
STATUTORY INSTRUMENTS

2005 No. 2092

**The Railways (Convention on International
Carriage by Rail) Regulations 2005**

Fatal accidents

5.—(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 paragraph (2), no action in respect of the passenger's death shall be brought for the benefit of that person under the 1976 Act, 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 paragraph (1)(a) affects the right of any person to claim damages for bereavement under section 1A of the 1976 Act⁽¹⁾.

(3) Section 4 of the 1976 Act (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 1976 Act 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 regulation to Northern Ireland references to the 1976 Act and to sections 1A, 2(3) and 4 of that Act shall be construed as references to the Fatal Accidents (Northern Ireland) Order 1977⁽²⁾ and Articles 3A, 4(3) and 6 of that Order.

(6) The provisions of Schedule 1 to these Regulations shall, as respects Scotland, have effect in lieu of paragraphs (1) to (5).

(1) Section 1A was inserted by the Administration of Justice Act 1982 (c. 53), section 3(1), and amended by article 2 of S.I.2002/644. Also amended by the Civil Partnership Act 2004 (c. 30), section 83(1) and (7)(a) and (b) from a date to be appointed.

(2) S.I. 1977/1251 (N.I. 18); Article 3A was inserted, and Article 6 was substituted, by section 68 of, and paragraphs 4 and 7 of Schedule 6 to, the Administration of Justice Act 1982 (c. 53). Article 3A (3) was amended by S.I. 2002/645.