

THE CARRIERS ACT, 1865

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SCHEDULE.

THE CARRIERS ACT, 1865

ACT NO. 3 OF 1865¹

[14th February, 1865.].

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

PREAMBLE.—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; It is enacted as follows : —

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

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

“**common carrier**” denotes a person, other than the Government, engaged in the business of ² [transporting property under multinodal transport document or of] transporting for hire property from place to place, by land or inland navigation, for all persons indiscriminately:

“**Person**”. — “person”³ includes any association or body of persons, whether incorporated or not.

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3. Carriers not to be liable for loss of certain goods above one hundred rupees in value, unless delivered as such.—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 rupees and of the description contained 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.

1. The Act has been declared to be in force in all the Provinces of India, except the Scheduled Districts, by the Laws Local Extent Act, 1874 (15 of 1874), s. 3.

The Act has been extended to and brought into force in Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and the First Schedule (w. e. f. 1-7-1965) and to the Union territory of Pondicherry by Act 26 of 1968, s. 3 and Schedule.

It has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and has been applied to the Sontha Parganas Settlement Regulation, 1872 (3 of 1872), s. 31.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely :—

West Jalpaiguri, the Western Hills of Darjeeling, the Darjeeling Tarai and the Damson Sub-division of the Darjeeling Darjeeling District	See Gazette of India,	1881, Pt I, p. 74
The Districts of Hazaribagh, Lohardaga (now the Ranchi District, <i>see</i> Calcutta Gazette, 1899, Pt. I, p. 44), and Manbhum, and Pargana Dhalbhum and the Kolhan in the District of Singbhum	Ditto	1881, Pt. I, p. 504.
The Porahat estate in the District of Singbhum	Ditto	1897, Pt. I, p. 1059.
Kumaon and Garhwal	Ditto	1876, Pt. I, p. 605.
The Scheduled portion of the Mirzapur District	Ditto	1878, Pt. I, p.383.
Jaunsar Bawar	Ditto	1878, Pt. I, p 382.
The Scheduled Districts of the C.P.	Ditto	1879, Pt. I, p. 771
The Scheduled Districts in Ganjam and Vizagapatam	Ditto	1898, Pt. I, p. 870
Assam (except the North Lushai Hills)	Ditto	1897, Pt. I, p. 299.

2. Ins. by Act 28 of 1993, s. 31 and Schedule, Pt. I (w.e.f. 16-10-1992).

3. *Cf.* Definition in s. 3 (42) of the General Clauses Act, 1897 (10 of 1897).

4. The Paragraph relating to “number” was rep. by Act 10 of 1914, s. 3 and the Second Schedule.

4. For carrying such property payment may be required at rates fixed by carrier. —Every such carrier may require payment for the risk undertaken in carrying property exceeding in value one hundred rupees and of the description aforesaid, at such rate of charge as he may fix:

Proviso.—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.

5. The person entitled to recover in respect of property lost or damaged may also recover money paid for its carriage.—In case of the loss or damage to property exceeding in value one hundred rupees 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.

6. 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.—The liability of any common carrier for the loss of or damage to any ¹[property (including container, pallet or similar article of transport used to consolidate goods) 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 tramroad constructed under the provisions of ²Act 22 of 1863 (*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.

³7. Liability of owner of railroad or tramroad constructed under Act 22 of 1863, not limited by special contract. In what case owner of railroad or tramroad answerable for loss or damage. —The liability of the owner of any railroad or tramroad constructed under the provisions of the said Act 22 of 1863, for the loss of or damage to any ¹[property (including container, pallet or similar article of transport used to consolidate goods) 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 tramroad shall be liable for the loss of or damage to ¹[property (including container, pallet or similar article of transport used to consolidate goods) 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.

8. Common carrier liable for loss or damage caused by neglect or fraud of himself or his agent. —Notwithstanding anything herein before contained, every common carrier shall be liable to the owner for loss of or damage to any ¹[property (including container, pallet or similar article of transport used to consolidate goods) delivered] to such carrier to be carried where such loss or damage shall have arisen from the ^{4***} criminal act of the carrier or any of his agents or servants ⁵[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

1. Subs. by Act 28 of 1993, s. 31 and Schedule, Pt. I, for “property delivered” (w.e.f. 16-10-1992).

2. See now the Land Acquisition Act, 1894 (1 of 1894), s. 2.

3. S. 7 (so far as it relates to railways) has been rep. by the Indian Railways Act, 1890 (9 of 1890), s. 72.

4. The words “negligence or” omitted by Act 13 of 1921, s. 2.

5. Added by s. 2, *ibid.*

been made, where such loss or damage has arisen from the negligence of the carrier or any of his agents or servants].

9. Plaintiffs, in suits for loss, damage, or non-delivery, not required to prove negligence or criminal act.—In any suit brought against a common carrier for the loss, damage or non-delivery of ¹[goods (including container, pallets or similar article of transport used to consolidate 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.

²[**10. Notice of loss or injury to be given within six months .**—No suit shall be instituted against a common carrier for the loss of, or injury to ¹[goods (including container, pallets or similar article of transport used to consolidate 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.]

³[**11. State Government to add to the Schedule.**—The State 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.]

1. Subs. by Act 28 of 1993, s. 31 and the Schedule, Pt. I, for “goods entrusted” (w.e.f. 16-10-1992).

2. Ins. by Act 10 of 1899, s. 2. Earlier rep. by Act 9 of 1890.

3. Ins. by Act 13 of 1921, s. 3.

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 Central Government, or notes of any Bank, 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.

China

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

Shawls and lace.

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

Articles of ivory, ebony or sandal-wood.

¹[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 perfumes.

Musical and scientific instruments.

Feathers.

Narcotic preparations or hemp.

Crude India-rubber.

Jade, Jade-stone and amber.

1. Ins. by Notification No. 5299, dated 14th October, 1922, *see* Gazette of India, 1922, Pt. I, p. 1235.

Gooroochand or Gooroochandan.

Cinematograph films and apparatus.

Zahir Mohra Khatai.

¹[Platinum.

Iridium.

Palladium.

Radium and its preparations.

Tantalum.

Osmium.

Ruthenium.

Rhodium].

²[Agarwood].

1. Added by Notification No. 68-C(2), dated 3rd March, 1928, *see* Gazette of India, 1928, Pt. I, P. 329.
2. Added by Notification No. 68-E(4), dated 28th June, 1930, *see ibid.*, 1930, pt. I, P. 672.