither the carrier nor the ship shall be responsible in any event for loss or damage to or in connection with goods if the nature or value thereof has been knowingly misstated by the shipper in the bill of lading.

6. Goods of an inflammable, explosive or dangerous nature to the shipment whereof the carrier, master or agent of the carrier, has not consented, with knowledge of their nature and character, may at any time before discharge be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the shipper of such goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment.

If any such goods shipped with such knowledge and consent shall become a danger to the ship or cargo, they may in like manner be landed at any place or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any.

ARTICLE V.

SURRENDER OF RIGHTS AND IMMUNITIES, AND INCREASE OF RESPONSIBILITIES AND LIABILITIES.

A carrier shall be at liberty to surrender in whole or in part all or any of his rights and immunities or to increase any of his responsibilities and liabilities under the Rules contained in any of these Articles, provided such surrender or increase shall be embodied in the bill of lading issued to the shipper.

The provisions of these Rules shall not be applicable to charter-parties, but if bills of lading are issued in the case of a ship under a charterparty

they shall comply with the terms of these Rules. Nothing in these Rules shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average.

ARTICLE VI. SPECIAL CONDITIONS.

Notwithstanding the provisions of the preceding Articles, a carrier, master or agent of the carrier, and a shipper shall in regard to any particular goods be at liberty to enter into any agreement in any terms as to the responsibility and liability of the carrier for such goods, and as to the rights and immunities of the carrier in respect of such goods, or his obligation as to seaworthiness, so far as this stipulation is not contrary to public policy, or the care or diligence of his servants or agents in regard to the loading, handling, stowage, carriage, custody, care and discharge of the goods carried by sea, provided that in this case no bill of lading has been or shall be issued and that the terms agreed shall be embodied in a receipt which shall be a non-negotiable document and shall be marked as such.

Any agreement so entered into shall have full legal effect.

Provided that this Article shall not apply to ordinary commercial shipments made in the ordinary course of trade, but only to other shipments where the character or condition of the property to be carried or the circumstances, terms and conditions under which the carriage is to be performed, are such as reasonably to justify a special agreement.

ARTICLE VII. LIMITATIONS ON THE APPLICATION OF THE RULES.

Nothing herein contained shall prevent a carrier or a shipper from entering into any agreement, stipulation, condition, reservation or exemption as to the responsibility and liability of the carrier or the ship for the loss or damage to or in connection with the custody and care and handling of goods prior to the loading on and subsequent to the discharge from the ship on which the goods are carried by sea.

ARTICLE VIII.

LIMITATION OF LIABILITY.

The provisions of these Rules shall not affect the rights and obligations of the carrier under any statute for the time being in force relating to the limitation of the liability of owners of sea-going vessels.

ARTICLE IX.

The monetary units mentioned in these Rules are to be taken to be gold value.

(Extrait des Registres),

QUERTIER LE PELLEY,
Greffier du Roi.