



Carriage by Air Act 1961

1961 CHAPTER 27 9 and 10 Eliz 2

[^{F1}1 Convention to have the force of law

- (1) The applicable provisions of the Carriage by Air Conventions have the force of law in the United Kingdom in relation to any carriage by air to which they apply, irrespective of the nationality of the aircraft performing that carriage.
- (2) Subsection (1) does not apply in relation to [^{F2}UK air carriers] to the extent that the provisions of the Council Regulation have the force of law in the United Kingdom.
- (3) Subsection (1) is subject to the other provisions of this Act.
- (4) If more than one of the Carriage by Air Conventions applies to a carriage by air, the applicable provisions that have the force of law in the United Kingdom are those of whichever is the most recent applicable Convention in force.
- (5) The Carriage by Air Conventions are—
 - (a) the Convention known as “the Warsaw Convention as amended at The Hague, 1955” (“the Convention”);
 - (b) that Convention as further amended by Protocol No. 4 of Montreal, 1975 (“the Convention as amended”); and
 - (c) the Convention known as “the Montreal Convention 1999” (“the Montreal Convention”).
- (6) “The applicable provisions” means—
 - (a) the provisions of the Convention set out in Schedule 1,
 - (b) the provisions of the Convention as amended set out in Schedule 1A, and
 - (c) the provisions of the Montreal Convention set out in Schedule 1B,so far as they relate to the rights and liabilities of carriers, carriers’ servants and agents, passengers, consignors, consignees and other persons.
- (7) In this Act a reference to an Article of, or Protocol to, any of the Carriage by Air Conventions is a reference to that Article or Protocol as it appears in the Schedule in which it is set out.

Changes to legislation: Carriage by Air Act 1961 is up to date with all changes known to be in force on or before 25 April 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (8) If there is any inconsistency between the text in English in Part I of Schedule 1 or 1A and the text in French in Part II of that Schedule, the French text shall prevail.]

Textual Amendments

- F1** S. 1 substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(2)** (with art. 1(3))
- F2** Words in s. 1(2) substituted (31.12.2020) by The Air Passenger Rights and Air Travel Organisers Licensing (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/278), regs. 1(3), **2(2)**; 2020 c. 1, Sch. 5 para. 1(1)

2 Designation of High Contracting Parties.

- (1) Her Majesty may by Order in Council from time to time certify who are [^{F3} either generally or in respect of specified matters,] the High Contracting Parties to [^{F4} any of the Carriage by Air Conventions], in respect of what territories they are respectively parties and to what extent they have availed themselves of the provisions of
- [^{F5} the Additional Protocol at the end of the Convention;
 - the Additional Protocol at the end of the Convention as amended; or
 - Article 57(a) of the Montreal Convention.]

[^{F6}(1A) Her Majesty may by Order in Council certify any revision of the limits of liability established under the Montreal Convention.]

[^{F7}(2) The provisions of the Carriage by Air Conventions mentioned in subsection (2A) shall not be read as extending references in the applicable provisions to the territory of a High Contracting Party (except such as are references to the territory of any State, whether a High Contracting Party or not) to include any territory in respect of which that High Contracting Party is not a party.

(2A) The provisions are—

- Article 40A(2) of the Convention;
- Article 40A(2) of the Convention as amended; and
- paragraph 1 of Article 56 of the Montreal Convention.]

(3) 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.

(4) An Order in Council under this section may contain such transitional and other consequential provisions as appear to Her Majesty to be expedient.

Textual Amendments

- F3** Words inserted (*prosp.*) with saving by Carriage by Air and Road Act 1979 (c. 28, SIF 9), ss. 1(2)(3), 7(2), **Sch. 2 para. 2**
- F4** Words in S. 2(1) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(3)(a)** (with art. 1(3))
- F5** Words in s. 2(1) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(3)(b)** (with art. 1(3))
- F6** S. 2(1A) inserted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(4)** (with art. 1(3))

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- F7** S. 2(2)(2A) substituted for s. 2(2) (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(5) (with art. 1(3))

Modifications etc. (not altering text)

- C1** S. 2 applied (with modifications) (6.8.2004) by The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899), arts. 1(2), 5(1)(2), Sch. 2 (with arts. 1(3), 3)
- C2** S. 2 applied (with modifications) (6.8.2004) by The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899), arts. 1(2), 6(1)(2), Sch. 3 (with arts. 1(3), 3)

3 Fatal accidents.

References in section one of the ^{M1}Fatal Accidents Act, 1846, as it applies in England and Wales, and [^{F8}in Article 3(1) of the Fatal Accidents (Northern Ireland) Order 1977] to a wrongful act, neglect or default shall include references to any occurrence which gives rise to a liability under [^{F9}—

- (a) Article 17 of the Convention;
- (b) Article 17 of the Convention as amended; or
- (c) Article 17.1 of the Montreal Convention.]

Textual Amendments

- F8** Words substituted by S.I. 1977/1251, Sch. 1.
- F9** Words in s. 3 substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, art. 2(6) (with art. 1(3))

Modifications etc. (not altering text)

- C3** S. 3 amended with saving by Fatal Accidents Act 1976 (c. 30), s. 7(2), Sch. 1 para. 2(2)
- C4** S. 3 applied (with modifications) (6.8.2004) by The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899), arts. 1(2), 7(2), Sch. 2, Sch. 3 (with arts. 1(3), 3)
- C5** S. 3 applied (with modifications) (6.8.2004) by The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899), arts. 1(2), 7(1), Sch. 1 (with arts. 1(3), 3)

Marginal Citations

- M1** 1846 c. 93.

4 Limitation of liability.

[^{F10}(1) It is hereby declared that the limitations on liability in the applicable provisions mentioned in subsection (1A) apply whatever the nature of the proceedings by which liability may be enforced.

(1A) The provisions are—

- (a) Article 22 of the Convention;
- (b) Article 22 of the Convention as amended; and
- (c) Articles 21 and 22 of the Montreal Convention.

(1B) The limitation for each passenger in—

- (a) paragraph (1) of Article 22 of the Convention or of the Convention as amended, and
- (b) Article 21 and paragraph (1) of Article 22 of the Montreal Convention,

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applies to the aggregate liability of the carrier in all proceedings which may be brought against him under the law of any part of the United Kingdom, together with any proceedings brought against him outside the United Kingdom.]

- (2) A court before which proceedings are brought to enforce a liability which is limited by [^{F11}a provision mentioned in subsection (3A)] [^{F12}or Article 22A] may at any stage of the proceedings make any such order as appears to the court to be just and equitable in view of [^{F13}that provision], 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.
- (3) Without prejudice to the last foregoing subsection, a court before which proceedings are brought to enforce a liability which is limited by [^{F14}a provision mentioned in subsection (3A)] [^{F12}or Article 22A] 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.

[^{F15}(3A) The provisions are—

- (a) Article 22 of the Convention;
- (b) Article 22 of the Convention as amended; and
- (c) Articles 21, 22 and 44 of the Montreal Convention.]

[^{F16}(4) The Minister of Aviation may from time to time by order made by statutory instrument specify the respective amounts which for the purposes of the said Article 22, and in particular of paragraph (5) of that Article, are to be taken as equivalent to the sums expressed in francs which are mentioned in that Article.]

- (5) References in this section to the said Article 22 [^{F17}of the Convention or of the Convention as amended] [^{F18}and Article 22A] include, subject to any necessary modifications, references to that Article as applied by Article 25A [^{F19}of the Convention].

Textual Amendments

- F10** S. 4(1) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(7)** (with art. 1(3))
- F11** Words in s. 4(2) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(8)(a)** (with art. 1(3))
- F12** Words inserted (*prosp.*) with saving by Carriage by Air and Road Act 1979 (c.28, SIF 9), s. 1(2)(3), 7(2), **Sch. 2 para. 4(a)**
- F13** Words in s. 4(2) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(8)(b)** (with art. 1(3))
- F14** Words in s. 4(3) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(9)** (with art. 1(3))
- F15** S. 4(3A) inserted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(10)** (with art. 1(3))
- F16** S. 4(4) repealed (*prosp.*) with saving by Carriage by Air and Road Act 1979 (c. 28, SIF 9), **s. 1(2)(3), 6(4)(a), 7(2), Sch. 2 para. 4(c)**
- F17** Words in s. 4(5) inserted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(11)(a)**

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- F18** Words inserted (*prosp.*) with saving by Carriage by Air and Road Act 1979 (c. 28, SIF 9), s. 1(2)(3), 7(2), **Sch. 2 para. 4(a)**
- F19** Words in s. 4(5) inserted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(11)(b)**

Modifications etc. (not altering text)

- C6** S. 4 applied (with modifications) (6.8.2004) by The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899), arts. 1(2), 7(2), Sch. 2, **Sch. 3** (with arts. 1(3), 3)
- C7** S. 4 applied (with modifications) (6.8.2004) by The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899), arts. 1(2), 7(1), **Sch. 1** (with arts. 1(3), 3)
- C8** S. 4(2)(3) amended by Carriage by Air (Supplementary Provisions) Act (c. 43), s. 3(1)
- C9** Functions of Minister of Aviation under this Act now exercisable by Secretary of State concurrently with Board of Trade: S.I. 1966/741 and 1970/1537

[^{F20}4A Notice of partial loss.

- (1) [^{F21}References to damage in the provisions mentioned in subsection (2)] shall be construed as including loss of part of the baggage or cargo in question and the reference to the receipt of baggage or cargo shall, in relation to loss of part of it, be construed as receipt of the remainder of it.

[The provisions are—

- ^{F22}(2) (a) Article 26(2) of the Convention;
(b) Article 26(2) of the Convention as amended; and
(c) Article 31(2) of the Montreal Convention.]

Textual Amendments

- F20** S. 4A inserted (with saving) by Carriage by Air and Road Act 1979 (c. 28, SIF 9), s. 2(1)(2)
- F21** Words in s. 4A(1) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(12)** (with art. 1(3))
- F22** S. 4A(2) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(13)** (with art. 1(3))

Modifications etc. (not altering text)

- C10** S. 4A applied (with modifications) (6.8.2004) by The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899), arts. 1(2), 7(2), Sch. 2, **Sch. 3** (with arts. 1(3), 3)
- C11** S. 4A applied (with modifications) (6.8.2004) by The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899), arts. 1(2), 7(1), **Sch. 1** (with arts. 1(3), 3)

5 Time for bringing proceedings. E+W+N.I.

- (1) No action against a carrier's servant or agent which arises out of damage to which [^{F23}any of the Carriage by Air Conventions applies] shall, if he was acting within the scope of his employment, be brought after more than two years, reckoned from the date of arrival at the destination or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.
- (2) [^{F24}The provisions mentioned in subsection (4)] not be read as applying to any proceedings for contribution between, [^{F25}persons liable for any damage to which [^{F26}any of the Carriage by Air Conventions] relates][^{F27}but no action shall be brought

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by a tortfeasor to obtain a contribution from a carrier in respect of a tort to which the said Article 29 applies after the expiration of two years from the time when judgment is obtained against the person seeking to obtain the contribution.]

- (3) [^{F28}Subsections (1) and (2) and the provisions mentioned in subsection (4)] have effect as if references in those provisions to an action included references to [^{F29}arbitral proceedings]; [^{F30}and the provisions of section 14 of the Arbitration Act 1996 apply to determine when such proceedings are commenced].

[^{F31}(4) The provisions are—

- (a) Article 29 of the Convention;
- (b) Article 29 of the Convention as amended; and
- (c) Article 35 of the Montreal Convention.

- (5) If the Montreal Convention applies, “carrier” in this section includes an actual carrier as defined by Article 39 of that Convention.]

Extent Information

- E1** This version of this provision extends to England, Wales and Northern Ireland only; a separate version has been created for Scotland only

Textual Amendments

- F23** Words in s. 5(1) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(14)** (with **art. 1(3)**)
- F24** Words in s. 5(2) substituted (coming into force in accordance with art. 1(2)) by virtue of S.I. 2002/263, **art. 2(15)(a)** (with **art. 1(3)**)
- F25** Words substituted (E. W. N. I.) by **Civil Liability (Contribution) Act 1978 (c. 47, SIF 122:3)**, s. 9, **Sch. 1 para. 5(2)** (subject to savings in s. 5 in relation to Her Majesty and the Duchy of Cornwall and in s. 7 in relation to debts due or damage occurring before the commencement of the Act)
- F26** Words in s. 5(2) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(15)(b)** (with **art. 1(3)**)
- F27** Words repealed (E.W.) with saving by **Limitation Act 1963 (c. 47)**, **ss. 4(4)(5)**, 10(5) and repealed and superseded (N.I.) by **Limitation Act (Northern Ireland) 1946 (c. 1)**, s. 4(4)(b)
- F28** Words in s. 5(3) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(16)** (with **art. 1(3)**)
- F29** Words in s. 5(3) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 13(2)(a)**; S.I. 1996/3146, **art. 3**
- F30** Words in s. 5(3) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 13(2)(b)**; S.I. 1996/3146, **art. 3**
- F31** S. 5(4)(5) inserted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(17)** (with **art. 1(3)**)

Modifications etc. (not altering text)

- C12** S. 5 amended by **Carriage by Air (Supplementary Provisions) Act 1962 (c. 43, SIF 9)**, s. 3(2)
- C13** S. 5 applied (with modifications) (6.8.2004) by **The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899)**, arts. 1(2), 5(1)(3), **Sch. 2** (with arts. 1(3), 3)
- C14** S. 5 applied (with modifications) (6.8.2004) by **The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899)**, arts. 1(2), 6(1)(3), **Sch. 3** (with arts. 1(3), 3)

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5 Time for bringing proceedings. **S**

- (1) No action against a carrier's servant or agent which arises out of damage to which [^{F51}any of the Carriage by Air Conventions applies] shall, if he was acting within the scope of his employment, be brought after more than two years, reckoned from the date of arrival at the destination or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.
- (2) [^{F52}The provisions mentioned in subsection (4)] not be read as applying to any proceedings for contribution between tortfeasors, ^{F53} . . .
- (3) [^{F54}Subsections (1) and (2) and the provisions mentioned in subsection (4)] have effect as if references in those provisions to an action included references to [^{F55}arbitral proceedings]; [^{F56}and the provisions of section 14 of the Arbitration Act 1996 apply to determine when such proceedings are commenced.].
- [^{F57}(4) The provisions are—
- (a) Article 29 of the Convention;
 - (b) Article 29 of the Convention as amended; and
 - (c) Article 35 of the Montreal Convention.
- (5) If the Montreal Convention applies, "carrier" in this section includes an actual carrier as defined by Article 39 of that Convention.]

Extent Information

- E2** This version of this provision extends to Scotland only; a separate version has been created for England, Wales and Northern Ireland only

Textual Amendments

- F51** Words in s. 5(1) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(14)** (with art. 1(3))
- F52** Words in s. 5(2) substituted (coming into force in accordance with art. 1(2)) by virtue of S.I. 2002/263, **art. 2(15)(a)** (with art. 1(3))
- F53** Words repealed (S.) with saving by **Limitation Act 1963 (c. 47), ss. 4(4)(5), 10(5)** and repealed and superseded (N.I.) by **Limitation Act (Northern Ireland) 1946 (c. 1), s. 4(4)(b)**
- F54** Words in s. 5(3) substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(16)** (with art. 1(3))
- F55** Words in s. 5(3) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 13(2)(a)**; S.I. 1996/3146, **art. 3**
- F56** Words in s. 5(3) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 13(2)(b)**; S.I. 1996/3146, **art. 3**
- F57** S. 5(4)(5) inserted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(17)** (with art. 1(3))

Modifications etc. (not altering text)

- C13** S. 5 applied (with modifications) (6.8.2004) by **The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899), arts. 1(2), 5(1)(3), Sch. 2** (with arts. 1(3), 3)
- C14** S. 5 applied (with modifications) (6.8.2004) by **The Carriage by Air Acts (Application of Provisions) Order 2004 (S.I. 2004/1899), arts. 1(2), 6(1)(3), Sch. 3** (with arts. 1(3), 3)
- C28** S. 5 amended by **Carriage by Air (Supplementary Provisions) Act 1962 (c. 43, SIF 9), s. 3(2)**

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6 Contributory negligence.

^{F32}(1) It is hereby declared that for the purposes of [^{F33}the provisions mentioned in subsection (2)] the ^{M2}Law Reform (Contributory Negligence) Act 1945 (including that Act as applied to Scotland), and section two of the ^{M3}Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948, are provisions of the law of the United Kingdom under which a court may exonerate the carrier wholly or partly from his liability.

[^{F34}(2) The provisions are—

- (a) Article 21 of the Convention;
- (b) Article 21 of the Convention as amended; and
- (c) Article 20 of the Montreal Convention.]

Textual Amendments

- F32** S. 6: the existing provision becomes subsection (1) (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(18)(a)** (with art. 1(3))
- F33** Words in s. 6 substituted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(18)(b)** (with art. 1(3))
- F34** S. 6(2) inserted (coming into force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(19)** (with art. 1(3))

Modifications etc. (not altering text)

- C15** S. 6 applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 7(2), Sch. 2, **Sch. 3** (with arts. 1(3), 3)
- C16** S. 6 applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 7(1), **Sch. 1** (with arts. 1(3), 3)

Marginal Citations

- M2** 1945 c. 28.
- M3** 1948 c. 23 (N.I.)

7 Power to exclude aircraft in use for military purposes.

- (1) Her Majesty may from time to time by Order in Council direct that this section shall apply, or shall cease to apply, to the United Kingdom or any other State specified in the Order.
- (2) The [^{F35}the applicable provisions] to this Act shall not apply to the carriage of persons, cargo and baggage for the military authorities of a State to which this section applies in aircraft registered in that State if the whole capacity of the aircraft has been reserved by or on behalf of those authorities.

Textual Amendments

- F35** Words in s. 7 substituted (coming in force in accordance with art. 1(2)) by S.I. 2002/263, **art. 2(20)** (with art. 1(3))

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[^{F36}8 **Actions against parties to Conventions.**

- (1) Each party to a Carriage by Air Convention, for the purposes of any action brought in a court in the United Kingdom in accordance with a provision mentioned in subsection (5) to enforce a claim in respect of carriage undertaken by him, is deemed to have submitted to the jurisdiction of that court.
- (2) Accordingly, rules of court may provide for the manner in which any such action is to be commenced and carried on.
- (3) But nothing in this section shall authorise the issue of execution against the property of any party to a Carriage by Air Convention.
- (4) Subsections (1) and (2) do not apply to a party to a Carriage by Air Convention who has availed himself, in relation to a provision mentioned in subsection (5), of—
 - (a) the Additional Protocol at the end of the Convention,
 - (b) the Additional Protocol at the end of the Convention as amended; or
 - (c) Article 57(a) of the Montreal Convention.
- (5) The provisions are—
 - (a) Article 28 of the Convention;
 - (b) Article 28 of the Convention as amended;
 - (c) Articles 33 and 46 of the Montreal Convention.
- (6) “Party” means—
 - (a) in relation to the Convention and the Convention as amended, a High Contracting Party; and
 - (b) in relation to the Montreal Convention, a State Party.]

Textual Amendments

F36 S. 8 substituted (coming into force in accordance with art. 1(2)) by [S.I. 2002/263](#), **art. 2(21)** (with [art. 1\(3\)](#))

Modifications etc. (not altering text)

C17 S. 8 applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 6(1)(4), **Sch. 3** (with arts. 1(3), 3)

C18 S. 8 applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 5(1)(4), **Sch. 2** (with arts. 1(3), 3)

[^{F37}8A **Amendments consequential on revision of Convention.**

- (1) If at any time it appears to Her Majesty in Council that Her Majesty’s Government in the United Kingdom have agreed to a revision of the Convention, Her Majesty may by Order in Council [^{F38}make such amendments of this Act, the Carriage by Air (Supplementary Provisions) Act 1962 and section 5(1) of the Carriage by Air and Road Act 1979] as Her Majesty considers 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.

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- (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

- F37** S. 8A inserted (22.10.1998) by Carriage by Air and Road Act 1979 (c. 28, SIF 9), s. 3(1); S.I. 1998/2562, art. 2
- F38** Words substituted by International Transport Conventions Act 1983 (c. 14, SIF 102), s. 9, Sch. 2 para. 1

Modifications etc. (not altering text)

- C19** S. 8A amended (12.10.2000) by Carriage by Air and Road Act 1979 (c. 28, SIF 9), s. 6(1)(a); S.I. 2000/2768, art. 2

9 Application to British possessions, etc.

- (1) 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 or protectorate, protected state or United Kingdom trust territory.

The references in this subsection to a protectorate, to a protected state and to a United Kingdom trust territory shall be construed as if they were references contained in the ^{M4}British Nationality Act 1948.

- (2) An Order in Council under this section may contain such transitional and other consequential provisions as appear to Her Majesty to be expedient, and may be varied or revoked by a subsequent Order in Council.

Modifications etc. (not altering text)

- C20** S. 9 extended by Carriage by Air (Supplementary Provisions) Act 1962 (c. 43), s. 5(1)
- C21** Ss. 9, 10 amended (12.10.2000) by Carriage by Air and Road Act 1979(c. 28, SIF 9), s. 6(1)(a); S.I. 2000/2768, art. 2

Marginal Citations

- M4** 1948 c. 56.

10 Application to carriage by air not governed by Convention.

- (1) Her Majesty may by Order in Council apply [^{F39}the applicable provisions of any of the Carriage by Air Conventions], together with any other provisions of this Act, to carriage by air, not being carriage by air to which the [^{F40}Convention in question]applies, of such descriptions as may be specified in the Order, subject to such exceptions, adaptations and modifications, if any, as may be so specified.

- (2) An Order in Council under this section may be made to apply to any of the countries or places mentioned in paragraphs (a), (b) and (c) of subsection (1) of the last foregoing section.

Changes to legislation: Carriage by Air Act 1961 is up to date with all changes known to be in force on or before 25 April 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) An Order in Council under this section may contain such transitional and other consequential provisions as appear to Her Majesty to be expedient, and may confer any functions under the Order on a Minister of the Crown in the United Kingdom or on any Governor or other authority in any of the countries or places mentioned in paragraphs (a), (b) and (c) of subsection (1) of the last foregoing section, including a power to grant exemptions from any requirements imposed by such an Order.
- (4) An Order in Council under this section may be varied or revoked by a subsequent Order in Council.
- (5) 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:

Provided that this subsection shall not apply to an Order which applies only to the Isle of Man or all or any of the Channel Islands.

Textual Amendments

- F39** Words in s. 10 substituted (coming into force in accordance with art. 1(2)) by [S.I. 2002/263](#), [art. 2\(22\)\(a\)](#) (with [art. 1\(3\)](#))
- F40** By [S.I. 2002/263](#), [art. 2\(22\)\(b\)](#) (with [art. 1\(3\)](#)) it is provided that the words in s. 10, “Convention in question”, are substituted for the words “Convention or Convention as amended” (coming into force in accordance with art. 1(2))

Modifications etc. (not altering text)

- C22** [Ss. 9, 10](#) amended (12.10.2000) by Carriage by Air and Road Act 1979(c. 28, SIF 9), s. 6(1)(a); 2000/2768, art. 2
- C23** [S. 10](#) extended by Carriage by [Air \(Supplementary Provisions\) Act 1962 \(c. 43\)](#), [s. 5\(2\)](#)

11 Application to Scotland.

In the application of this Act to Scotland—

- (a) there shall be substituted—
 - (i) ^{F41}
 - (ii) for any reference to a tortfeasor, a reference to a person who has been or might be held liable for loss or damage arising from any such act or omission;
 - (iii)
 - (iv) for any reference to the issuing of execution, a reference to the execution of diligence;
 - (v) for any reference to an arbitrator, a reference to an arbiter; and
 - (vi) for any reference to a plaintiff, a reference to a pursuer;
- (b) for section three there shall be substituted the following section—

“3 Fatal accidents.

The reference in ^{F42}—

- (a) Article 17 of the Convention,
- (b) Article 17 of the Convention as amended, and
- (c) Article 17.1 of the Montreal Convention,]

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- to the liability of a carrier for damage sustained in the event of the death of a passenger shall be construed as including liability to such persons as are entitled, apart from this Act, to sue the carrier (whether for patrimonial damage or solatium or both) in respect of the death.”;
- (c) in section five, subsection (1) shall have effect notwithstanding anything in [^{F43}section 17 of the ^{M5}Prescription and Limitation (Scotland) Act 1973]; and in subsection (3), for the words from “and [^{F44}the provisions of section 14 of the Arbitration Act 1996]” to the end of the subsection there shall be substituted the words “and for the purpose of this subsection [^{F45}arbitral proceedings] 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

- F41** s. 11 (a)(i)(iii) repealed by [Limitation Act 1963 \(c. 47\)](#), **s. 10(5)**
- F42** Words in s. 11(b) substituted (coming into force in accordance with art. 1(2)) by [S.I. 2002/263](#), **art. 2(23)** (with [art. 1\(3\)](#))
- F43** Words substituted by [Prescription and Limitation \(Scotland\) Act 1973 \(c. 52\)](#), **Sch. 4 Pt. II**
- F44** Words in s. 11(c) substituted (31.1.1997) by [1996 c. 23](#), s. 107(1), **Sch. 3 para. 13(3)(a)**; [S.I. 1996/3146](#), **art. 3**
- F45** Words in s. 11(c) substituted (31.1.1997) by [1996 c. 23](#), s. 107(1), **Sch. 3 para. 13(3)(b)**; [S.I. 1996/3146](#), **art. 3**

Modifications etc. (not altering text)

- C24** S. 11 applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 7(1), **Sch. 1** (with arts. 1(3), 3)
- C25** S. 11 applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 7(2), **Sch. 2**, **Sch. 3** (with arts. 1(3), 3)

Marginal Citations

- M5** [1973 c. 52](#).

12 Application to Northern Ireland.

In the application of this Act to Northern Ireland any reference to an enactment of the Parliament of Northern Ireland, or to an enactment which that Parliament has power to amend, 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.

Modifications etc. (not altering text)

- C26** S. 12 applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 7(1), **Sch. 1** (with arts. 1(3), 3)

Changes to legislation: Carriage by Air Act 1961 is up to date with all changes known to be in force on or before 25 April 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

C27 S. 12 applied (with modifications) (6.8.2004) by [The Carriage by Air Acts \(Application of Provisions\) Order 2004 \(S.I. 2004/1899\)](#), arts. 1(2), 7(2), Sch. 2, **Sch. 3** (with arts. 1(3), 3)

13 Application to Crown.

This Act shall bind the Crown.

14 Short title, interpretation and repeals.

(1) This Act may be cited as the Carriage by Air Act 1961.

[^{F46}(2) in this Act—

“the applicable provisions” has the meaning, given in section 1(6);
“the Carriage by Air Conventions” has the meaning given in section 1(5);
“the Convention”, “the Convention as amended” and “the Montreal Convention” have the meaning given in section 1(5);

[^{F47}“the Council Regulation” means Council Regulation (EC) No. 2027/97 as amended by Regulation (EC) No. 889/2002 of the European Parliament and of the Council as it 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 as amended by the Decisions of the EEA Joint Committee No. 34/98 of 30th April 1998 and No. 142/2002 of 8th November 2002;]

^{F48}
...

“court” includes (in an arbitration allowed by the Convention) an arbitrator.]]^{F49};
and

“UK air carrier” has the meaning given by Article 2 of the Council Regulation]

^{F50}(3)

Textual Amendments

- F46** S. 14(2) substituted (coming in force in accordance with art. 1(2)) by [S.I. 2002/263](#), **art. 2(24)** (with [art. 1\(3\)](#))
- F47** Words in s. 14 substituted (28.6.2004) by [The Air Carrier Liability Regulations 2004 \(S.I. 2004/1418\)](#), regs. 1, **5**
- F48** Words in s. 14(2) omitted (31.12.2020) by virtue of [The Air Passenger Rights and Air Travel Organisers Licensing \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/278\)](#), regs. 1(3), **2(3)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F49** Words in s. 14(2) inserted (31.12.2020) by [The Air Passenger Rights and Air Travel Organisers Licensing \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/278\)](#), regs. 1(3), **2(3)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F50** S. 14(3) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 4**

Changes to legislation:

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[View outstanding changes](#)

Changes and effects yet to be applied to :

- s. 1(1) words inserted by [1979 c. 28 Sch. 2 para. 1](#)
- s. 2(1) words inserted by [1979 c. 28 Sch. 2 para. 2](#)
- s. 3 words substituted by [1979 c. 28 Sch. 2 para. 3](#)
- s. 4(1)(5) words inserted by [1979 c. 28 Sch. 2 para. 4\(a\)](#)
- s. 4(1)(b) words substituted by [1979 c. 28 Sch. 2 para. 4\(b\)](#)
- s. 4(2)(3) words inserted by [1979 c. 28 Sch. 2 para. 4\(a\)](#)
- s. 4(4) omitted by [1979 c. 28 Sch. 2 para. 4\(c\)](#)
- Sch. 1 amended by [1979 c. 28 s. 6\(2\)](#)