



ANALYSIS

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|---|--|
| Title. | 6. Limit of liability for goods unless value declared and increased charge paid. |
| 1. Short Title. | 7. When goods deemed to be in custody of carrier. |
| 2. Interpretation. | 8. Act to be read subject to other enactments affecting carriers. |
| 3. Liability of carriers of passengers for negligence causing death or personal injury. | 9. Act to bind Crown. |
| 4. Liability of carriers for negligence in carriage of goods. | 10. Carriers Act, 1830, not to apply in New Zealand. |
| 5. Special contracts or conditions as to goods not binding unless signed. | 11. Repeal. |

1948, No. 66

Title.

AN ACT to Amend the Law Relating to the Liability of Carriers. [2nd December, 1948]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. This Act may be cited as the Carriers Act, 1948.

Interpretation.

2. In this Act, unless the context otherwise requires.—

“Carrier” means any common carrier of passengers or goods by land or water, or any person engaged in the business of the carriage of passengers or goods by air for hire or reward who would, if that business were the carriage of passengers or goods by land, be a common carrier:

"Contract" means any contract entered into in New Zealand by a carrier for the carriage of any person or any goods from any place in New Zealand to any other place in New Zealand:

"Goods" means goods, luggage, and chattels of any description, and includes animals.

3. (1) Subject to the provisions of this Act, where at any time after the passing of this Act any passenger carried under any contract made with a carrier of passengers suffers loss of life or personal injury occasioned by the negligence of the carrier or any employee or agent of the carrier, and there is expressed or implied in the contract any condition purporting to exclude or limit in any way the liability of the carrier, an action for damages in respect of the loss of life or personal injury may, notwithstanding the condition, be maintained in the same manner and to the same extent as if no such condition were so expressed or implied, and the condition shall not be a defence to the action or be taken into account in assessing the amount of any damages to which the plaintiff may be entitled.

Liability of carriers of passengers for negligence causing death or personal injury.

(2) In the application of section two hundred and ninety-five of the Shipping and Seamen Act, 1908, to any case to which this section applies, the provisions of paragraph (e) of subsection one of that section (which relates to the limitation of liability of owners of ships in respect of loss of life or personal injury) shall be read and construed as if the reference in that paragraph to an aggregate amount not exceeding fifteen pounds for each ton of the ship's tonnage were a reference to an aggregate amount not exceeding thirty pounds for each ton of the ship's tonnage.

See Reprint of Statutes, Vol. VIII, p. 399

4. (1) Subject to the provisions of this Act, every carrier between any places in New Zealand shall be liable for the loss of or any damage done to any goods in the receiving, carrying, forwarding, or delivery thereof, occasioned by the negligence of the carrier or any employee or agent of the carrier, notwithstanding any notice, condition, declaration, or contract given, made, or entered into by the carrier and purporting to

Liability of carriers for negligence in carriage of goods.

Cf. Mercantile Law Act, 1908, s. 17; see Reprint of Statutes, Vol. I, p. 761

exclude or limit in any way the liability of the carrier, in the same manner and to the same extent as if no such notice, condition, declaration, or contract had been given, made, or entered into.

Cf. Mercantile Law Act, 1908, s. 18; see Reprint of Statutes, Vol. I, p. 761

Special contracts or conditions as to goods not binding unless signed.

Cf. ibid., s. 19, p. 762

Limit of liability for goods unless value declared and increased charge paid.

Cf. ibid., s. 20 1944, No. 25, s. 25 (2)

Carriers Act, 1830 (11 Geo. IV and 1 Will. IV, c. 68) (U.K.)

(2) Subject to the provisions of section five of this Act, nothing in subsection one of this section shall be construed to prevent a carrier from making such special contracts or conditions with respect to the receiving, carrying, forwarding, and delivering of goods as are adjudged by the Court before which any question relating thereto is tried to be just and reasonable.

5. No special contract or condition made between a carrier and any other party with respect to the receiving, carrying, forwarding, or delivering within New Zealand of any goods shall be binding on or affect that party unless it is in writing signed by him or by the person delivering the goods for carriage.

6. (1) With respect to the receiving, carrying, forwarding, or delivering within New Zealand of any goods by any carrier the following provisions shall apply:—

(a) No person shall be entitled to recover for any loss of or damage to or in connection with any goods any greater amount than twenty pounds for any package or unit, thirty pounds for any horse, seventeen pounds ten shillings for any one head of cattle, five pounds for any pig, ten pounds for any dog, two pounds ten shillings for any one sheep, goat, or other quadruped not otherwise specified, and one pound for any bird, unless the person sending or delivering the goods to the carrier has given to the carrier a statement in writing declaring the nature and value of the goods, has obtained a receipt for the goods specifying the nature and value so declared, and has, if required by the carrier so to do, paid to the carrier by way of compensation for the increased risk and care thereby occasioned an amount, in addition to the ordinary rate of charge, not exceeding a reasonable percentage of the

excess of the value so declared above the sum specified in this paragraph as applicable to the goods:

- (b) Where the nature and value of any goods have been declared as aforesaid the liability of the carrier in respect of the loss of or damage done to the goods shall not exceed in amount the actual value of the goods or the value so declared, whichever is the lower, together with the amount of such additional charge as aforesaid:
- (c) The proof of the actual value of the goods shall in all cases lie upon the person claiming compensation for the loss or damage.

(2) Section fifteen of the Government Railways Act, 1926, is hereby amended by omitting from paragraph (b) (as enacted by subsection two of section twenty-five of the Statutes Amendment Act, 1944) the words "fifteen pounds for any horse, eight pounds for any one head of cattle, two pounds for any dog, fifteen shillings for any one sheep, goat, pig, or other quadruped not otherwise specified, and three shillings and sixpence for any bird", and substituting the words "thirty pounds for any horse, seventeen pounds ten shillings for any one head of cattle, five pounds for any pig, ten pounds for any dog, two pounds ten shillings for any one sheep, goat, or other quadruped not otherwise specified, and one pound for any bird".

See Reprint
of Statutes,
Vol. VII, p. 823
1944, No. 25

7. All goods received by any carrier for carriage, forwarding, or delivery, not being goods for the time being in the custody of a passenger, shall be deemed to be in the custody of the carrier until delivered to the consignee thereof or, as the case may require, to any proper authority to whom the carrier is bound by any enactment or by-law to deliver the goods or to the passenger in respect of whom the goods are received for carriage.

When goods
deemed to be in
custody of
carrier.

Cf. Government
Railways Act,
1926, s. 15 (a);
see Reprint
of Statutes,
Vol. VII, p. 823

8. Except as otherwise provided in this Act, the provisions of this Act shall be read subject to the provisions of any enactment for the time being in force relating to the licensing or control of services for the carriage of passengers or goods, or affecting or relating to the liabilities, obligations, rights, or protection of carriers, or any class of carriers, or

Act to be read
subject to other
enactments
affecting
carriers.

persons declared by any such enactment to have any of the liabilities, obligations, rights, or protection of carriers.

Act to bind
Crown.

Carriers Act,
1830, not to
apply in
New Zealand.

(11 Geo. IV
and 1 Will. IV,
c. 68) (U.K.)

Repeal.
See Reprint
of Statutes;
Vol. I, p. 761

9. This Act shall bind the Crown.

10. Nothing in the Carriers Act, 1830, shall hereafter apply in New Zealand.

11. Part III of the Mercantile Law Act, 1908, is hereby repealed.