

Status: Point in time view as at 01/01/1996.

Changes to legislation: Merchant Shipping Act 1995, Part II is up to date with all changes known to be in force on or before 18 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 6

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 ^{M1}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 ^{M2}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 46,666 units of account).
- 5 (1) For the purpose of converting from special drawing rights into sterling the amounts mentioned in articles 7 and 8 of the Convention in respect of which a judgment is given, 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 for—
- (a) the day on which the judgment is given; or

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(b) if no sum has been so fixed for that day, 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 mentioned in subparagraph (1) above for a particular day; or
- (b) that no sum has been so fixed for that day and 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 articles 7 to 9 of the Convention; 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.

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 34(3) and (4) of the ^{M3}Limitation Act 1980 and Article 73(2) and (4) of the ^{M4}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 that Act and Order.

Marginal Citations

M3 1980 c. 58.

M4 S.I. 1989/1339 (NI 11).

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 level 4 on the standard scale or not exceeding a lesser amount.

Application of ss. 185 and 186 of this Act

- 12 It is hereby declared that nothing in the Convention affects the operation of section 185 of this Act (which limits a shipowner's liability in certain cases of loss of life, injury or damage).
- 13 Nothing in section 186 of this Act (which among other things limits 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.

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