

# DMS Information

## The Liability of the Mover

### Advice on the Liability Provisions under Section 451g German Commercial Code



The mover, as the haulier, is liable under the Contract for Household Goods Moving and Relocation Services and the German Commercial Code (HGB). These liability principles are also applicable in the case of cross-border transport which starts or ends in Germany even if several different means of transport are used. The liability provisions apply accordingly for storage where the Customer is a consumer.

#### Liability Principles

The mover is liable for damages caused by the loss or damage to property for as long as it is located in his care.

#### Maximum Liability

**The mover's liability for loss or damage is limited to the amount of EUR 620 per cubic meter stowage required to perform the Contract.**

The mover's liability for overrunning the delivery date is limited to three times the figure for the freight. If the mover is liable due to the breach of a contractual duty related to the execution of the move for damages which are not incurred due to the loss or damage of the property or the overrunning of a delivery date, and if these are damages other than personal injury and property damage, liability will be limited in this case to three times the amount which would have to be paid upon the loss of the goods.

#### Compensation

Where the mover must pay damages for the loss of the goods, the value at the place and time of the assumption of the transport duties will be reimbursed. In the case of damage to the goods, the difference between the value of the undamaged goods and the value of the damaged goods must be reimbursed. The governing value is the value of the goods at the place and time of the assumption of the transport duties. The value of the goods is governed by the market price. In both cases, the costs of establishing the damage must be reimbursed.

#### Exclusion of Liability

The mover will be released from liability if the loss, damage or the overrun of delivery dates is based on an inevitable event which the mover could not have avoided even with the greatest degree of care and whose consequences he could not prevent.

#### Special Liability Exclusions

1. The mover is released from his liability if the loss or damage is attributable to one of the following risks:
  - 1.1. transport and storage of precious metals, jewels, precious stones, money, stamps, coins, securities or documents;
  - 1.2. insufficient packaging or labeling by the consignor;
  - 1.3. treatment, loading or unloading of the goods by the consignor;
  - 1.4. transport and storage of goods in containers not packed by the mover;
  - 1.5. loading or unloading of goods whose size or weight does not correspond to the space at the loading or unloading site, provided the mover had previously advised the consignor of the risk of damage and the consignor had insisted that the work be performed;
  - 1.6. transport and storage of live animals or plants;

- 1.7. natural or defective nature of the goods causing them to suffer easily from damage, particularly breakage, malfunctions, rust, inner spoilage or seepage.

If damage which could arise under the circumstances due to one of the risks defined in items 1. to 7. has occurred, it will be assumed that the damage has occurred from this risk. The mover may only invoke one of the special liability exclusions if he has taken all of the action which he was obliged to take under the circumstances and has complied with special instructions.

2. The Storage Company will not be liable for damage caused by nuclear energy and to or by radioactive materials

#### Application of the Exemptions and Limitations of Liability

1. Exemptions and limitations of liability will only apply for claims under the liability outside of contract for the loss of or damage to the goods or for overrunning the delivery date if the mover has not acted intentionally or recklessly and in the awareness that damage will occur in all probability.
2. The aforementioned exemptions and limitations of liability will also apply for the mover's personnel.

#### Performing Mover

If the mover appoints another mover to carry out the moving and relocation service, he will be liable in the same manner as the performing mover for as long as the goods are in his care. The performing mover may assert all defences under the terms of the freight contract.

#### Transport and Storage Insurance

It is possible to insure the goods beyond the statutory liability. At the request of the customer, the mover will take out transport and storage insurance against payment of a separate premium.

#### Notification of Damage

The following **important special rules** apply for the assertion of damage compensation claims:

1. Externally **visible damage** and the loss of goods must be recorded exactly upon delivery on **the receipt of delivery form** or in a **damage report**. Such damage and loss must be reported to the mover **by no later than the next day** in detailed text form (E-mail, letter, fax).
2. Externally **non-visible damage** and loss must be reported to the mover **within 14 days** after delivery, and also in detailed text form.
3. If damages and loss are not claimed within the stated periods, the claims to compensation will lapse.
4. **Overruns of the delivery date** must be reported in text form **within 21 days**. After the expiry of the deadline, the claim will otherwise lapse.
5. **The timely sending of a detailed notification** in text form to the **appointed or delivering mover** which indicates the **person sending it** will suffice to meet the deadlines.