

Chapter 261.
Sea-carriage of Goods Act 1951.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 261.

Sea-carriage of Goods Act 1951.

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SCHEDULE 1 – Rules relating to Bills of Lading.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Sea-carriage of Goods Act 1951,

Being an Act relating to the sea-carriage of goods.

1. INTERPRETATION.

In this Act, unless the contrary intention appears—
“the Rules” means the Rules in Schedule 1.

2. APPLICATION OF RULES.

Subject to this Act, the Rules have effect in relation to and in connection with the carriage of goods by sea in ships carrying goods from any port or place in the country to any other port or place whether inside or outside the country.

3. ABSOLUTE WARRANTY OF SEAWORTHINESS NOT IMPLIED.

There is not implied in any contract for the carriage of goods by sea to which this Act applies any absolute undertaking by the carrier of the goods to provide a seaworthy ship.

4. BILLS OF LADING.

Every bill of lading or similar document of title issued in the country that contains or is evidence of any contract to which the Rules 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. RECEIVED-FOR-SHIPMENT BILLS OF LADING.

A bill of lading issued in accordance with Article III. of the Rules shall for all purposes be deemed to be a valid bill of lading with the like effect, and capable of

negotiation in all respects and with the like consequences, as if it were a shipped bill of lading.

6. BULK CARGOES.

Where, under the custom of any trade—

- (a) 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
- (b) the fact that the weight is so ascertained or accepted is stated in the bill of lading,

then, notwithstanding anything in the Rules—

- (c) the bill of lading shall not be deemed to be *prima facie* evidence against the carrier of the receipt of goods of the weight inserted in the bill of lading; and
- (d) the accuracy of the weight at the time of shipment shall not be deemed to have been guaranteed by the shipper.

7. CONSTRUCTION AND JURISDICTION.

(1) All parties to any bill of lading or document relating to the carriage of goods from any place in the country to any place outside the country shall be deemed to have intended to contract according to the laws in force at the place of shipment, and any stipulation or agreement to the contrary, or purporting to oust or lessen the jurisdiction of the courts of Papua New Guinea in respect of the bill of lading or document, is illegal, null and void, and of no effect.

(2) Any stipulation or agreement, whether made in the country or elsewhere, purporting to oust or lessen the jurisdiction of the courts of Papua New Guinea in respect of any bill of lading or document relating to the carriage of goods from any place outside the country to any place in the country is illegal, null and void, and of no effect.

8. SAVING.

This Act does not affect the operation of any law limiting the liability of the owners of sea-going vessels.

SCHEDULE 1 – RULES RELATING TO BILLS OF LADING.

Sch. 1

Sea-carriage of Goods 9999

Sec. 2.

RULES RELATING TO BILLS OF LADING

In these Rules, unless the contrary intention appears—

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

"carrier" includes the owner or the charterer who enters into a 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 the 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 the 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 every kind, except live animals and cargo which by the contract of carriage is stated as being carried on deck and is so carried;

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

ARTICLE II.—Risks.

Subject to 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, is subject to the responsibilities and liabilities, and entitled to the rights and immunities, set forth in these Rules.

ARTICLE III.—Responsibilities and Liabilities.

1. The carrier is bound, before and at the beginning of the voyage, to exercise due diligence to—
 - (a) make the ship seaworthy; and
 - (b) properly man, equip and supply the ship; and
 - (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 Article IV., the carrier must load, handle, stow, tally, keep, care for and discharge the goods carried properly and carefully.
3. After receiving the goods into his charge, the carrier, or the master or agent of the carrier, on demand of the shipper, shall issue to the shipper a bill of lading showing among other things—
 - (a) the leading marks necessary for identification of the goods as they are furnished in writing by the shipper before the loading of the goods starts, provided the marks are stamped or otherwise shown clearly on the goods if uncovered, or on the cases or coverings in which the goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage; and
 - (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; and
 - (c) the apparent order and condition of the goods,

but no carrier, master or agent of a carrier is bound to state or show in the bill of lading any marks, number, quantity or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received, or which he has had no reasonable means of checking.

4. A bill of lading referred to in Paragraph 3 is *prima facie* evidence of the receipt by the carrier of the goods as described in the bill in accordance with Paragraph 3(a), (b) and (c).

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, damages and expenses arising or resulting from inaccuracies in the particulars. The right of the carrier to the indemnity in no way limits his responsibility and liability under the contract of carriage to any person other than the shipper.

6. Unless notice of loss or damage and of the general nature of the 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 be not apparent, within three days, the removal is *prima facie* evidence of the delivery by the carrier of the goods as described in the bill of lading.

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.

In any event the carrier and the ship are 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.

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, but if the shipper has previously taken up any document of title to the goods, he shall surrender it as against the issue of the "shipped" bill of lading. At the option of the carrier the document of title may be noted at the port of shipment by the carrier, master or agent with the name or names of the ship or ships on which the goods have been shipped and the date or dates of shipment, and when so noted 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 that liability otherwise than as provided in these Rules, is null and void and of no effect.

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. Neither the carrier nor the ship is liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier—

- (a) to make the ship seaworthy; and
- (b) to secure that the ship is properly manned, equipped and supplied; and

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