

THE CARRIERS ACT, 1865

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SCHEDULE

THE CARRIERS ACT, 1865

ACT NO. III OF 1865

[14th February, 1865]

An Act relating to the rights and liabilities of Common Carriers.

WHEREAS it is expedient not only to enable common carriers to limit their liability for loss of or damage to property delivered to them to be carried but also to declare their liability for loss of or damage to such property occasioned by the negligence or criminal acts of themselves, their servants or agents;

Preamble

It is enacted as follows:—

1. This Act may be cited as the Carriers Act, 1865.

Short title

2. In this Act, unless there be something repugnant in the subject or context—

Interpretation-clause

"common carrier" denotes a person, other than the Government, engaged in the business of transporting for hire property from place to place, by land or inland navigation, for all persons indiscriminately.

"common carrier"

"person" includes any association or body of persons, whether incorporated or not.

"Person"

3. No common carrier shall be liable for the loss of or damage to property delivered to him to be carried exceeding in value one hundred ¹[taka] and of the description contain in the Schedule to this Act, unless the person delivering such property to be carried, or some person duly authorised in that behalf, shall have expressly declared to such carrier or his agent the value and description thereof.

Carriers not to be liable for loss of certain goods above one hundred taka in value, unless delivered as such

¹ The word "taka" was substituted, for the word "rupees" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

For carrying such property payment may be required at rates fixed by carrier

4. Every such carrier may require payment for the risk undertaken in carrying property exceeding in value one hundred taka and of the description aforesaid, at such rate of charge as he may fix:

Provided that, to entitle such carrier to payment at a rate higher than his ordinary rate of charge, he shall have caused to be exhibited in the place where he carries on the business of receiving property to be carried, notice of the higher rate of charge required, printed or written in English and in the vernacular language of the country wherein he carries on such business.

The person entitled to recover in respect of property lost or damaged may also recover money paid for its carriage

5. In case of the loss or damage to property exceeding in value one hundred taka and of the description aforesaid, delivered to such carrier to be carried, when the value and description thereof shall have been declared and payment shall have been required in manner provided for by this Act, the person entitled to recover in respect of such loss or damage shall also be entitled to recover any money actually paid to such carrier in consideration of such risk as aforesaid.

In respect of what property liability of carrier not limited or affected by public notice. Carriers, with certain exceptions, may limit liability by special contract

6. The liability of any common carrier for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any public notice; but any such carrier, not being the owner of a railroad or tram road constructed under the provisions of ¹[the Land Acquisition Act, 1894 (Act No. 1 of 1894)] (*to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken*) may, by special contract, signed by the owner of such property so delivered as last aforesaid or by some person duly authorised in that behalf by such owner, limit his liability in respect of the same.

¹ The words, comma, figures and brackets “the Land Acquisition Act, 1894 (Act No. 1 of 1894)” were substituted, for the words and figure “Act XXII of 1863” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

7. The liability of the owner of any railroad or tram road constructed under the provisions of the said ¹[the Land Acquisition Act, 1894 (Act 1 of 1894)] for loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any special contract; but the owner of such railroad or tram road shall be liable for the loss of or damage to property delivered to him to be carried only when such loss or damage shall have been caused by negligence or a criminal act on his part or on that of his agents or servants.

Liability of owner of railroad or tram road constructed under the Land Acquisition Act, 1894, not limited by special contract in what case owner of railroad or tram road answerable for loss or damage

8. Notwithstanding anything hereinbefore contained, every common carrier shall be liable to the owner for loss of or damage to any property delivered to such carrier to be carried where such loss or damage shall have arisen from the criminal act of the carrier or any of his agents or servants and shall also be liable to the owner for loss or damage to any such property other than property to which the provisions of section 3 apply and in respect of which the declaration required by that section has not been made, where such loss or damage has arisen from the negligence of the carrier or any of his agents or servants.

Common carrier liable for loss or damage caused by neglect or fraud of himself or his agent

9. In any suit brought against a common carrier for the loss, damage or non-delivery of goods entrusted to him for carriage, it shall not be necessary for the plaintiff to prove that such loss, damage or non-delivery was owing to the negligence or criminal act of the carrier, his servants or agents.

Plaintiffs, in suits for loss, damage, or non-delivery, not required to prove negligence or criminal act

¹ The words, comma, figures and brackets “the Land Acquisition Act, 1894 (Act No. 1 of 1894)” were substituted, for the words and figure “Act XXII of 1863” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Notice of loss
or injury to be
given within
six months

10. No suit shall be instituted against a common carrier for the loss of, or injury to, goods entrusted to him for carriage, unless notice in writing of the loss or injury has been given to him before the institution of the suit and within six months of the time when the loss or injury first came to the knowledge of the plaintiff.

Power to
Government to
add to the
Schedule

11. The ¹[* * *] Government may, by notification in the official Gazette, add to the list of articles contained in the Schedule to this Act, and the Schedule shall, on the issue of any such notification, be deemed to have been amended accordingly.

SCHEDULE

Gold and silver coin

Gold and silver in a manufactured or unmanufactured state

Precious stones and pearls

Jewellery

Time-pieces of any description

Trinkets

Bills and hundis

Currency notes of the Government, or notes of any Banks, or securities for payment of money, English or Foreign

Stamps and stamped paper

Maps, prints and works of art

Writings

Title-deeds

Gold or silver plate or plated articles

Glass

¹ The word "Provincial" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

China

Silk in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials

Shawls and lace

Cloths and tissues embroidered with the precious metals or of which such metals form part

Articles of ivory, ebony or sandal wood

Art pottery and all articles made of marble

Furs

Government securities

Opium

Coral

Musk, *Itr*, Sandal wood oil, and other essential oils used in the preparation of *itr* or other perfumes

Musical and scientific instruments

Feathers

Narcotic preparations of hemp

Crude India-rubber

Jade, jade-stone and amber

Gooroochand or Gooroochandani

Cinematograph films and apparatus

Zahir Mohra Khatai
