The doctrine of deviation deals with the effects of the breach of the obligation, imposed on the carrier in contracts of carriage of goods by sea, not to deviate from the contract or normal route. The doctrine has been developed by common law courts during the nineteenth century and the first half of the twentieth, and its application has draconian effects on the contract and on the position of the carrier. Attempts have been made to introduce the principles of the doctrine into general contract law, but they have been rejected by the House of Lords. The House of Lords expressed the view that the doctrine should survive as a sui generis body of authority in shipping law, but the prevailing view seems to be that it should now be considered abolished. The status of the doctrine today is uncertain and its practical relevance is questionable.

This paper investigates into the origins and rationale of the doctrine, examines its development and argues that the stratification of misinterpretations and logical leaps caused it to exceeded its original purposes.

The paper concludes that the doctrine should not be maintained as it currently is, arguing however that a reshaped doctrine of deviation still has a place in English law as a sui generis, fall-back rule to allocate the liability between carrier and cargo owner and remedy the injustice which may arise in some very specific and unlikely, yet not impossible, circumstances. This conclusion seems supported by the recent enactment of the Insurance Act 2015.


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