

# Common Carriers Act 1902 No 48

[1902-48]



New South Wales

## Status Information

### Currency of version

Current version for 1 January 2000 to date (accessed 19 May 2024 at 7:09)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Responsible Minister

- Attorney General

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### Authorisation

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File last modified 7 January 2000

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New South Wales

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# Common Carriers Act 1902 No 48



New South Wales

An Act to consolidate the enactments regulating the rights and liabilities of Common Carriers by land.

## 1 Name of Act

This Act may be cited as the *Common Carriers Act 1902*.

## 2 Repeal

The Act mentioned in the First Schedule is to the extent therein mentioned hereby repealed.

## 3 Definition

In this Act unless the context or subject-matter otherwise indicates or requires:

**Common carrier** means a common carrier by land.

## 4 Carriers not liable for loss of certain goods

No common carrier for hire shall be liable for the loss of or injury to any articles or property of the descriptions specified in the Second Schedule contained in any parcel or package which has been delivered either to be carried for hire or to accompany the person of any passenger in any conveyance by land when the value of such articles or property contained in such parcel or package exceeds the sum of twenty dollars unless at the time of delivery thereof at the office warehouse or receiving-house of the carrier or to the carrier's book-keeper or other servant for the purpose of being carried or of accompanying the person of any passenger as aforesaid the value and nature of such articles or property are declared by the person sending or delivering the same and such increased charge if any as hereinafter mentioned or an engagement to pay the same be accepted by the person receiving such parcel or package.

## 5 Increased charge may be demanded

- (1) When any parcel or package containing any of the articles specified in the said Schedule is delivered and its value and contents declared as aforesaid and such value exceeds the sum of twenty dollars such common carrier may demand an increased rate of charge.

- (2) Such increased rate shall be notified by a notice affixed in legible characters in some public and conspicuous part of the office warehouse or other receiving-house where such parcels or packages are received by such common carrier for the purpose of conveyance stating the increased rates of charge required to be paid over and above the ordinary rate of carriage as a compensation for the greater risk and care to be taken for the safe conveyance of such valuable articles.
- (3) All persons sending or delivering parcels or packages containing such valuable articles as aforesaid at such office warehouse or other receiving-house shall be bound by such notice without further proof of the same having come to their knowledge.

#### **6 Receipt to be given for increased charge**

- (1) When the value has been so declared and the increased rate of charge paid or an engagement to pay the same has been accepted the person receiving such increased rate of charge or accepting such engagement shall if thereto required sign a receipt for the parcel or package acknowledging the same to have been insured.
- (2) If such receipt is not given when required, or such notice as aforesaid has not been affixed the common carrier shall not have or be entitled to any benefit or advantage under this Act but shall be liable and responsible as at the common law and be liable to refund the increased rate of charge if paid.

#### **7 Public notices by carrier not to affect liability**

- (1) No public notice or declaration heretofore or hereafter made shall be deemed or construed to limit or in anywise affect the liability at common law of any common carrier in respect of any articles or goods to be carried and conveyed by the carrier.
- (2) All common carriers shall be liable as at the common law to answer for the loss or any injury to any articles and goods in respect whereof they are not entitled to the benefit of this Act any public notice or declaration by them made and given contrary thereto or in anywise limiting such liability notwithstanding.

#### **8 Office deemed to be receiving-house**

- (1) For the purposes of this Act every office warehouse or receiving-house used or appointed by any common carrier for the receiving of parcels to be conveyed as aforesaid shall be deemed and taken to be the receiving-house warehouse or office of such common carrier.
- (2) Any one or more of such common carriers shall be liable to be sued by the carrier's or carriers' name or names only.
- (3) No action or suit commenced to recover damages for loss or injury to any parcel package or person shall abate for the want of joining any co-proprietor or co-partner in such public conveyance by land for hire as aforesaid.

## **9 Carrier liable for neglect or default**

Every such carrier shall be liable for the loss of or for any injury done to any horses cattle or other animals or to any articles goods or things in the receiving forwarding or delivering thereof occasioned by the neglect or default of the carrier or the carrier's servants notwithstanding any notice condition or declaration made and given by such carrier contrary thereto or in anywise limiting such liability every such notice condition or declaration being hereby declared to be null and void but the provisions in this section contained shall be subject to the following qualifications and conditions:

- (a) Every such carrier may make such conditions with respect to the necessary forwarding and delivering of any of the said animals articles goods or things as the Court or Judge before whom any question relating thereto is tried adjudges to be just and reasonable.
- (b) No greater damages shall be recovered for the loss of or for any injury done to any of such animals beyond the sums mentioned in the Third Schedule unless the person sending or delivering the same to such carrier has at the time of such delivery declared them to be respectively of higher value in which case such carrier may demand and receive by way of compensation for the increased risk and care thereby occasioned a reasonable percentage upon the excess of the value so declared above the respective sums so limited as aforesaid and which shall be paid in addition to the ordinary rate of charge and such percentage or increased rate of charge shall be notified in the manner prescribed in the fifth section in the manner therein mentioned.
- (c) No special contract between such carrier and any other parties respecting the receiving forwarding or delivering of any animals articles goods or things as aforesaid shall be binding upon or affect any such party unless the same be signed by the party or by the person delivering such animals articles goods or things respectively for carriage.
- (d) Nothing in this section shall affect the rights privileges or liabilities of any such carrier with respect to articles of the description mentioned in the Second Schedule.

## **10 Nothing to protect certain acts**

Nothing in this Act shall be deemed to protect any such carrier for hire from liability to answer for loss of or injury to any animals goods or articles whatsoever arising from the unlawful act of any servant in the carrier's employ nor to protect any such servant from liability for any loss or injury occasioned by the servant's personal neglect or misconduct.

## **11 Carriers liable only to such damages as is proved**

No such carrier shall be concluded as to the value of any animal parcel or package by the value so declared as aforesaid but the carrier shall in all cases be entitled to require from the party suing in respect of any loss or injury proof of the actual value of any animal parcel or package by the ordinary legal evidence and shall be liable to such damage only

as is so proved as aforesaid not exceeding the declared value.

## First Schedule

Reference to Act	Title	Extent of repeal
41 Vic No 21	<i>The Common Carriers Act of 1878.</i>	The whole Act.

## Second Schedule Goods for loss of which carrier is not liable beyond the value of \$20, unless declared

(Section 4)

Gold or silver coin of the realm or of any foreign State or any gold or silver in a manufactured or unmanufactured state or any precious stones jewellery watches clocks or time-pieces of any description trinkets gold or silver ores bills notes of any bank orders notes or securities for the payment of money English colonial or foreign stamps maps writings title-deeds paintings engravings pictures gold or silver plate or plated articles glass china silks in a manufactured or unmanufactured state and whether wrought up or not wrought up with other materials furs lace or opium or any of them.

## Third Schedule Scale of damages for loss of or injury to animals

(Section 9)

	\$
For any horse	100
For any neat cattle per head	30
For any sheep or pigs per head	4