



## THE STAGE-CARRIAGES ACT, 1861



### CONTENTS

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#### SECTIONS:

1. Definition of stage-carriage.
2. Carriage to be licensed.
3. Power to refuse license.  
Particulars of license.
4. Charge for and duration of license.
5. Particulars to be painted on conspicuous part of carriage.
6. Penalty for letting carriage without having particulars painted.
7. Penalty for letting for hire unlicensed carriage.
8. Penalty for allowing carriage to be drawn by fewer animals or more passengers, etc, to be carried than provided by license.
9. Penalty for ill-treating animals.
10. Revocation of license.
11. Penalty for not conforming to provisions of section 5.
12. Penalty for misconduct on part of drivers.
13. Penalty when recoverable from proprietor.  
Proviso.
14. Issue of summons.
15. Adjudication of penalties.
16. Recovery of penalties, etc.
17. Offender may be apprehended and detained in custody until return of warrant of distress.
18. Imprisonment of offender if distress not sufficient.
19. [Omitted.]
20. Jurisdiction.
- 20 A. Power to make rules.
21. Interpretation-clause.  
"Magistrate".  
Act applicable to all animals used for drawing carriages.
22. Extent of Act.
23. Power to Provincial Government to exempt.

# <sup>1</sup>[THE STAGE-CARRIAGES ACT, 1861]

## <sup>2</sup>Act No. XVI OF 1861

[7th July, 1861]

### **An Act for licensing and regulating Stage-Carriages**

**Preamble.** WHEREAS it is expedient to license and to regulate stage-carriages in <sup>3</sup>[Pakistan]; it is enacted as follows :—

**1. Definition of stage-carriage.** Every carriage drawn by one or more <sup>4</sup>horses which shall ordinarily be used for the purpose of conveying passengers for hire to or from any place in <sup>3</sup>[Pakistan] shall, without regard to the form or construction of such carriage, be deemed to be a stage-carriage within the meaning of this Act :

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<sup>1</sup>Short title given by the Short Titles Act, 1897 (14 of 1897).

Cf. “The Stage-Carriages Act, 1832” (2 & 3 Wm IV, c. 120); “The London Hackney Carriages Act, 1833” (3 & 4 Wm. IV, c. 48); “The Railway Passenger Duty Act, 1842” (5 & 6 Vict., c. 79); “The Railway Passenger Duty Act 1847” (10 & 11 Vict., c. 42); “The Excise Act, 1848” (11 & 12 Vict., c. 118), s. 2.

This Act as amended by the Stage-Carriages Act (1861) Amendment Act, 1898 (1 of 1898), has been declared to apply to all the Provinces and the Capital of the Federation, but not so as to supersede or contravene provisions of local laws dealing with the same subject—see s. 22. For local laws, see the Bombay Public Conveyance Act, 1920 (Bom. 7 of 1920) C.f. also the Hackney Carriage Act, 1879 (14 of 1879).

It has been declared in force in Baluchistan under s. 3 of the British Baluchistan Laws Resulation, 1913 (2 of 1913).

<sup>2</sup>The Act has been declared in force in British Baluchistan by Baluchistan Regulation II of 1913, s. 3.

It has also been extended to the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G.G.O. 3 of 1950); and applied in the Federated Areas of Baluchistan, see Gaz. of India, 1937, Pt. I, p. 1499.

This Act has been repealed to the extent of Islamabad Capital Territory, see Ordinance No. 27 of 1981, s. 4 and 3rd sch.

<sup>3</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960) s. 3. and 2nd Sch. (with effect from the 14th October, 1955), for “the Provinces and the Capital of the Federation” which was subs. for “British India” by A. O. 1949, Arts. 3 (2) and 4.

<sup>4</sup>All expressions and provisions in this Act applied to horses, also apply to all other animals employed in drawing stage-carriages, see section 21, infra.

**2. Carriage to be licensed.** No carriage shall be used as a stage-carriage unless licensed by a<sup>2</sup>Magistrate<sup>3</sup>\* \* \*.

**3. Power to refuse license.** The Magistrate<sup>4</sup>\* \* \* to whom the application for a license of stage-carriage is made may refuse to license the same if he shall be of opinion that such stage-carriage is unserviceable or is unsafe or unfit for public accommodation or use.

**Particulars of license.** If a Magistrate<sup>4</sup>\* \* \* as aforesaid shall grant a license, the license shall set forth the number thereof, the name and residence of the proprietor of the stage-carriage, the place at which his head office is held, the largest number of passengers and the greatest weight of luggage to be carried in or on such carriage, the number of horses by which such carriage is to be drawn, and the name of the place at which such carriage is licensed.

**4. Charge for and duration of license.**<sup>5</sup>[For every such license there shall be paid by the proprietor of the stage-carriage the sum of five rupees or such less sum as the<sup>6</sup>[Provincial Government] may fix, and such license shall be in force for one year from the date thereof.]

When a licensed stage-carriage is transferred to a new proprietor within the year, the name of such new proprietor shall, on application to that effect, be substituted in the license for the name of the former proprietor without any further payment for that year ; and every person who appears by the license to be the proprietor shall be deemed to be such proprietor for all the purposes of this Act.

**5. Particulars to be painted on conspicuous part of carriage.** On any stage-carriage being licensed the proprietor thereof shall cause the number of the license and all the other particulars of the license to be distinctly painted in the English language and character upon a conspicuous part of such stage-carriage.

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<sup>1</sup>Proviso to s.1 which read:- "Provided that this Act shall not apply to carriages not ordinarily used for journeys of a greater distance than twenty miles" rep. by s.2 of the Stage-Carriages Act, (1861) Amendment Act, 1898 (1 of 1898).

<sup>2</sup>For definition of "Magistrate", see s. 21, infra.

<sup>3</sup>The words "or by the \*Commissioner of Police of a Presidency-town" rep. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 3 and II Sch. The word "Chief" was previously rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

<sup>4</sup>The words "or \*Commissioner of Police" rep. by Act 26 of 1951, s. 3 and Sch. II. The word "Chief" was previously rep. by Act 10 of 1914, s. 3 and Sch. II.

<sup>5</sup>Subs. by Act 1 of 1898, s. 3, for the original paragraph.

<sup>6</sup>Subs. by A.O., 1937, for "L.G".

**6. Penalty for letting carriage without having particulars painted.** The proprietor of any licensed stage-carriage who shall let such stage-carriage for hire without the particulars specified in section 3 being painted on such carriage in the manner directed in the last preceding section shall be liable to a fine not exceeding one hundred rupees.

**7. Penalty for letting for hire unlicensed carriage.** Whoever lets for hire any stage-carriage without the same being licensed as provided by this Act, shall be liable, on a first conviction, to a fine not exceeding one hundred rupees, and on any subsequent conviction, to a fine which may extend to five hundred rupees.

**8. Penalty for allowing carriage to be drawn by fewer animals or more passengers, etc., to be carried than provided by license.** Any proprietor, or agent of a proprietor, or any driver of a licensed stage-carriage, who knowingly permits such carriage to be drawn by a less number of horses, or who knowingly permits a larger number of passengers, or a greater weight of luggage, to be carried by such stage-carriage than shall be provided by the license, shall be liable on a first conviction to a fine not exceeding one hundred rupees, and on any subsequent conviction, to a fine which may extend to five hundred rupees.

In every case where such stage-carriage shall be proved to have been drawn by a less number of horses, or to have carried a larger number of passengers or a greater weight of luggage, than shall be provided by the license, the proprietor of such carriage shall be held to have knowingly permitted such offence, unless he shall prove that the offence was not committed with his connivance, and that he had taken every reasonable precaution and had made reasonable provision to prevent the commission of the offence.

**9. Penalty for ill-treating animals.** Any person who shall cruelly beat, ill-treat, over-drive, abuse, torture or cause or procure to be cruelly beaten, ill-treated, over-driven, abused or tortured, any horse employed in drawing or harnessed to any stage-carriage, or who shall harness to or drive in any stage-carriage any horse which from sickness, age, wounds or other cause is unfit to be driven in such stage-carriage, shall for every such offence be liable to a fine not exceeding one hundred rupees.

**10. Revocations of license.** Any Magistrate <sup>1</sup>\* \* \* within the local limits of whose jurisdiction any stage-carriage shall ply, or who has granted the license of any stage-carriage may cancel the license of such stage-carriage if it shall appear to him that such stage-carriage or any horse or any harness used with such carriage is unserviceable or unsafe or otherwise unfit for public accommodation or use.

**11. Penalty for not conforming to provisions of section 5.** In any station or place in which a Magistrate shall reside and be, any police-officer may, in any place within two miles of the office of such Magistrate, seize any stage-carriage with the horse harnessed thereto, if the full particulars of the license of such stage-carriage be not distinctly painted on such stage-carriage in the manner provided in section 5 of this Act.

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<sup>1</sup>The words "or\*Commissioner of Police" omitted by A. O., 1949, Sch.  
The word "Chief" was previously rep. by the Repealing and Amending Act, 1914 (10 of 1914), s. 3 and Sch. II.

Such carriage with the horse harnessed thereto shall be taken without delay by such police-officer before such Magistrate, who shall forthwith proceed to hear and determine the complaint of such police-officer; and, if there upon any fine is imposed by such Magistrate and such fine is paid, such stage-carriage and horse shall be immediately released ; and if such fine be not paid, such stage-carriage and horse may be detained for twenty days as security for the payment thereof ; and if the fine be not sooner paid, they may be sold and the proceeds applied (so far as they extend) to the payment of the said fine, and all costs and charges incurred on account of the detention and sale ; and the surplus (if any), when claimed, shall be paid to the proprietor of such carriage and horse ; and if such surplus be not claimed within a further period of two months from such sale, the same shall be forfeited to the State.

If the proceeds of such sale do not fully pay the fine and costs and charges aforesaid, the balance may be recovered as hereinafter provided.

**12. Penalty for misconduct on part of drivers.** If any driver of any stage-carriage, or any other person having the care thereof, shall, through intoxication, neglect or by wanton or furious driving or by any other misconduct, endanger the safety of any passenger or other person, or shall injure or endanger the property of the proprietor of such stage-carriage or of any other person, every such person so offending shall be liable to a fine not exceeding one hundred rupees.

**13. Penalty when recoverable from proprietor.** Whenever the driver of any stage-carriage or the owner of any horse employed in drawing any stage-carriage shall have committed any offence against this Act for the commission whereof any penalty is by this Act imposed, other than an offence specified in section 8, and such driver or owner shall not be known, or being known cannot be found, or if the penalty cannot be recovered from such driver or owner, the proprietor of such carriage shall be liable to every such penalty as if he had been the driver of such carriage or owner of such horse at the time when such offence was committed :

**Proviso.** Provided that if any such proprietor shall make out, to the satisfaction of the Magistrate before whom any complaint or information shall be heard, by sufficient evidence, that the offence was committed by such driver or owner without the privity or knowledge of such proprietor, and that no profit, advantage or benefit, either directly or indirectly, has accrued or can accrue to such proprietor therefrom, and that he has used his endeavor to find out such driver or owner, and has done all that was in his power to recover the amount of the penalty from him, the Magistrate may discharge the proprietor from such penalty, and shall levy the same upon such driver or owner when found.

**14. Issue of summons.** Whenever any charge is made before any magistrate of any offence under this Act on which it is necessary to issue a summons to the proprietor of a stage-carriage, the Magistrate shall issue such summons directed to such proprietor or his nearest agent, and may transmit such summons by letter-post, which shall be deemed to be good service thereof.

The letter shall be registered at the post-office, and the cost of the registration shall be borne by the Government in the first instance, but may be charged as costs in the case.

The summons shall allow a reasonable time, in reference to the distance to which the summons is sent, for the appearance of such proprietor or his agent as aforesaid.

**15. Adjudication of penalties.** All penalties incurred under this Act shall be adjudged by a Magistrate <sup>1</sup>\* \* \* as aforesaid, and all orders made under this Act by such Magistrate <sup>1</sup>\* \* \* shall be final.

**16. Recovery of penalties, etc.** All penalties imposed under this Act, or any balance of any fine, costs or charges as mentioned in section 11 of this Act, may in case of non-payment or non-recovery thereof be levied by distress and sale of the moveable property of the offender by warrant under the hand of the Magistrate who imposed the same.

**17. Offender may be apprehended and detained in custody until return of warrant of distress.** In case any such penalties shall not be forthwith paid, such Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

**18. Imprisonment of offender if distress not sufficient.** If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Magistrate by the confession of the offender or otherwise that he has not sufficient goods and chattels whereupon such penalty could be levied if warrant of distress were issued, such Magistrate may, by warrant under his hand, commit the offender, <sup>2</sup>\* \* \* to prison, there to be imprisoned, according to the discretion of such officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

**19.** [*Recovery of penalty and cost from European British subjects.*] Omitted by A. O., 1961, Art. 2 and Sch. (with effect from the 23rd March, 1956).

**20. Jurisdiction.** On complaint made before any Magistrate of any offence committed under this Act, it shall not be necessary to prove that the offence was committed within the local limits of such Magistrate or other officer.

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<sup>1</sup> The words "or \*Commissioner of Police" omitted by A. O., 1949, Sch. The word "Chief" was previously rep. by the Repealing and Amending Act 1914 (10 of 1914), s. 3 and Sch. II.

<sup>2</sup> The original words "provided he is not a European British subject" omitted by A. O., 1961, Art. 2 and Sch. (with effect from the 23rd March, 1956).

<sup>1</sup>[20A. Power to make rules.— (1) The <sup>2</sup>[Provincial Government] may, by notification in the official Gazette, make <sup>3</sup>rules to carry out the purposes and objects of this Act in the territories under its administration or any part of the said territories.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) prescribe forms for licenses under this Act, the sums payable for the same and the conditions on which they may be granted, and the cases in which they may be revoked ;
- (b) provide for the inspection of stage-carriages, and of the animals Employed in drawing them ; and
- (c) regulate the number and length of the stages for which animals may be driven in stage-carriages and the manner in which they shall be harnessed and yoked.

(3) In making any rule under this section, the <sup>2</sup>[Provincial Government] may direct that a breach thereof shall be punishable with fine which may extend to one hundred rupees.]

**21. Interpretation-clause. “Magistrate.”** The term “Magistrate” in this Act shall include all Magistrates and other persons exercising the powers of a <sup>4</sup>Magistrate :

5\*            \*            \*            \*            \*            \*            \*

**Act applicable to all animals used for drawing-carriages.** <sup>6</sup>[All expressions and provisions which in this Act are applied to horses shall also apply to all other animals employed in drawing any carriage ordinarily used for the purpose of conveying passengers for hire to or from any place in <sup>7</sup>[Pakistan] : ]

8\*            \*            \*            \*            \*            \*            \*

<sup>9</sup>[22. Extent of Act. This Act, as amended by subsequent Acts, extends to <sup>10</sup>[the whole of Pakistan] ; but it shall not apply to carriages ordinarily plying for hire within the limits of any municipality or cantonment or other place in which any law for the regulation of carriages is for the time being in force.

**23. Power to Provincial Government to exempt.** The <sup>2</sup>[Provincial Government] may, by notifications in the official Gazette, exempt any carriages or class of carriages from all or any of the provisions of this Act.]

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<sup>1</sup>Ins. by the Stage-Carriages Act (1861) Amendment Act, 1898 (1 of 1898), section 4.

<sup>2</sup>Subs. by A. O., 1937, for “L. G.”.

<sup>3</sup>For rules under section 20A see different Local Rules and Orders.

<sup>4</sup>As to officers exercising the powers of a Magistrate, see s. 3 (2) of the Code of Criminal Procedure, 1898 (Act 5 of 1898).

<sup>5</sup>The definition of British India was rep. by A. O., 1937. See now the General Clauses Act, 1897 (10 of 1897), s. 3 (7) and s. 4A. (1).

<sup>6</sup>Subs. by s. 1 of the Stage-Carriages Act (1861) Amendment Act, 1876(16 of 1876), for the original third clause.

<sup>7</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for “the Provinces and the Capital of the Federation” which was subs. for “British India” by A. O., 1949, Arts. 3(2) and 4.

<sup>8</sup>The clauses relating to “number” and “gender” rep. by the Repealing and Amending Act, 1914 (10 of 1914).s. 3 and Sch. II.

<sup>9</sup>Ss. 22 and 23 were added by s. 5 of the Stage Carriages Act (1861) Amendment Act, 1898 (1 of 1898). The original s. 22 regarding the commencement of this Act as originally passed was rep. by the Repealing Act, 1870 (14 of 1870).

<sup>10</sup>Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s.3 and 2nd Sch. (with effect from the 14th October, 1955), for “all the Provinces and the Capital of the Federation” which was previously subs. for the whole of British India” by A. O., 1949 Arts. 3(2) and 4.

