



Australian Capital Territory

Common Carriers Act 1902 No 48 (repealed)

Republication No 3

Effective: 2 November 2002

Republication date: 4 November 2002

As repealed by Act 2002 No 40

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Common Carriers Act 1902* (repealed) (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)). It also includes any commencement, amendment, repeal or expiry affecting the republished law to 2 November 2002.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Common Carriers Act 1902 (repealed)

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Common Carriers Act 1902 (repealed)

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Australian Capital Territory

Common Carriers Act 1902 (repealed)

An Act to consolidate the enactments regulating the rights and liabilities of common carriers by land

1 Name of Act

This Act is the *Common Carriers Act 1902*.

3 Meaning of *common carrier*

In this Act:

common carrier means a common carrier by land.

4 Common carrier not liable for loss of certain goods above \$20

No common carrier for hire shall be liable for the loss of or injury to any articles or property of the descriptions specified in schedule 2 contained in any parcel or package that 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 the articles or property contained in the parcel or package exceeds the sum of \$20 unless, at the time of delivery of it at the office, warehouse or receiving house of the common carrier or to his or her bookkeeper or other servant for the purpose of being carried or of accompanying the person of the passenger, the value and nature of the articles or property are declared by the person sending or delivering the articles or property and the increased charge (if any) under this Act, or an engagement to pay the charge, be accepted by the person receiving the parcel or package.

5 Increased charge may be demanded

- (1) When any parcel or package containing any of the articles specified in schedule 2 is delivered and its value and contents declared as mentioned in section 4 and the value exceeds the sum of \$20, the common carrier may demand an increased rate of charge.
- (2) The increased rate shall be notified by a notice attached 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 the 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 at the office warehouse or other receiving house shall be bound by the notice without further proof of it 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 charge has been accepted, the person receiving the increased rate of charge or accepting the engagement shall, if required, sign a receipt for the parcel or package acknowledging it to have been insured.
- (2) If a receipt is not given when required, or the notice mentioned in section 5 (2) has not been attached, 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 shall be deemed or construed to limit or in anywise affect the liability at common law of any common carrier in relation to any articles or goods to be carried and conveyed by him or her.
- (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 relation to which they are not entitled to the benefit of this Act any public notice or declaration by them made and given to the contrary or in any way limiting the liability notwithstanding.

8 Office etc deemed to be receiving house

- (1) For 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 the common carrier.
- (2) Any 1 or more of the common carriers shall be liable to be sued by his, her or their name or names only.
- (3) No action or suit begun to recover damages for loss or injury to any parcel, package or person shall abate for the want of joining any co-proprietor or copartner in the 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 of them occasioned by the neglect or default of the carrier or his or her servants notwithstanding any notice, condition or declaration made and given by the carrier to the contrary any way or in limiting the 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 the conditions in relation to the necessary forwarding and delivering of any of the animals, articles, goods or things that the court or judge before whom any question relating to them 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 the animals beyond the sums mentioned in schedule 3 unless the person sending or delivering them to the carrier has at the time of such delivery declared them to be respectively of higher value, in which case the carrier may

demand and receive by way of compensation for the increased risk and care thereby occasioned a reasonable percentage on the excess of the value so declared above the respective sums so limited as aforesaid and that shall be paid in addition to the ordinary rate of charge and such percentage or increased rate of charge shall be notified in the way prescribed in section;

- (c) no special contract between the carrier and any other parties respecting the receiving, forwarding or delivering of any animals, articles, goods or things shall be binding on or affect the party unless the contract be signed by him, her or by the person delivering the animals, articles, goods or things respectively for carriage;
- (d) nothing in this section shall affect the rights, privileges or liabilities of any such carrier in relation to articles of the description mentioned in schedule 2.

10 Felonious acts not protected

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 felonious or fraudulent act of any servant in his or her employ nor to protect any servant from liability for any loss or injury occasioned by his or her personal neglect or misconduct.

11 Carrier liable only for proved damage

No such carrier shall be concluded about the value of any animal, parcel or package by the value so declared as aforesaid but he or she shall in all cases be entitled to require from the party suing in relation to 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.

Schedule 2 Goods for loss of which carrier not liable above \$20 unless declared

Gold or silver coin of Australia or of any other country; any gold or silver in a manufactured or unmanufactured state; 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; Australian stamps or stamps of a country other than Australia, 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 or lace or any of them.

**Schedule 3 Scale of damages for loss of
or injury to animals**

| | |
|----------------------------|-----|
| | \$ |
| For a horse | 100 |
| For cattle, per head | 30 |
| For a sheep or a pig..... | 4 |

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

| | |
|---|---|
| am = amended | ord = ordinance |
| amdt = amendment | orig = original |
| ch = chapter | p = page |
| cl = clause | par = paragraph |
| def = definition | pres = present |
| dict = dictionary | prev = previous |
| disallowed = disallowed by the Legislative Assembly | (prev...) = previously |
| div = division | prov = provision |
| exp = expires/expired | pt = part |
| Gaz = Gazette | r = rule/subrule |
| hdg = heading | reg = regulation/subregulation |
| IA = Interpretation Act 1967 | renum = renumbered |
| ins = inserted/added | reloc = relocated |
| LA = Legislation Act 2001 | R[X] = Republication No |
| LR = legislation register | RI = reissue |
| LRA = Legislation (Republication) Act 1996 | s = section/subsection |
| mod = modified / modification | sch = schedule |
| No = number | sdiv = subdivision |
| num = numbered | sub = substituted |
| o = order | SL = Subordinate Law |
| om = omitted/repealed | <u>underlining</u> = whole or part not commenced or to be expired |

3 Legislation history

This Act was originally a NSW Act—the *Common Carriers Act 1902* No 48 (NSW).

The Act was in force in NSW immediately before 1 January 1911 (the date of establishment of the ACT) and was continued in force by the *Seat of Government Acceptance Act 1909* (Cwlth), s 6.

Under the *Seat of Government (Administration) Act 1910* (Cwlth), s 4 the Act had effect in the ACT as if it were an ACT law (subject to ordinances made under the *Seat of Government (Administration) Act 1910*).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former NSW laws in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

Under the *Interpretation Act 1967*, s 65 (now expired) all former NSW Acts in force in the ACT immediately before 10 November 1999 (including this Act) became, for all purposes, laws made by the ACT Legislative Assembly. This completed the process of making former NSW Acts fully into ACT laws.

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

NSW legislation

Common Carriers Act 1902 No 48

assented to 25 August 1902
commenced 25 August 1902

as amended by

Commonwealth legislation

New South Wales Acts Application Ordinance 1984 No 41

notified 10 August 1984
commenced 10 August 1984

as repealed by

Civil Law (Wrongs) Act 2002 sch 3, pt 3.1

notified LR 10 October 2002
s 1, s 2 commenced 10 October 2002 (LA s 75 (1))
sch 3, pt 3.1 commenced 1 November 2002 (s 2 (2) and CN2002-13)

Endnotes

4 Amendment history

4 Amendment history

The *New South Wales Acts Application Act 1984* (previously the *New South Wales Acts Application Ordinance 1984*), sch 2, pt 5 sets out the text of this Act in an amended form and provided for the amended form to apply as the text of the Act in force in the ACT. (In the amended form, s 2 and sch 1 were omitted.) This endnote, therefore, only details any amendments made after the enactment of the 1984 Act. This Act has not been amended after the enactment of the 1984 Act.

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

| Republication No | Amendments to | Republication date |
|------------------|----------------|--------------------|
| 1 | ord 1984 No 41 | 31 July 1992 |
| 2 | ord 1984 No 41 | 9 August 2002 |

Authorised when accessed at www.legislation.act.gov.au or in authorised printed form

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