

2004 No. 1418

CIVIL AVIATION

The Air Carrier Liability Regulations 2004

Made - - - - - *24th May 2004*
Laid before Parliament *2nd June 2004*
Coming into force - - *28th June 2004*

The Secretary of State for Transport, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to matters relating to air transport, in exercise of the powers conferred by that section hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Air Carrier Liability Regulations 2004 and shall come into force on 28th June 2004.

Interpretation

2. In these Regulations “the Council Regulation” means Council Regulation (EC) No. 2027/97 as amended by Regulation (EC) No. 889/2002 of the European Parliament and of the Council(c).

Enforcement of Articles 3a and 6 of the Council Regulation

3.—(1) A Community air carrier that fails to make available the tariff required by Article 3a of the Council Regulation shall be guilty of an offence unless it proves that the failure to do so occurred without its consent or connivance and that it exercised all due diligence to prevent the failure.

(2) An air carrier that fails to comply with the requirements imposed on it by paragraphs 1 or 2 of Article 6 of the Council Regulation shall be guilty of an offence unless it proves that the failure to do so occurred without its consent or connivance and that it exercised all due diligence to prevent the failure.

Penalties

4.—(1) A person guilty of an offence under these Regulations shall be liable—
(a) on summary conviction, to a fine not exceeding level 5 on the standard scale, and
(b) on conviction on indictment, to a fine.

(a) S.I. 1993/2661.

(b) 1972 c. 68.

(c) O.J. 285 of 17.10.97, p. 1 and L 140 of 30.5.02, p. 2. Regulation 2027/97 as amended has effect in accordance with the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993 (Cm 2073 and 2183) as amended by the Decisions of the EEA Joint Committee No. 34/98 of 30th April 1998 (O.J. L 310, 19.11.1998, p. 21) and No. 142/2002 of 8th November 2002 (O.J. L 19, 23.1.2003, p. 9).

(2) Where an offence under these Regulations has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or any such person who was purporting to act in such capacity, he, as well as the body corporate, shall be guilty of an offence and be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, paragraph (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) Where a Scottish partnership is guilty of an offence under these Regulations in Scotland and that offence is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a partner, he, as well as the partnership, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Amendment of the Carriage by Air Act 1961

5. In section 14 of the Carriage by Air Act 1961(a) for the definition of “the Council Regulation” there shall be substituted the following definition—

““the Council Regulation” means Council Regulation (EC) No. 2027/97 as amended by Regulation (EC) No. 889/2002 of the European Parliament and of the Council as it has effect in accordance with the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993 as amended by the Decisions of the EEA Joint Committee No. 34/98 of 30th April 1998 and No. 142/2002 of 8th November 2002.”.

Revocation

6. The Air Carrier Liability Order 1998(b) is hereby revoked.

Signed by authority of the Secretary
of State for Transport

24th June 2004

Tony McNulty
Parliamentary Under-Secretary of State,
Department for Transport

(a) 1961 c. 27. The definition of “the Council Regulation” in section 14 of the Carriage by Air Act 1961 was inserted by S.I. 1998/1751 and revised by S.I. 2002/263.

(b) S.I. 1998/1751.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations create sanctions for breach of Articles 3a and 6 of Council Regulation (EC) No. 2027/97 as amended by Regulation (EC) No. 889/2002. These Articles impose requirements—

- (a) on Community air carriers relating to making available a tariff of charges for providing a higher liability in the carriage of baggage, and
- (b) on all air carriers relating to—
 - (i) making available information or, in the case of Community air carriers the required notice, of applicable provisions relating to carrier liability, and
 - (ii) the provision of information to each passenger concerning carrier liability for death or injury, loss or damage to baggage and for delay. (Articles 3 and 4).

It amends the Carriage by Air Act 1961 by updating the definition given in section 14 to the Council Regulation (meaning Council Regulation 2027/97) to include the amendment to that Regulation done by Regulation (EC) No. 889/2002 of the European Parliament and of the Council. (Article 5)

It revokes the Air Carrier Liability Order 1998. (Article 6)

STATUTORY INSTRUMENTS

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