Carriage of Goods by Road Act 1965

1965 CHAPTER 37

U.K.

An Act to give effect to the Convention on the Contract for the International Carriage of Goods by Road signed at Geneva on 19th May 1956; and for purposes connected therewith. [5th August 1965]

Commencement Information

I1 Act not in force at Royal Assent; see s.14(4). Act wholly in force on 5.6.1967.

1 Convention to have force of law. U.K.

Subject to the following provisions of this Act, the provisions of the Convention on the Contract for the International Carriage of Goods by Road (in this Act referred to as "the Convention"), as set out in the Schedule to this Act, shall have the force of law in the United Kingdom so far as they relate to the rights and liabilities of persons concerned in the carriage of goods by road under a contract to which the Convention applies.

2 Designation of High Contracting Parties. U.K.

(1) Her Majesty may by Order in Council from time to time certify who are the High Contracting Parties to the Convention and in respect of what territories they are respectively parties.

(2) An Order in Council under this section shall, except so far as it has been superseded by a subsequent Order, be conclusive evidence of the matters so certified.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 Power of court to take account of other proceedings. U.K.

(1) A court before which proceedings are brought to enforce a liability which is limited by article 23 in the Schedule to this Act may at any stage of the proceedings make any such order as appears to the court to be just and equitable in view of the provisions

of the said article 23 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 the preceding subsection, a court before which proceedings are brought to enforce a liability which is limited by the said article 23 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.

4 Registration of foreign judgments. U.K.

(1) Subject to the next following subsection, Part I of the [M1]Foreign Judgments (Reciprocal Enforcement) Act 1933 (in this section referred to as "the Act of 1933") shall apply, whether or not it would otherwise have so applied, to any judgment which—

(a) has been given in any such action as is referred to in paragraph 1 of article 31 in the Schedule to this Act, and

(b) has been so given by any court or tribunal of a territory in respect of which one of the High Contracting Parties, other than the United Kingdom, is a party to the Convention, and

(c) has become enforceable in that territory.

(2) In the application of Part I of the Act of 1933 in relation to any such judgment as is referred to in the preceding subsection, 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 Act of 1933, of any such judgment as is referred to in subsection (1) of this section shall constitute, in relation to that judgment, compliance with the formalities for the purposes of paragraph 3 of article 31 in the Schedule to this Act.

Marginal Citations

M1 1933 c. 13.

5 Contribution between carriers. U.K.

(1) Where a carrier under a contract to which the Convention applies is liable in respect of any loss or damage for which compensation is payable under the Convention, nothing in **[**[F1]section 1 of the [M2]Civil Liability (Contribution) Act 1978**]**, or section 3(2) of the [M3]Law Reform (Miscellaneous Provisions) (Scotland) Act 1940 shall confer on him any right to recover contribution in respect of that loss or damage from any other carrier who, in accordance with article 34 in the Schedule to this Act, is a party to the contract of carriage.

(2) The preceding subsection shall be without prejudice to the operation of article 37 in the Schedule to this Act.

Textual Amendments

F1 Words substituted by Civil Liability (Contribution) Act 1978 (c. 47), **Sch. 1 para.7**

Marginal Citations

M2 1978 c. 47.

M3 1940 c. 42.

6 Actions against High Contracting Parties. U.K.

Every High Contracting Party to the Convention shall, for the purposes of any proceedings brought in a court in the United Kingdom in accordance with the provisions of article 31 in the Schedule to this Act to enforce a claim in respect of carriage undertaken by that Party, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which any such action is to be commenced and carried on; but nothing in this section shall authorise the issue of execution, or in Scotland the execution of diligence, against the property of any High Contracting Party.

7 Arbitrations. U.K.

(1) Any reference in the preceding provisions of this Act to a court includes a reference to an arbitration tribunal acting by virtue of article 33 in the Schedule to this Act.

(2) For the purposes of article 32 in the Schedule to this Act, as it has effect (by virtue of the said article 33) in relation to arbitrations,—

[[F2](a) as respects England and Wales and Northern Ireland, the provisions of section 14(3) to (5) of the Arbitration Act 1996 (which determine the time at which an arbitration is commenced) apply;**]**

[F3](b) . . .

(c) as respects Scotland, an arbitration shall be deemed to be commenced when one party to the arbitration serves on the other party or parties a notice requiring him or them to appoint an arbiter or to agree to the appointment of an arbiter or, where the arbitration agreement provides that the reference shall be to a person named or designated in the agreement, requiring him or them to submit the dispute to the person so named or designated.

Textual Amendments

F2 S. 7(2)(a) substituted (31.1.1997) for s. 7(2)(a)(b) by 1996 c. 23, s. 107(1), **Sch. 3 para. 21** (with s. 81(2)); S.I. 1996/3146, **art. 3** (with art 4, Sch. 2)

F3 S. 7(2)(b) repealed (31.1.1997) by 1996 c. 23, s. 107(2), **Sch. 4** (with s. 81(2)); S.I. 1996/3146, **art. 3** (with art. 4, Sch. 2)

8 Resolution of conflicts between Conventions on carriage of goods. U.K.

(1) If it appears to Her Majesty in Council that there is any conflict between the provisions of this Act (including the provisions of the Convention as set out in the Schedule to this Act) and any provisions relating to the carriage of goods for reward by land, sea or air contained in—

(a) any other Convention which has been signed or ratified by or on behalf of Her Majesty's Government in the United Kingdom before the passing of this Act, or

(b) any enactment of the Parliament of the United Kingdom giving effect to such a Convention,

Her Majesty may by Order in Council make such provision as may seem to Her to be appropriate for resolving that conflict by amending or modifying this Act or any such enactment.

(2) Any statutory instrument made by virtue of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

C1 S. 8 explained by Carriage by Air and Road Act 1979 (c. 28), **s. 6(1)(b)**

[[F4]8A Amendments consequential on revision of Convention. U.K.

(1) If at any time it appears to Her Majesty in Council that Her Majesty's Government in the United Kingdom have agreed to any revision of the Convention, Her Majesty may by Order in Council make such amendment of—

[[F5](a) this Act; and]

(c) section 5(1) of the [M4]Carriage by Air and Road Act 1979,

as appear to Her to be appropriate in consequence of the revision.

(2) In the preceding subsection "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) An Order in Council under this section shall not be made unless a draft of the Order has been laid before Parliament and approved by a resolution of each House of Parliament.]

Textual Amendments

F4 S. 8A inserted by Carriage by Air and Road Act 1979 (c. 28), **ss. 3(3)**, 7(2)

F5 S. 8A(1)(*a*) substituted for paras. (*a*) and (*b*) by International Transport Conventions Act 1983 (c. 14, SIF 102), s. 9, **Sch. 2 para. 2**

Modifications etc. (not altering text)

C2 S. 8A explained by Carriage by Air and Road Act 1979 (c. 28), **s. 6(1)(b)**

Marginal Citations

M4 1979 c. 28.

9 Application to British possessions, etc. U.K.

Her Majesty may by Order in Council direct that this Act shall extend, subject to such exceptions, adaptations and modifications as may be specified in the Order, to—

(a) the Isle of Man;
(b) any of the Channel Islands;
(c) any colony;
[F6](d) . . . . . .

Textual Amendments
F6 S. 9(d) repealed (5.11.1993) by 1993 c. 50, s.1(1), **Sch. 1 Pt. XV** Gp. 1.

Modifications etc. (not altering text)
C3 S. 9 explained by Carriage by Air and Road Act 1979 (c. 28), **s. 6(1)(b)**

10 Application to Scotland. U.K.

In its application to Scotland, the Schedule to this Act shall have effect as if—
(a) any reference therein to a plaintifff included a reference to a pursuer;
(b) any reference therein to a defendant included a reference to a defender; and
(c) any reference to security for costs included a reference to cautions for expenses.

11 Application to Northern Ireland. U.K.

(1) In the application of this Act to Northern Ireland, any reference to an enactment of the Parliament of Northern Ireland shall be construed as a reference to that enactment as amended by any Act of that Parliament, whether passed before or after this Act, and to any enactment of that Parliament passed after this Act and re-enacting the said enactment with or without modification.

(2) In the application of section 4 of this Act to Northern Ireland, any reference to the [M5]Foreign Judgments (Reciprocal Enforcement) Act 1933 is a reference to that Act as it applies in Northern Ireland.

(3) . . . . . [F7]

Textual Amendments
F7 S. 11(3) repealed by Northern Ireland Constitution Act 1973 (c. 36), **Sch. 6 Pt. I**

Marginal Citations
M5 1933 c. 13.

12 Orders in Council. U.K.

An Order in Council made under any of the preceding provisions of this Act may contain such transitional and supplementary provisions as appear to Her Majesty to be expedient and may be varied or revoked by a subsequent Order in Council made under that provision.

13 Application to Crown. U.K.

This Act shall bind the Crown.

14 Short title, interpretation and commencement. U.K.

(1) This Act may be cited as the Carriage of Goods by Road Act 1965.

(2) The persons who, for the purposes of this Act, are persons concerned in the carriage of goods by road under a contract to which the Convention applies are—

(a) the sender,

(b) the consignee,

(c) any carrier who, in accordance with article 34 in the Schedule to this Act or otherwise, is a party to the contract of carriage,

(d) any person for whom such a carrier is responsible by virtue of article 3 in the Schedule to this Act,

(e) any person to whom the rights and liabilities of any of the persons referred to in paragraphs (a) to (d) of this subsection have passed (whether by assignment or assignation or by operation of law).

(3) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment.

(4) This Act shall come into operation on such day as Her Majesty may by Order in Council appoint; but nothing in this Act shall apply in relation to any contract for the carriage of goods by road made before the day so appointed.

Modifications etc. (not altering text)

C4 5.6.1967 appointed under s. 14(4) by S.I.1967/819

SCHEDULE U.K.

Section 1.

CONVENTION ON THE CONTRACT FOR THE INTERNATIONAL CARRIAGE OF GOODS BY ROAD

CHAPTER I U.K.

SCOPE OF APPLICATION

Article 1

1 This Convention shall apply to every contract for the carriage of goods by road in vehicles for reward, when the place of taking over of the goods and the place designated for delivery, as specified in the contract, are situated in two different countries, of which at least one is a Contracting country, irrespective of the place of residence and the nationality of the parties.

2 For the purposes of this Convention, "vehicles" means motor vehicles, articulated vehicles, trailers and semi-trailers as defined in article 4 [F8] of the Convention on Road Traffic dated 19th September 1949.

Textual Amendments

F8 The definitions set out in this article are, so far as material, as follows:— "Motor vehicle" means any self-propelled vehicle normally used for the transport of persons or goods upon a road, other than vehicles running on rails or connected to electric conductors. "Articulated vehicle" means any motor vehicle with a trailer having no front axle and so attached that part of the trailer is superimposed upon the motor vehicle and a substantial part of the weight of the trailer and of its load is borne by the motor vehicle. Such a trailer shall be called a "semi-trailer". "Trailer" means any vehicle designed to be drawn by a motor vehicle.

3 This Convention shall apply also where carriage coming within its scope is carried out by States or by governmental institutions or organizations.

4 This Convention shall not apply:

(a) to carriage performed under the terms of any international postal convention;

(b) to funeral consignments;

(c) to furniture removal.

5 The Contracting Parties agree not to vary any of the provisions of this Convention by special agreements between two or more of them, except to make it inapplicable to their frontier traffic or to authorise the use in transport operations entirely confined to their territory of consignment notes representing a title to the goods.

Article 2

1 Where the vehicle containing the goods is carried over part of the journey by sea, rail, inland waterways or air, and, except where the provisions of article 14 are applicable, the goods are not unloaded from the vehicle, this Convention shall nevertheless apply to the whole of the carriage. Provided that to the extent that it is proved that any loss, damage or delay in delivery of the goods which occurs during the carriage by the other means of transport was not caused by an act or omission

of the carrier by road, but by some event which could only have occurred in the course of and by reason of the carriage by that other means of transport, the liability of the carrier by road shall be determined not by this Convention but in the manner in which the liability of the carrier by the other means of transport would have been determined if a contract for the carriage of the goods alone had been made by the sender with the carrier by the other means of transport in accordance with the conditions prescribed by law for the carriage of goods by that means of transport. If, however, there are no such prescribed conditions, the liability of the carrier by road shall be determined by this Convention.

2 If the carrier by road is also himself the carrier by the other means of transport, his liability shall also be determined in accordance with the provisions of paragraph 1 of this article, but as if, in his capacities as carrier by road and as carrier by the other means of transport, he were two separate persons.

CHAPTER II U.K.

PERSONS FOR WHOM THE CARRIER IS RESPONSIBLE

Article 3

For the purposes of this Convention the carrier shall be responsible for the acts and omissions of his agents and servants and of any other persons of whose services he makes use for the performance of the carriage, when such agents, servants or other persons are acting within the scope of their employment, as if such acts or omissions were his own.

CHAPTER III U.K.

CONCLUSION AND PERFORMANCE OF THE CONTRACT OF CARRIAGE

Article 4

The contract of carriage shall be confirmed by the making out of a consignment note. The absence, irregularity or loss of the consignment note shall not affect the existence or the validity of the contract of carriage which shall remain subject to the provisions of this Convention.

Article 5

1 The consignment note shall be made out in three original copies signed by the sender and by the carrier. These signatures may be printed or replaced by the stamps of the sender and the carrier if the law of the country in which the consignment note has been made out so permits. The first copy shall be handed to the sender, the second shall accompany the goods and the third shall be retained by the carrier.

2 When the goods which are to be carried have to be loaded in different vehicles, or are of different kinds or are divided into different lots, the sender or the carrier shall have the right to require a separate consignment note to be made out for each vehicle used, or for each kind or lot of goods.

Article 6

1 The consignment note shall contain the following particulars:

(a) the date of the consignment note and the place at which it is made out;

(b) the name and address of the sender;

(c) the name and address of the carrier;

(d) the place and the date of taking over of the goods and the place designated for delivery;

(e) the name and address of the consignee;

(f) the description in common use of the nature of the goods and the method of packing, and, in the case of dangerous goods, their generally recognised description;

(g) the number of packages and their special marks and numbers;

(h) the gross weight of the goods or their quantity otherwise expressed;

(i) charges relating to the carriage (carriage charges, supplementary charges, customs duties and other charges incurred from the making of the contract to the time of delivery);

(j) the requisite instructions for Customs and other formalities;

(k) a statement that the carriage is subject, notwithstanding any clause to the contrary, to the provisions of this Convention.

2 Where applicable, the consignment note shall also contain the following particulars:

(a) a statement that transhipment is not allowed;

(b) the charges which the sender undertakes to pay;

(c) the amount of "cash on delivery" charges;

(d) a declaration of the value of the goods and the amount representing special interest in delivery;

(e) the sender's instructions to the carrier regarding insurance of the goods;

(f) the agreed time-limit within which the carriage is to be carried out;

(g) a list of the documents handed to the carrier.

3 The parties may enter in the consignment note any other particulars which they may deem useful.

Article 7

1 The sender shall be responsible for all expenses, loss and damage sustained by the carrier by reason of the inaccuracy or inadequacy of:

(a) the particulars specified in article 6, paragraph 1, (b), (d), (e), (f), (g), (h) and (j);

(b) the particulars specified in article 6, paragraph 2;

(c) any other particulars or instructions given by him to enable the consignment note to be made out or for the purpose of their being entered therein.

2 If, at the request of the sender, the carrier enters in the consignment note the particulars referred to in paragraph 1 of this article, he shall be deemed, unless the contrary is proved, to have done so on behalf of the sender.

3 If the consignment note does not contain the statement specified in article 6, paragraph 1(k), the carrier shall be liable for all expenses, loss and damage sustained through such omission by the person entitled to dispose of the goods.

Changes to legislation: *There are currently no known outstanding effects for the Carriage of Goods by Road Act 1965. (See end of Document for details)*

Article 8

1 On taking over the goods, the carrier shall check:

(a) the accuracy of the statements in the consignment note as to the number of packages and their marks and numbers, and

(b) the apparent condition of the goods and their packaging.

2 Where the carrier has no reasonable means of checking the accuracy of the statements referred to in paragraph 1(a) of this article, he shall enter his reservations in the consignment note together with the grounds on which they are based. He shall likewise specify the grounds for any reservations which he makes with regard to the apparent condition of the goods and their packaging. Such reservations shall not bind the sender unless he has expressly agreed to be bound by them in the consignment note.

3 The sender shall be entitled to require the carrier to check the gross weight of the goods or their quantity otherwise expressed. He may also require the contents of the packages to be checked. The carrier shall be entitled to claim the cost of such checking. The result of the checks shall be entered in the consignment note.

Article 9

1 The consignment note shall be*prima facie*evidence of the making of the contract of carriage, the conditions of the contract and the receipt of the goods by the carrier.

2 If the consignment note contains no specific reservations by the carrier, it shall be presumed, unless the contrary is proved, that the goods and their packaging appeared to be in good condition when the carrier took them over and that the number of packages, their marks and numbers corresponded with the statements in the consignment note.

Article 10

The sender shall be liable to the carrier for damage to persons, equipment or other goods, and for any expenses due to defective packing of the goods, unless the defect was apparent or known to the carrier at the time when he took over the goods and he made no reservations concerning it.

Article 11

1 For the purposes of the Customs or other formalities which have to be completed before delivery of the goods, the sender shall attach the necessary documents to the consignment note or place them at the disposal of the carrier and shall furnish him with all the information which he requires.

2 The carrier shall not be under any duty to enquire into either the accuracy or the adequacy of such documents and information. The sender shall be liable to the carrier for any damage caused by the absence, inadequacy or irregularity of such documents and information, except in the case of some wrongful act or neglect on the part of the carrier.

3 The liability of the carrier for the consequences arising from the loss or incorrect use of the documents specified in and accompanying the consignment note or deposited with the carrier shall be that of an agent, provided that the compensation payable by the carrier shall not exceed that payable in the event of loss of the goods.

Article 12

1 The sender has the right to dispose of the goods, in particular by asking the carrier to stop the goods in transit, to change the place at which delivery is to take place or to deliver the goods to a consignee other than the consignee indicated in the consignment note.

2 This right shall cease to exist when the second copy of the consignment note is handed to the consignee or when the consignee exercises his right under article 13, paragraph 1; from that time onwards the carrier shall obey the orders of the consignee.

3 The consignee shall, however, have the right of disposal from the time when the consignment note is drawn up, if the sender makes an entry to that effect in the consignment note.

4 If in exercising his right of disposal the consignee has ordered the delivery of the goods to another person, that other person shall not be entitled to name other consignees.

5 The exercise of the right of disposal shall be subject to the following conditions:

(a) that the sender or, in the case referred to in paragraph 3 of this article, the consignee who wishes to exercise the right produces the first copy of the consignment note on which the new instructions to the carrier have been entered and indemnifies the carrier against all expenses, loss and damage involved in carrying out such instructions;

(b) that the carrying out of such instructions is possible at the time when the instructions reach the person who is to carry them out and does not either interfere with the normal working of the carrier's undertaking or prejudice the senders or consignees of other consignments;

(c) that the instructions do not result in a division of the consignment.

6 When, by reason of the provisions of paragraph 5(b) of this article, the carrier cannot carry out the instructions which he receives, he shall immediately notify the person who give him such instructions.

7 A carrier who has not carried out the instructions given under the conditions provided for in this article, or who has carried them out without requiring the first copy of the consignment note to be produced, shall be liable to the person entitled to make a claim for any loss or damage caused thereby.

Article 13

1 After arrival of the goods at the place designated for delivery, the consignee shall be entitled to require the carrier to deliver to him, against a receipt, the second copy of the consignment note and the goods. If the loss of the goods is established or if the goods have not arrived after the expiry of the period provided for in article 19, the consignee shall be entitled to enforce in his own name against the carrier any rights arising from the contract of carriage.

2 The consignee who avails himself of the rights granted to him under paragraph 1 of this article shall pay the charges shown to be due on the consignment note, but in the event of dispute on this matter the carrier shall not be required to deliver the goods unless security has been furnished by the consignee.

Changes to legislation: *There are currently no known outstanding effects for the Carriage of Goods by Road Act 1965. (See end of Document for details)*

Article 14

1 If for any reason it is or becomes impossible to carry out the contract in accordance with the terms laid down in the consignment note before the goods reach the place designated for delivery, the carrier shall ask for instructions from the person entitled to dispose of the goods in accordance with the provisions of article 12.

2 Nevertheless, if circumstances are such as to allow the carriage to be carried out under conditions differing from those laid down in the consignment note and if the carrier has been unable to obtain instructions in reasonable time from the person entitled to dispose of the goods in accordance with the provisions of article 12, he shall take such steps as seem to him to be in the best interests of the person entitled to dispose of the goods.

Article 15

1 Where circumstances prevent delivery of the goods after their arrival at the place designated for delivery, the carrier shall ask the sender for his instructions. If the consignee refuses the goods the sender shall be entitled to dispose of them without being obliged to produce the first copy of the consignment note.

2 Even if he has refused the goods, the consignee may nevertheless require delivery so long as the carrier has not received instructions to the contrary from the sender.

3 When circumstances preventing delivery of the goods arise after the consignee, in exercise of his rights under article 12, paragraph 3, has given an order for the goods to be delivered to another person, paragraphs 1 and 2 of this article shall apply as if the consignee were the sender and that other person were the consignee.

Article 16

1 The carrier shall be entitled to recover the cost of his request for instructions and any expenses entailed in carrying out such instructions, unless such expenses were caused by the wrongful act or neglect of the carrier.

2 In the cases referred to in article 14, paragraph 1, and in article 15, the carrier may immediately unload the goods for account of the person entitled to dispose of them and thereupon the carriage shall be deemed to be at an end. The carrier shall then hold the goods on behalf of the person so entitled. He may however entrust them to a third party, and in that case he shall not be under any liability except for the exercise of reasonable care in the choice of such third party. The charges due under the consignment note and all other expenses shall remain chargeable against the goods.

3 The carrier may sell the goods, without awaiting instructions from the person entitled to dispose of them, if the goods are perishable or their condition warrants such a course, or when the storage expenses would be out of proportion to the value of the goods. He may also proceed to the sale of the goods in other cases if after the expiry of a reasonable period he has not received from the person entitled to dispose of the goods instructions to the contrary which he may reasonably be required to carry out.

4 If the goods have been sold pursuant to this article, the proceeds of sale, after deduction of the expenses chargeable against the goods, shall be placed at the disposal of the person entitled to dispose of the goods. If these charges exceed the proceeds of sale, the carrier shall be entitled to the difference.

5 The procedure in the case of sale shall be determined by the law or custom of the place where the goods are situated.

CHAPTER IV U.K.

LIABILITY OF THE CARRIER

Article 17

1 The carrier shall be liable for the total or partial loss of the goods and for damage thereto occurring between the time when he takes over the goods and the time of delivery, as well as for any delay in delivery.

2 The carrier shall however be relieved of liability if the loss, damage or delay was caused by the wrongful act or neglect of the claimant, by the instructions of the claimant given otherwise than as the result of a wrongful act or neglect on the part of the carrier, by inherent vice of the goods or through circumstances which the carrier could not avoid and the consequences of which he was unable to prevent.

3 The carrier shall not be relieved of liability by reason of the defective condition of the vehicle used by him in order to perform the carriage, or by reason of the wrongful act or neglect of the person from whom he may have hired the vehicle or of the agents or servants of the latter.

4 Subject to article 18, paragraphs 2 to 5, the carrier shall be relieved of liability when the loss or damage arises from the special risks inherent in one or more of the following circumstances:

(a) Use of open unsheeted vehicles, when their use has been expressly agreed and specified in the consignment note;

(b) the lack of, or defective condition of packing in the case of goods which, by their nature, are liable to wastage or to be damaged when not packed or when not properly packed;

(c) handling, loading, stowage or unloading of the goods by the sender, the consignee or persons acting on behalf of the sender or the consignee;

(d) the nature of certain kinds of goods which particularly exposes them to total or partial loss or to damage, especially through breakage, rust, decay, desiccation, leakage, normal wastage, or the action of moth or vermin;

(e) insufficiency or inadequacy of marks or numbers on the packages;

(f) the carriage of livestock.

5 Where under this article the carrier is not under any liability in respect of some of the factors causing the loss, damage or delay, he shall only be liable to the extent that those factors for which he is liable under this article have contributed to the loss, damage or delay.

Article 18

1 The burden of proving that loss, damage or delay was due to one of the causes specified in article 17, paragraph 2, shall rest upon the carrier.

2 When the carrier establishes that in the circumstances of the case, the loss or damage could be attributed to one or more of the special risks referred to in article 17, paragraph 4, it shall be presumed that it was so caused. The claimant shall however

be entitled to prove that the loss or damage was not, in fact, attributable either wholly or partly to one of these risks.

3 This presumption shall not apply in the circumstances set out in article 17, paragraph 4(a), if there has been an abnormal shortage, or a loss of any package.

4 If the carriage is performed in vehicles specially equipped to protect the goods from the effects of heat, cold, variations in temperature or the humidity of the air, the carrier shall not be entitled to claim the benefit of article 17, paragraph 4(d), unless he proves that all steps incumbent on him in the circumstances with respect to the choice, maintenance and use of such equipment were taken and that he complied with any special instructions issued to him.

5 The carrier shall not be entitled to claim the benefit of article 17, paragraph 4(f), unless he proves that all steps normally incumbent on him in the circumstances were taken and that he complied with any special instructions issued to him.

Article 19

Delay in delivery shall be said to occur when the goods have not been delivered within the agreed time-limit or when, failing an agreed time-limit, the actual duration of the carriage having regard to the circumstances of the case, and in particular, in the case of partial loads, the time required for making up a complete load in the normal way, exceeds the time it would be reasonable to allow a diligent carrier.

Article 20

1 The fact that goods have not been delivered within thirty days following the expiry of the agreed time-limit, or, if there is no agreed time-limit, within sixty days from the time when the carrier took over the goods, shall be conclusive evidence of the loss of the goods, and the person entitled to make a claim may thereupon treat them as lost.

2 The person so entitled may, on receipt of compensation for the missing goods, request in writing that he shall be notified immediately should the goods be recovered in the course of the year following the payment of compensation. He shall be given a written acknowledgment of such request.

3 Within the thirty days following receipt of such notification, the person entitled as aforesaid may require the goods to be delivered to him against payment of the charges shown to be due on the consignment note and also against refund of the compensation he received less any charges included therein but without prejudice to any claims to compensation for delay in delivery under article 23 and, where applicable, article 26.

4 In the absence of the request mentioned in paragraph 2 or of any instructions given within the period of thirty days specified in paragraph 3, or if the goods are not recovered until more than one year after the payment of compensation, the carrier shall be entitled to deal with them in accordance with the law of the place where the goods are situated.

Article 21

Should the goods have been delivered to the consignee without collection of the "cash on delivery" charge which should have been collected by the carrier under the terms of the contract

of carriage, the carrier shall be liable to the sender for compensation not exceeding the amount of such charge without prejudice to his right of action against the consignee.

Article 22

1 When the sender hands goods of a dangerous nature to the carrier, he shall inform the carrier of the exact nature of the danger and indicate, if necessary, the precautions to be taken. If this information has not been entered in the consignment note, the burden of proving, by some other means, that the carrier knew the exact nature of the danger constituted by the carriage of the said goods shall rest upon the sender or the consignee.

2 Goods of a dangerous nature which, in the circumstances referred to in paragraph 1 of this article, the carrier did not know were dangerous, may, at any time or place, be unloaded, destroyed or rendered harmless by the carrier without compensation; further, the sender shall be liable for all expenses, loss or damage arising out of their handing over for carriage or of their carriage.

Article 23

1 When, under the provisions of this Convention, a carrier is liable for compensation in respect of total or partial loss of goods, such compensation shall be calculated by reference to the value of the goods at the place and time at which they were accepted for carriage.

2 The value of the goods shall be fixed accordingly to the commodity exchange price or, if there is no such price, according to the current market price or, if there is no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality.

[[F9]3 Compensation shall not, however, exceed 8.33 units of account per kilogram of gross weight short**]**

Textual Amendments

F9 Para. 3 substituted by Carriage by Air and Road Act 1979 (c. 28), **ss. 4(2)(a)**, 7(2)

4 In addition, the carriage charges, Customs duties and other charges incurred in respect of the carriage of the goods shall be refunded in full in case of total loss and in proportion to the loss sustained in case of partial loss, but no further damages shall be payable.

5 In the case of delay, if the claimant proves that damage has resulted therefrom the carrier shall pay compensation for such damage not exceeding the carriage charges.

6 Higher compensation may only be claimed where the value of the goods or a special interest in delivery has been declared in accordance with articles 24 and 26.

[[F10]7 The unit of account mentioned in this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amount mentioned in paragraph 3 of this article shall be converted into the national currency of the State of the Court seised of the case on the basis of the value of that currency on the date of the judgment or the date agreed upon by the Parties.**]**

Textual Amendments

F10 Para. 7 inserted by Carriage by Air and Road Act 1979 (c. 28), **ss. 4(2)(b)**, 7(2)

Article 24

The sender may, against payment of a surcharge to be agreed upon, declare in the consignment note a value for the goods exceeding the limit laid down in article 23, paragraph 3, and in that case the amount of the declared value shall be substituted for that limit.

Article 25

1 In case of damage, the carrier shall be liable for the amount by which the goods have diminished in value, calculated by reference to the value of the goods fixed in accordance with article 23, paragraphs 1, 2 and 4.

2 The compensation may not, however, exceed:

(a) if the whole consignment has been damaged the amount payable in the case of total loss;

(b) if part only of the consignment has been damaged, the amount payable in the case of loss of the part affected.

Article 26

1 The sender may, against payment of a surcharge to be agreed upon, fix the amount of a special interest in delivery in the case of loss or damage or of the agreed time-limit being exceeded, by entering such amount in the consignment note.

2 If a declaration of a special interest in delivery has been made, compensation for the additional loss or damage proved may be claimed, up to the total amount of the interest declared, independently of the compensation provided for in articles 23, 24 and 25.

Article 27

1 The claimant shall be entitled to claim interest on compensation payable. Such interest, calculated at five per centum per annum, shall accrue from the date on which the claim was sent in writing to the carrier or, if no such claim has been made, from the date on which legal proceedings were instituted.

2 When the amounts on which the calculation of the compensation is based are not expressed in the currency of the country in which payment is claimed, conversion shall be at the rate of exchange applicable on the day and at the place of payment of compensation.

Article 28

1 In cases where, under the law applicable, loss, damage or delay arising out of carriage under this Convention gives rise to an extra-contractual claim, the carrier may avail himself of the provisions of this Convention which exclude his liability or which fix or limit the compensation due.

2 In cases where the extra-contractual liability for loss, damage or delay of one of the persons for whom the carrier is responsible under the terms of article 3 is in issue, such person may also avail himself of the provisions of this Convention which exclude the liability of the carrier or which fix or limit the compensation due.

Article 29

1 The carrier shall not be entitled to avail himself of the provisions of this chapter which exclude or limit his liability or which shift the burden of proof if the damage was caused by his wilful misconduct or by such default on his part as, in accordance with the law of the court or tribunal seised of the case, is considered as equivalent to wilful misconduct.

2 The same provision shall apply if the wilful misconduct or default is committed by the agents or servants of the carrier or by any other persons of whose services he makes use for the performance of the carriage, when such agents, servants or other persons are acting within the scope of their employment. Furthermore, in such a case such agents, servants or other persons shall not be entitled to avail themselves, with regard to their personal liability, of the provisions of this chapter referred to in paragraph 1.

CHAPTER V U.K.

CLAIMS AND ACTIONS

Article 30

1 If the consignee takes delivery of the goods without duly checking their condition with the carrier or without sending him reservations giving a general indication of the loss or damage, not later than the time of delivery in the case of apparent loss or damage and within seven days of delivery, Sundays and public holidays excepted, in the case of loss or damage which is not apparent, the fact of his taking delivery shall be*prima facie*evidence that he has received the goods in the condition described in the consignment note. In the case of loss or damage which is not apparent the reservations referred to shall be made in writing.

2 When the condition of the goods has been duly checked by the consignee and the carrier, evidence contradicting the result of this checking shall only be admissible in the case of loss or damage which is not apparent and provided that the consignee has duly sent reservations in writing to the carrier within seven days, Sundays and public holidays excepted, from the date of checking.

3 No compensation shall be payable for delay in delivery unless a reservation has been sent in writing to the carrier, within twenty-one days from the time that the goods were placed at the disposal of the consignee.

4 In calculating the time-limits provided for in this Article the date of delivery, or the date of checking, or the date when the goods were placed at the disposal of the consignee, as the case may be, shall not be included.

5 The carrier and the consignee shall give each other every reasonable facility for making the requisite investigations and checks.

Changes to legislation: *There are currently no known outstanding effects for the Carriage of Goods by Road Act 1965. (See end of Document for details)*

Article 31

1 In legal proceedings arising out of carriage under this Convention, the plaintiff may bring an action in any court or tribunal of a contracting country designated by agreement between the parties and, in addition, in the courts or tribunals of a country within whose territory

(a) the defendant is ordinarily resident, or has his principal place of business, or the branch or agency through which the contract of carriage was made, or

(b) the place where the goods were taken over by the carrier or the place designated for delivery is situated,

and in no other courts or tribunals.

2 Where in respect of a claim referred to in paragraph 1 of this article an action is pending before a court or tribunal competent under that paragraph, or where in respect of such a claim a judgment has been entered by such a court or tribunal no new action shall be started between the same parties on the same grounds unless the judgment of the court or tribunal before which the first action was brought is not enforceable in the country in which the fresh proceedings are brought.

3 When a judgment entered by a court or tribunal of a contracting country in any such action as is referred to in paragraph 1 of this article has become enforceable in that country, it shall also become enforceable in each of the other contracting States, as soon as the formalities required in the country concerned have been complied with. The formalities shall not permit the merits of the case to be re-opened.

4 The provisions of paragraph 3 of this article shall apply to judgments after trial, judgments by default and settlements confirmed by an order of the court, but shall not apply to interim judgments or to awards of damages, in addition to costs against a plaintiff who wholly or partly fails in his action.

5 Security for costs shall not be required in proceedings arising out of carriage under this Convention from nationals of contracting countries resident or having their place of business in one of those countries.

Article 32

1 The period of limitation for an action arising out of carriage under this Convention shall be one year. Nevertheless, in the case of wilful misconduct, or such default as in accordance with the law of the court or tribunal seised of the case, is considered as equivalent to wilful misconduct, the period of limitation shall be three years. The period of limitation shall begin to run:

(a) in the case of partial loss, damage or delay in delivery, from the date of delivery;

(b) in the case of total loss, from the thirtieth day after the expiry of the agreed time-limit or where there is no agreed time-limit from the sixtieth day from the date on which the goods were taken over by the carrier;

(c) in all other cases, on the expiry of a period of three months after the making of the contract of carriage.

The day on which the period of limitation begins to run shall not be included in the period.

2 A written claim shall suspend the period of limitation until such date as the carrier rejects the claim by notification in writing and returns the documents attached thereto. If a part of the claim is admitted the period of limitation shall start to run

again only in respect of that part of the claim still in dispute. The burden of proof of the receipt of the claim, or of the reply and of the return of the documents, shall rest with the party relying upon these facts. The running of the period of limitation shall not be suspended by further claims having the same object.

3 Subject to the provisions of paragraph 2 above, the extension of the period of limitation shall be governed by the law of the court or tribunal seised of the case. That law shall also govern the fresh accrual of rights of action.

4 A right of action which has become barred by lapse of time may not be exercised by way of counter-claim or set-off.

Article 33

The contract of carriage may contain a clause conferring competence on an arbitration tribunal if the clause conferring competence on the tribunal provides that the tribunal shall apply this Convention.

CHAPTER VI U.K.

PROVISIONS RELATING TO CARRIAGE PERFORMED BY SUCCESSIVE CARRIERS

Article 34

If carriage governed by a single contract is performed by successive road carriers, each of them shall be responsible for the performance of the whole operation, the second carrier and each succeeding carrier becoming a party to the contract of carriage, under the terms of the consignment note, by reason of his acceptance of the goods and the consignment note.

Article 35

1 A carrier accepting the goods from a previous carrier shall give the latter a dated and signed receipt. He shall enter his name and address on the second copy of the consignment note. Where applicable, he shall enter on the second copy of the consignment note and on the receipt reservations of the kind provided for in article 8, paragraph 2.

2 The provisions of article 9 shall apply to the relations between successive carriers.

Article 36

Except in the case of a counter-claim or a set-off raised in an action concerning a claim based on the same contract of carriage, legal proceedings in respect of liability for loss, damage or delay may only be brought against the first carrier, the last carrier or the carrier who was performing that portion of the carriage during which the event causing the loss, damage or delay occurred; an action may be brought at the same time against several of these carriers.

Article 37

A carrier who has paid compensation in compliance with the provisions of this Convention, shall be entitled to recover such compensation, together with interest thereon and all costs and expenses incurred by reason of the claim, from the other carriers who have taken part in the carriage, subject to the following provisions:

(a) the carrier responsible for the loss or damage shall be solely liable for the compensation whether paid by himself or by another carrier;

(b) when the loss or damage has been caused by the action of two or more carriers, each of them shall pay an amount proportionate to his share of liability; should it be impossible to apportion the liability, each carrier shall be liable in proportion to the share of the payment for the carriage which is due to him;

(c) if it cannot be ascertained to which carriers liability is attributable for the loss or damage, the amount of the compensation shall be apportioned between all the carriers as laid down in (b) above.

Article 38

If one of the carriers is insolvent, the share of the compensation due from him and unpaid by him shall be divided among the other carriers in proportion to the share of the payment for the carriage due to them.

Article 39

1 No carrier against whom a claim is made under articles 37 and 38 shall be entitled to dispute the validity of the payment made by the carrier making the claim if the amount of the compensation was determined by judicial authority after the first mentioned carrier had been given due notice of the proceedings and afforded an opportunity of entering an appearance.

2 A carrier wishing to take proceedings to enforce his right of recovery may make his claim before the competent court or tribunal of the country in which one of the carriers concerned is ordinarily resident, or has his principal place of business or the branch or agency through which the contract of carriage was made. All the carriers concerned may be made defendants in the same action.

3 The provisions of article 31, paragraphs 3 and 4, shall apply to judgments entered in the proceedings referred to in articles 37 and 38.

4 The provisions of article 32 shall apply to claims between carriers. The period of limitation shall, however, begin to run either on the date of the final judicial decision fixing the amount of compensation payable under the provisions of this Convention, or, if there is no such judicial decision, from the actual date of payment.

Article 40

Carriers shall be free to agree among themselves on provisions other than those laid down in articles 37 and 38.

CHAPTER VII U.K.

NULLITY OF STIPULATIONS CONTRARY TO THE CONVENTION

Article 41

1 Subject to the provisions of Article 40, any stipulation which would directly or indirectly derogate from the provisions of this Convention shall be null and void. The nullity of such a stipulation shall not involve the nullity of the other provisions of the contract.

2 In particular, a benefit of insurance in favour of the carrier or any other similar clause, or any clause shifting the burden of proof shall be null and void.

[*Chapter VIII of the Convention is not reproduced. This deals with the coming into force of the Convention, the settlement of disputes between the High Contracting Parties and related matters.*]

PROTOCOL OF SIGNATURE

1 This Convention shall not apply to traffic between the United Kingdom of Great Britain and Northern Ireland and the Republic of Ireland.

Changes to legislation:
There are currently no known outstanding effects for the Carriage of Goods by Road Act 1965.