

*Status: Point in time view as at 01/01/1995.*

*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1979, Part II. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

#### CONVENTION RELATING TO THE CARRIAGE OF PASSENGERS AND THEIR LUGGAGE BY SEA

#### PART II

##### PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

##### *Interpretation*

- 1 In this Part of this Schedule any reference to a numbered article is a reference to the article of the Convention which is so numbered and any expression to which a meaning is assigned by article 1 of the Convention has that meaning.

##### *Provisions adapting or supplementing specified articles of the Convention*

- 2 For the purposes of paragraph 2 of article 2, provisions of such an international convention as is mentioned in that paragraph which apart from this paragraph do not have mandatory application to carriage by sea shall be treated as having mandatory application to carriage by sea if it is stated in the contract of carriage for the carriage in question that those provisions are to apply in connection with the carriage.
- 3 The reference to the law of the court in article 6 shall be construed as a reference to the <sup>M1</sup>Law Reform (Contributory Negligence) Act 1945 except that in relation to Northern Ireland it shall be construed as a reference to section 2 of the <sup>M2</sup>Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948.

##### **Marginal Citations**

- M1** 1945 c. 28.  
**M2** 1948 c. 23 (N.I.)

- 4 The Secretary of State may by order provide that, in relation to a carrier whose principal place of business is in the United Kingdom, paragraph 1 of article 7 shall have effect with the substitution for the limit for the time being specified in that paragraph of a different limit specified in the order (which shall not be lower than the limit specified in that paragraph at the passing of this Act or, if paragraph 1 of Part III of this Schedule has come into force, specified in paragraph 1 of article 7 as amended by paragraph 1 of that Part).

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- 5 The values which in pursuance of article 9 shall be considered as the official values in the United Kingdom of the amounts in francs for the time being specified in articles 7 and 8 shall be such amounts in sterling as the Secretary of State may from time to time by order specify.
- 6 It is hereby declared that by virtue of article 12 the limitations on liability there mentioned in respect of a passenger or his luggage apply to the aggregate liabilities of the persons in question in all proceedings for enforcing the liabilities or any of them which may be brought whether in the United Kingdom or elsewhere.
- 7 Article 16 shall apply to an arbitration as it applies to an action; and section 27(3) and (4) of the <sup>M3</sup>Limitation Act 1939 and [<sup>F1</sup>Article 72(3) and (4) of the Limitation (Northern Ireland) Order 1989] (which determine when an arbitration is deemed to commence) shall apply for the purposes of article 16 as they apply for the purposes of those Acts.

#### Textual Amendments

**F1** Words substituted by [S.I. 1989/1339 \(N.I. 11\)](#), art. 76(1)(2), Sch. 2 paras. 1, 6, 7, [Sch. 3](#)

#### Marginal Citations

**M3** [1939 c. 21](#).

- 8 The court before which proceedings are brought in pursuance of article 17 to enforce a liability which is limited by virtue of article 12 may at any stage of the proceedings make such orders as appear to the court to be just and equitable in view of the provisions of article 12 and of any other proceedings which have been or are likely to be begun in the United Kingdom or elsewhere to enforce the liability in whole or in part; and without prejudice to the generality of the preceding provisions of this paragraph such a court 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 results of any other proceedings.

#### *Other provisions adapting or supplementing the Convention*

- 9 Any reference in the Convention to a contract of carriage excludes a contract of carriage which is not for reward.
- 10 If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Convention in respect of a particular country the Order shall, subject to the provisions of any subsequent Order made by virtue of this paragraph, be conclusive evidence that the State is a party to the Convention in respect of that country.

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- 11 The Secretary of State may by order make provision—
- (a) for requiring a person who is the carrier in relation to a passenger to give to the passenger, in a manner specified in the order, notice of such of the provisions of Part I of this Schedule as are so specified;
  - (b) for a person who fails to comply with a requirement imposed on him by the order to be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding [<sup>F2</sup>level 4 on the standard scale].

**Textual Amendments**

- F2** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#); (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) and (N.I.) [S.I. 1984/703 \(N.I. 3\)](#), [art. 5](#)

*Application of ss. 502 and 503 of Merchant  
Shipping Act 1894 and section 17 and 18 of this Act*

- 12 Nothing in section 502 of the <sup>M4</sup>Merchant Shipping Act 1894 or section 18 of this Act (which among other things limit a shipowner's liability for the loss or damage of goods in certain cases) shall relieve a person of any liability imposed on him by the Convention.

**Marginal Citations**

- M4** [1894 c. 60.](#)

- 13 It is hereby declared that nothing in the Convention affects the operation of section 503 of the <sup>M5</sup>Merchant Shipping Act 1894 or section 17 of this Act (which limit a shipowner's liability in certain cases of loss of life, injury or damage).

**Marginal Citations**

- M5** [1894 c. 60.](#)

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