

OK !

COMMERCIAL ACT

[Enforcement Date 24. Nov, 2011.] [Act No.10696, 23. May, 2011., Partial
Amendment]

()02 - 2110 - 3167



가

www.law.go.kr

2017.03.29

Article 109 (Right to Place Goods in Public Depository or on Auction)

Where a commission agent is commissioned to make a purchase, Article 67 shall apply mutatis mutandis when the principal refuses or is unable to accept delivery of the purchased goods.

Article 110 (Cases Where Consignor of Purchase is Merchant)

If the principal who is a merchant commissions a purchase in connection with his/her business, the provisions of Articles 68 through 71 shall apply mutatis mutandis to the relation between the principal and the commission agent.

Article 111 (Provisions Applying Mutatis Mutandis)

The provisions of Article 91 shall apply mutatis mutandis to a commission agent.

Article 112 (Application of Provisions concerning Mandate)

In addition to the provisions of this Chapter, the provisions relating to mandate shall apply to the relations between a principal and a commission agent.

Article 113 (Quasi - Commission Agents)

The provisions of this Chapter shall apply mutatis mutandis to persons who engage in the business of making transactions other than sale or purchase in their own name for the account of another party.

CHAPTER VIII FORWARDING AGENT BUSINESS**Article 114 (Definition)**

A person who engages in the business of intermediation for the carriage of goods in his/her own name is called a forwarding agent.

Article 115 (Liability for Damages)

A forwarding agent shall not be exonerated from liability for damages caused by the loss of, damage to, or delay in delivery of the goods unless he/she proves that neither he/she nor any of his/her employee has neglected due care in connection with the receipt, delivery and custody of the goods, the selection of a carrier or a forwarding agent other than himself, and other matters relating to the carriage.

Article 116 (Right of Intervention) (1) A forwarding agent may him/herself undertake the carriage, unless otherwise agreed by the parties. In such cases, the forwarding agent shall have the same rights and obligations as a carrier.

(2) When a forwarding agent has produced a bill of lading upon demand of the principal, he/she shall be deemed to have undertaken the carriage of the goods him/herself.

Article 117 (Subrogation of Interceding Forwarding Agents) (1) In cases where two or more persons act as forwarding agents in succession in the carriage of goods, the succeeding agent is liable to exercise the rights of his/her predecessors in their place.

(2) If, in cases falling under the preceding paragraph, a succeeding agent makes payment to his/her predecessor, he/she shall acquire the rights of such predecessor.

Article 118 (Acquisition of Carriers' Rights)

In cases falling under the preceding Article, when a forwarding agent has made payment to a carrier, he/she shall acquire the rights of such carrier.

Article 119 (Right to Demand Compensation) (1) A forwarding agent may demand compensation immediately after he/she has delivered goods to a carrier.

(2) Where the amount of freight has been determined by a forwarding agency contract, a forwarding agent shall not demand any other compensation unless otherwise agreed by the parties.

Article 120 (Liens)

A forwarding agent may retain goods only to the extent of the compensation, freight charges, and other substituted donations for another person or advances made for his/her principal in connection with the transport of such goods.

Article 121 (Prescription for Liability of Forwarding Agents) (1) The liability of a forwarding agent shall be extinguished by prescription upon the lapse of one year from the date the consignee of the goods received the goods.

(2) In cases where all the transported goods have been lost, the period mentioned in the preceding paragraph shall be computed from the date the goods should have been delivered. <Amended by Act No. 1212, Dec. 12, 1962 >

(3) The provisions of the preceding two paragraphs shall not apply where a forwarding agent or any of his/her employees has acted in bad faith.

Article 122 (Prescription for Claims of Forwarding Agents)

Any claim of a forwarding agent against the principal or the consignee shall be extinguished by prescription if it is not exercised within one year.

Article 123 (Provisions Applying Mutatis Mutandis)

In addition to the provisions of this Chapter, the provisions relating to a commission agent shall apply mutatis mutandis to forwarding agents.

Article 124 (Idem)

The provisions of Articles 136, 140 and 141 shall apply mutatis mutandis to forwarding agencies.

CHAPTER IX CARRIAGE BUSINESS

Article 125 (Definition)

For the purposes of this Act, the term "carrier" means a person who engages in the business of carrying goods or passengers by land or on lakes and rivers, and in ports and bays.

SECTION 1 Carriage of Goods

Article 126 (Waybills) (1) A consignor shall, upon the request of a carrier, issue a waybill. <Amended by Act No. 8581, Aug. 3, 2007 >

(2) The following particulars shall be entered in a waybill, and a consignor shall write his/her name and affix his/her seal or sign thereon: <Amended by Act No. 5053, Dec. 29, 1995; Act No. 8581, Aug. 3, 2007 >

1. The type of the transported goods, and their weight or dimensions, as well as the description and number of packages and markings thereon;
2. The destination;
3. The name or trade name, place of business, or domicile of the consignee and the carrier;

4. The freight charge and the distinction between advance payment and payment after arrival;
5. The place and date where the waybill was prepared.

Article 127 (Liability for False Entries in Waybills) (1) When a consignor has entered a false or inaccurate statement in a waybill, he/she shall be liable for damage resulting therefrom to a carrier. <Amended by Act No. 8581, Aug. 3, 2007 >

(2) The provisions of the preceding paragraph shall not apply in cases where a carrier has acted in bad faith.

Article 128 (Delivery of Bills of Lading) (1) A carrier shall, upon the request of a consignor, deliver to him/her a bill of lading.

(2) The following particulars shall be entered in a bill of lading, and the carrier shall write his/her name and affix his/her seal or sign thereon: <Amended by Act No. 5053, Dec. 29, 1995 >

1. The particulars mentioned in Article 126 (2) 1 through 3;
2. The name or trade name, place of business, or domicile of the consignor;
3. The freight charge and any other expenses incurred in relation to the transported goods, and the distinction between advance payment or payment after arrival;
4. The place and date where the bill of lading was prepared.

Article 129 (Exchangeability of Bills of Lading)

If a bill of lading has been prepared, request for delivery of the transported goods is not possible unless the bill of lading is exchanged with the goods.

Article 130 (Bills of Lading as Instrument to Order)

Even where a bill of lading is in the form of the order of a specified person, it may be transferred by endorsement: Provided, That the same shall not apply if the bill of lading contains entries forbidding endorsement.

Article 131 (Legal Effects of Entries in Bills of Lading) (1) When a bill of lading has been issued pursuant to Article 128, it is assumed that a contract of carriage has been entered into between the carrier and the consignor, as stipulated in the bill of lading, and the transported goods have been received as such.

(2) In regard to a holder who has acquired a bill of lading in good faith, a carrier is deemed to have received the transported goods, as stipulated in the bill of lading, and shall be responsible for the goods as the carrier, as stipulated in the bill of lading.

[This Article Wholly Amended by Act No. 10281, May 14, 2010]

Article 132 (Bill of Lading - Disposition of Goods)

Where a bill of lading has been prepared, disposition of the goods is possible only by means of using the bill of lading.

Article 133 (Bill of Lading - Property Rights' Legal Effects)

If a bill of lading has been delivered to a person who is entitled thereby to receive the transported goods, such delivery shall have the same effect as delivery of the goods themselves in respect of the acquisition of rights exercised over the transported goods.

Article 134 (Loss of Goods and Freight Charges) (1) If transported goods have been lost, in whole or in part, by a reason for which the consignor is not liable, the carrier may not demand freight charges thereof. If the carrier has already received all or some of the freight charges, he/she shall refund such charges.

(2) If transported goods have been lost, in whole or in part, due to their nature or inherent defects or due to the negligence of the consignor, the carrier may demand payment of the full amount of the freight charges.

Article 135 (Liability for Damages)

A carrier shall be liable for damage resulting from the loss of, damage to or delay in the delivery of goods unless he/she proves that the carrier, forwarding agents, his/her employees or other persons employed in respect of the carriage did not fail to give due care in connection with the receipt, delivery, custody and carriage of the goods.

[This Article Wholly Amended by Act No. 10281, May 14, 2010]

Article 136 (Liability for Valuables)

With respect to money, securities, or other valuables, the carrier shall be liable for damage only if the consignor has expressly stated the type and value thereof when consigning the transport of the carriage.

Article 137 (Amount of Damages) (1) If transported goods have been totally lost or their delivery has been delayed, the amount of damages shall be determined by the price prevailing at the place of destination on the day they should have been delivered. <Amended by Act No. 10600, Apr. 14, 2011 >

(2) In cases of a partial loss of or damage to goods, the amount of damages shall be determined by the price prevailing at the place of destination on the date of delivery.

(3) Where the loss of, damage to or delay in delivery of goods has arisen from the willfulness or gross negligence of the carrier, he/she shall be liable for all damages.

(4) Any freight charges and other expenses, the payment of which has been obviated by the loss of or damage to the goods, shall be deducted from the amount of the damages mentioned in the preceding three paragraphs.

Article 138 (Joint and Several Liability and Right of Indemnification of Successive

Carriers) (1) If there exist two or more successive carriers, they shall jointly and severally be liable for damage arising from the loss of, damage to, or delay in delivery of the goods.

(2) Where damages have been paid by one of the carriers in accordance with the preceding paragraph, such carrier shall have the right to indemnify against the carrier who has committed an act having caused the damages.

(3) If, in cases falling under the preceding paragraph, a carrier who has committed an act having caused the damages cannot be ascertained, all the carriers shall compensate for the damages in proportion to the amount of the freight charges: Provided, That he/she is not bound to bear apportionment of the damages if he/she has proved that such damages have not incurred in his/her part of the carriage.

Article 139 (Right to Demand Disposition of Goods) (1) A consignor or the holder of a bill of lading, if the bill of lading is issued, may request the carrier to suspend the carriage, return the goods or take any other measure. In such cases, the carrier may demand payment of freight charges in proportion to the transportation already effected as well as of any substituted donation for another person and other expenses incurred in relation to the measures.

(2) Deleted. <by Act No. 5053, Dec 29, 1995 >

Article 140 (Status of Consignees) (1) When the transported goods have arrived at the destination, the consignee shall acquire the same rights as that of the consignor.
(2) When the consignee requests delivery of transported goods after they arrive at the destination, the rights of the consignee shall have the preference to those of the consignor. <Newly Inserted by Act No. 5053, Dec. 29, 1995 >

Article 141 (Duty of Consignees)

When the consignee has received the transported goods, he/she is obligated to pay the freight charges and any other expenses incurred in relation to the carriage, as well as any substituted donation for another person, to the carrier.

Article 142 (Right to Deposit or to Refer to Auction in Cases where Consignee is

Unknown) (1) If the consignee cannot be ascertained, the carrier may deposit the goods to the public depository.

(2) In cases falling under paragraph (1), if the carrier gives peremptory notice to the consignor demanding instructions for the disposal of the goods, with a set reasonable period of time, but the consignor fails to give such instructions within said period, the carrier may sell the goods by auction. <Amended by Act No. 5053, Dec 29, 1995 >

(3) If the carrier deposits or sells by auction the goods under paragraphs (1) and (2), he/she shall give notice thereof without delay to the consignor <Amended by Act No. 5053, Dec 29, 1995 >

Article 143 (In Cases of Refusal to Receive Goods or where Receipt is Impossible) (1)

The provisions of the preceding Article shall apply mutatis mutandis where a consignee refuses, or is unable to receive transported goods.

(2) For selling goods by auction, a carrier shall give peremptory notice to the consignee demanding receipt of the goods with a reasonable period set before giving such peremptory notice to the consignor. <Amended by Act No. 5053, Dec. 29, 1995 >

Article 144 (Public Notification) (1) If the consignor, the holder of a bill of lading, or the consignee cannot be ascertained, the carrier shall, for the benefit of the holder of the right over the goods, publicly notify that the right holder should assert his/her

right within a prescribed period exceeding six months.

(2) The public notification under the preceding paragraph shall be made twice or more through the Official Gazette or a daily newspaper. <Amended by Act No. 3724, Apr. 10, 1984 >

(3) If, even after public notification under paragraphs (1) and (2) has been made by the carrier, no person asserts his/her right within the prescribed period, the carrier may sell the goods by auction.

Article 145 (Provisions Applying Mutatis Mutandis)

The provisions of Article 67 (2) and (3) shall apply mutatis mutandis to sales by auction mentioned in the preceding three Articles.

Article 146 (Extinguishment of Carriers' Liability) (1) The liability of a carrier shall be extinguished when the consignee or the holder of a bill of lading has received the goods without reservation and has paid the freight charges and other expenses. This, however, shall not apply where there is damage to or partial loss of goods which are not immediately discoverable and the consignee has given notice thereof to the carrier within two weeks of the date of delivery.

(2) The provisions of the preceding paragraph shall not apply if the carrier or his/her employee has acted in bad faith.

Article 147 (Provisions Applying Mutatis Mutandis)

The provisions of Articles 117, and 120 through 122 shall apply mutatis mutandis to carriers.

SECTION 2 Carriage of Passengers

Article 148 (Liability for Damages to Passengers) (1) A carrier cannot be exonerated from liability for damage received in the carriage of passengers unless he/she proves that he/she or his/her employees have not neglected due care in connection with the carriage.

(2) In determining the amount of damages, the court shall take into account the conditions of the victim and his/her family.