



# International Transport Conventions Act 1983

## 1983 CHAPTER 14

### *The Railway Convention*

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

- (1) The Convention concerning International Carriage by Rail signed on behalf of the United Kingdom on 9th May 1980 shall have the force of law in the United Kingdom.
- (2) In this Act " the Convention " means the Convention referred to in subsection (1) above including, except where the context otherwise requires—
  - (a) the protocol on the privileges and immunities of the intergovernmental organisation set up by the Convention ; and
  - (b) the uniform rules in Appendix A and Appendix B to the Convention together with the Annexes to Appendix B.
- (3) The provisions having the force of law by virtue of this section are—
  - (a) the provisions of the Convention as presented to Parliament in April 1982 and set out in Command Paper 8535 ; and
  - (b) as respects Annexes I, II and III to Appendix B to the Convention, the provisions referred to in that Command Paper;and judicial notice shall be taken of those provisions as if they were contained in this Act.
- (4) If after the coming into force of this section the provisions referred to in paragraph (a) of subsection (3) above are republished in one or more Command Papers in the Treaty Series that subsection shall have effect as if it referred to that or those Command Papers instead of to the Command Paper there mentioned.

#### **2 Designation of Member States etc.**

- (1) Her Majesty may by Order in Council from time to time certify who are the Member States for the purposes of the Convention.

- (2) An Order in Council under subsection (1) above may also certify whether the United Kingdom or any other Member State has made a reservation under—
  - (a) paragraph 3 of Article 12 of the Convention (arbitration) ; or
  - (b) paragraph 1 of Article 3 in Appendix A to the Convention (exclusion of own nationals etc.).
- (3) Her Majesty "may by Order in Council from time to time certify whether the uniform rules referred to in section 1(2)(b) above are suspended by virtue of paragraph 3 of Article 20 of the Convention (suspension pending agreement to amendments) in respect of traffic with or between any Member States.
- (4) An Order in Council under this section shall, except so far as it has been superseded by a subsequent Order, be conclusive evidence of the matters so certified.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 Fatal accidents**

- (1) Where by virtue of the Convention any person has a right of action in respect of the death of a passenger by reason of his being a person whom the passenger was under a legal duty to maintain—
  - (a) subject to subsection (2) below, no action in respect of the passenger's death shall be brought for the benefit of that person under the Fatal Accidents Act 1976 ; but
  - (b) nothing in section 2(3) of that Act (not more than one action in respect of the same subject-matter of complaint) shall prevent an action being brought under that Act for the benefit of any other person.
- (2) Nothing in subsection (1)(a) above affects the right of any person to claim damages for bereavement under section 1A of the said Act of 1976.
- (3) Section 4 of the said Act of 1976 (exclusion of certain benefits in assessment of damages) shall apply in relation to an action brought by any person under the Convention as it applies in relation to an action under that Act.
- (4) Where separate proceedings are brought under the Convention and under the said Act of 1976 in respect of the death of a passenger, a court, in awarding damages under that Act, shall take into account any damages awarded in the proceedings brought under the Convention and shall have jurisdiction to make any part of its award conditional on the result of those proceedings.
- (5) In the application of this section to Northern Ireland references to the said Act of 1976 and to sections 1A, 2(3) and 4 of that Act shall be construed as references to the Fatal Accidents (Northern Ireland) Order 1977 and Articles 3A, 4(3) and 6 of that Order.
- (6) The provisions of Schedule 1 to this Act shall, as respects Scotland, have effect in lieu of the foregoing provisions of this section.

### **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 any of the provisions of the Convention may at any stage of the proceedings make any such order as appears to the court to be just and equitable in view of those provisions 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 as aforesaid 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.

## **5 Conversion of special drawing rights into sterling**

- (1) The special drawing rights by reference to which any liability is limited by the Convention shall, in the case of judicial proceedings or an arbitration in the United Kingdom, be converted into their sterling equivalent on the day of the judgment or award.
- (2) For the purposes of this section the value on a particular day of a 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.
- (3) 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 subsection (2) above ; 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.
- (4) The Treasury may charge a reasonable fee for any certificate given under this section; and any fee received by the Treasury by virtue of this subsection shall be paid into the Consolidated Fund.

## **6 Enforcement of judgments**

- (1) Subject to subsection (2) below, Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933 shall apply, whether or not it would otherwise have applied, to any judgment which—
- (a) has been pronounced as mentioned in paragraph 1 of Article 18 of the Convention by a court in a Member State other than the United Kingdom ; and
  - (b) has become enforceable under the law applied by that court.
- (2) In the application of Part I of the said Act of 1933 in relation to any such judgment 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 said Act of 1933, of any such judgment shall constitute compliance with the required formalities referred to in paragraph 1 of Article 18 of the Convention.

**7 Examination of luggage**

Paragraph 4 of Article 15 and paragraph 2 of Article 22 in Appendix A to the Convention (examination of luggage) shall not in the United Kingdom authorise the opening of any piece of luggage except in the presence of a constable.

**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 a revision of the Convention, Her Majesty may by Order in Council make such amendments of this Act as Her Majesty considers appropriate in consequence of the revision.
- (2) In subsection (1) above "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) No recommendation shall be made to Her Majesty to make an Order under this section unless a draft of it has been laid before Parliament and approved by a resolution of each House of Parliament.
- (4) An Order under this section may contain such transitional and supplementary provisions as appear to Her Majesty to be expedient.

*Other international transport conventions***9 Power to make amendments consequential on revision of other international transport conventions**

The Acts mentioned in Schedule 2 to this Act (which give effect to other international transport conventions) shall have effect with the amendments there specified, being amendments making further provision for enabling those Acts to be modified so as to take account of revisions of the conventions to which they give effect.

*Supplementary***10 Application to Crown**

This Act binds the Crown.

**11 Short title, repeals and commencement**

- (1) This Act may be cited as the International Transport Conventions Act 1983.
- (2) The enactments mentioned in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule; and in section 31(3) and 32(4) of the Civil Jurisdiction and Judgments Act 1982 for the words "section 5 of the Carriage by Railway Act 1972" there shall be substituted the words "section 6 of the International Transport Conventions Act 1983".
- (3) Section 1 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; and subsection (2) above shall have effect from that day.

- (4) The provisions having the force of law by virtue of section 1 above do not affect any rights or liabilities arising out of an occurrence before the coming into force of those provisions; and subsection (2) above does not affect any enactment in its application to any such rights or liabilities.