

and the foregoing provisions of this Act shall be applicable to the trial and determination of the suits.

The report of the officer employed to give delivery, or to take possession, on the part of 1[the Provincial Government], of the land sold or otherwise dealt with, shall be conclusive evidence as to the date on which such delivery was made, or possession was taken.

If claim established, possession not to be given, but compensation.

19. In any case in which the land has been sold, if the Court shall be of opinion that the claim of the claimant is established, the Court shall not award the claimant possession of the land in dispute; but shall order him to receive from 2[the Provincial Government] Treasury, by way of compensation, a sum equal to the price at which the land was sold, in addition to the costs of suit.

When land sold not absolutely, or not sold, but otherwise dealt with.

20. If the land shall have been sold subject to any condition or reservation, or shall not have been sold, but shall have been otherwise dealt with on account of 2[the Provincial Government], and the Court shall be of opinion that the claim to such land, or the objection of an objector, is established, the Court shall award the claimant or objector to receive such sum, in respect of his interest in such land, as shall be awarded in that behalf under the provisions of 3 Act, VI of 1857 (for the acquisition of land for public purposes),

and thereupon the 4[Provincial Government] shall proceed under the said Act to obtain an award of the value of such interest.

Award under two last sections to be in full satisfaction.

21. An award under any of the provisions of the two last preceding sections shall be in full satisfaction of the claim of the claimant or objector; and shall bar any future claim on his part, in respect to the land in suit resting on the same cause of action, or on a cause of action which existed prior to the date of the sale or other disposition of the land on account of 2[the Provincial Government].

Government not barred from awarding compensation for land absolutely sold, though claim be not preferred in time.

22. Nothing in this Act shall be held to prevent the 4[Provincial Government] from awarding, to any claimant of waste land sold on account of 2[the Provincial Government], on proof to the satisfaction of the 4[Provincial Government] of the claim of such claimant (notwithstanding that he may not have preferred his claim either to the Collector or other officer as aforesaid, or to the proper Court constituted under this Act, within the period prescribed by this Act), such amount as compensation for the said land, within the limits as to amount mentioned in section 19 of this Act, if the land have been sold not subject to any condition or reservation, as to such 4[Provincial Government] may seem proper.

Compensation for land sold.

23. If the land have been sold subject to any condition or reservation, or have been otherwise disposed of, on account of 2[the Provincial Government], and any claim to such land, or

1. Subs. by A.O., 1937 for "Govt."

2. Subs. *ibid.* for "the govt."

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

4. Subs. by A. O., 1937, for "L. G."

objection to the sale or other disposition of the land, shall be proved to the satisfaction of the 1[Provincial Government], although not preferred to the Collector or other officer as aforesaid, or to the Court constituted under this Act, within the period prescribed by this Act, the 1[Provincial Government] may award to such claimant or objector such amount as to such 1[Provincial Government] may appear to be the value of the interest of such claimant or objector in such land:

subject to condition, if claim proved, though not preferred in time.

2[23A. In a Province for which there is a Board of Revenue or a Financial Commissioner, the powers and duties of the 1[Provincial Government] under sections 6, 10, 22 and 23 may be exercised by such Board or Financial Commissioner, as the case may be.]

Exercise of power of the Provincial Government by the Board of Revenue or the Financial Commissioner.

24. [Interpretation-clause. Number. Gender.] Rep. by the Repealing and Amending Act, 1914 (X of 1914) s. 3 and Sch. II.

THE CARRIERS ACT, 1865

3ACT 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; It is enacted as follows:—

Preamble.

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

Short title.

1 Subs. by A. O., 1937, for "L. G."

Ins. by the Decentralization Act, 1914 (4 of 1914), Sch., Pt. I.

3 For Statement of Objects and Reasons, see Gazette of India, Extraordinary, dated 1st August, 1864 and for Proceedings relating to the Bill, see *ibid.*, Supplement, p. 497, and *ibid.*, 1865, pp. 51, 64 and 65.

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

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:—

Sind
1. p. 672. See Gazette of India, 1880, Pt.

The Districts of Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan and Dera Ghazi Khan. [Portions of the Districts of Hazara, Bannu, Dera Ismail Khan and Dera Ghazi Khan and the Districts of Peshawar and Kohat now form the N.W.F.P., see Gazette of India, 1901, Pt. I, p. 857, and *ibid.*, 1902, Pt. I, p. 575.]

It has also been applied to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.W.F.P., subject to certain modifications; and extended to the Excluded Area of Upper Tanawal N.W.F.P., other than Phulera with effect from such date and subject to such modifications as may be notified, see N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950.

It has been rep. as to carriers by rail by the Indian Railways Act, 1879 (4 of 1879). For the Railways Act now in force, see the Railways Act, 1890 (9 of 1890).

Interpreta-
tion-clause.

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

"Common
carrier."

"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 :

"Person."

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

2* * * *

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

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 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 authorized in that behalf, shall have expressly declared to such carrier or his agent the value and description thereof³.

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 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.

The person
entitled to
recover in
respect of
property lost
or damaged
may also re-
cover mon-
ey paid for
its carriage.

5. 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.

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

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 rail road or tramroad constructed under the provisions of 4[the Land Acquisition Act, 1894.]¹ of 1894.

¹ Cf. definition in s. 3 (39) of the General Clauses Act, 1897 (10 of 1897).

² The paragraph relating to "number" was rep. by the Repealing and Amending Act, 1914 (10 of 1914).

³ The earlier sections extend to Pakistan the principle embodied in the Carriers Act, 1830 (11 Geo. IV & 1 Wm. IV, c. 68). See Statement of Objects and Reasons quoted above.

⁴ Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and II Sch., for certain words.

may, by special contract, signed by the owner of such property so delivered as last aforesaid or by some person duly authorized in that behalf by such owner, limit his liability in respect of the same.

1 of
1894.

17. The liability of the owner of any railroad or tramroad constructed under the provisions of the 2[Land Acquisition Act, 1894.] 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 special contract ; but the owner of such railroad or tramroad 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.

may limit
liability by
special con-
tract.

Liability of
owner of
railroad or
tramroad
constructed
under Act
XXII of
1863, not
limited by
special con-
tract. In
what case
owner of
railroad or
tramroad
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 3 * * criminal act of the carrier or any of his agents or servants 4[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 lia-
ble 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 neg-
ligence or
criminal act.

5[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.]

Notice of
loss or injury
to be given
within six
months.

6[11. The 7[Federal Government or the] 8[Provincial Govern-ment] may, by notification in the 9[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.]

Power to
Provincial
Government
to add to the
Schedule.

¹ S. 7 (so far as it relates to railways) has been rep. by the Railways Act, 1890 (9 of 1890), s. 72.

² Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and II Sch., for "said Act XXII of 1863".

³ The words "negligence or" rep. by the Carriers (Amendment) Act, 1921 (13 of 1921), s. 2.

⁴ Ins. *ibid.*

⁵ Ins. by the Indian Carriers Act, 1899 (10 of 1899), s. 2. The original section was rep. by the Railways Act, 1890 (9 of 1890).

⁶ Ins. by Act 13 of 1921, s. 3.

⁷ Ins. by Ordinance 27 of 1981, s. 3 and II Sch.

⁸ Subs. by A. O., 1937, for "G. G. in C".

⁹ Subs. *ibid.*, for "Gazette of India".

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 ¹[Federal 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.

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.

²[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.

¹Subs. by F.A.O., 1975, Art. 2 and Sch., for "Central Government" which was previously subs. by A.O., 1937, for "G. of I", to read as above.²Ins. by Notification No. 5299, dated 14th October, 1922, see Gazette of India, 1922, Pt. I, p. 1235.

Narcotic preparations of hemp.

Crude India-rubber.

Jade, Jade-stone and amber.

Gooroochand or Gooroochandani.

Cinematograph films and apparatus.

Zahir Mobra Khatai.]

[THE PUBLIC GAMBLING ACT, 1867]

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¹Short title given by the Repealing and Amending Act, 1897 (5 of 1897).

This Act has been repealed to the extent of Islamabad Capital Territory, see Ordinance No. 27 of 1981, s. 4 and 3rd Sch.