
STATUTORY INSTRUMENTS

2004 No. 1899

**The Carriage by Air Acts (Application
of Provisions) Order 2004**

Citation, commencement and effect

1.—(1) This Order may be cited as the Carriage by Air Acts (Application of Provisions) Order 2004.

(2) This Order shall come into force on the tenth day after the day on which it is made.

(3) Nothing in this Order shall affect rights and liabilities arising out of an occurrence which took place before the coming into force of this Order.

Interpretation

2. In this Order—

“the Act of 1961” means the Carriage by Air Act 1961;

“the Act of 1962” means the Carriage by Air (Supplementary Provisions) Act 1962;

“the 1955 amended Convention” means the English text of the Warsaw Convention with the amendments made in it by the Hague Protocol as set out in Schedule 1 to the Act of 1961, and includes the Additional Protocol to the Warsaw Convention as set out at the end of that Schedule;

“Community air carrier” has the meaning given by Article 2 of the Council Regulation;

“the Council Regulation” means Council Regulation (EC) No. 2027/97 of 9 October 1997 on air carrier liability in the event of accidents⁽¹⁾.

“the Guadalajara Convention” means the English text of the Convention, supplementary to the Warsaw Convention, for the Unification of Certain Rules relating to International Carriage by Air performed by a Person other than the Contracting Carrier, as set out in the Schedule to the Act of 1962;

“the MP4 Convention” means the English text of the Warsaw Convention with the amendments made in it by the Hague Protocol and as further amended by Protocol No. 4 of Montreal, 1975 as set out in Schedule 1A to the Act of 1961; and

“the Montreal Convention” means the Convention for the Unification of Certain Rules for International Carriage by Air done at Montreal on 28 May 1999.

Application

3.—(1) This Order shall apply to all carriage by air, not being carriage to which the 1955 amended Convention, the MP4 amended Convention or the Montreal Convention applies.

(1) O.J. L 285 of 17.10.97, pl. 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 Decision of the EEA Joint Committee No. 34/98 of 30th April 1998 (O.J. L 310, 19.11.1998, p.21).

(2) This Order shall not apply in relation to Community air carriers to the extent that the provisions of the Council Regulation have the force of law in the United Kingdom.

Non-international carriage

4. Schedule 1 to this Order shall have effect in respect of carriage to which this Order applies being carriage which is not international carriage as defined in Schedule 2 or Schedule 3.

International carriage under the unamended Warsaw Convention

5.—(1) Schedule 2 to this Order shall have effect in respect of carriage to which this Order applies, being carriage which is international carriage as defined in that Schedule and not international carriage as defined in Schedule 3.

(2) Section 2 of the Act of 1961 shall apply to such carriage as aforesaid with the following exceptions, adaptations and modifications:

- (a) for “any of the Carriage by Air Conventions” there shall be substituted “the Warsaw Convention”;
- (b) subsection (1)(b) and (c) shall be omitted;
- (c) subsection (1A) shall be omitted;
- (d) subsection (2A)(b) and (c) shall be omitted.

(3) Section 5 of the Act of 1961 shall apply to such carriage as aforesaid with the following exceptions, adaptations and modifications:

- (a) for “any of the Carriage by Air Conventions” there shall be substituted “the Warsaw Convention”;
- (b) subsections (4)(b) and (c) and (5) shall be omitted.

(4) Section 8 of the Act of 1961 shall apply to such carriage as aforesaid with the following exceptions, adaptations and modifications:

- (a) for “a Carriage by Air Convention” there shall be substituted “the Warsaw Convention”;
- (b) subsections (4)(b) and (c), (5)(b) and (c) and (6)(b) shall be omitted;
- (c) in subsection (6) “and the Convention as amended” shall be omitted.

International carriage under the unamended Warsaw Convention as amended by Additional Protocol No. 1 of Montreal, 1975

6.—(1) Schedule 3 to this Order shall have effect in respect of carriage to which this Order applies, being carriage which is international carriage as defined in that Schedule.

(2) Section 2 of the 1961 Act shall apply to such carriage as aforesaid with the following exceptions, adaptations and modifications:

- (a) for “a Carriage by Air Convention” there shall be substituted “the Warsaw Convention as amended by Additional Protocol No. 1 of Montreal 1975”;
- (b) subsection (1)(b) and (c) shall be omitted;
- (c) subsection (1A) shall be omitted;
- (d) subsection (2A)(b) and (c) shall be omitted.

(3) Section 5 of the Act of 1961 shall apply to such carriage as aforesaid with the following exceptions, adaptations and modifications:

- (a) for “any of the Carriage by Air Conventions” there shall be substituted “the Warsaw Convention as amended by Additional Protocol No. 1 of Montreal 1975”;

(b) subsections (4)(b) and (c) and (5) shall be omitted.

(4) Section 8 to the Act of 1961 shall apply to such carriage as aforesaid, with the following exceptions, adaptations and modifications:

(a) for “a Carriage by Air Convention” there shall be substituted “the Warsaw Convention as amended by Additional Protocol No. 1 of Montreal 1975”;

(b) subsections (4)(b) and (c), (5)(b) and (c) and (6)(b) shall be omitted;

(c) in subsection (6) “and the Convention as amended” shall be omitted.

Application of certain provisions of the Acts

7.—(1) Sections 3, 4, 4A, 6, 11 and 12 of the Act of 1961 shall apply to carriage to which Schedule 1 to this Order applies as if the references therein to the Convention and the Convention as amended and articles thereof were omitted and the reference to the Montreal Convention and articles thereof were references to the Montreal Convention and articles thereof as applied by this Order.

(2) Sections 3, 4, 4A, 6, 11 and 12 of the Act of 1961 shall apply to carriage to which Schedules 2 and 3 to this Order apply as if the references therein to the Convention as amended and the Montreal Convention and articles thereof were omitted and the reference to the Convention and articles thereof were references to the 1955 amended Convention and articles thereof as applied by this Order.

(3) Section 3(1) of the Act of 1962 shall apply to carriage to which Schedules 2 and 3 to this Order apply as if the reference therein to article VI in the Schedule to that Act was a reference to that article as applied by this Order.

Gratuitous carriage by the Crown

8.—(1) Subject to paragraph 2, the Acts of 1961 and 1962, and this Order, shall apply to gratuitous carriage by the Crown as they apply to carriage by the Crown for reward.

(2) The Acts of 1961 and 1962, and this Order, shall not apply to gratuitous carriage by the Crown where that carriage is carriage of members of Her Majesty’s naval, military or air forces undertaken during a time of actual or imminent hostilities or of severe international tension or of great national emergency.

Revocation

9. The Orders specified in Schedule 4 are hereby revoked.

A. K. Galloway
Clerk of the Privy Council