



Merchant Shipping(Liner Conferences) Act 1982

1982 CHAPTER 37

Main implementing provisions

1 Introductory provisions: the Code and the Contracting Parties to it.

- (1) In this Act “the Code” means the Convention on a Code of Conduct for Liner Conferences signed at Geneva on 6th April 1974.
- (2) The text of the Code is set out in the Schedule to this Act.
- (3) Her Majesty may by Order in Council certify which states are Contracting Parties to the Code, and in respect of what countries they are parties, and an Order in Council under this subsection shall be conclusive evidence of the matters certified by it.

2 Implementing regulations: the general scheme.

- (1) The Secretary of State may by regulations made by statutory instrument make such provision as appears to him appropriate for giving effect to the Code in the United Kingdom, having regard in particular to the reservations made by the United Kingdom when acceding to the Code.
- (2) The general scheme of regulations under subsection (1) shall be—
 - (a) that the provisions of Chapters I to V of the Code shall apply—
 - (i) to a conference which has its seat in the United Kingdom, so far as it serves the trade between states which are Contracting Parties to the Code, and
 - (ii) to a conference which does not have its seat in the United Kingdom, so far as it serves the trade between the United Kingdom and another state which is a Contracting Party to the Code;
 - (b) that only such of those provisions as are identified by the regulations as mandatory provisions shall give rise to enforceable duties;

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- (c) that compliance with those mandatory provisions may be enforced by civil proceedings and not otherwise.
- (3) For the purposes of paragraph (a) of subsection (2) a conference has its seat in the United Kingdom if, and only if—
 - (a) it is incorporated or formed under the law of a part of the United Kingdom, or
 - (b) its central management and control is exercised in the United Kingdom.
- (4) Provisions of regulations under subsection (1) to the effect described in paragraph (a) of subsection (2) shall apply as mentioned in that paragraph whether or not the law of a part of the United Kingdom would fall to be applied in accordance with the ordinary rules of private international law.

3 Matters which may be provided for by regulations.

- (1) In this section “regulations” means regulations under section 2(1) and the specific mention of any matter in this section shall not be construed as restricting the generality of that provision.
- (2) Regulations may—
 - (a) clarify the meaning of the provisions of the Code;
 - (b) supplement the provisions of the Code; and
 - (c) make different provision for different cases and circumstances, as for example for different trades or according to the nationality of the parties involved.
- (3) Regulations may specify with respect to any mandatory provision of the Code—
 - (a) the content of the duties expressly or impliedly imposed by that provision; and
 - (b) the persons owing those duties and the persons to whom those duties are owed.
- (4) Regulations may provide that a duty imposed by a mandatory provision of the Code is a statutory duty enforceable at the suit of a person to whom the duty is owed.
- (5) Where a duty imposed by a mandatory provision of the Code has effect as between parties to a contract, regulations may provide that it has effect as an implied term of that contract and where a term is so implied—
 - (a) any agreed terms which are to any extent inconsistent with that term shall to that extent be of no effect; and
 - (b) without prejudice to paragraph (a), any agreed provision for the settlement of disputes arising out of the contract shall apply to disputes arising out of that term only if—
 - (i) the parties to the contract have expressly agreed that that provision shall apply to such disputes; or
 - (ii) the parties to the dispute in question agree that it should apply to that dispute.
- (6) Regulations may provide with respect to any mandatory provision of the Code that the duties imposed by that provision are owed by or to a conference as such, whether it be incorporated or unincorporated, and where regulations provide that any such duties are owed by an incorporated conference they may also provide that the members of the conference owe to the persons to whom the duties are owed a duty to take all reasonable steps to secure that the conference fulfils its duties.

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- (7) Regulations may provide for excluding or restricting, in proceedings for the enforcement of a duty arising under a mandatory provision of the Code, liabilities or remedies of any description specified in the regulations.
- (8) Regulations may specify—
- (a) the conditions for recognition as a United Kingdom shipping line for the purpose of the Code, and
 - (b) the conditions for recognition of a shippers' organisation by the Secretary of State for the purposes of the Code,
- and may empower the Secretary of State to designate for the purposes of Article 11 (consultation machinery) such persons or organisations as are mentioned in paragraph 1 of that Article.

4 Power to exclude or restrict operation of the Code for lack of reciprocity.

Where it appears to the Secretary of State that—

- (a) a state which is a Contracting Party to the Code has made reservations when becoming a party to the Code or has materially failed to fulfil its obligations under the Code, and
- (b) the implementation of those reservations or, as the case may be, the failure to fulfil those obligations is damaging to or threatens to damage the shipping or trading interests of the United Kingdom,

he may by regulations made by statutory instrument exclude or restrict the operation of all or any of the provisions of Chapters I to V of the Code, as they apply by virtue of regulations under section 2(1), in relation to trade with that state or in relation to persons having any such connection with that state as may be specified in the regulations.

Proceedings arising out of the Code

5 Liability of members of conference to be in proportion to their responsibility.

- (1) Where proceedings arising out of the Code are brought against a member of a conference in respect of damage or loss suffered by any person and other members of the conference are also liable (whether jointly or otherwise) in respect of the same damage or loss, the liability of that member to make good that damage or loss shall be in proportion to his responsibility.

The reference above to the liability of other members of the conference is to any such liability which has been or could be established in proceedings brought before the same court or other tribunal by or on behalf of the person suffering the damage or loss; and for the purposes of this subsection it is immaterial by reference to what law the issue of liability was or would be determined.

- (2) In ascertaining the responsibility of a member of a conference for the purposes of subsection (1), regard shall be had not only to the member's part (if any) in the particular matters giving rise to the proceedings but also to his general involvement in the affairs of the conference as shown, for example, by his share of the conference trade, the nature of pooling arrangements to which he is a party and the extent to which he contributes to the administrative expenses of the conference.

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- (3) Subsections (1) and (2) apply to any proceedings in the United Kingdom and to proceedings elsewhere in which the extent of the liability of a member of a conference falls to be determined by reference to the law of a part of the United Kingdom.
- (4) Where in proceedings arising out of the Code—
- (a) judgment is given against a member of a conference in respect of damage or loss caused to any person, and
 - (b) the extent of the member's liability is not determined by reference to subsections (1) and (2),
- the member shall not, if it is sought to enforce the judgment in the United Kingdom, be liable to make good any greater proportion of that damage or loss than if the extent of his liability had been determined by reference to those subsections.
- (5) A member of an unincorporated conference against which judgment is given, whether in the United Kingdom or elsewhere, in proceedings arising out of the Code in respect of damage or loss caused by any person by a breach of duty by the conference, shall not, by virtue of section 6(3), be liable to make good any greater proportion of that damage or loss than he would have been if the proceedings had been brought against him and the other members of the conference in respect of a duty owed by all the members of the conference and the extent of his liability had been determined by reference to subsections (1) and (2).
- (6) Subsections (4) and (5) shall not affect the enforcement in the United Kingdom of a judgment required to be enforced there by virtue of Part I of the ^{M1}Foreign Judgments (Reciprocal Enforcement) Act 1933 (judgments given in countries with whom reciprocal arrangements exist) or Part I of the ^{M2}Civil Jurisdiction and Judgments Act 1982 (judgments given in other E.E.C. member states) [^{F1}or Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters][^{F2}, as amended from time to time and as applied by the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJNo. L 299 16.11.2005 at p62)].

Textual Amendments

- F1** Words in s. 5(6) inserted (1.3.2002) by [S.I. 2001/3929, art. 5, Sch. 3 para. 17](#)
- F2** Words in s. 5(6) inserted (1.7.2007) by [The Civil Jurisdiction and Judgments Regulations 2007 \(S.I. 2007/1655\), reg. 1, Sch. para. 11\(2\)](#)

Marginal Citations

- M1** [1933 c. 13.](#)
- M2** [1982 c. 27.](#)

6 Proceedings by or against unincorporated conferences.

- (1) A conference which is not a body corporate may nevertheless sue and be sued in its own name in proceedings arising out of the Code.
- (2) Subsection (1) applies to any proceedings in the United Kingdom and to proceedings elsewhere in which the capacity of a conference to sue and be sued in its own name falls to be determined by reference to the law of a part of the United Kingdom.

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- (3) A judgment given for or against an unincorporated conference in proceedings brought against the conference in its own name, whether in the United Kingdom or elsewhere, shall be binding on the members of the conference, and such a judgment given against a conference shall be enforceable—
- (a) against any property held in trust for the purposes of the conference, to the like extent and in the like manner as if the conference were a body corporate; and
 - (b) against any member of the conference, subject to section 5(5).
- (4) Subsection (3) applies in each part of the United Kingdom to judgments given by a court of that part or which are enforceable or entitled to recognition in that part.

7 Restrictions on legal proceedings.

- (1) Legal proceedings arising out of a dispute relating to the application or operation of the Code may be brought in the United Kingdom only in the High Court or the Court of Session; and in this section “the court” means either of those courts.
- (2) Proceedings arising out of a dispute to which Article 23, paragraph 2 applies (disputes to be resolved within the framework of the national jurisdiction concerned) shall not be entertained by the court except as permitted by that paragraph.
- (3) The court shall stay proceedings before it if on the application of a party to the proceedings, made after appearance but before delivering any pleadings or taking any other steps in the proceedings, it is shown that the proceedings arise out of a dispute to which Article 23, paragraph 4 applies and that—
- (a) the dispute has not been referred to conciliation in accordance with that paragraph or has been so referred and conciliation proceedings are still in progress; or
 - (b) the parties to the dispute have made an agreement to which Article 25, paragraph 1 applies (agreed procedures in lieu of conciliation) which is capable of being, or has been, performed.
- (4) The court may attach to a stay granted under subsection (3) such conditions as appear to it appropriate, in particular conditions with respect to the institution or prosecution of conciliation or other proceedings; and the court may remove a stay granted under that subsection if any such condition is not complied with or if at any time it appears to the court that the circumstances are such that a new application for the stay would not be granted.
- (5) In relation to an arbitration agreement to which Article 25, paragraph 1 applies, subsections (3) and (4) apply in place of [F3section 9 of the Arbitration Act 1996 (which also provides for the staying of legal proceedings).]
- (6) In the application of this section to Scotland, for the references to staying proceedings substitute references to sisting proceedings.

Textual Amendments

F3 Words in s. 7(5) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 38** (with s. 81(2)); S.I. 1996/3146, **art. 3** (with **art. 4 Sch. 2**)

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8 Time for bringing legal proceedings.

- (1) No legal proceedings arising out of a dispute relating to the application or operation of the Code shall be brought in the United Kingdom after the end of the period of two years from the date on which the cause of action accrued or, if later, the end of the period of six months from the date on which conciliation proceedings relating to the dispute were completed or abandoned.
- (2) In England and Wales the following provisions of the ^{M3}Limitation Act 1980 apply to the limitation period prescribed by subsection (1) as they apply to the limitation periods prescribed by that Act—
 - (a) section 28(1) (extension of period in case of legal disability), but with the substitution of “two years” for “six years”;
 - (b) section 32(1) (postponement of period in case of fraud, concealment or mistake);
 - (c) section 35 (application to new claims in pending actions).
- (3) In Scotland section 6(4) of the ^{M4}Prescription and Limitation (Scotland) Act 1973 (extension of prescriptive period in case of fraud, error or legal disability) applies to the limitation period prescribed by subsection (1) as it applies to the prescriptive period mentioned in section 6(1) of that Act.
- (4) In Northern Ireland the following provisions of [^{F4}the Limitation (Northern Ireland) Order 1989] apply to the limitation period prescribed by subsection (1) as they apply to the limitation periods prescribed by that Act—
 - (a) [^{F5}Article 73] (application to new claims in pending actions);
 - (b) [^{F6}Article 48(1)] (extension of period in case of legal disability), but with the substitution of “two years” for “six years”;
 - (c) section 70(1) (postponement of period in case of fraud, concealment or mistake).

Textual Amendments

- F4** Words substituted by [S.I. 1989/1339 \(N.I. 11\)](#), art. 76(1)(2), Sch. 2 paras. 1, 6, 7, [Sch. 3 para. 14](#)
- F5** Words substituted by [S.I. 1989/1339 \(N.I. 11\)](#), art. 76(1)(2), Sch. 2 paras. 1, 6, 7, [Sch. 3 para. 15](#)
- F6** Words substituted by [S.I. 1989/1339 \(N.I. 11\)](#), art. 76(1)(2), Sch. 2 paras. 1, 6, 7, [Sch. 3 para. 16](#)

Marginal Citations

- M3** [1980 c. 58.](#)
- M4** [1973 c. 52.](#)

9 Recognition and enforcement of recommendations, etc. of conciliators.

- (1) Where a recommendation of conciliators has become binding as between two or more parties in accordance with Article 37, then, subject to subsection (2)—
 - (a) it shall be recognised in the United Kingdom as conclusive as between those parties of the dispute to which it relates; and
 - (b) any of those parties may apply to have the recommendation registered for enforcement in the High Court or the Court of Session.
- (2) A recommendation shall not be so recognised or enforced if it is affected by any of the matters mentioned in sub-paragraphs (a) to (d) of Article 39, paragraph 2

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(disability, fraud, coercion, public policy or irregularity of composition or procedure of the conciliators), unless the affected part can be severed as mentioned in Article 39, paragraph 3 and the remainder of the recommendation recognised and enforced.

- (3) Where the costs to be borne by a party to conciliation proceedings in accordance with Article 43, paragraph 1 (costs of the conciliation and its administration) have been determined, the person to whom those costs are to be paid may apply to have the determination registered for enforcement in the High Court or the Court of Session.
- (4) A party in whose favour an award of costs has been made by conciliators under Article 43, paragraph 3 (vexatious or frivolous proceedings) may apply to have the award registered for enforcement in the High Court or the Court of Session.
- (5) Provision may be made by rules of court as to—
 - (a) the manner in which application is to be made for registration of a recommendation, determination or award under this section;
 - (b) the documents to be produced and the matters to be proved by a person seeking recognition of a recommendation or enforcement of a recommendation, determination or award;
 - (c) the manner in which a recommendation, determination or award is to be registered under this section;
 - (d) the manner in which and the conditions subject to which a recommendation , determination or award so registered may be enforced.
- (6) Subject to any provision made under subsection (5)(d), a recommendation, determination or award registered under this section shall, for the purposes of its enforcement, be of the same force and effect, the registering court shall have the same powers in relation to its enforcement, and proceedings for or with respect to its enforcement may be taken, as if the recommendation, determination or award had been a judgment or decree originally given in the registering court and had (where relevant) been entered.
- (7) Where a recommendation, determination or award is registered under this section, the reasonable costs or expenses of, and incidental to, its registration are recoverable as if they were sums recoverable under it, except that they carry interest as if they were the subject of an order for the payment of costs or expenses made by the registering court on the date of registration.

Other supplementary provisions

10 Secretary of State to be appropriate authority in the U.K.

- (1) The appropriate authority in the United Kingdom for the purposes of the Code is the Secretary of State.
- (2) Information obtained by the Secretary of State as appropriate authority for the purposes of the Code shall not, without the consent of the person from whom it was obtained, be disclosed except—
 - (a) for the purpose of the discharge by the Secretary of State of his functions in connection with the Code; or
 - (b) for the purpose of any proceedings arising out of the Code; or
 - (c) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings, whether under this Act or otherwise; or

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(d) to a Community institution in pursuance of a Community obligation;
and a person who discloses any information in contravention of this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F7}level 5 on the standard scale].

- (3) Proceedings in England and Wales for an offence under subsection (2) shall not be brought except by or with the consent of the Director of Public Prosecutions; and proceedings in Northern Ireland for such an offence shall not be brought except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

Textual Amendments

F7 Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#); (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) and (N.I.) [S.I. 1984/703 \(N.I. 3\)](#), [art. 5](#)

Modifications etc. (not altering text)

C1 S. 10(2): disclosure powers extended (14.12.2001) by [2001 c. 17, s. 17](#), [Sch. 4 Pt. I para. 20](#)

11 Exclusion of restrictive practices law.

- (1) No account shall be taken of any restriction to which this section applies for the purposes of the ^{M5}Restrictive Trade Practices Act 1976, and no agreement shall so far as it relates to any such restriction be unenforceable by virtue of any rule of law about unreasonable restraint of trade.
- (2) This section applies to restrictions of any of the following descriptions which relate to the trade between states which are Contracting Parties to the Code and are accepted within the framework of a conference, that is to say—
 - (a) restrictions in respect of the provision of international liner services accepted by the operators of such services under an agreement to which two or more such operators are parties;
 - (b) restrictions in respect of international liner services accepted by operators of such services or persons for whom such services are provided under an agreement to which one or more such operators and one or more such persons are parties;
 - (c) restrictions in respect of the supply or acquisition of any service in connection with the operation of international liner services accepted by operators of such services or persons in the business of supplying such a service under an agreement to which one or more such operators and one such supplier are parties.
- (3) Where a restriction relates only in part to the matters mentioned in subsection (2), this section applies to the restriction so far as it relates to those matters.
- (4) For the purposes of paragraph (a), (b) or (c) of subsection (2) it is immaterial that there are other parties to an agreement in addition to those mentioned in that paragraph, except that paragraph (c) does not apply where the parties to an agreement include more than one such supplier as is mentioned in that paragraph.
- (5) If provision with respect to any such service as is mentioned in subsection (2) is made by order under section 11 or 12 of the ^{M6}Restrictive Trade Practices Act 1976 (under which provision may be made as respects the application of the Act to restrictive

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agreements or information agreements as to services), provision may also be made by order under that section for such consequential modifications of this section as appear to the Secretary of State to be appropriate.

- (6) Without prejudice to subsection (5), this section shall, so far as it relates to the Restrictive Trades Practices Act 1976, be construed as one with that Act.

Marginal Citations

M5 1976 c. 34.

M6 1976 c. 34.

12 Modifications consequent on revision of Code, etc.

- (1) Her Majesty may by Order in Council make such provision as she considers appropriate for the purpose of giving effect in the United Kingdom to—
- (a) any revision of the Code which has been agreed to by Her Majesty's Government in the United Kingdom or is to be treated as agreed to by virtue of Article 51 (amendments circulated without objection);
 - (b) any further international agreement which has been agreed to by Her Majesty's Government in the United Kingdom relating to any of the matters dealt with in the Code;
 - (c) any revision of any such further agreement which has been agreed to by Her Majesty's Government in the United Kingdom or is to be treated as agreed to by virtue of any provision similar in effect to Article 51.
- (2) Without prejudice to the generality of subsection (1), an Order under that subsection may in particular include provision—
- (a) for making such modifications of any provision of this Act or any other statutory provision, whenever passed or made, as appear to Her Majesty to be appropriate;
 - (b) for creating criminal offences punishable on summary conviction with a fine not exceeding [^{F8}level 5 on the standard scale].
- (3) In this section “revision”, in relation to the Code or any other international agreement, means an omission from, addition to or alteration of the agreement, and includes the replacement of the agreement to any extent by another agreement.

Textual Amendments

F8 Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#); (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#) and (N.I.) [S.I. 1984/703 \(N.I. 3\)](#), [art. 5](#)

13 Regulations and orders: consultation and Parliamentary control.

- (1) Where the Secretary of State proposes to make any regulations under section 2(1), he shall consult such persons in the United Kingdom as he considers will be affected by the proposed regulations.
- (2) The following shall be subject to affirmative resolution—

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- (a) regulations under section 2(1) made before the expiry of the period of three months beginning with the date on which this Act comes into force;
 - (b) any Order in Council under section 12.
- (3) The following shall be subject to negative resolution—
- (a) regulations under section 2(1) made after the expiry of the period mentioned in subsection (2)(a);
 - (b) any regulations under section 4.
- (4) In subsection (2) “subject to affirmative resolution” means that the instrument in question shall not be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament; and in subsection (3) “subject to negative resolution” means that the instrument in question shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*General***14 Interpretation.**

(1) In this Act—

“Article” means Article of the Code;

“the Code” has the meaning given by section 1(1);

“conciliation” means international mandatory conciliation under Chapter VI of the Code, and references to the institution or completion of conciliation proceedings shall be construed in accordance with subsection (2);

“conference” has the meaning given by Chapter I of the Code;

“judgment”, in relation to proceedings arising out of the Code, means any judgment, decree, order, award, recommendation or determination of any description given or made in such proceedings, and references to the giving of a judgment shall be construed accordingly;

“mandatory provision”, in relation to the Code, means a provision identified as such by regulations as mentioned in section 2(2)(b);

“modifications” includes additions, omissions and alterations;

“proceedings arising out of the Code” means legal proceedings, conciliation proceedings, arbitration proceedings or any other proceedings for the determination or resolution of a dispute arising out of the Code;

“statutory provision” means any provision contained in an Act, in Northern Ireland legislation, in subordinate legislation (as defined in section 21(1) of the ^{M7} Interpretation Act 1978) or in any instrument of a legislative character made under Northern Ireland legislation;

“trade” has the same meaning as in the Code.

- (2) For the purposes of this Act conciliation proceedings relating to a dispute are instituted when a party to the dispute requests that it be referred to conciliation and are completed when the conciliators notify the parties of their recommendations.

Marginal Citations**M7** 1978 c. 30.

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15 Short title, commencement and extent.

- (1) This Act may be cited as the Merchant Shipping (Liner Conferences) Act 1982.
- (2) This Act comes into force on such day as the Secretary of State may appoint by order made by statutory instrument.
- (3) This Act extends to Northern Ireland.
- (4) Her Majesty may by Order in Council provide that any provisions of this Act, or of any instrument made under this Act, shall extend, with such modifications as are specified in the Order, to any of the following countries, namely the Isle of Man, any of the Channel Islands and any colony.
- (5) An Order in Council under subsection (4) relating to any of the countries mentioned in that subsection may direct that any provision of this Act, or of any instrument made under this Act, shall have effect, with such modifications as may be specified in the Order, as if references to the United Kingdom included references to that country.

Modifications etc. (not altering text)

C2 Power of appointment conferred by s. 15(2) fully exercised: 14.3.1985 appointed by [S.I. 1985/182](#)

Status:

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