Carriage by Air Act 1961

1961 CHAPTER 27 9 and 10 Eliz 2

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 **[**[F1]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) **[**[F2]The provisions mentioned in subsection (4)**]** not be read as applying to any proceedings for contribution between, **[**[F3]persons liable for any damage to which **[**[F4]any of the Carriage by Air Conventions**]**relates**][**[F5]but no action shall be brought 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) **[**[F6]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 **[**[F7]arbitral proceedings**]**; **[**[F8]and the provisions of section 14 of the Arbitration Act 1996 apply to determine when such proceedings are commenced.**]**.

[[F9](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

F1 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))

F2 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))

F3 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)

F4 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))

F5 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)**

F6 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))

F7 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**

F8 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**

F9 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)

C1 S. 5 amended by Carriage by Air (Supplementary Provisions) Act 1962 (c. 43, SIF 9), **s. 3(2)**

C2 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)

C3 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)

5 Time for bringing proceedings. S

(1) No action against a carrier's servant or agent which arises out of damage to which **[**[F10]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) **[**[F11]The provisions mentioned in subsection (4)**]** not be read as applying to any proceedings for contribution between tortfeasors, [F12]. . .

(3) **[**[F13]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 **[**[F14]arbitral proceedings**]**; **[**[F15]and the provisions of section 14 of the Arbitration Act 1996 apply to determine when such proceedings are commenced.**]**.

[[F16](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

F10 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))

F11 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))

F12 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)**

F13 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))

F14 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**

F15 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**

F16 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)

C2 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)

C3 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)

C4 S. 5 amended by Carriage by Air (Supplementary Provisions) Act 1962 (c. 43, SIF 9), **s. 3(2)**

Status:
There are multiple versions of this provision on screen. These apply to different geographical extents.
Skip to:
– E+W+N.I. - England, Wales and Northern Ireland extent
– S - Scotland extent

Changes to legislation:
There are currently no known outstanding effects for the Carriage by Air Act 1961, Section 5.