

1979 No. 931

CIVIL AVIATION

**The Carriage by Air Acts (Application of Provisions)
(Second Amendment) Order 1979***Laid before Parliament in draft**Made - - - - 26th July 1979**Coming into Operation 1st August 1979*

At the Court of Saint James, the 26th day of July 1979

Present,

The Counsellors of State In Council

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 16th day of July 1979, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And whereas a draft of this Order has been laid before Parliament and has been approved by a resolution of each House of Parliament in accordance with section 10(5) of the Carriage by Air Act 1961(a):

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and His Royal Highness The Prince Charles, Prince of Wales, being authorised thereto by the said Letters Patent, and in exercise of the powers conferred by section 10 of the Carriage by Air Act 1961 and of that section as applied by section 5(2) of the Carriage by Air (Supplementary Provisions) Act 1962(b), and of all other powers enabling Her Majesty in that behalf, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:—

Citation and Operation

1. This Order may be cited as the Carriage by Air Acts (Application of Provisions) (Second Amendment) Order 1979 and shall come into operation on 1st August 1979.

Amendment of Principal Order

2. The Carriage by Air Acts (Application of Provisions) Order 1967(c) shall be amended as follows:—

(a) 1961 c. 27.

(b) 1962 c. 43.

(c) S.I. 1967/480, amended by S.I. 1969/1083.

(1) In Part I of Schedule 1 to the Order, for paragraph (6) there shall be substituted the following:—

“(6) (a) In Article 22(1) for “two hundred and fifty thousand francs”, wherever it appears, there shall be substituted “58,000 special drawing rights”.

(b) In Article 22(2)(a) for “two hundred and fifty francs” there shall be substituted “17 special drawing rights”.

(c) In Article 22(3) for “five thousand francs” there shall be substituted “332 special drawing rights”.

(d) For Article 22(5) there shall be substituted:—

“22(5)(a) The value on a particular day of one special drawing right shall be treated for the purposes of this Article as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right—

(i) for that day or

(ii) if no sum has been so fixed for that day, for the last day before that day for which a sum has been so fixed.

(b) A certificate given by or on behalf of the Treasury stating—

(i) that a particular sum in sterling has been fixed as aforesaid for a particular day; or

(ii) that no sum has been so fixed for a particular day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the particular day.

shall be conclusive evidence of those matters for the purposes of this Article; and a document purporting to be such a certificate shall in any proceedings be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.”

(2) In Part III of Schedule 1 to the Order, for paragraphs (1), (2)(a), (3) and (5) of Article 22 there shall be respectively substituted the following:—

“(1) In the carriage of persons the liability of the carrier for each passenger is limited to the sum of 58,000 special drawings 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 58,000 special drawing rights. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

(2) (a) In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of 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.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 332 special drawing rights per passenger.

(5) (a) The value on a particular day of one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right—

(i) for that day; or

(ii) if no sum has been so fixed for that day, for the last day before that day for which a sum has been so fixed.

(b) A certificate given by or on behalf of the Treasury stating—

(i) that a particular sum in sterling has been fixed as aforesaid for a particular day; or

(ii) that no sum has been so fixed for a particular day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the particular day,

shall be conclusive evidence of those matters for the purposes of this Article; and a document purporting to be such a certificate shall in any proceedings be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.”

N. E. Leigh,

Clerk of the Privy Council.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order amends the Carriage by Air Acts (Application of Provisions) Order 1967, as amended (which applies the provisions of the Carriage by Air Act 1961 and the Carriage by Air (Supplementary Provisions) Act 1962, with modifications set out in the Order, to carriage to which those Acts would otherwise not apply). In consequence of the amended Articles of Agreement of the International Monetary Fund having come into force this Order substitutes special drawing rights for gold francs as the unit in which the limits of the air carrier's liability are expressed for the purposes of non-international carriage, but without making any change in those limits.

SI 1979/931
ISBN 0-11-093931-X



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