



Carriage by Air and Road Act 1979

1979 CHAPTER 28

1 Alterations of texts of carriage by air convention

- (1) For Schedule 1 to the Carriage by Air Act 1961 (which contains the English and French texts of the Warsaw Convention mentioned in the title to this Act as it has the force of law in the United Kingdom by virtue of section 1 of that Act) there shall be substituted Schedule 1 to this Act (which contains the English and French texts of that Convention as amended by provisions of protocols No. 3 and No. 4 which were signed at Montreal on 25th September 1975).
- (2) The said Act of 1961 and the Carriage by Air (Supplementary Provisions) Act 1962 shall have effect with the amendments set out in Schedule 2 to this Act (which are consequential upon the changes of texts made by the preceding subsection or are connected with the coming into force of those texts).
- (3) Neither of the preceding subsections shall affect rights and liabilities arising out of an occurrence which took place before the coming into force of that subsection or, if the subsection comes into force in pursuance of section 7(2) of this Act for some purposes only, arising out of an occurrence which took place before it comes into force for those purposes.

2 Modification of article 26(2) of carriage by air convention

- (1) In the Carriage by Air Act 1961, after section 4 there shall be inserted the following section—

“4A Notice of partial loss

- (1) In Article 26(2) the references to damage shall be construed as including loss of part of the baggage or cargo in question and the reference to the receipt of baggage or cargo shall, in relation to loss of part of it, be construed as receipt of the remainder of it.
- (2) It is hereby declared, without prejudice to the operation of any other section of this Act, that the reference to Article 26(2) in the preceding subsection is to Article 26(2) as set out in Part I and Part II of the First Schedule to this Act.”

- (2) This section shall come into force at the passing of this Act but shall not apply to loss which occurred before the passing of this Act.

3 Amendment of Acts relating to carriage by air or road in consequence of revision of relevant conventions

- (1) In the Carriage by Air Act 1961, after section 8 there shall be inserted the following section—

“8A 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 a revision of the Convention, Her Majesty may by Order in Council provide that this Act, the Carriage by Air (Supplementary Provisions) Act 1962 and section 5(1) of the Carriage by Air and Road Act 1979 shall have effect subject to such exceptions, adaptations and modifications as Her Majesty considers appropriate in consequence of the revision.
- (2) In the preceding subsection " revision " means an omission from, addition to or alteration of the Convention and includes replacement of the Convention or part of it by another convention.
- (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.”
- (2) In the Carriage by Air (Supplementary Provisions) Act 1962, after section 4 there shall be inserted the following section—

“4A Amendments consequential on revision of Supplementary Convention.

- (1) Section 8A of the said Act of 1961 (which among other things enables Her Majesty in Council to alter that Act and this Act in consequence of any revision of the convention to which that Act relates) shall have effect in relation to a revision of the Convention in the Schedule to this Act as it has effect in relation to a revision of the Convention mentioned in that section but as if the reference in that section to the said Act of 1961 were omitted.
- (2) An order under the said section 8A may relate both to that Act and this Act ; and in the preceding subsection " revision " , in relation to the Convention in the Schedule to this Act, means an omission from, addition to or alteration of that Convention and includes replacement of that Convention or part of it by another convention..”
- (3) In the Carriage of Goods by Road Act 1965, after section 8 there shall be inserted the following section—

“8A 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, Her Majesty may by Order in Council make such amendment of—

- (a) the provisions set out in the Schedule to this Act ; and
- (b) the definition of, and references in this Act to, or to particular provisions of, the Convention ; and
- (c) section 5(1) of the Carriage by Air and Road Act 1979,
as appear to Her to be appropriate in consequence of the revision.

(2) In the preceding subsection " revision " means an omission from, addition to or alteration of the Convention and includes replacement of the Convention or part of it by another convention.

(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.”

(4) In section 8 of the Carriage of Passengers by Road Act 1974 (of which subsection (1) enables amendments of the provisions of that Act mentioned in paragraphs (a) and (b) of that subsection to be made by Order in Council in consequence of any revision of the Convention mentioned in that subsection, whether the 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 part of a new convention having substantially the same effect as the provisions set out in the Schedule to that Act)—

- (a) in subsection (1) the words from " whether " to " Act " where it first occurs shall be omitted ;
- (b) at the end of paragraph (b) of subsection (1) there shall be inserted the words “and
(c) of section 5(1) of the Carriage by Air and Road Act 1979 ”;
and
- (c) after subsection (1) there shall be inserted the following subsection—

“(1A) In the preceding subsection " revision " means an omission from, addition to or alteration of the Convention and includes replacement of the Convention or part of it by another convention.”

4 Replacement of gold francs by special drawing rights for the purposes of certain enactments relating to carriage by air or road

(1) Schedule 1 to the Carriage by Air Act 1961 as originally enacted shall have effect with the following amendments, namely—

- (a) in Article 22 of Part I of that Schedule (which among other things provides that the liability of a carrier is limited to two hundred and fifty thousand francs for each passenger and two hundred and fifty francs per kilogramme of cargo and registered baggage unless a higher limit is agreed and to five thousand francs for objects of which a passenger takes charge himself)—
 - (i) for the words " two hundred and fifty thousand francs " where they first occur and the words " two hundred and fifty francs " and " five thousand francs " there shall be substituted respectively the words " 16,600 special drawing rights " , " 17 special drawing rights " and " 332 special drawing rights " ,

Status: This is the original version (as it was originally enacted).

- (ii) for the words " two hundred and fifty thousand francs " in the second place where they occur there shall be substituted the words " this limit " , and
 - (iii) for paragraph (5) there shall be substituted the following paragraph—
 - “(5) The sums mentioned in terms of the special drawing right in this Article shall be deemed to refer to the special drawing right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the special drawing right at the date of the judgment. ;”
- (b) in Article 22 of Part II of that Schedule (which contains the corresponding provisions of the French text)—
- (i) for the words " deux cent cinquante mille francs " , " deux cent cinquante francs " and " cinq mille francs " there shall be substituted respectively the words " 16.600 Droits de Tirage spéciaux " , " 17 Droits de Tirage spéciaux " and " 332 Droits de Tirage spéciaux " , and
 - (ii) for paragraph (5) there shall be substituted the following paragraph—
 - “(5) Les sommes indiquées en Droits de Tirage spéciaux dans le présent article sont considérées comme se rapportant au Droit de Tirage spécial tel que défini par le Fonds monétaire international. La conversion de ces sommes en monnaies nationales s'effectuera en cas d'instance judiciaire suivant la valeur de ces monnaies en Droit de Tirage spécial à la date du jugement. ; but nothing in this subsection affects the provisions of Schedule 1 to this Act.”
- (2) The Schedule to the Carriage of Goods by Road Act 1965 (which contains the text of the Convention on the Contract for the International Carriage of Goods by Road as it has the force of law in the United Kingdom by virtue of section 1 of that Act) shall have effect with the following amendments, namely—
- (a) for paragraph 3 of Article 23 (which provides that compensation for loss of goods shall not exceed 25 francs per kilogram of gross weight short) there shall be substituted the following paragraph—
 - Compensation shall not, however, exceed 8.33 units of account per kilogram of gross weight short.”;
 - (b) at the end of Article 23 there shall be inserted the following paragraph—
 - The unit of account mentioned in this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amount mentioned in paragraph 3 of this article shall be converted into the national currency of the State of the Court seised of the case on the basis of the value of that currency on the date of the judgment or the date agreed upon by the Parties.”
- (3) The Schedule to the Carriage of Passengers by Road Act 1974 (which contains the text of the Convention on the Contract for the International Carriage of Passengers and Luggage by Road as it has the force of law in the United Kingdom by virtue of section 1 of that Act) shall have effect with the following amendments, namely—
- (a) in paragraph 1 of Article 13 (which among other things provides that the total damages payable by a carrier in respect of the same occurrence shall not

exceed 250,000 francs for each victim) for the words " 250,000 francs " there shall be substituted the words " 83,333 units of account " ;

- (b) in paragraph 1 of Article 16 (which among other things provides that compensation in respect of luggage shall not exceed 500 francs for each piece of luggage nor 2,000 francs for each passenger and that compensation in respect of personal effects shall not exceed 1,000 francs for each passenger) for the words " 500 francs ", " 2,000 francs " and " 1,000 francs " respectively there shall be substituted the words " 166.67 units of account " , " 666.67 units of account " and " 333.33 units of account " ;
- (c) for Article 19 (which provides that the franc referred to in the Convention shall be the gold franc specified in that Article) there shall be substituted the following Article—

“Article 19

The Unit of Account mentioned in this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in articles 13 and 16 of this Convention shall be converted into the national currency of the State of the Court seized of the case on the basis of the value of that currency on the date of the judgment or the date agreed upon by the Parties.”.

- (4) If judgment in respect of a liability limited by the said Article 22, 23, 13 or 16 is given—
 - (a) in the case of a liability limited by the said Article 22, at a time when the amendments made by this section to that Article are in force for the purposes of the liability ; or
 - (b) in any other case, at a time when the amendments made by this section to the other Article in question are in force,

then, notwithstanding that the liability arose before the amendments in question came into force, the judgment shall be in accordance with that Article as amended by this section and, in a case falling within the said Article 13 or 16, in accordance with the said Article 19 as so amended.

5 Conversion of special drawing rights into sterling

- (1) For the purposes of Articles 22 and 22A of Schedule 1 to this Act and the Articles 22, 23 and 19 mentioned in the preceding section as amended by that section, the value on a particular day of one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right—
 - (a) for that day ; or
 - (b) if no sum has been so fixed for that day, for the last day before that day for which a sum has been so fixed.
- (2) A certificate given by or on behalf of the Treasury stating—
 - (a) that a particular sum in sterling has been fixed as aforesaid for a particular day ; or
 - (b) that no sum has been so fixed for a particular day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the particular day,

shall be conclusive evidence of those matters for the purposes of the preceding subsection ; and a document purporting to be such a certificate shall in any proceedings be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

- (3) The Treasury may charge a reasonable fee for any certificate given by or on behalf of the Treasury in pursuance of the preceding subsection, and any fee received by the Treasury by virtue of this subsection shall be paid into the Consolidated Fund.

6 Supplemental

- (1) It is hereby declared that the powers to make Orders in Council conferred by—
- (a) sections 8A, 9 and 10 of the Carriage by Air Act 1961 (which provide for the amendment of that Act and other Acts in consequence of a revision of the relevant convention and for the application of that Act to the countries mentioned in section 9 and to such carriage by air as is mentioned in section 10) ; and
 - (b) sections 8, 8A and 9 of the Carriage of Goods by Road Act 1965 (which provide for the resolution of conflicts between provisions of that Act and certain other provisions relating to carriage by road, for the amendment of that Act in consequence of a revision of the relevant convention and for the application of that Act to the countries mentioned in section 9) ; and
 - (c) sections 7, 8 and 9 of the Carriage of Passengers by Road Act 1974 (which provide as mentioned in the preceding paragraph),
- include power to make Orders in Council in respect of the Act in question as amended by this Act.
- (2) It is hereby declared that Schedule 1 to the said Act of 1961 as originally enacted or, if subsection (1) of section 4 of this Act has come into force, as amended by that subsection, remains in force in relation to any matter in relation to which Schedule 1 to this Act is not for the time being in force and that the reference to Schedule 1 to that Act in section 2(1)(b) of the Carriage by Air (Supplementary Provisions) Act 1962 is to be construed as a reference to both the Schedules 1 aforesaid so far as each is for the time being in force.
- (3) This Act binds the Crown.
- (4) The following provisions (which are superseded by this Act) are hereby repealed, namely—
- (a) section 4(4) of the said Act of 1961 ;
 - (b) in section 8(1) of the said Act of 1974 the words from " whether " to " Act " where it first occurs.

7 Short title and commencement

- (1) This Act may be cited as the Carriage by Air and Road Act 1979.
- (2) This Act, except section 2, shall come into force on such day as Her Majesty may by Order in Council appoint, and—
- (a) different days may be appointed in pursuance of this subsection for different provisions of this Act or for different purposes of the same provision ;

- (b) it is hereby declared that a day or days may be appointed in pursuance of this subsection in respect of subsection (1) of section 1 of this Act and Schedule 1 to this Act notwithstanding that the protocols mentioned in that subsection are not in force in accordance with the provisions in that behalf of those protocols.