

## SCHEDULES

### [<sup>X1</sup>FIRST SCHEDULE

#### THE WARSAW CONVENTION WITH THE AMENDMENTS MADE IN IT BY THE HAGUE PROTOCOL

##### Editorial Information

- X1** [Schedule 1](#), containing the provisions of the Warsaw Convention as amended at the Hague in 1955 and by Protocols No. 3 and No. 4 signed at Montreal in 1975, substituted (*prosp.*) with saving for Schedule 1 as originally enacted, containing the provisions of the Warsaw Convention with the amendments made in it by the Hague Protocol, by Carriage by [Air and Road Act 1979](#) (c. 28, SIF 9), **ss. 1(1)(3), 6(2), 7(2)**

### PART I

#### THE ENGLISH TEXT

#### CONVENTION

FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR

### CHAPTER III

#### LIABILITY OF THE CARRIER

##### *Article 17*

The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

##### *Article 18*

- (1) The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered baggage or any cargo, if the occurrence which caused the damage so sustained took place during the carriage by air.
- (2) The carriage by air within the meaning of the preceding paragraph comprises the period during which the baggage or cargo is in charge of the carrier, whether in an aerodrome or on board an aircraft, or, in the case of a landing outside an aerodrome, in any place whatsoever.
- (3) The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an aerodrome. If, however, such a carriage takes place in

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the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

#### Article 19

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo.

#### Article 20

The carrier is not liable if he proves that he and his servants or agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

#### Article 21

If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

#### Article 22

- (1) In the carriage of persons the liability of the carrier for each passenger is limited to the sum of [<sup>F1</sup>16,600 special drawing rights]. Where, in accordance with the law of the court seised of the case, damages may be awarded in the form of periodical payments the equivalent capital value of the said payments shall not exceed [<sup>F2</sup>this limit]. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

##### Textual Amendments

- F1** Words substituted (1.12.1997) by Carriage by Air and Road Act 1979 (c. 28, SIF 9), ss. 4(1)(a)(i)(ii), 6(2); S.I. 1997/2565, art. 2, Sch.
- F2** Words substituted (1.12.1997) by Carriage by Air and Road Act 1979 (c. 28, SIF 9), ss. 4(1)(a)(i)(ii), 6(2); S.I. 1997/2565, art. 2, Sch.

##### Modifications etc. (not altering text)

- C1** Art. 22 of Pt. I (as originally enacted) amended (*prosp.*) by Carriage by Air and Road Act 1979 (c. 28, SIF 9), ss. 5, 6(2), 7(2)

- (2) (a) In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of [<sup>F3</sup>17 special drawing rights] per kilogramme, unless the passenger or consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the passenger's or consignor's actual interest in delivery at destination.
- (b) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a

part of the registered baggage or cargo, or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

#### Textual Amendments

**F3** Words substituted (1.12.1997) by Carriage by [Air and Road Act 1979 \(c. 28, SIF 9\)](#), **s. 4(1)(a)(i)(ii)**, 6(2); [S.I. 1997/2565](#), art. 2, **Sch.**

- (3) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to [<sup>F4</sup>332 special drawing rights] per passenger.

#### Textual Amendments

**F4** Words substituted (1.12.1997) by Carriage by [Air and Road Act 1979 \(c. 28, SIF 9\)](#), **ss. 4(1)(a)(i)(ii)**, 6(2); [S.I. 1997/2565](#), art. 2, **Sch.**

- (4) The limits prescribed in this Article shall not prevent the court from awarding, in accordance with its own law, in addition , the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.
- (<sup>F5</sup>5) The sums mentioned in terms of the special drawing right in this Article shall be deemed to refer to the special drawing right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the special drawing right at the date of the judgment.]

#### Textual Amendments

**F5** para. (5) of Art. 22 Pt. I (second version) substituted (1.12.1997) for para.(5) as originally enacted by Carriage by [Air and Road Act 1979 \(c. 28, SIF 9\)](#), **ss. 4(1)(a)(iii)**; [S.I. 1997/2565](#), art. 2, **Sch.**

### Article 23

- (1) Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.
- (2) Paragraph (1) of this Article shall not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried.

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#### *Article 24*

- (1) In the cases covered by Articles 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Convention.
- (2) In the cases covered by Article 17 the provisions of the preceding paragraph also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

#### *Article 25*

The limits of liability specified in Article 22 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that he was acting within the scope of his employment.

#### *Article 25A*

- (1) If an action is brought against a servant or agent of the carrier arising out of damage to which this Convention relates, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is entitled to invoke under Article 22.
- (2) The aggregate of the amounts recoverable from the carrier, his servants and agents, in that case, shall not exceed the said limits.
- (3) The provisions of paragraphs (1) and (2) of this Article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

#### *Article 26*

- (1) Receipt by the person entitled to delivery of baggage or cargo without complaint is *prima facie* evidence that the same has been delivered in good condition and in accordance with the document of carriage.
- (2) In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo have been placed at his disposal.
- (3) Every complaint must be made in writing upon the document of carriage or by separate notice in writing despatched within the times aforesaid.
- (4) Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

#### *Article 27*

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his estate.

*Article 28*

- (1) An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the court having jurisdiction at the place of destination.
- (2) Questions of procedure shall be governed by the law of the court seised of the case.

*Article 29*

- (1) The right to damages shall be extinguished if an action is not brought within 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) The method of calculating the period of limitation shall be determined by the law of the court seised of the case.

*Article 30*

- (1) In the case of carriage to be performed by various successive carriers and falling within the definition set out in the third paragraph of Article 1, each carrier who accepts passengers, baggage or cargo is subjected to the rules set out in this Convention, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.
- (2) In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.
- (3) As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.]

**Changes to legislation:**

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