



# Carriage of Passengers by Road Act 1974

## 1974 CHAPTER 35

### **1 Convention to have force of law**

- (1) Subject to the following provisions of this Act, the provisions of the Convention on the Contract for the International Carriage of Passengers and Luggage by Road (in this Act referred to as " the Convention ") as set out in the Schedule to this Act shall have the force of law in the United Kingdom so far as they relate to the rights and liabilities of persons concerned in the carriage of passengers and luggage by road under a contract to which the Convention applies in respect of the death of, or injury to, passengers and damage to, or loss of, luggage or personal effects.
- (2) In this Act any reference to a numbered article is a reference to the article of the Convention so numbered; and " carrier " and " passenger " have the meanings respectively assigned to them by paragraph 2 of article 1.

### **2 Designation of Contracting States**

- (1) Her Majesty may by Order in Council from time to time certify who are the Contracting States for the purposes of the Convention and in respect of what territories they are respectively parties.
- (2) An Order in Council under this section may also certify whether Her Majesty's Government in the United Kingdom or any other Contracting State have made or withdrawn a declaration in accordance with article 31 or 32.
- (3) An Order in Council under this section shall, except so far as it has been superseded by a subsequent Order, be conclusive evidence of the matters so certified.

### **3 Liability of carrier for death or personal injury**

The limit on total damages provided in article 13 shall not apply in relation to a carrier who has his principal place of business in the United Kingdom.

#### **4 Power of court to take account of other proceedings**

- (1) A court before which proceedings are brought to enforce a liability which is limited by article 13 or 16 may, at any stage of the proceedings, make any such order as appears to the court to be just and equitable in view of the provisions of those articles and of any other proceedings which have been, or are likely to be, commenced in the United Kingdom or elsewhere to enforce the liability in whole or in part.
- (2) Without prejudice to subsection (1) above, a court before which proceedings are brought to enforce a liability which is limited by article 13 or 16 shall, where the liability is, or may be, partly enforceable in other proceedings in the United Kingdom or elsewhere, have jurisdiction to award an amount less than the court would have awarded if the limitation applied solely to the proceedings before the court, or to make any part of its award conditional on the result of any other proceedings.
- (3) Without prejudice to paragraph 3 of article 23, any reference in this section to a court includes a reference to an arbitration tribunal.

#### **5 Registration of foreign judgments**

- (1) Subject to subsection (2) below, Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 (in this section referred to as "the Act of 1933") shall apply, whether or not it would otherwise have so applied, to any judgment which—
  - (a) has been given in any such action as is referred to in paragraph 1 of article 21 by any court or tribunal of a contracting State other than the United Kingdom, and
  - (b) has become enforceable in the territory of that State.
- (2) In the application of Part I of the Act of 1933 in relation to any such judgment as is referred to in subsection (1) above, section 4 of that Act shall have effect with the omission of subsections (2) and (3).
- (3) The registration, in accordance with Part I of the Act of 1933, of any such judgment as is referred to in subsection (1) above shall constitute, in relation to that judgment, compliance with the required formalities for the purposes of paragraph 3 of article 21.

#### **6 Actions against Contracting States**

Every State which is a Contracting Party for the purposes of the Convention shall, for the purposes of any proceedings brought in a court in the United Kingdom in accordance with the provisions of article 21 to enforce a claim in respect of carriage undertaken by that Party, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which any such action is to be commenced and carried on; but nothing in this section shall authorise the issue of execution, or in Scotland the execution of diligence, against the property of any Contracting Party.

#### **7 Resolution of conflicts between conventions on carriage of passengers**

- (1) If at any time it appears to Her Majesty in Council that there is any conflict between the provisions of this Act (including the provisions of the Convention) and any provisions relating to the carriage of passengers or luggage for reward by land, sea or air—

- (a) any other convention which has been signed or ratified by or on behalf of Her Majesty's Government in the United Kingdom before the passing of this Act, or
- (b) any enactment of the Parliament of the United Kingdom giving effect to such a convention,

Her Majesty may by Order in Council make such provision as may seem to Her to be appropriate for resolving that conflict by amending or modifying this Act or any such enactment.

- (2) An Order in Council under this section shall not be made unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

## **8 Amendments consequential on revision of Convention**

- (1) If at any time it appears to Her Majesty in Council that Her Majesty's Government in the United Kingdom have agreed to any revision of the Convention, whether such revision operates by way of amendment of the text of the Convention as then in force or takes the form of a new convention or a part of a new convention having substantially the same effect as the provisions set out in the Schedule to this Act, Her Majesty may by Order in Council make such amendments—

- (a) of the provisions set out in the Schedule to this Act, and
- (b) of the definition of, and references in this Act to, or to particular provisions of, the Convention,

as appear to Her to be appropriate in consequence of the revision.

- (2) If at any time it appears to Her Majesty in Council that Her Majesty's Government in the United Kingdom have, in pursuance of article 32, reserved the right to apply, in place of articles 11 and 14, the provisions in any other convention in respect of which Her Majesty's Government are one of the Contracting States concerning civil liability for damage caused by motor vehicles, and that such other provisions, being provisions not less favourable to passengers than the provisions of articles 11 and 14, have come into force, Her Majesty may by Order in Council make such amendments—

- (a) of the provisions set out in the Schedule to this Act, and
- (b) of the references in this Act to, or to particular provisions of, the Convention,

as appear to Her to be appropriate in consequence of the coming into force of such other provisions.

- (3) An Order in Council under this section shall not be made unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.

## **9 Application to British possessions, etc.**

Her Majesty may by Order in Council direct that this Act shall extend, subject to such exceptions, adaptations and modifications as may be specified in the Order, to—

- (a) the Isle of Man ;
- (b) any of the Channel Islands ;
- (c) any colony;
- (d) any state or territory which is for the time being a protectorate or protected state for the purposes of the British Nationality Act 1948.

## **10 Application to Scotland**

- (1) In the application to Scotland of the Schedule to this Act—
  - (a) plaintiff means pursuer, and defendant means defender;
  - (b) costs means expenses, and security for costs means caution for expenses;
  - (c) prima facie evidence means sufficient evidence;
  - (d) judgment means decree, and judgment entered means decree pronounced.
- (2) For the purposes of article 22, as it has effect (as respects Scotland) in relation to arbitrations, where the parties to a dispute to which this Act applies agree to refer the dispute to arbitration, the arbitration shall be deemed to be commenced within the period of limitation specified in that article if, within that period, one party to the arbitration serves on the other party or parties a notice requiring him or them to appoint an arbiter or to agree to the appointment of an arbiter or, where the arbitration agreement provides that the reference shall be to a person named or designated in the agreement, requiring him or them to submit the dispute to the person so named or designated.

## **11 Application to Northern Ireland**

- (1) In the application of section 5 of this Act to Northern Ireland, any reference to the Foreign Judgments (Reciprocal Enforcement) Act 1933 is a reference to that Act as it applies in Northern Ireland.
- (2) In the application of section 6 of this Act to Northern Ireland, for the words " the issue of execution " there shall be substituted the words " the making of an enforcement order under the Judgments (Enforcement) Act (Northern Ireland) 1969 ".

## **12 Orders in Council**

An Order in Council made under any of the preceding provisions of this Act may contain such transitional and supplementary provisions as appear to Her Majesty to be expedient and may be varied or revoked by a subsequent Order in Council made under that provision.

## **13 Application to Crown**

This Act shall bind the Crown.

## **14 Short title, interpretation and commencement**

- (1) This Act may be cited as the Carriage of Passengers by Road Act 1974.
- (2) The persons who, for the purposes of this Act, are persons concerned in the carriage of passengers and, where appropriate, their luggage by road under a contract to which the Convention applies are—
  - (a) the carrier,
  - (b) the passenger,
  - (c) any person for whom the carrier is responsible by virtue of article 4,
  - (d) any person to whom the rights and liabilities of any of the persons referred to in paragraphs (a) to (c) of this subsection have passed (whether by assignment or assignation or by operation of law).

- (3) In article 12 "injury", in the first and last place where it occurs, shall be taken to mean "loss or damage"; and in paragraph 1 of article 13 "principal establishment" shall be taken to mean "principal place of business".
- (4) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment.
- (5) Sections 1 to 6 above shall come into force on such day as Her Majesty may by Order in Council certify to be the day on which the Convention comes into force as regards the United Kingdom, but nothing in this Act shall apply in relation to any contract to which the Convention applies made before the day so certified.