

Highway Traffic Act
Code de la route

ONTARIO REGULATION 643/05

No Amendments

Carriage of Goods

This Regulation is made in English only.

CONTENTS

1.	Definitions
2.	Goods not covered by this Regulation
3.	Liability insurance held by carriers
4.	Information required in contract of carriage — general freight
5.	Information required in contract of carriage — livestock or animal specialties
6.	Information required in contract of carriage — household goods
Schedule 1	Uniform conditions of carriage — general freight
Schedule 2	Uniform conditions of carriage — livestock and animal specialties
Schedule 3	Uniform conditions of carriage — household goods

Definitions

1. In this Regulation,

“household goods” means,

(a) furniture, appliances and personal effects transported as part of the relocation of a household, and includes vehicles and boats moved as part of a household,

(b) uncrated furniture and equipment transported to, and to be furnishings in, an office, store, factory, commercial establishment, museum, hospital or public institution,

(c) stock-in-trade moved as part of the relocation of an office, store or commercial establishment, and

(d) objects of art, displays, exhibits, computers and electronic devices that require specialized handling;

“public truck” means a commercial motor vehicle or the combination of a commercial motor vehicle and trailer or trailers drawn by it, operated by a person to carry the goods of another person for compensation. O. Reg. 643/05, s. 1.

Goods not covered by this Regulation

2. This Regulation does not apply to the carriage of the following goods:

1. Goods that are carried solely within a local municipality, excluding a municipality that had the status of a township on December 31, 2002 and, but for the enactment of the *Municipal Act, 2001*, would have had the status of a township on January 1, 2003.

2. Fresh fruit and fresh vegetables grown in continental United States of America or Mexico.

3. Goods used on farms that are carried in a commercial motor vehicle equipped with not more than three axles and that does not draw a trailer.

4. Field crops, fresh fruits, fresh tree nuts, fresh vegetables, horticultural specialities, livestock and animal specialities that are carried in a commercial motor vehicle equipped with not more than three axles and that does not draw a trailer.

5. Skim milk, cream or fresh, unprocessed bulk fluid milk carried on behalf of The Ontario Milk Marketing Board.

6. Milk carried by a co-operative corporation to which the *Co-operative Corporations Act* applies, of which one of the objects is to engage in the transportation of milk and of which more than three-quarters of the shareholders or members are producers supplying milk to one or more plants.

7. Wheat that is carried by a person appointed to act as agent for the Ontario Wheat Producers' Marketing Board from the agent's premises in a commercial vehicle registered in the agent's name.

8. Ready mixed concrete.

9. Primary forest or raw wood materials that are the products of the forest from which they are being carried.

10. Goods carried by an operator of a commercial vehicle if the goods have been sold, bought, produced, transformed or repaired by, or lent, borrowed, given or leased by, the operator as an integral part of the operator's primary business, which business is not the operation of public trucks.

11. Goods in a bus being operated under the authority of an operating licence issued under the *Public Vehicles Act*.

12. Goods carried by the Ontario Northland Transportation Commission. O. Reg. 643/05, s. 2.

Liability insurance held by carriers

3. (1) For each motor vehicle operated by a carrier for the carriage of goods for compensation, the carrier shall provide or effect and carry with an insurer licensed under the *Insurance Act* liability insurance for loss or damage to goods in an amount sufficient to cover the loss or damage of the goods carried. O. Reg. 643/05, s. 3 (1).

(2) Subsection (1) does not apply where the cargo is road-construction materials, iron, steel, coal, rough lumber or miscellaneous waste or scrap or materials of an indestructible or non-flammable nature. O. Reg. 643/05, s. 3 (2).

Information required in contract of carriage — general freight (*deleted*)

Information required in contract of carriage — livestock or animal specialties (*deleted*)

Information required in contract of carriage — household goods

6. (1) A contract of carriage for the carriage of household goods must contain,

- (a) the name and address of the consignor;
- (b) the name, address and telephone number of the consignee;
- (c) the originating point of the shipment;
- (d) the destination of the shipment;
- (e) the date of the shipment;
- (f) in a conspicuous place, the name and telephone number of the originating carrier;
- (g) in a conspicuous place, the name and telephone number of the destination agent;
- (h) the names of connecting carriers, if any;

- (i) the inventory of the goods comprising the shipment;
- (j) a statement as to whether the goods were received by the carrier in apparent good order and condition, except as noted on the inventory;
- (k) a space to show the declared valuation of the shipment;
- (l) a space to show the amount of freight and all other charges to be collected by the carrier;
- (m) a space to show the date or time period agreed upon for delivery;
- (n) a space to note any special services or agreements between consignor and the originating carrier;
- (o) a statement to indicate that the uniform conditions of carriage apply;
- (p) if applicable, a statement, in conspicuous form, that the carrier's liability is limited by a term or condition of the contract of carriage; and
- (q) a statement in conspicuous form that the signature of the consignee for the receipt of goods does not preclude future claim for loss or damage made within the time limits prescribed by the uniform conditions of carriage. O. Reg. 643/05, s. 6 (1).

(2) The uniform conditions of carriage in Schedule 3 are deemed to be terms and conditions of every contract of carriage to which this section applies. O. Reg. 643/05, s. 6 (2).

7. Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 643/05, s. 7.

Schedule 1: Uniform Conditions of Carriage — General Freight (*deleted*)

Schedule 2: Uniform Conditions of Carriage — Livestock and Animal Specialties (*deleted*)

Schedule 3: Uniform Conditions of Carriage — Household Goods

1. Liability of Carrier

The carrier of the goods is liable for any loss of or damage to goods accepted by the carrier or the carrier's agent except as provided in this Schedule.

2. Liability of Originating and Delivering Carriers

Where a shipment is accepted for carriage by more than one carrier, the originating carrier and the carrier who assumes responsibility for delivery to the consignee (called the delivering carrier in this Schedule), in addition to any other liability under this Schedule, are liable for any loss of or damage to the goods while they are in the custody of any other carrier to whom the goods are delivered and from which liability the other carrier is not relieved.

3. Recovery from Connecting Carriers

The originating carrier or the delivering carrier, as the case may be, is entitled to recover from any other carrier to whom the goods are delivered the amount that the originating carrier or delivering carrier, as the case may be, is required to pay for the loss of or damage to the goods while they were in the custody of such other carrier.

4. Remedy by Consignor or Consignee

Nothing in Article 2 or 3 deprives a consignor or consignee of any rights the consignor or consignee may have against any carrier.

5. Exceptions from Liability

i. The carrier shall not be liable for loss, damage or delay to any of the goods described in the contract of carriage caused by an act of God, the Queen's or public enemies, riots, strikes, a defect in the goods, an act or default of the consignor, owner or consignee, authority of law or quarantine.

ii. Except as a result of the negligence of the carrier or the carrier's agents or employees, the carrier shall not be liable for,

A. damage to fragile articles that are not packed and unpacked by the contracting carrier or the contracting carrier's agent or employees,

B. damage to the mechanical, electronic, digital or other operations of radios, televisions, computers, clocks, cameras, audio and visual recording and playing equipment, appliances, musical instruments and other equipment, irrespective of who packed or unpacked such articles, unless servicing and preparation was performed by the contracting carrier or the carrier's agent or employees,

C. deterioration of or damage to perishable food, plants or pets,
or

D. loss of contents of consignor-packed articles, unless the containers used are opened for the carrier's inspection and articles are listed in the contract of carriage and receipted for by the carrier,

- iii. The carrier shall not be liable for,
 - A. damage to or loss of a complete set or unit when only part of such set is damaged or lost, in which event the carrier shall only be liable for repair or replacement of the lost or damaged piece or pieces,
 - B. damage to the goods at a place or places of pick-up at which the consignor or the consignor's agent is not in attendance, or
 - C. damage to the goods at a place or places of delivery at which the consignee or the consignee's agent is not in attendance and cannot give receipt for goods delivered.
- iv. The burden of proving absence of negligence for the purpose of paragraph ii is on the carrier.

6. Delay

- i. At the time of acceptance of the contract, the originating carrier shall provide the consignor with a date or time period within which delivery is to be made.
- ii. Failure by the carrier to effect delivery within the time specified on the face of contract of carriage shall render the carrier liable for reasonable food and lodging expenses incurred by the consignee.
- iii. Failure by the consignee to accept delivery when tendered within the time specified in the contract of carriage shall render the consignee liable for reasonable storage in transit, handling and redelivery charges incurred by the carrier.

7. Routing by Carrier

If the carrier forwards the goods by a conveyance that is not a public truck, the liability of the carrier is the same as though the entire carriage were by public truck.

8. Stoppage in Transit

If goods are stopped and held in transit at the request of the party entitled to so request, the goods are held at the risk of that party.

9. Valuation

Subject to Article 10, the amount of any loss or damage for which the carrier is liable, whether or not the loss or damage results from negligence of the carrier or the carrier's employees or agents, shall be the lesser of,

- i. the value of the goods at the place and time of shipment, and
- ii. the greater of,
 - A. the value of the goods as represented by the consignor on the face of the contract of carriage, and
 - B. \$4.41 per kilogram computed on the total weight of the shipment.

10. Election

i. If the consignor so elects on the face of the contract of carriage, the maximum liability shall be based on \$1.32 per kilogram per article lost or damaged.

ii. If the liability is calculated under Article 9, the consignor shall pay to the carrier any additional charges incurred by the carrier to provide insurance coverage in excess of \$1.32 per kilogram per article.

11. Consignor's Risk

i. If it is agreed that the goods are carried at the risk of the consignor, that agreement covers only such risks as are necessarily incidental to the carriage and the agreement does not relieve the carrier from liability for any loss or damage or delay that results from the negligence of the carrier or the carrier's agents or employees.

ii. The burden of proving absence of negligence shall be on the carrier.

12. Notice of Claim

i. No carrier is liable for loss, damage or delay to any goods carried under the contract of carriage unless notice of the loss, damage or delay setting out particulars of the origin, destination and date of shipment of the goods and the estimated amount claimed in respect of such loss, damage or delay is given in writing to the originating carrier or the delivering carrier within 60 days after delivery of the goods or, in the case of failure to make delivery, within nine months after the date of shipment.

ii. The final statement of the claim must be filed within nine months after the date of shipment.

iii. The originating carrier or the delivering carrier, as the case may be, shall acknowledge receipt of the claim within 30 days after receipt.

13. Articles of Extraordinary Value

i. No carrier is bound to carry any documents, specie or articles of extraordinary value unless by a special agreement to do so.

ii. If such goods are carried without a special agreement and the nature of the goods is not disclosed in the contract of carriage, the carrier shall not be liable for any loss or damage in excess of the maximum liability stipulated in Article 9.

14. Freight Charges

i. If required by the carrier, the freight and all other lawful charges accruing on the goods shall be paid before delivery but, if the total charges exceed the estimated charges by more than 10 per cent and if the excess charges are for additional or different goods or services from those to which the estimate applied, the consignee shall pay the difference between the estimated and total charges within 15 days, excluding Saturdays, Sundays and other holidays, after delivery.

ii. The 15-day extension in paragraph i does not apply if the carrier notifies the consignor of the total charges immediately after the goods are loaded or if the consignor signs a waiver of the extension.

iii. If upon inspection it is ascertained that the goods shipped are not those described in the contract of carriage, the freight charges must be paid upon the goods actually shipped with any additional charges lawfully payable on the freight charges.

iv. If a consignor does not indicate that a shipment is to move prepaid, or does not indicate how the shipment is to move, it will automatically move on a collect basis.

15. Dangerous Goods

Every person, whether as principal or agent, shipping dangerous goods without previous full disclosure to the carrier as required by law shall indemnify the carrier against all loss, damage or delay caused by the failure to disclose and such goods may be warehoused at the consignor's risk and expense.

16. Undelivered Goods

i. If, through no fault of the carrier, the goods cannot be delivered, the carrier shall immediately give notice to the consignor and consignee that delivery cannot be made and shall request disposal instructions.

ii. Pending receipt of disposal instructions,

A. the goods may be stored in the warehouse of the carrier, subject to a reasonable charge for storage, or

B. if the carrier has notified the consignor of this intention, the goods may be removed to and stored in a public or licensed warehouse at the expense of the consignor, without liability on the part of the carrier, and subject to a lien for all freight and other lawful charges, including a reasonable charge for storage.

17. Alterations

Subject to Article 18, any limitation in the contract of carriage on the carrier's liability and any alteration to the contract of carriage shall be signed or initialled by the consignor and the originating carrier or their agents and, unless signed and initialled, shall be without effect.

18. Weights

i. It shall be the responsibility of the originating carrier or such carrier's agent to show on the contract of carriage the correct tare and gross and net weights by use of a certified public scale and to attach the weigh scale ticket to such carrier's copy of the contract of carriage.

ii. If there is no certified public scale at the place of origin or within a radius of 16 kilometres of the place of origin, the gross weight shall be deemed to be 112 kilograms per cubic metre of properly loaded van space.

O. Reg. 643/05, Sched. 3.