

Tanzania

Carriage of Goods by Sea Act Chapter 164

Legislation as at 31 July 2002

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Carriage of Goods by Sea Act
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Tanzania

Carriage of Goods by Sea Act

Chapter 164

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[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]

[Ord. No. 6 of 1927]

An Act to re-enact the law with respect to the carriage of goods by sea.

1. Short title

This Act may be cited as the Carriage of Goods by Sea Act.

2. Application of rules in Schedule

Subject to the provisions of this Act, the rules set out in the Schedule hereto shall have effect in relation to and in connection with, the carriage of goods by sea in ships carrying goods from any port in the United Republic to any other port whether in or outside the United Republic.

3. Warranty not implied in contracts to which rules apply

There shall not be implied in any contract for the carriage of goods by sea to which the Rules apply any absolute undertaking by the carrier of the goods to provide a seaworthy ship.

4. Statement to be included in bills of lading

Every bill of lading or any similar document of title, issued in the United Republic which contains or which is evidence of any contract to which the rules in the Schedule to this Act apply, shall contain an express statement that it is to have effect subject to the provisions of the rules as applied by this Act.

5. Modification of Article VI in relation to coasting trade

Article VI of the Rules shall, in relation to the carriage of goods by sea in ships carrying goods from any port in the United Republic, have effect as if the Article referred to goods of any class, instead of referring to particular goods and as if the proviso to the second paragraph of the said Article were omitted.

6. Modification of rules in relation to bulk cargo

Where under the custom of any trade, the weight of any bulk cargo inserted in the bill of lading, is a weight ascertained or accepted by a third party other than the carrier or the shipper and the fact that the weight so ascertained or accepted is stated in the bill of lading, then, notwithstanding anything in the rules, the bill of lading shall not be deemed to be *prima facie* evidence against the carrier, of the receipt of goods of the weight so inserted in the bill of lading and, the accuracy of the weight at the time of shipment, shall not be deemed to have been guaranteed by the shipper.

7. Limitation of liability under other laws not to be affected

Nothing in this Act shall affect the operation of the Merchant Shipping Act or the operation of any other enactment for the time being in force, limiting the liability of the owners of seagoing vessels.

Schedule (Section 4)

Rules relating to bills of lading

Article I – Definitions

In these Rules—

"**carriage of goods**" covers the period from the time when the goods are loaded on to, up to the time when they are discharged from, the ship;

"**carrier**" includes owner or the charterer who enters into contract of carriage with a shipper;

"**contract of carriage**" applies only to contracts of carriage covered by a bill of lading or any similar document of title, in so far as such document relates to the carriage of goods by sea, including any bill of lading or any similar document issued under or pursuant to a charter-party, from the moment at which such bill of lading or similar document of title, regulates the relations between a carrier and a holder of the same;

"**goods**" includes goods, wares, merchandise and articles of any kind, except live animals and cargo which by the contract of carriage is stated as being carried on deck and is so carried; and

"**ship**" means any vessel used for the carriage of goods by sea.

Article II – Risks

Subject to the provisions of Article VI, under every contract of carriage of goods by sea, the carrier, in relation to the loading, handling, stowage, carriage, custody, care and discharge, of such goods, shall be subject to the responsibilities and liabilities and entitled to the rights and immunities, set out in articles III and IV.

Article III

1. Responsibilities and liabilities

(1) The carrier shall be bound, before and at the beginning of the voyage, to exercise due diligence to:—

- (a) make the ship seaworthy;
- (b) properly man, equip and supply the ship;
- (c) make the holds, refrigerating and cool chambers and, all other parts of the ship in which goods are carried, fit and safe for their reception, carriage and preservation.

2. Subject to the provisions of Article IV, the carrier shall properly and carefully load, handle, stow, carry, keep, care for and discharge, the goods carried.

3. After receiving the goods into his charge, the carrier, or the master or the agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing, among other things:—

- (a) the leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such marks are stamped or otherwise shown clearly upon the goods if uncovered or, on the cases or coverings in which such goods are contained, in such manner as should ordinarily remain legible until the end of the voyage;

- (b) either the number of packages or pieces or the quantity, or weight, as the case may be, as furnished in writing by the shipper;
- (c) the apparent order and condition of the goods:

Provided that no carrier, master or agent to the carrier, shall be bound to state or show in the bill of lading any marks, number quantity or weight which he has reasonable ground for suspecting as not accurately representing the goods actually received or which he has had no reasonable means of checking.

4. A bill of lading shall be *prima facie* evidence of the receipt by the carrier of the goods as described in it in accordance with subparagraphs (a), (b) and (c) of paragraph 3.
5. The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of shipment, of the marks, number, quantity and weight, as furnished by him, and the shipper shall indemnify the carrier against all loss, damage and expenses arising or resulting from inaccuracies in such particulars and the right of the carrier to such indemnity, shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.
6.
 - (1) Unless notice of loss or damage and the general nature of such loss or damage is given in writing, to the carrier or his agent, at the port of discharge, before or at the time of the removal of the goods into the custody of the person entitled to delivery under the contract of carriage, or, if the loss or damage is not apparent, within three days, such removal shall be *prima facie* evidence of the delivery by the carrier of the goods as described in the bill of lading.
 - (2) The notice in writing need not be given if the state of the goods has, at the time of their receipt, been the subject of joint survey or inspection.
 - (3) In any event the carrier and the ship shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered.
 - (4) In the case of any actual or apprehended loss or damage, the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods.
7. After the goods are loaded, the bill of lading to be issued by the carrier, master or agent of the carrier, to the shipper, shall, if the shipper so demands, be a "shipped" bill of lading, provided that if the shipper shall have previously taken up any document of title to such goods, he shall surrender the same as against the issue of the "shipped" bill of lading, but at the option of the carrier, such document of the title may be noted at the port of the shipment by the carrier, master or agent with the name or names of the ship or ships upon which the goods have been shipped and the date or dates of shipment, and, when so noted the same shall for the purpose of this Article, be deemed to constitute a "shipped" bill of lading.
8. Any clause, covenant or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to or in connection with, goods arising from negligence, fault or failure in the duties and obligations provided in this Article or, lessening such liability otherwise than as provided in these rules, shall be null and void and of no effect.
9. A benefit of insurance or similar clause shall be deemed to be a clause relieving the carrier from liability.

Article IV – Rights and immunities

1. No carrier or ship shall be liable for loss or damage arising or resulting, from unseaworthiness, unless caused by want of due diligence on the part of the carrier to make the ship seaworthy and to secure that the ship is properly manned, equipped and supplied, and to make the holds, refrigerating and cool chambers and all other parts of the ship in which goods are carried fit and safe for their reception, carriage and preservation in accordance with the provisions of paragraph 1 of Article III.

Where loss or damage has resulted from unseaworthiness, the burden of proving the exercise of due diligence shall be on the carrier or on any other person claiming exemption under this paragraph.

2. No carrier or ship shall be responsible for loss or damage arising or resulting from:—
 - (a) act, neglect or default of the master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship;
 - (b) fire, unless caused by the actual fault or privity of the carrier;
 - (c) perils, dangers, and accidents of the sea or other navigable waters;
 - (d) act of God;
 - (e) act of war;
 - (f) act of public enemies;
 - (g) arrest or restraint by rulers or people, or seizure under legal process;
 - (h) quarantine restrictions;
 - (i) act or omission of the shipper or owner of the goods, his agent or representative;
 - (j) strikes or lock-outs or stoppage or restraint of labour from whatever cause, whether partial or general;
 - (k) riots and civil commotions;
 - (l) saving or attempting to save life or property at sea;
 - (m) wastage in bulk or weight or any other loss or damage arising from inherent defect, quality or vice of the goods;
 - (n) insufficiency of packing;
 - (o) insufficiency or inadequacy of marks;
 - (p) latent defects not discoverable by due diligence;
 - (q) any other cause arising without the actual fault or privity of the carrier, or without the fault or neglect of the agents or servant of the carrier, but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault nor neglect of the agents or servants of the carrier, contributed to the loss or damage.
3. The shipper shall not be responsible for loss or damage sustained by the carrier or the ship arising or resulting, from any cause without the act, fault or neglect of the shipper, his agents or his servants.
4. Any deviation in saving or attempting to save life or property at sea, or any reasonable deviation shall not be deemed to be an infringement or breach of these Rules or of the contract of carriage, and the carrier shall not be liable for any resulting loss or damage.
5.
 - (1) No carrier or ship shall in any event be or become liable for any loss or damage to or in connection with goods in any amount exceeding £ 100 per package or unit, or the equivalent of that sum in other currency, unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading.
 - (2) Notwithstanding subparagraph (1) of this paragraph, the carrier, master or agent of the carrier may by agreement with the shipper fix a maximum amount higher than pounds 100 per package or unit.
 - (3) A declaration and inserted under subparagraph (1) of this paragraph, in the bill of lading, shall be *prima facie* evidence, but shall not be binding or conclusive on the carrier.
 - (4) No carrier or ship shall be responsible in any event for loss or damage to or in connection with goods if the nature or value of the goods has been knowingly misstated by the shipper in the bill of lading.
6.
 - (1) Goods of an inflammable, explosive or dangerous nature, of whose shipment has not been consented to by the carrier, master or agent of the carrier with knowledge of their nature and

character, may at any time before discharge, be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the shipper of such goods shall be liable for all damages and expenses directly or indirectly arising or resulting from such shipment.

- (2) Notwithstanding subparagraph (1), where any goods shipped with consent and knowledge of their nature and character, become a danger to the ship or cargo, they may in like manner be landed at any place or destroyed or rendered innocuous by the carrier without liability on the part of the carrier, except to general average, if any.

Article V – Surrender of rights and immunities, and increase of responsibilities and liabilities

1. A carrier shall be at liberty to surrender in whole or in-part all or any of his rights contained in any of these Articles, provided such surrender or increase shall be inserted in the bill of lading issued to the shipper.
2. The provisions of these Rules shall not be applicable to charter-parties, but if bills of lading are issued in the case of a ship under a charter-party, the bills of lading shall comply with the terms of these Rules.
3. Nothing in these Rules shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average.

Article VI – Special conditions

1. Notwithstanding the provisions of the preceding Articles, a carrier, master or agent of the carrier, and a shipper may in regard to any particular goods, enter into any agreement on any terms as to the responsibility and liability and as to the rights and immunities, of the carrier in respect of such goods, or his obligation as to seaworthiness, so far as this such terms are not contrary to public policy, or do not derogate from the care or diligence of his servants or agents in regard to the loading, landing stowage, carriage, custody, care and discharge of the goods carried by sea, provided that in such case, no bill of lading has been or shall be issued, and that the terms agreed, shall be inserted in a receipt which shall be a non-negotiable document and shall be marked as such.
2. Any agreement entered into in accordance with paragraph 1, shall have full legal effect:

Provided that this Article shall not apply to ordinary commercial shipments made in the ordinary course of trade, but only to other shipments where the character or condition of the property to be carried or the circumstances, terms and conditions under which the carriage is to be performed, are such as to reasonably justify a special agreement.

Article VII – Limitations on the application of the Rules

3. Nothing contained in these Rules shall prevent a carrier or a shipper from entering into any agreement, stipulation, condition, reservation or exemption as to the responsibility and liability of the carrier or the ship for the loss or damage to or in connection with the custody and care and handling of goods prior to the loading on and subsequent to the discharge from, the ship on which the goods are carried by sea.

Article VIII – Limitation of liability

4. The provisions of these Rules shall not affect the rights and obligations of the carrier under any law for the time being in force relating to the limitation of the liability of owners of sea-going vessels.

Article IX

5. The monetary units mentioned in these Rules are to be taken to be gold value.