



Western Samoa

Analysis

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1975, No. 2

AN ACT to amend the law relating to the liability of carriers.

BE IT ENACTED by the Legislative Assembly of Western Samoa in Parliament assembled as follows:—

[11 August 1975]

1. Short title—This Act may be cited as the Carriers Act 1975.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Carrier” means any common carrier of passengers or goods by land, sea or water, or any person engaged in the business of the carriage of passengers or goods by air for hire or reward who would, if that business were the carriage of passengers or goods by land, be a common carrier:

“Contract” means any contract entered into in Western Samoa by a carrier for the carriage of any person or any goods from any place in Western Samoa to any other place in Western Samoa:

“Goods” means goods, luggage, and chattels of any description, and includes animals.

3. Liability of carriers of passengers for negligence causing death or personal injury—Subject to the provisions of this Act, where at any time after the passing of this Act any passenger carried under any contract made with a carrier of Passengers suffers loss of life or personal injury occasioned by the negligence of the carrier or any employee or agent of the carrier, and there is expressed or implied in the contract any condition purporting to exclude or limit in any way the liability of the carrier, an action for damages in respect of the loss of life or personal injury may, notwithstanding the condition, be maintained in the same manner and to the same extent as if no such condition were so expressed or implied, and the condition shall not be a defence to the action or be taken into account in assessing the amount of any damages to which the plaintiff may be entitled.

4. Liability of carriers for negligence in carriage of goods—(1) Subject to the provisions of this Act, every carrier between any places in Western Samoa shall be liable for the loss of or any damage done to any goods in the receiving, carrying, forwarding, or delivery thereof, occasioned by the negligence of the carrier or any employee or agent of the carrier, notwithstanding any notice, condition, declaration, or contract given, made, or entered into by the carrier and purporting to exclude or limit in any way the liability of the carrier, in the same manner and to the same extent as if no such notice, condition, declaration, or contract had been given, made, or entered into.

(2) Subject to the provisions of section 5 of this Act, nothing in subsection (1) of this section shall be construed to prevent a carrier from making such special contracts or conditions with respect to the receiving, carrying, forwarding, and delivery of goods as are adjudged by the Court before which any question relating thereto is tried to be just and reasonable.

5. Special contracts or conditions as to goods not binding unless signed—No special contract or condition made between a carrier and any other party with respect to the

receiving, carrying, forwarding, or delivering within Western Samoa of any goods shall be binding on or affect that party unless it is in writing signed by him or by the person delivering the goods for carriage.

6. Limit of liability for goods unless value declared and increased charge paid—With respect to the receiving, carrying, forwarding, or delivering within Western Samoa of any goods by any carrier the following provisions shall apply:—

- (a) No person shall be entitled to recover for any loss of or damage to or in connection with any goods any greater amount than one hundred tālā for any package or unit unless the person sending or delivering the goods to the carrier has given to the carrier a statement in writing declaring the nature and value of the goods, has obtained a receipt for the goods specifying the nature and value so declared, and has, if required by the carrier so to do, paid to the carrier by way of compensation for the increased risk and care thereby occasioned an amount, in addition to the ordinary rate of charge, not exceeding a reasonable percentage of the excess of the value so declared above the sum specified in this paragraph as applicable to the goods;
- (b) Where the nature and value of any goods have been declared as aforesaid the liability of the carrier in respect of the loss of or damage done to the goods shall not exceed in amount the actual value of the goods or the value so declared, whichever is the lower, together with the amount of such additional charge as aforesaid;
- (c) The proof of the actual value of the goods shall in all cases lie upon the person claiming compensation for the loss or damage.

7. When goods deemed to be in custody of carrier—All goods received by any carrier for carriage, forwarding, or delivery, not being goods for the time being in the custody of a passenger, shall be deemed to be in the custody of the carrier until delivered to the consignee thereof or, as

the case may require, to any proper authority to whom the carrier is bound by any enactment to deliver the goods or to the passengers in respect of whom the goods are received for carriage.

8. Act to be read subject to other enactments affecting carriers—Except as otherwise provided in this Act, the provisions of this Act shall be read subject to the provisions of any enactment for the time being in force relating to the licensing or control of services for the carriage of passengers or goods, or affecting or relating to the liabilities, obligations, rights, or protection of carriers, or any class of carriers, or persons declared by any such enactment to have any of the liabilities, obligations, rights, or protections of carriers.

9. Act to bind Government—This Act shall bind the Government.

10. Repeal—The Carriers Act 1948 (New Zealand) is hereby repealed as part of the law of Western Samoa.



By Authority

J. W. MEREDITH, GOVERNMENT PRINTER, APIA WESTERN SAMOA—1976.



Samoa i Sisifo

Vaevaeina

Igoa

1. Igoe pu'upu'u
2. Fa'amatalaina o upu
3. Noataga o tagata e faia fela'ua'iga ona o le fa'atamala ua pogai ai le maliu po o le manu'a o se tagata
4. Noataga o tagata e faia fela'ua'iga ona o le fa'atamala i le fela'ua'iga o oloa
5. Feagaiga po o ni tu'utu'uga fa'apitoa e fa'asino i oloa e le noatia ai a e se'ia vagana ai ona ua

sainia

6. Tapula'a o le noataga mo ni oloa a e se'ia vagana ai ona ua ta'utinoina le tau ma ua fa'aopoopoina le totogi na totogi atu
7. O le taimi e fa'atatauina ai oloa e fa'apea ua i le puipuiga a le tagata e faia fela'ua'iga
8. Ia faitauina le Tulafono a e noatia ma fai fuafua i nisi tulafono e a'afia ai tagata e faia fela'ua'iga
9. E noatia le Malo i le Tulafono
10. Mea ua soloia

1975, Nu. 2

O SE TULAFONO e toe teuteu a'i le tulafono e fa'asino i le noataga o tagata e faia fela'ua'iga.

UA FAIA e le Fono Aoaofaitulafono a Samoa i Sisifo i totonu o le Palemene ua potopoto e fa'apea:—

[11 Aukuso 1975]

1. Igoa puupuu—O lenei Tulafono e mafai ona ta'ua o le Tulafono o Tagata e Faia Fela'ua'iga 1975.

2. Faamatalaina o upu—I totonu o lenei Tulafono, a e se'ia vagana ai ona ua mana'omia e le fa'apuga nisi uiga e ese,—

“Tagata e faia fela'ua'iga” o lona uiga o so o se tagata e faia le fela'ua'iga lautele o tagata pasese po o ni oloa i le laueleele, sami po o vai, po o so o se tagata o loo faafeagai ma le pisinisi o le fela'ua'iga o tagata pasese po o oloa i le 'ea mo se totogi po o se tau i ia lea o le a avea pe afai o lea pisinisi o le fela'ua'iga o tagata pasese po o oloa i le laueleele, o se tagata e faia fela'ua'iga lautele:

“Feagaiga” o lona uiga o so o se feagaiga na osia i totonu o Samoa i Sisifo e se tagata e faia fela'ua'iga mo le la'uina o so o se tagata po o so o se oloa mai so o se nofoaga i totonu o Samoa i Sisifo i so o se tasi lava nofoaga i totonu o Samoa i Sisifo:

“Oloa” o lona uiga o oloa, 'atopa'u, ma mea totino e mafai ona feaveai o so o se ituaiga, ma e aofia ai manu.

3. Noataga o tagata e faia fela'ua'iga ona o le faatamala ua pogai ai le maliu o se tagata—(1) I le noatia ma fai fua-fua i tuutuuga o lenei Tulafono, pe afai, i so o se taimi a ua tuanai le pasia o lenei Tulafono, ua pagatia so o se tagata pasese na tauaveina i lalo o so o se feagaiga na osia ma se tagata e faia le fela'ua'iga o tagata pasese ona ua mau-mauina lona soifua po o ua alia'i mai se manu'a i le tino o sea tagata ona o le faatamala o le tagata e faia fela'ua'iga po o se tagata faigaluega po o se sui sooupu a le tagata e faia fela'ua'iga, ma o loo faaalua po o e aafia i totonu o le feagaiga so o se tuutuuga o loo faatatauina ia tuueseina ai pe faatapulaaina ai i so o se auala le noataga o lē na te faia fela'ua'iga, se tagi mo ni tau i le itu i le maumuina o le soifua po o se manu'a i le tino e mafai, e ui lava i lea tuutuuga, ona faatumauina i le faiga lava e tasi ma e oo atu i le tulaga lava e tasi e peisea'i e leai se tuutuuga faapena na faapea ona faaalua pe aafia ai, ma o le a lē tatau ona avea le tuutuuga o se puipuiga e sao ai i le tagi pe aloa'ia foi i le fuafuaina o le aofaiga o so o se tau i lea e ono mafai ina maua e lē na tagi.

4. Noataga o tagata e faia fela'ua'iga ona o le faatamala i le fela'ua'iga o oloa—(1) I le noatia ma fai fuafua i tuutuuga o lenei Tulafono, o tagata taitasi uma e faia fela'ua'iga i le va o ni nofoaga i totonu o Samoa i Sisifo o le a tatau lava ona noatia i le leiloa o po o so o se leaga ua faia i so o se oloa i le taliaina, tauaveina, auina atu, po o le faaooina atu o sea lava oloa, na pogai mai ona o le faatamala o lē na te faia fela'ua'iga po o so o se tagata faigaluega po o se sui sooupu a lē e faia fela'ua'iga, e ui lava i so o se faaaliga, tuutuuga, ta'utinoga, po o se feagaiga na tuuina atu, faia, pa na osia e le tagata e faia fela'ua'iga ma o loo faatatauina ia tuueseina ai pe faatapulaaina ai

i so o se auala le noataga o lē na te faia fela'ua'iga, i le faiga lava e tasi ma e oo atu i le tulaga lava e tasi e peisea'i e leai se faaaliga faapena, tuutuuga, ta'utinoga, po o se feagaiga na tuuina atu, faia pe na osia.

(2) I le noatia ma fai fuafua i tuutuuga o le fuaiupu e 5 o lenei Tulafono, e leai se mea o i totonu o le faafuaiupu (1) o lenei fuaiupu o le a tatau ona fa'auigaina faapea ua taofia ai se tagata e faia fela'ua'iga mai le faiga o ni feagaiga po o ni tu'utu'uga faapitoa i le itu i le taliaina, tauaveina, auina atu, ma le faao'oina atu o oloa e pei ona o lo'o fa'amasinoina e le Fa'amasinoga o ona luma o lo'o su'esu'eina ai so o se mataupu e faasino i ia oloa e fa'apea ua sa'o ma tatau ai.

5. Feagaiga po o ni tu'utu'uga fa'apitoa e fa'asino i oloa e lē noatia ai a e se'ia vagana ai ona ua sainia—E leai se feagaiga po o se tu'utu'uga fa'apitoa na faia i le va o se tagata e faia fela'ua'iga ma so o se tasi lava vaega e auai i le taliaina, tauaveina, auina atu, po o le faao'oina atu i totonu o Samoa i Sisifo o so o se oloa o le a tatau ona noatia ai pe afāina ai lea vaega auai a e se'ia vagana ai ona ua faia i se faiga tusia ma sainia e ia po o e le tagata e faao'oina atu oloa mo le fela'ua'iga.

6. Tapula'a o le noataga mo ni oloa a e se'ia vagana ai ona ta'utino ina le tau ma ua fa'aopoopoina le totogi na totogi atu—I le itu i le taliaina, tauaveina, auina atu, po o le faao'oina atu i totonu o Samoa i Sisifo o so o se oloa e so o se tagata e faia fela'ua'iga o le a tatau lava ona fa'aogā i ai tu'utu'uga ua ta'ua i lalo:—

(a) E leai se tagata o le a tatau ona avanoa na te toe mauaina ona o so o se leiloa o, po o se leaga i, po o i le fa'afeagai ai ma so o se oloa, so o se aofa'iga o tupe e sili atu ona tele na i lo le tasi le selau tālā mo so o se affi po o se mea ta'itisi a e se'ia vagana ai ona ua tu'uina atu e le tagata o lo'o auina atu po o lo'o faao'oina atu oloa i le tagata e faia fela'ua'iga se fa'amatalaga tusia i lē e faia fela'ua'iga o lo'o tautinoina ai le uiga moni ma le tau o oloa, ua na mauaina se lisiti mo oloa o lo'o fa'aalia ma'oti ai le uiga moni ma le tau na fa'apea ona ta'utinoina, ma ua na totogiina atu, pe afai e faapea ona mana'omia, i lē e faia

fela'ua'iga e ala atu i se tau mo le tulaga lamatia ma le tausiga fa'aopoopoina ua faapea ona alia'i mai ai se vaega-tupe, e fa'aopoopo atu i le fua fa'atatau e masani ai o totogi, e lē silia i se tulaga fa'apaseneina e tatau ai o le fa'asiliga o le tau ua faapea ona ta'utinoina i luga a'e o le vaega-tupe ua fa'aalia ma'oti i totonu o lenei parakarafa pei ona e ono mafai ona fa'aaogaina i oloa;

(e) Afai ua uma ona ta'utinoina le uiga moni ma le tau o so o se oloa e pei ona ta'ua muamua i luga, o le noataga o le tagata e faia fela'ua'iga i le itu i le leiloa o, po o se leaga ua faia i oloa o le a tatau lava ona lē sili atu i lo le aofa'iga tonu o le tau o oloa po o le tau na faapea ona ta'utinoina, so o se tasi o ia vaega-tupe e maulalo ifo, fa'atasi ai ma le aofa'iga o se totogi fa'aopoopo fa'apena e pei ona ta'ua muamua i luga;

(i- O le fa'amaonia o le tau tonu o oloa o le a tatau lava i itu eseese uma ona lafo atu i luga o le tagata o lo'o ia talosagaina se tau mo le leiloa po o le fa'aleagaina o se oloa.

7. O le taimi e fa'atatauina ai oloa e fa'apea ua i le puipuiga a le tagata e faia fela'ua'iga—O oloa uma na maua e so o se tagata e faia fela'ua'iga mo le la'uina auina atu, po o le faao'oina atu, e lē o ni oloa o i le puipuiga i le taimi nei a se tagata pasese, o le a fa'atatauina lava o lo'o i ai i le puipuiga a le tagata e faia fela'ua'iga se'ia o'o ina ua faao'o atu i lē e auina atu i ai ia oloa po o, e pei ona e ono mana'omia i lea itu, i so o se pule fa'ataga e tatau ai lea e noatia ai lē e faia fela'ua'iga i so o se tulafono na te faao'oina atu oloa, po o i le tagata pasese o ia lea e fa'asino i ai oloa ua maua mai mo le la'uina atu.

8. Ia faitauina le Tulafono a e fai fuafua i nisi tulafono e a'afia ai tagata e faia fela'ua'iga—Se'ia vagana ai ona aiaia se tasi faiga e ese ai i totonu o lenei Tulafono, o tu'utu'uga o lenei Tulafono o le a tatau lava ona faitauina a e noatia ma fai fuafua i tu'utu'uga o so o se tulafono o lo'o fa'amamaluina i le taimi nei e faasino i le laiseneina po o le pulea o galuega mo le fela'ua'iga o tagata pasese po o ni oloa, po o lo'o a'afia ai pe fa'asino i noataga, tiute

tau'ave, aiā tatau, po o le pui puiga o tagata e faia fela'ua'iga, po o so o se ituaiga o tagata e faia fela'ua'iga, po o ni tagata o loo fa'aalia manino e so o sea tulafono e faapea ua i ai so o se noataga, tiute tau'ave, aiā tatau, po o ni pui puiga o tagata e faia fela'ua'iga.

9. E noatia le Malo i le Tulafono—O lenei Tulafono o le a noatia ai le Malō.

10. Mea ua soloia—O le Tulafono o Tagata e Faia Fela'ua'iga 1948 (Niu Sila) ua soloia nei mai le avea o se tulafono a Samoa i Sisifo.



By Authority

J. W. MEREDITH, GOVERNMENT PRINTER, APIA, WESTERN SAMOA—1976.