

SCHEDULE 1

Regulation 5(6)

FATAL ACCIDENTS: SCOTLAND

1.—(1) Subject to sub-paragraph (2), no enactment or rule of law shall have effect so as to permit a person who has a right of action under the Convention in respect of the death of a passenger by virtue of his being a person whom the passenger was under a legal duty to maintain to raise any other action in that respect for any loss of support suffered by him.

(2) Sub-paragraph (1) shall not apply in so far as the other action concludes for an award under section 1(4) of the Damages (Scotland) Act 1976⁽¹⁾.

2. Section 1(5) of the said Act of 1976⁽²⁾ (exclusion of certain items in assessment of damages) shall apply to an action brought under the Convention as it applies to an action brought under that Act, but section 6 of that Act shall not apply to such an action under the Convention.

3. Where separate proceedings in respect of the death of a passenger are brought under the Convention and under any other enactment or rule of law the court, in awarding damages in such other proceedings, shall take into account any damages awarded in the proceedings brought under the Convention and may make any part of its award conditional on the result of those proceedings.

(1) 1976 c. 13; section 1(4) was amended by the Damages (Scotland) Act 1993 (c. 5), section 1(1).

(2) Section 1(5) was amended by the Damages (Scotland) Act 1993 (c. 5), section 1(2).