

MARITIME AGENTS AND STEVEDORES in the Egyptian maritime commercial law No. 8 / 1990

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The maritime commercial law allotted the texts of the fourth act of chapter two to the maritime agents and stevedores. It started with the texts of articles from 137 to 139, which include the public provisions that apply to these persons, then it allotted articles from 148 to 151 to the ship agent, whereas it neglected the transit agent and the maritime broker, leaving their case to the public rules. The public provisions the legislator mentioned in articles from 137 to 139 to be applied to these persons are related to the applicable law and the concerned court in settling the dispute and obsolescence:

First, Article 137 cites that the applicable law to the works and contracts done by the maritime agents and stevedores is the law of the state wherein the port where the works and the contracts are done lies.

Second, Article 138 decrees that the maritime agent or stevedore can bring to action the principal or the employer before the court in whose circuit the agent or the contractor resides in the favor of the maritime agent or stevedore .

Third, Article 139 decides a short period for obsolescence of the action brought by the principal or the employer against the maritime agent or stevedore , as the action lapses by two years from the date of the debt being due .

The ship Agent

Who is the ship Agent?

The ship agent is a natural or moral person, whom the equipper (owner) or the shipmaster chooses in the port wherein the ship lands, to watch over the interests of the equipper and his ships in this port against a contract concluded between them, usually for a certain period.

What will be the legal status of the ship Agent?

It is settled that the ship agency contract is conceived as a normal contract for wage. The maritime commercial law adopts this opinion, as Article 140 states that the ship agent performs his work as an agent of the equipper; and Article 142 states that the ship agent is responsible to the equipper as a wage earner agent. Article 144 also states that the ship agent is considered substitute of the equipper in the actions presented by or against him in Egypt; and the residence of the ship agent is considered residence of the equipper where judicial notices of action and other documents can be delivered.

What are the Effects of the ship Agency contract?

The ship agency contract lays obligations upon both the ship agent and the equipper:

a. Obligations of the ship Agent:

The ship agent is mainly obliged to carry out the works dealing with the usual needs of the ship (Art. 140). He is also obliged - if he is ordered - to receive the goods for loading them on the ship before its departure, and delivering them to their owners after unloading them at its arrival (Art. 141). He is also obliged - if he is ordered - to get the transport fees due to the equipper against the delivery of the goods to the consignees (Art. 141).

b. Obligations of the Equipper:

The equipper is obliged to pay the wages agreed upon in the contract to the ship agent; and give him back the expenses he had spent in executing his agency as usual, in addition to their interests.

The ship agent has the right to keep the amounts of the equipper at his hand as the transport fees he had got to fulfill his dues; and he has a privilege of the sixth class on the ship and the transport fees that guarantee the debts due on the equipper for the works he performs (Art. 29 / 6).

How will the Responsibility of the ship Agent be Held?

The responsibility of the ship agent is held before the equipper, and it may be held before others:

a. The Responsibility of the ship Agent Before the Equipper:

As the ship agent is considered an agent of the equipper, he has to be asked according to the contract before the equipper for the failures he commits in performing his agency (Art. 142).

B. The Responsibility of the ship Agent Before Others:

Article 143 states that: "The ship agent has not to be asked before the consigners or the consignees for the destruction or the deterioration of the goods he receives to load on the ship or the goods he receives to load on the ship or the goods he has to unload out of it to deliver to their owners, except only his own failure and his subordinates failures.

The Shipment Agent

Who is the shipment Agent?

The shipment agent is a person chosen by the consignee or the right owner of the goods, to receive the goods at their arrival at the port for him, to keep his rights at the transporter, and to pay the transport fees if needed.

What is the legal status of the shipment Agent?

The shipment agent is a wage earner agent for the right receiver of the goods (Art. 145); though he may be agent by commission if the Bill of lading is to its holder and the consignee presented it to the shipment agent to receive the goods in his personal name as if he is the consignee; or if the Bill of lading is to the order of consignee who endorses it to the shipment agent, an endorsement transferable of the ownership, as though he is the last consignee.

What are the Effects of the shipment Agency contract?

The shipment agency contract lays obligations upon both the shipment agent and the right receiver of the goods or the consignee:

a. Obligations of the shipment Agent:

The shipment agent, as an agent of the consignee, is obliged to receive the goods after unloading them (Art. 145). He is also obliged to preserve the rights of the consignee; if he realized at receiving the goods that there is shortage or deterioration in them, he has to contact the transporter in writing to tell him of the damage or deterioration in the legal times (Art. 239); otherwise, a conclusive presumption of law is brought in his relation with the goods owners, telling that he has received the goods in the status and quantity cited in the Bill of lading; as for the relation between

the shipment agent and the transporter it is considered a simple presumption the contrary of it may be proved (Art. 146). The shipment agent also is obliged to pay all or some of the transport fees if they are due.

b. Obligations of the consignee:

The consignee is obliged to pay the wages agreed upon to the shipment agent , in addition to the expenses he spent and the interests of these amounts .

How will the Responsibility of the shipment Agent be Held?

The shipment agent will be responsible to the goods owners as he is a wage earner agent (Art. 147/1). His responsibility is obviously never held unless the damages resulted from his failure or his subordinates failures (Art. 143, 147/2).

The Maritime stevedore

Who is the Maritime stevedore?

The maritime stevedore is a natural or moral person, who undertakes material works needed for loading the goods on board the ship for transporting them; or unloading them for delivering to the consignees. He may, in addition to this, perform legal acts to the account of the transporter, the consigner or the consignee.

What is the Legal status of the Maritime stevedore ?

It is settled that the charge and discharge contract is considered a contractual contract, that is based mainly on the material work of charge and discharge. This contract does not lose its character as a contractual contract if it has been assigned to the maritime contractor, beside the material work the contractual contract is concerned with, legal work, such as the agency of the transporter, the consigner or the consignee; but the stevedore of charge and discharge. Besides being a stevedore , will have the trait of an agent .

What are the Effects of the charge and Discharge contract?

The charge and discharge contract lays obligations on each of the maritime stevedore, the transporter, the consigner and the consignee as the case may be:

a : Obligations of the maritime stevedore?

The main job of the maritime Stevedore is the material operation concerning the charge of the goods on board the ship for transporting them, or discharging them from the ship after its arrival to the port for delivering them to the consignees.

In addition to the main job, above - mentioned, Article 148/2 cited that the maritime stevedore may be assigned other additional jobs related to the charge and discharge in the favor of the equipper , the consigner or the consignee .

b- Obligations of the one who contracts with the stevedore :

The one who contracts with the maritime stevedore, whether be he the transporter, the consigner or the consignee, is obliged to pay for the maritime stevedore the fees agreed upon; and the stevedore. May detain the goods until his rights ore fulfilled according to the public rules.

How will the Responsibility of the Maritime stevedore - be Established?

a. The person before whom the stevedore is Held Responsible:

Article 49/1 states that: “the maritime stevedore carries out the operations of charge or discharge and the other additional operation in favor of the person who asked him to do them. In this respect he is not responsible except before this person who only can bring him to action”.

B. The Basis of Responsibility:

Article 150 decides that the maritime stevedore is responsible for his failure and his subordinates failures in the works he performs. There fore, the responsibility of the maritime stevedore will not be held without the other party of the contract proving of the failure of the stevedore or the failure of his subordinates.

C. Defining the Responsibility of the maritime stevedore:

As the maritime legislator defines the responsibility of the maritime stevedore who did not commit any fraud or irrevocable mistake about the destruction, the deterioration or the delay of arrival of the goods, it is just and logic to extend the discipline of defining the responsibility to the maritime stevedore and his subordinates . Thus , Article 151 sets out to apply the provisions of defining the responsibility , cited in Article 233 of this law to the maritime stevedore .

This article provides for a general overview only and must not be relied upon as constituting advice in any specific case. Advice should always be sought before taking steps in proceedings- For Further information pls. Contact Mr. U. Soliman