

Chapter:	440	BILLS OF LADING AND ANALOGOUS SHIPPING DOCUMENTS ORDINANCE	Gazette Number	Version Date
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		Long title		30/06/1997
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An Ordinance to replace the Bills of Lading Ordinance with new provisions with respect to bills of lading and certain other shipping documents.

(Enacted 1993)

[1 March 1994] *L.N. 105 of 1994*

(Originally 85 of 1993)

Section:	1	Short title		30/06/1997
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- (1) This Ordinance may be cited as the Bills of Lading and Analogous Shipping Documents Ordinance.
- (2) (Omitted as spent)
- (3) Nothing in this Ordinance shall have effect in relation to any document issued before this Ordinance comes into operation.

(Enacted 1993)

Section:	2	Interpretation	36 of 2000	16/06/2000
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- (1) In this Ordinance-
 - "bill of lading" (提單), "Sea waybill" (海運貨單) and "ship's delivery order" (船舶交貨單) shall be construed in accordance with section 3;
 - "contract of carriage" (運輸合約)-
 - (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" (持有人), in relation to a bill of lading, shall be construed in accordance with subsection (2);
 - "information technology" (資訊科技) 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;
 - "telecommunications system" (電訊系統) means a system for the conveyance, through the agency of electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy, of- (Amended 36 of 2000 s. 28)
 - (a) speech, music and other sounds;
 - (b) visual images;
 - (c) signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sounds or visual images; or
 - (d) signals serving for the actuation or control of machinery or apparatus.
- (2) References in this Ordinance to the holder of a bill of lading are references to any of the following persons-
 - (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 endorsement 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) 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 Ordinance as having become the lawful holder of a bill of lading wherever he has become the holder of the bill in good faith.

- (3) References in this Ordinance 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 3(3)(b) to a document's identifying a person shall be construed accordingly.

(4) Without prejudice to sections 4(2) and 6, nothing in this Ordinance 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 Ordinance to the goods to which a document relates shall be construed accordingly.

(Enacted 1993)

Section:	3	Shipping documents etc. to which Ordinance applies	30/06/1997
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(1) This Ordinance applies to the following documents-

- (a) bills of lading;
- (b) sea waybills; and
- (c) ship's delivery orders.

(2) References in this Ordinance to a bill of lading do not include references to a document which is incapable of transfer either by endorsement or, as a bearer bill, by delivery without endorsement; but subject to that, do include references to a received for shipment bill of lading.

(3) References in this Ordinance 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 Ordinance to a ship's delivery order are references to a document which is neither a bill of lading nor a sea waybill but which contains an undertaking-

- (a) that 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) by the carrier to a person identified in the document that he will deliver the goods to which the document relates to that person.

(Enacted 1993)

Section:	4	Rights under shipping documents	30/06/1997
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(1) Subject to this section, a person who-

- (a) becomes the lawful holder of a bill of lading;
- (b) becomes (without being an original party to the contract of carriage) the person to whom delivery of goods to which a sea waybill relates is to be made by the carrier in accordance with that contract; or
- (c) becomes the person to whom delivery of 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) 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) 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 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 Ordinance 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; and
 - (b) subsection (1) 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) 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 Ordinance 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.

(Enacted 1993)

Section:	5	Liabilities under shipping documents		30/06/1997
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(1) Where section 4(1) operates in relation to any document to which this Ordinance 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), 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 the contract of any person as an original party to the contract.

(Enacted 1993)

Section:	6	Representations in bills of lading		30/06/1997
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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.

(Enacted 1993)

Section:	7	Regulations	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) The Secretary for Commerce and Economic Development may by regulation make provision for the application of this Ordinance to cases where a telecommunications system or any other information technology is used for effecting transactions corresponding to- (Amended 36 of 2000 s. 28; L.N. 173 of 2000; L.N. 106 of 2002; L.N. 130 of 2007)

- (a) the issue of a document to which this Ordinance applies;
- (b) the endorsement, delivery or other transfer of such a document; or
- (c) the doing of anything else in relation to such a document.

(2) Regulations under subsection (1) may-

- (a) make such modifications as the Secretary for Commerce and Economic Development considers appropriate in connection with the application of this Ordinance to any case mentioned in that subsection; and (Amended L.N. 173 of 2000; L.N. 106 of 2002; L.N. 130 of 2007)
- (b) contain supplemental, incidental, consequential and transitional provisions.

(Enacted 1993)

Section:	8	Hague-Visby Rules	30/06/1997
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The provisions of this Ordinance shall have effect without prejudice to the application, in relation to any case, of the provisions of the International Convention for the unification of certain rules of law relating to bills of lading signed at Brussels on 25 August 1924 as amended by the Protocol signed at Brussels on 23 February 1968 (known as the Hague-Visby Rules), so far as those Rules have the force of law in Hong Kong.

(Enacted 1993)

Section:	9	(Omitted as spent)	30/06/1997
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(Omitted as spent)

(Enacted 1993)